NLWJC – Kagan

Hard Drive – Folder 1

July 13, 1998

SOCIAL SECURITY MEETING WITH SENIOR ADVISORS

DATE: July 14, 1998
TIME: 12:30pm-1:30pm
LOCATION:Cabinet Room
FROM:Gene Sperling

I.PURPOSE

Your economic advisors want to use this meeting to update you on the full range of Social Security reform proposals that are currently being discussed inside and outside the administration. The discussion will focus on issues that are likely to arise at the next AARP/Concord Coalition Social Security Forum in Albuquerque on July 27 including ways of using equity investments (either in personal retirement accounts or in the Social Security trust fund) as part of reform packages.

II.BACKGROUND

Social Security Reform Plans. Since your State of the Union Address, a large number of proposals have been put forth by members of Congress and scholars at think tanks for addressing Social Securitys long run actuarial deficit. Many of these plans have two characteristics that differ from Social Security reforms of the past. First, they take advantage of the Unified Budget surplus. Second, they attempt to obtain a higher rate of return on Social Security contributions either by setting up individual accounts or by investing the Social Security Trust Fund in equities. The discussion will aim to illustrate the fundamental elements of each approach and the key issues that would arise in implementing each type of plan.

III.PARTICIPANTS

The President
The Vice President
Erskine Bowles
John Podesta
Maria Echaveste
Gene Sperling
Jack Lew
Janet Yellen
Ron Klain
Sylvia Mathews
Larry Stein
Larry Summers
Ken Apfel

Rahm Emanuel
Paul Begala
Sally Katzen
Elena Kagan
Barbara Chow
Jeff Liebman
David Wilcox
Steve Goss (?)

IV. SEQUENCE OF EVENTS

You will meet with your advisors in the Cabinet Room.

V. PRESS COVERAGE

None

VI. REMARKS

None

September 15, 1997

MEMORANDUM FOR HILLARY RODHAM CLINTON

CC: BRUCE REED
MELANNE VERVEER
ELENA KAGAN

FROM: JENNIFER KLEIN
NICOLE RABNER

RE: CHILD CARE

As you know, over the past few months, we have been preparing for the upcoming White House Conference on Child Care on two tracks: policy development and conference planning. The purpose of this memorandum and binder is to give you an overview of our progress with the policy planning process and to solicit your advice and ideas. Also included in the binder is information for discussion on the conference format.

We have divided the policy development discussions into three broad categories -- 1) quality, 2) affordability, and 3) school-age care -- and have led an interagency process of examining current child care policy in each of these areas and exploring ways to improve it. Our goal to date has been to identify the major policy challenges for possible focus, which this memo outlines. It is now time to begin to prioritize among the many options and make strategic decisions about where to recommend investing limited resources. Please note also that we do not anticipate announcing many of these options at the conference itself, as the event will take place ahead of the budget process. However, we do expect to have some important policy announcements ready for the conference, as well as a process in place to further develop others for later announcement (perhaps at the State of the Union).

1. Quality

Issues relating to quality of care are perhaps the most challenging and important that we face. As you know, studies reveal a quality crisis in child care. For instance, one study of child care centers shows that 10% of children in center-based care are in care that is dangerous to their health and safety, 70% are in care that is barely adequate, and only 20% are in high quality care. Infants are at greatest risk, with 40% in care that is dangerous to their health and safety.

While there is clear agreement that high quality care for all children is our goal, there exist underlying concerns about pursuing policy that increases the quality of care, but prices care out of the reach of working parents, as well. For that reason, the discussion of quality and affordability go hand-in-hand.

Our discussion of policy related to quality has several components:

A. Health and safety standards
B. Professional development and screening
C. Quality enhancement

A. HEALTH AND SAFETY STANDARDS

National child care standards are extremely controversial. At the same time, experts, advocates and parents seem to agree that with the clear absence of state leadership in this area, there is a role for the federal government to play. The question with which we are grappling is the nature and extent of that role. Included in this binder is a memo prepared by the Department of Maternal and Child Health at HHS that outlines various policy options and examines the advantages and disadvantages of each.

Perhaps the most promising policy option involves a set of national child care standards recently-released by HHS for states voluntary use. The standards, called Stepping Stones (and included in the binder), is a reader-friendly document extrapolated from the 1992 National Health and Safety Performance Standards: Guidelines for Out-of-Home Care, which was developed by the American Public Health Association in cooperation with the American Academy of Pediatrics through a grant support by HHS. We could urge, for example, that states use Stepping Stones by offering them incentive grants if they agree to use these guidelines.

In addition to the options outlined in the memo included in the binder, we are examining immediate steps we might be able to take, along the lines of the regulation recently promulgated that requires immunizations in federally-supported child care settings.

B. PROFESSIONAL DEVELOPMENT AND SCREENING

Professional Development

Experts routinely link the quality of any child care setting to the quality of the child care providers themselves. Yet child care providers are among the lowest paid, least trained professionals, and the profession not surprisingly experiences a very high turn-over rate. We are exploring several policy options related to enhancing professional development, some of which are explored in the binder:

*Creating a national child care provider scholarship fund which could be available to states conditioned on their setting standards for child care provider preparation and/or facilitating loan forgiveness or Pell Grant expansion to assist and encourage child care professionals to seek training;

*Linking compensation to training for child care providers by requiring that states set higher reimbursement rates for providers that meet higher training standards, to address high turn-over rates and encourage providers to seek higher education; and

*Establishing a National Child Care Provider Day to stimulate national recognition of the important work of child care providers and to urge talented people to join the profession.

Screening of Child Care Providers

Making sure that child care providers are properly screened for criminal/abuse histories is a compelling issue; it is also one that is wrought with complications of cost, jurisdiction and effectiveness. Today, there exists no national standard for criminal (state/FBI records) and/or civil (child abuse registry) background checks for child care providers. Background checks requirements are made at the state level, and today, while state laws

routinely require these checks for people who work in banks, for example, no consistent requirement exists for child care providers. While a few federal laws have been passed to either facilitate or encourage such checks, they have had little impact and substantial obstacles remain:

*No national standards exist for background checks. "Background checks" can mean either a criminal history name check, a fingerprint check, or a civil records check. Moreover, states vary widely on who they check (part-time/full-time employees) and the scope of crimes they are checking;

*There is no single database for background checks. The feds and the states have their own information systems and many criminal justice records remain decentralized at the local level. In addition, these information systems may not collect all of the relevant information relevant for day care workers (e.g., sex offender registry may identify a convicted child molester but not a child abuser); and

*The cost of background checks can be substantial. Fingerprint checks are at least three times as expensive as name checks, but are more reliable. Concerns were raised about passing these costs along to the customers, many of whom may already find child care costs prohibitive. Moreover, child care facilities have a high rate of employee turn over.

Since the Supreme Court's decision the Brady Law, there is a heightened sensitivity to imposing mandates on states in this area, particularly without providing additional funding. Our discussion on moving forward was focused on an Interstate Compact bill which the Justice Department is preparing the send to the Hill this month. Under the Compact -- which must first be passed by Congress and then by individual states -- the FBI would maintain an index of all of the state-maintained criminal history records and the ground rules for states to share their information. The Compact would be a solid first step to expand the availability of criminal history records for "non-criminal justice purposes." The downside is that each state needs to ratify the compact if they want to participate-- which could take a long time.

C. QUALITY ENHANCEMENT

Included in the binder is a memo prepared by HHS that outlines policy options specific to the question of child care quality enhancement. A range of ideas are discussed, including:

*Creating a quality incentive fund that would be available to states for quality improvements in a number of areas, such as promoting accreditation, providing consumer education, providing professional training, meeting standards, etc.;

*Establishing a family child care network support fund that would be available to states to establish and support family child care networks. Family child care settings are particularly vulnerable to poor quality, because of their isolation from any support networks; and

*Creating a national public awareness campaign, stimulating technology and establishing a research fund designed to improve consumer awareness and care.

2. Affordability

The federal government has two mechanisms for helping working parents afford child care -- the tax system, through the Dependent Care Tax Credit (DCTC) and the block-grant subsidy system, through the Child Care and Development Block Grant (CCDBG). We are exploring ways to expand and improve each to reach more working parents. Included in the binder are memos that examine the two systems and outline possible approaches to reform. We are waiting for HHS and the Department of Treasury to complete its analysis of how these two systems interact -- what income levels are being adequately covered and who is being left out -- before we devise specific recommendations in this area. To date, the most promising policy proposals are:

*Reforming DCTC to adjust the income slide parameters for eligibility and increasing the amount of qualifying expenses (neither has not been adjusted for inflation since 1982); and

*Increasing subsidy dollars to states to reach more people, possibly conditioned on certain quality-related initiatives undertaken by the states.

3. School Age Care

In our many focus groups with experts and advocates on child care, one message was very clear -- the need for after-school programs is extreme and the evidence has never been more clear that these programs are good investments, in terms of education enhancement, crime reduction and teen pregnancy prevention. The Department of Education is in the process of completing its proposal for an ambitious expansion of federal support for after-school programs. Included in this binder is a overview of current federal programs in this area and some of the compelling supporting evidence.

October 20, 1997

MEMORANDUM FOR ELENA KAGAN

FROM:Mike McCurry

SUBJECT:Press Office Radio Program

The Office of the Press Secretary would like to continue and increase our regular outreach from White House officials to radio talk show hosts and radio news anchors. Many of you have already been giving your time to radio for special events and projects like fast track and climate change. We would like to continue this effort on a weekly basis.

To make this program a success, each of you should commit to 30 minutes a week of your time for radio interviews. The Radio Office will work with your office to determine when you will be available and will book the interviews and help administer the calls.

You will also be asked periodically to host informal, off-air discussions with prominent big-city talk show hosts.

Please review the attached description of the outreach program. Brenda Anders and Megan Moloney from the Radio Office will be calling your office within the next week to establish contact with your staff.

DRAFT -- FEBRUARY 2, 1996

MEMORANDUM FOR:ALL PERSONS ON ATTACHED DISTRIBUTION LIST

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

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

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

All calendars and phone records, message slips or phone logs . . . made to or from any of the following individuals, from May 1, 1995 through November 30, 1995 regarding the White House Travel Office matter22For purposes of responding to the subpoena requests, please use the definition of the term "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). or the case of U.S. v. Billy Ray Dale:" Jane Sherburne, Jon Yarowsky, Natalie Williams, Miriam Nemetz, Abner Mikva, Margaret Williams, Capricia Marshall, Patsy Thomasson, John Podesta, Catherine Cornelius, Mark Gearan, Bruce Lindsey, David Watkins, Janet Greene, Betsey Wright, Webb Hubbell, Bill Kennedy, Jeff Eller, Neil Eggleston, Cliff Sloan, Mike Berman, Harry Thomason, Darnell Martens, Catherine Cornelius, John Podesta, Beth Nolan, James Hamilton, Susan Thomases, James Lyons, Roy Neel, John Gaughan, Larry Herman, John Shutkin, any employee of KPMG Peat Marwick,33Employees of KPMG Peat Marwick include Larry Herman, Leslie Casson, Carolyn Rawdon, Don Russell, Nicholas

Di Carla, Charles Siu and John Shutkin. Billy Ray Dale, Barney Brasseaux, John Dreylinger, Ralph Maughan, John McSweeney, Robert Van Eimeren, Gary Wright, David Bowie, Pam Bombardi, Tom Carl, Stuart Goldberg, Lee Radek, Jamie Gorelick, Adam Rossman and David Sanford.

It is extremely important that staff members conduct a thorough search for responsive documents. Each Assistant to the President or Department head should ensure that his or her staff members conduct such a search. Please provide any responsive materials to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 7, 1996.

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

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YN1 Carol Schrader, USN
YN1 (AW) Ronald Wright, USN
Technical Sergeant Jon Sams, USAF
Staff Sergeant Keith Williams, USAF
Staff Sergeant John Otto, USAF
Technical Sergeant Jerome McNair, USAF
Sergeant First Class Edmund Carazo, USA
Sergeant Darryl Turner, USA

MEMORANDUM

TO: BRUCE REED
ELENA KAGAN

FROM: TOM FREEDMAN
MARY L. SMITH
DREW HANSEN

RE: MILLENNIUM PROJECTS

DATE: AUGUST 7, 1997

SUMMARY

This is a sample of some national and international initiatives, campaigns, and events for the year 2000.

INTERNATIONAL INITIATIVES/CAMPAIGNS

*Jubilee 2000. Building on the Popes November, 1994 call for the reduction or forgiveness of debt in keeping with the tradition of the year of Jubilee, this group unites organizations from around the world in a campaign to cancel the unpayable debt owed by third-world countries.

*World Peace 2000. Representatives from 30 different countries have called for a 24hr, worldwide ceasefire on January 1, 2000. World Without Wars calls for a seven-day ceasefire during the first seven days of the new millennium.

*Nuclear Abolition 2000. Over 250 peace, disarmament, and internationalist groups are campaigning to conclude negotiations by the year 2000 on a convention to abolish nuclear weapons.

*Year 2000 Campaign to Redirect Military Spending to Human Development. Organizations such as the Arias Foundation for Peace and Human Progress and Demilitarization for Democracy support regional talks to encourage disarmament by the year 2000.

*Great Millennium Peace Ride organizes teams of bicyclists from around the world to participate in a round-the-world bike ride, ending in Sydney on January 1, 2000.

*Mayflower 2000. A historically accurate replica of the Mayflower will be built on the Thames beginning in 1998 for a goodwill voyage to the "New World."

INITIATIVES/CAMPAIGNS BY AMERICAN ORGANIZATIONS

*Smoke Free Classroom 2000. The American Lung Association, the American Cancer Society, and the American Heart Association are following C. Everett Koops call for a smoke-free society by 2000 by focusing their efforts on the United States high school class of 2000. They have produced a curriculum for high school teachers to discourage this class from smoking, and have seen the curriculum used by about 120,000 teachers and over 2 million

students in 1994-1995.

*Goals 2000. Department of Education initiative to meet goals for the nations schools by the year 2000, including school readiness, a 90% graduation rate, and safer schools.

*Four Worlds Development Project. A coalition of North American Indian communities is promoting a comprehensive education and development initiative to end alcohol and drug abuse on reservations by the year 2000.

*NASA New Millennium Program. Allocated $30 million in FY 1996, the New Millennium program aims to use smaller, more automated spacecraft to create a "virtual presence in space." Possible programs include a Mars network of spacecraft, outer planet orbiters, and landers on satellites.

*Pneumonia/Flu 2000. HCFA, CDC, and the National Coalition for Adult Immunizations aim to reach a 60% flu immunization rate among Medicare beneficiaries by the year 2000.

*National Council of Catholic Bishops is calling U.S. Catholic churches to engage in spiritual and communal renewal and the development of initiatives to create a just world in the years leading up to the "Great Jubilee" of 2000.

*Epilepsy Foundation of New Jersey Millennium Club is an association of supporters pledging $1 each for each of the last 1,000 days before the millennium.

INTERNATIONAL EVENTS

*Sydney Olympics will occur in the year 2000. Also, Hannover, Germany will host Expo 2000, the worlds fair, around the theme of "Mankind, Nature, and Technology."

*Greenwich 2000. Advertising "The Worlds Biggest Dome for the Millennium," Greenwich intends to draw an estimated 12 million visitors to a millennium exhibition. This program is perpetually in financial and political trouble, but was recently (June) backed by Tony Blair, though with new restrictions.

FEBRUARY 8, 1996

MEMORANDUM FOR:ATTACHED DISTRIBUTION LIST

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

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If you have any questions regarding the House subpoena, please call Special Counsel Jane Sherburne (6-5116).
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YN1 (AW) Ronald Wright, USN
Staff Sergeant John Otto, USAF
Sergeant First Class Edmund Carazo, USA
Sergeant Darryl Turner, USA

*

Presidential Advisory Council on HIV/AIDS
Full Council Meeting

March 1516, 1999

Embassy Suites Hotel
Washington, DC

MINUTES

Present: R. Scott Hitt, M.D., Chair; Stephen N. Abel, D.D.S.; Terje Anderson; Regina Aragon; Barbara Aranda-Naranjo, Ph.D., R.N.; Judith Billings, J.D.; Charles Blackwell, J.D.; Jerry Cade, M.D.; Lynne M. Cooper; Rabbi Joseph A. Edelheit; Robert Fogel; Debra Fraser-Howze; Kathleen Gerus; Nilsa Gutierrez, M.D., M.P.H.; Robert Hattoy; B. Thomas Henderson; Michael T. Isbell, J.D.; Ronald Johnson; Jeremy Landau; Alexandra Mary Levine, M.D.; Steve Lew; Miguel Milanes, M.P.A.; Helen H. Miramontes, R.N.; Rev. Altagracia Perez; Michael Rankin, M.D.; H. Alexander Robinson, M.B.A.; Debbie Runions; Richard W. Stafford; Denise Stokes; Bruce Weniger, M.D.; and Daniel Montoya, Executive Director for PACHA within the Office of National AIDS Policy (ONAP). Present from ONAP: Sandra Thurman, Director, and Todd Summers, Deputy Director.

Absent: Nicholas Bollman, Phyllis Greenberger, Sean Sasser, Benjamin Schatz, J.D., and Charles Quincy Troupe.

Monday, March 15, 1999

Opening and General Council Business

Dr. R. Scott Hitt, Chair, opened the Twelfth Meeting of the Presidential Advisory Council on HIV/AIDS (PACHA). Dr. Hitt announced that Reggie Williams, a national leader in HIV prevention for more than 10 yearsespecially for minority communities and gay men of colordied in February in Amsterdam. Dr. Hitt dedicated the meeting to him and to all the others who have died of AIDS. Noting that much has happened since the last Council meeting in October, he discussed the World AIDS Day meeting Council members had with President Clinton last December. They brought up four issues with the President:

1.Expanded access to care for people living with HIV/AIDS;
2.Development of a national HIV counseling and testing awareness campaign to be directed out of the White House ONAP office;
3.Progress in implementing the stated goal of a vaccine within 10 years; and
4.Expanded investment in HIV programs for fiscal year (FY) 2000, including international

concerns.

Issues Concerning HHS: Dr. Hitt asked how the Council can effect movement toward these goals. He noted that several Council members had met with Mr. Kevin Thurm, Deputy Secretary of the U.S. Department of Health and Human Services (HHS), on February 22. In agreeing to have his "feet held to the fire," Mr. Thurm has already scheduled a meeting with Council people every month for the next several months.

HHS is trying to reorganize its approach to AIDS. Dr. Hitt has asked HHS Secretary Donna Shalala to come to the next Council meeting for a significant amount of time. After the Councils meeting with Mr. Thurm, Secretary Shalala responded to its earlier letter with a letter of her own, which the Council should review with Mr. Thurm. HHS has a longer timeline than the Councils on some issues, and Council subcommittees may want to meet with people here in Washington to discuss this difference. The Councils intention is to have the Research Subcommittee meet with Dr. Neal Nathanson, Director of the Office of AIDS Research (OAR), National Institutes of Health (NIH), in the next few weeks.

Funding of $8 million for the Office of Minority Health (OMH) in HHS has been left out of the budget. The Secretary had said she would try to restore this allotment but did not say when or how she would do so. The Council could bring that up with Dr. Goosby of HHS. Funding of $15 million for the Congressional Black Caucus (CBC) remains in the emergency category. The Council would like to see this become part of the permanent base. Also, there is a list of possible further funding HHS wants. What is the status of these funding proposals?

Ms. Thurman stated that she wanted people to realize that money is being spent, e.g., $50 million in discretionary funds for HHS. A large part of that funding went to the Centers for Disease Control and Prevention (CDC) and the Substance Abuse and Mental Health Services Administration (SAMHSA).

Dr. Hitt said that parts of Secretary Shalalas reply to the Councils letter were unsatisfactory. Council members should let Dr. Goosby know this when he addresses the group.

Esquire and An Everyday Eulogy: Dr. Hitt noted that Esquire recently ran two articles and an excellent editorial taking the standpoint that "AIDS is not over." There was a degree of hype, the opposite of the widespread current view that "everything is better." Currently one-third of HIV-positive people do not even know they have the disease, one-third are getting poor treatment, and one-third are getting the correct treatment but many are worse off from having gone through sequential therapy.

Ms. Gerus said a few words about a full-length film that was to be shown that evening, An Everyday Eulogy, about two women, one of them herself.

Council Member Terms: Dr. Hitt brought up the fact that the Council might expect a great deal of turnover in the near future. For advisory councils like this one, the ordinary term is not more than 4 years, and 27 members of the Council will have reached that point by the end of 1999. The actual rule seems to be that old Council appointees can stay until replacements have been announced. Dr. Hitt asked the Council members to let him know whether they wished either to leave immediately or to stay until they are replaced. It is not certain what the Administration wants to do with the Council.

Sandra Thurman, Director, Office of National AIDS
Policy, and Todd Summers, Deputy Director:
Update on Activities of ONAP

Ms. Thurman first discussed international issues, which ONAP has been spending a lot of time on recently. About 5 weeks ago she was in Zambia, Zimbabwe, Uganda, and South Africa. The trip was meant as a way of raising peoples consciousness about how difficult the situation is regarding AIDS orphans. Uganda is the model for preventing the spread of the disease; South Africa is very shaky regarding its response. Orphan experts from the U.S. Agency for International Development (USAID) worked with Ms. Thurman, for instance, in Rwanda. Two weeks after this Council meeting, four Members of Congress and three senior congressional staff members are going to Africa with Ms. Thurman, specifically to Zambia, Uganda, and South Africa. The four African American Congresswomen traveling with Ms. Thurman are Barbara Lee (Ron Dellums replacement), Sheila Jackson-Lee, Juanita McDonald, and Carolyn Kirkpatrick; two of the staffers work for Senators Helms and Hatch.

Ms. Thurman noted two really telling things she saw in Africa: grandmothers caring for as many as 35 grandchildren (when all the parents, the in-between generation, had died), and many families in which a child 14 or 15 years of age was head of household. She was struck by the importance of microenterprises for women in this context, a useful connection that she wanted to emphasize to USAID. AIDS is not just a health issue44 ministers of finance and trade from Africa were to meet in Washington on March 16, and Ms. Thurman planned to explain to them that, beyond the health aspect, the AIDS epidemic also has a huge economic impact.

Ms. Thurman will be visiting the Southern African Development Corporation in April in Botswanaministers in attendance will be from other than health ministries. Vice President Al Gore met with South African Deputy President Mbeki in February. Vice Presidential staff members said that the Vice President was more passionate about AIDS than they had ever seen. He asked Secretary of Defense Cohen to talk with South Africans about HIV in the military.

A dramatic shift has occurred in how people in the State Department, USAID, and other agencies look at AIDS. They have gone from a catalog of current programs to developing a real strategic plan on this issue. Emergency funds for the orphan program were not carried over into the USAID budget, so funds are either $3 million up or $7 million down. But people look differently on this epidemic than they did.

Some progress has also been made regarding access to care and waiver requests. The Health Care Financing Administration (HCFA) is working very hard on waiver requests, and Jeffords-Kennedy demonstration projects have $300 million. ONAP wants to make sure the initiatives are all working together.

Mr. Summers, Deputy Director of ONAP, stated that his Office has an outstanding relationship with the Office of Management and Budget (OMB), e.g., regarding the race and minority initiative announced on October 28, and Ryan White reauthorization and quality of care. FY 1999 was a banner year in terms of money available. ONAP has important allies in OMB and in other parts of the Administration in connection with needle exchange, which will raise its head during the FY 2000 negotiations. People like Elena Kagan of the Domestic Policy Council were real stalwarts, but they could not prevail against the Republicans.

Ms. Thurman stated that Dr. Gary Nabel has been selected as Director for the new Vaccine

Center at NIH named after ex-Senator Dale Bumpers and his wife. A budget problem at the Department of Defense (DoD) has led to a decrease in vaccine research money there. Some people are asking why AIDS vaccine research should be done there when it is being done elsewhere as well. Work is continuing regarding microbicides.

Mr. Summers stated that the Federal Bureau of Prisons has a new medical director, Dr. Newton Kendig. Mr. Summers also mentioned the Correctional Officers Health and Safety Act, which requires testing and counseling of prisoners coming in for more than 6 months who meet certain objective criteria. He said his Office was hoping for entree to State and local prisons for the Federal Government.

Ms. Thurman described a productive meeting with Drs. Helene Gayle and Jeffrey Koplan of CDC. She said various issues get hung up at CDC. Where are the log jams? What can be done by 2000 to achieve greater accountability? Should some money be moved around? On the other hand, CDC is doing some great work. CDC has 1,050 FTEs (full-time equivalent employee positions) paid by HIV funds, but only 550 staffers. Where are the other 500? ONAP helped facilitate a meeting with Asia-Pacific Islanders and Native Americans to discuss issues. ONAP is working with OMB to make sure about accountability for CDC. Uganda has gone from 18 percent HIV-infected new recruits into the army in 1986 to 8 percent today. Mr. Summers said Dr. Koplan was friendly and appeared to be a real ally. He added that ONAP itself is getting a couple of new positions, plus agency representatives from DoD, NIH, USAID, and the Department of Housing and Urban Development (HUD). ONAP is also establishing a Web site.

Daniel Mendelson, Health Budgets,
Office of Management and Budget

Mr. Summers introduced Daniel Mendelson of OMB. Mr. Mendelson is in charge of health budget matters (e.g., for Medicare, Medicaid, and all of HHS) and has been supportive regarding HIV/AIDS funding.

Mr. Mendelson stated that this is a very difficult budget year. Every dollar spent has to be offset somewhere else, and funds often disappear all together. Things are very contentious. The CBC got $50 million extra for HIV/AIDS in an omnibus bill last year; OMB helped, but is not sure about this year. The appropriators do not want an omnibus bill, and there are tight overall caps. A $100 million increase is included in Ryan White, more in Titles II and III, and $50 million for minorities in the Office of the Secretary of HHS. This was formerly emergency funding.

CDC has $10 million for a "Get Tested" program. The focus this spring is on prevention. Everyone has questions as to where the money is being spent at CDC. Dr. Jeff Koplan will be an ally in CDC. Funding for NIH is a disappointment, and not just for HIV. OMB will try to work on the mandatory spending side if there are few or no discretionary funds, for instance, regarding Jeffords-Kennedy. There is a $1 billion initiative for 5 years primarily, but not only, for people without insurance, and emphasis on increased integration of local health delivery systems and funding local service delivery networks. Extreme fragmentation and little coordination are currently seen on the local level.

Comments and Questions: Council member Robert Fogel told of being at a World AIDS Day meeting with the President last December, where the President bit his lip during a story about a woman dying of AIDS who asked her friend to adopt her child. The President then said that $10 million is being set aside for special funding for orphans. But now that

money has not been renewed. Ms. Thurman replied that there is still a chance that the $10 million will be renewed. She felt ONAP had created fertile ground for more funding from Congress. Both the State Department and USAID are more interested than ever in this issue of children with AIDS. Even with congressional support for foreign aid flagging, ONAP has received a lot of attention, leading to increased financial support.

Ms. Regina Aragon pointed out the relationship between housing and health care. Stable housing helps people remain stable with their health care. About the $50 million for emergency funding: the Councils understanding is that it was renewed but not as a part of the HHS base. She questioned needle exchange and the battle in Congress, as well as budget neutrality.

Mr. Mendelson said that his office would propose on needle exchanges what they had proposed last year. The congressional majority beat OMB last year. He noted that more data will probably soon be available, and the focus will be put on this point. The Secretary of HHS has made the determination that needle exchange programs do contribute to fewer AIDS cases, with no negative side effects. OMB will push the issue, but, he added, his agencys record in this area is bad. Regarding Maines request for a waiver, he said often one doesnt change policy but reinterprets it, in this case regarding budget neutrality.

Mr. Summers asked how Medicaid looks at waivers. How are the savings calculated? For instance, what base time period is used? Different parameters yield different results, but the Administration does not have the ability to arbitrarily change formulas. Mr. Thomas Henderson said he understood that the formula is set by policy and not by statute. Mr. Mendelson replied that, in terms of appearances, Mr. Henderson was correct. But Congress trusts OMB to do things a certain way. There is a delicate balance as to how far OMB could go in changing the formula, for instance. OMB would hear from Congress if it changed the formula. Mr. Summers said there is not much support on the Hill to use Jeffords-Kennedy to address HIV in a macro sense. The political climate is not good.

Rabbi Joseph Edelheit asked how much Clinton AIDS money is really permanently there. Mr. Mendelson said one had to think of funds as short-term and long-term. OMB has regularly tried to institutionalize spending. For instance, it took minority funding out of situations where the President would have to declare an emergency to spend it. It left some money in the Public Health Safety Emergency Fund, but paid for it. For the future, the issue of reauthorizing the Ryan White Act will be a bellwether regarding long-term institutionalization of funding. Conservative Members of Congress are raising the issue of cost-effectiveness: "What are we getting for all these dollars?"

Mr. Summers said one angle is to make "horizontal investments," to put funding into non-AIDS-specific programs. This helps preserve the funds, because they are not limited only to AIDS, while cutting Balkanization of programs. The $10 million "Get Tested" or "Know Your Status" campaigns should be used for specific target groups and new programs, using them as tests to pull in a more effective direction the other $90 million already being spent to encourage testing.

Mr. Mendelson added that it is easy to advocate Ryan White funding. People know what it is; it has a constituency. But the prevention side does not have a Ryan White type of program: "Everybody knows what it [Ryan White] is and that it works." That kind of "political traction" does not exist for prevention. Congress and others have a lack of faith in Governments ability to prevent. Sandy Thurman said the Council brought this up in the first place, and ONAP had to work closely with the Council to get its ideas. Mr. Summers said

that the Council is trying to make its investment count for something.

Dr. Bruce Weniger pointed out that up to now Congress has put more dollars into the military AIDS vaccine program than the President had asked for, and asked why this had changed this year (i.e., no additional money). Mr. Mendelson said he did not know and would find out. Ms. Thurman said that the money was removed in Congress. There is a lot of confusion as to why both DoD and NIH are doing research regarding a vaccine.

Dr. Levine said that she is not sure anything regarding needle exchange programs could move Congress, but it appears that needle exchange has actually decreased drug use, contrary to what some had expected. This is because the exchange programs were carried out in the same locations as, for instance, methadone programs. People came in for a needle exchange and found out about methadone treatment. Regarding DoD and NIH both working on vaccine development, there is no reason why anyone should not be doing such research, as long as it is properly coordinated.

Dr. Eric Goosby, Director, Office of HIV/AIDS Policy,
U.S. Department of Health and Human Services

Dr. Hitt introduced Dr. Eric Goosby, Director of the Office of HIV/AIDS Policy at HHS, to speak on an update of the CBCs "Severe and Ongoing Health Care Crisis."

Dr. Goosby said his Office is trying to address the disparity of infection rates for African Americans, Hispanics, and other minorities as compared to the rest of the population. The CBC has helped make available around $157 million. Of that, $50 million went into the HHS Secretarys emergency fund. This money was really unattached. The rest was the result of moving funds from FY 1998 to FY 1999, expanding programs based on the 98 budget into the 99 budget, and some additional programs.

Admittedly, $157 million will hardly address the disparities about which the Office is concerned. Such disparities include longevity, development of opportunistic infection, severity of infection, point of entry into care in terms of stage of disease, and the use or nonuse of protease inhibitors and other therapies. Women are also affected by these disparities, receiving less than optimal care, for instance.

In discussions with Council members and with the CBC, Dr. Goosbys staff came up with areas where a positive outcome was more likely in the long haul. It is still an unequal playing field, however. Another issue concerns societal or cultural differences in various minority populations. Some of these populations do not have the proper infrastructures to handle the funds and programs that are available. Why do some sick individuals not enter care and stay there? The cultural context in which individuals can safely reveal themselves to these communities seems to be a very large factor. An inability to be accepted is seen in all of these ethnic and minority groups.

Dr. Goosby said his Office has tried to use already existing programs, but also to expand them and then use them to persuade OMB to give more money in the next budget. The Office wants to go after groups involved in high-risk activities, focusing on quality of care and making sure the people know about protease inhibitors and other treatments. It also deals with the problem of securing compliance and with trying to prevent or treat opportunistic infections.

A huge need exists to bring Federal funding and technical assistance (TA) to private community-based groups. HHS has tried to create the basis for providing for a more sustained Federal TA presence, and to build up TA transfer to community-based organizations. This is a crucial emphasis in the way the agency approaches minority organizations, and in how it achieves a response in these communities that can be durable. What is now just a beginning could evolve into an important resource for minority organizations and communities.

Extraordinary confusion also exists about who receives funding. Congressional language that came with the legislation did earmark some dollars for the African American population and created a chaotic dialogue about who would be the recipients of these Requests for Proposals (RFPs) as they developed. Where it says "African American," HHS follows that. But there are other instances where several minority groups are not necessarily designated as such.

Questions: In response to a question, Dr. Goosby said that CDC puts Alaska natives, Pacific Islanders, etc., into one category, "other." It is hard to identify high-risk groups among these groups when it is not known where the latter themselves fall in the overall risk spectrum.

Mr. Anderson asked how the new theory of TA can be applied when the current national system involves conferences and "fly-in, fly-out" TA. Are the funds that would be involved new or only reshaped current funds? Dr. Goosby said it is difficult to get this concept accepted on an agency level, though there is no problem on the individual level. It has been difficult to get an agencys head out of TA conduits the agency has already created. He said there are some community-based organizations, fledgling organizations best positioned with high-risk populations, for which new strategies are needed. They should be helped to become more effective.

The dollars already in the TA conduits will continue. But the new CDC funding and the $50 million emergency funds under the Secretary, which are unencumbered fundsthat is, not connected with programsare all focused on creating a new entity. The RFP would come out in early summer from the Health Resources and Services Administration (HRSA) or CDC for a community-based organization, a national organization, or even a State or municipal health department. Subcontracting to national entities could occur under this new entity. They would have a regional focus, and would have to know their way around community-based organizations and help those they know are most capable of doing a good job. This idea is new, and difficult for the Federal Government to embrace, but it is what should be done.

In response to a question, Dr. Goosby stated that a strong need exists to develop individuals among minorities and women who can become leadersand stay. Those in power have to nurture leadership and work with existing organizations. They have to understand how to ensure that an HIV-infected person can feel safe in his or her community. The Secretary and the Surgeon General have been concerned about how to help make it easier to admit that one has AIDS. HHS staff have talked with the Urban League, the National Association for the Advancement of Colored People (NAACP), police forces, and others regarding this problem.

Ms. Stokes asked if there are any sanctions for doctors, hospitals, and others that receive money for minority group HIV/AIDS health care but do not do the job right. Dr. Goosby said HHS is trying to reach nurses, doctors, and others who do not specialize in AIDS but who have direct care for AIDS patients (fewer than 50 in each case). They are not dedicated HIV health providers. A lot of patients have probably not received proper medications, for

instance. HHS is trying to teach their health care providers, and to make treatment more individualistic. The agency hopes to build up a cadre of treatment and prevention intervention specialists who could also help patients regarding housing and food.

Dr. Hitt said that a good understanding is just beginning of what medicines and treatments are helpful. Dr. Goosby said the Office of the Surgeon General and his own Office are implementing what the CBC has asked for. They are looking at the original documents, and are speaking with the CBC, more than is usually the case with HHS programs. They feel they have stuck by the letter of the legislation and are committed to seeing how funding pays off for minority communities.

Ms. Frazer-Howze said that CDC argued that programs should be sustained, not "fly-in, fly-out," and that assessment should be included. Also, black ministers should be trained. But it seemed that the emphasis on sustained or permanent changes was being lost. Dr. Goosby said that it is difficult to sustain the dialogue: people say everything is fine and then go down a familiar road. An effort is being made to target high-risk communities and identify effective community-based organizations, from Hawaii to Brooklyn. Rabbi Edelheit noted that a high-risk population is not the same as high-risk behavior.

Dr. Aranda-Naranjo pointed out how difficult it is to apply outcome indicators to a situation where multiple problems exist, e.g., drug use, mental illness, and spousal abuse all in the same family. These are clients nobody wants, the throwaways. She also noted that not just embarrassment but also economics keeps people from admitting to infection; for instance, the migrant workers among whom she practices will not get jobs if they admit to infections. Dr. Goosby asked, "What do we say works in situations with those concerns? How do you tease out those areas where improvements are occurring?"

Dr. Levine said she would put a lot of the few dollars that are available into medical schools to teach about HIV and related concerns, not just into those mid-level care providers discussed previously. Dr. Hitt thanked Dr. Goosby for continuing to work in this area with limited staff and resources.

[[QUERY]Name of leader] and her Group of Silver Spring, Maryland, Teenage Peer Educators

Dr. Hitt announced the arrival of about 15 high school students from suburban Silver Spring, Maryland. The group leader [her name???] said that about 11 years earlier she had been introduced to HIV/AIDS through the hemophiliac community and had never left it. She introduced her young people, who she promised would ask some hard-hitting questions. She then mentioned a series of milestones in AIDS, and the equivalent age of her teenagers: In 1991 when Magic Johnson announced he had HIV, most of her students were about 10 years old. By and large, they did not even remember that event.

She declared that those with the responsibility still are not educating young people properly. Youngsters aged 17-19 still do not know about HIV/AIDS. What is happening to improve this? Noreen, a high school student, said college students joined her group to get basic information they lacked. What is the Government doing about this? Also, female condoms are four times as expensive as male condomstoo expensive for disadvantaged females. Kevin, another student, pointed out that existing programs are very limited as to what they can say. People could use a program like the peer educators.

Comments and Questions: Mr. Anderson thanked the students for asking these questions, because they are the same things the Council has been saying. The Council feels an incredible level of frustration right now. He said that about a year earlier the Council had approved a vote of no confidence in the Administration in connection with HIV prevention. The Council is still complaining, but with little change. Mr. Blackwell and Dr. Cade thanked the young people for coming. Rabbi Edelheit said the students should bring HIV/AIDS up with their pastors: Are you ready to preach on this? This is not just a matter of Government. Mr. Fogel said the Federal Government is way too conservative, especially Congress. The young people should get out and vote.

Several other Council members also thanked the young people for coming and noted that their own concerns were similar to those of the students. This included, again, concern that certain issues cannot be discussed in school. Ms. Miramontes said Congress had voted $50 million 2 years ago to advocate only abstinence as a way of avoiding AIDS. Now they are talking about $50 million more for the same purpose. The young people were asked to talk to their Congresspeople during the AIDS walk in early May. Dr. Hitt said the Council had made many recommendations along the lines the students had asked about. Mr. Summers said that the staff policy position being added to ONAP would be given to a person of color.

Adjournment of General Council Session

Tuesday, March 16, 1999

Additional General Council Session, Tuesday Morning

Dr. Hitt opened the session by saying that the most important issue the Council had to deal with at this time was to discuss what to talk about with Mr. Kevin Thurm, Deputy Secretary of HHS, who was to speak to the Council later the same day. Six issues were of particular importance for this discussion:

1.$10 million "Know Your Status" campaign. The Council wants to ensure a clear understanding between itself, ONAP, CDC, the community, and HHS as to where this money is going. In particular Dr. Hitt wants to clear up any confusion about the $90 million and $10 million of which Mr. Summers spoke yesterday (the $10 million as a demonstration project to test what worked, to be applied to the $90 million).

2.$8 million for the Office of Minority Healthwhat is going on with that, to get it spent?

3.Surveillance paper.

4.Timeline on HHS strategic plan on HIV/AIDS, in connection with Ryan White reauthorization. Mr. Thurm has to tell the Council where it is going.

5.Health care workers.

6.Needle exchange. HHS has not done enough on dissemination of the science; what will be its legislative strategy this year on needle exchange?

Prevention SubcommitteeMedia Campaign: Mr. Isbell said that $10 million for a "Know Your Status" campaign appears in the FY 2000 budget, but that he feels this is not enough for a media campaign. He noted that some parts of the Administration are wondering whether a

media campaign is even advisable. The word is that the current plans are to use the $10 million for new and innovative counseling and testing techniques, as a way to figure out how best to use the $90 million in other funding that is available for counseling and testing but that people feel is not being used wisely.

The Subcommittee still believes that a good counseling and testing campaign is needed. The Subcommittee also believes that a rational prevention plan has never happened because of a lack of leadership at the top. The White House needs to become engaged. Marketing is needed to sell HIV testing. A major media campaign is needed around testing. The President supposedly responded favorably in the December meeting. Council members need to talk to Mr. Thurm about this.

Ms. Thurman agreed that a media campaign is needed. The epidemic is not over, and people need to be tested. These facts represent two very different campaigns. Whatever is done should not merely rehash the past. There were no awards for past ad campaigns in this area. If the $10 million is used for a campaign, it should mean Madison Avenue, a public-private partnership, and a "very heavy lift."

Dr. Hitt asked whether ONAP really wants to do it, and Ms. Thurman answered yes, but with people outside of the "Just Say No" campaign. Mr. Isbell pointed out that testing is a bipartisan good thing. The money should be used not for the actual campaign, but for focus groups, polls, and going to Madison Avenue. Maybe funds could be gotten from the Advertising Council and the pharmaceutical industry. Maybe some Republican Hill support could be obtained. Ms. Thurman said that the Council does not control the money and is therefore hamstrung. But finding out what works, through focus groups and other means, can be doneit is done in political campaigns.

Dr. Hitt asked what specifically the Council should discuss with Mr. Thurm. The $10 million available is actually with CDC, but that agency is not communicating its plans to use it over the next 6 months. Mr. Summers said that at least CDC has stopped it from going down the drain. But it has not yet decided how it will be used. Dr. Hitt said the Council should make sure that Mr. Thurm tells CDC that this is the direction it should be going in. Mr. Henderson said it would help if staff could bring in a private-sector expert to help with the ad campaign. They should not rely on those who were unsuccessful regarding a public-private partnership.

Ms. Thurman said that CDC makes the decisions and lets the contracts. She does not know how to get out of the box. Rev. Perez said there should be a two- or three-page paper that describes the Councils views, so there will be no misunderstanding.

Dr. Levine said professionals such as the TV Academy do this pro bono, but the Government pays someone else. Should the Council get CDC together with the TV Academy? Ms. Fraser-Howze said that detailed instructions are necessary for the campaign, possibly coming from the Prevention Subcommittee.

Mr. Fogel said it is not a prevention campaign at $10 million. The concept is to do a campaign in concert with the Ad Council, the pharmaceutical industry, and others who have a lot of money. It is important to get people to know their status. This would create a flood of pressure for testing, counseling, and services, and would get the Government to act. But yesterday Mr. Summers spoke of sample tests. This is quite different. Mr. Fogel did not criticize CDCthey never thought of what he was advocating. Testing should be normalized. Mr. Henderson advocated forgetting about the $10 million for now. Instead, a plan should be

prepared. Ms. Thurman could convene a meeting of TV people and others, and then they could worry about the $10 million.

Dr. Hitt proposed that members write down their recommendations on a couple of pages. Ms. Thurman could take the recommendations to the right people and get a reply, yes or no. Once the program is accepted, let those people run it. Ms. Thurman could have a meeting with CDC and the Council to see if they are all on the same page, and the Council can discuss it with Mr. Thurm today.

Service SubcommitteeAccess to Care: Mr. Henderson said the Subcommittee had heard from Representative Pelosis office, HCFA, and the Kaiser Family Foundation about how to expand early access to care. A lot of effort was put into modeling by HCFA, the Kaiser Family Foundation, and others regarding care costs and waivers. So far, only one StateMainehas applied for a waiver. If Florida or California were to apply, it would make a difference in terms of the total numbers.

He noted that two issues have "built a wall": (1) the parameters of budget neutrality, which made the omnibus bill strategy interesting, because it allows a greater degree of bargaining; and (2) the "elephant in the room," drug pricing. If the Government becomes an even greater purchaser, there has to be some way of dealing with the cost if matters are ever to be brought into balance. How can public or political opinion regarding these two issues be moved? The Council should monitor this but not get too involved. Mr. Abel noted that everybody is waiting to see what happens to the Maine waiver application, or to the expected Massachusetts application. Then the floodgates could open. At least 25 States might ask for a waiver.

Mr. Henderson then noted that, regarding number one above, there is more flexibility and wheeling and dealing in an omnibus-type budget, e.g., what the CBC did, and therefore it was easier to get what they wanted. But dealing with the drug companies regarding number two, pricing, might actually be easier than number one. Dr. Hitt said he feels access to care, or the cost of drugs, is not such a big political issue: larger market, lower prices. Mr. Henderson said the waiver process is sort of on automatic pilot: what can the Council do to affect it?

Adjournment of Additional General Council Session

General Council Session, Tuesday Afternoon

Mr. Richard Stafford took this occasion to announce his resignation from the Council for health reasons. He thanked ONAP staffers, fellow Council members, and staff people for all they had done for him. The Council and observers gave Mr. Stafford a standing round of applause.

Kevin Thurm, Deputy Secretary, U.S. Department
of Health and Human Services

Dr. Hitt then introduced Mr. Kevin Thurm, Deputy Secretary of HHS, noting that Mr. Thurm had put out his hand to the Council and worked hard to cooperate with it. Mr. Thurm noted that the last time he had spoken with the Council had been over a conference phone call, and it was not such a productive session. He expressed the desire to meet regularly with

Council representatives. That way they would have an accountability mechanism. If they call they will get answers, even if not always what they want to hear.

In June 1998 the Council identified a short-term agenda: (1) advance the call for a State of Emergency to help African American and Latino communities; and (2) work with CDC and get additional funding for AIDS issues, higher appropriations for HIV/AIDS, and vaccines.

Regarding vaccines, Ms. Thurman announced that Dr. Gary Nabel will be head of the new NIH Vaccine Center. Those involved should do a better job of coordinating resources across the Government, including having NIH people in ONAP. More financial resources will be available through the budget for FY 2000, including across Ryan White. Regarding the safety net initiative, a little over $1 billion in 5 years, HHS will be implementing it, including integrated systems of care on the local level that should provide improved access to care for the working uninsured.

The Council has asked HHS for a strategic plan for prevention. HHS does need a document for accountability. It should be comprehensive, showing where the Government should go, across HHS and the agencies, regarding HIV/AIDS. Regional directors are carrying on a dialogue on HIV and AIDS, particularly on how it affects minorities and women. The strategic plan has to leave trackshere is where the Government should be going regarding AIDS.

HHS will be working hard on the State waiver issue, and especially on Maines application, the first request for a waiver. There is the problem of budget neutrality. The agency will learn a lot from this first waiver application, including developing generic principles for evaluating future waiver requests, which should be done by mid-1999. Getting ahead of the curve with OMB regarding the budget is the next big problem.

The HHS Secretarys response letter to Dr. Hitt spoke of the special needs of racial and ethnic minorities, and of CDCs efforts to meet those needs in better and more efficient ways. Also needed are more culturally sensitive and targeted outreach and testing activities for developing linkages for prevention and health care services for the incarcerated who are returning to the community. Such efforts need to be monitored, as do those targeted to communities of color.

The Council has commented on the inconsistency between the HHS commitment to women in Healthy People 2010 and its disparities in comparison with other groups. Changes to the draft are anticipated. Regarding the Interim National Minority HIV Plan, OMH is expected to be sending it forth and HHS will publish it. The $8 million for OMH is in the emergency supplemental, and once that is made law, the $8 million will come through.

Finally, the Council has pointed out correctly what HHS has not done regarding getting out the science on needle exchange. More and better information on this subject can be expected. This discussion is 18 months overdue, and this accountability is needed. Mr. Thurm will be back in June and will be meeting with Subcommittee chairmen bimonthly.

Questions: Mr. Henderson asked about expanded access to care. He noted that earlier Mr. Thurm had said he, Mr. Thurm, would be meeting with OMB regarding waiver parameters. Mr. Thurm said the parties negotiate, including asking the State making the waiver request to explain its proposal. He said HHS has a long history of budget neutrality issues with OMB, but Medicaid 1115 is new.

Dr. Levine asked who would receive the scientific information regarding needle exchanges,

and when. And what is the legislative strategy for a Congress that wont be listening? Needle exchange is a focus to help people get off drugs, according to some studies. Mr. Thurm replied that the "who" was a lot of people, and asked the Council to make suggestions to HHS as to who should get the information. The timing should be sooner rather than later. HHS and OMB have to work out a legislative strategy, especially regarding when.

Ms. Fraser-Howze commented that the CBC is committed to OMH, but that some quarters see it as a wasteland for the Administration. If the Administration is serious about the disparity between HIV/AIDS rates for minorities and the general population, building up OMH is critically important. Mr. Thurm said that a national search is under way for a director. Both leadership and funding are priorities. His guess is that the emergency supplemental, with the $8 million, will pass; if not, HHS will find another way.

In reply to a question from Mr. Robinson, Mr. Thurm said it is his understanding that CDC would run the "Know Your Status" program. HHS feels it should be run by ONAP, although the money could be administered by CDC. CDC is the place for this. A number of Council members voiced audible disagreement with this last statement.

Mr. Isbell noted, on "Know Your Status," that one thing America knows well is how to sell, how to find out attitudes and how to use them to sell, in this case, testing. Rabbi Edelheit said the Council is looking for something fundamentally different, holding ONAP responsible. Mr. Thurm stated he believes that none of the CDC money is going for administrative purposes, but Mr. Robinson said people had explicitly told him that $1.5 million is for administration, perhaps a miscommunication. Mr. Thurm asked Mr. Robinson to send him, Mr. Thurm, a note and he will try to get an answer.

Dr. Nilsa Gutierrez stated that Puerto Rico has a very high infection rate. Could Medicaid provide funding to deal with this crisis? On the international side, the United States recognizes the needs of areas like Africa and Southeast Asia, but Mexico also has a serious problem. Mr. Thurm said he did not know the answer but would check it out.

Mr. Stafford asked how they could bring all of this togethernot just this or that department. Mr. Thurm said the Council had helped set the agenda, and the Administration is indeed focused on care, vaccine, and minorities. There is an effort to get people together (e.g, HCFA, CDC, and others) to see what has been learned so far regarding prevention, care, and other matters.

General DiscussionCouncil Member Terms: Dr. Hitt returned to the question of terms for Council members. He pointed out that probably all Presidential councils had term limits of 4 years. He asked whether the HIV/AIDS Council could be made smaller. He noted that the White House Personnel Office decided what a council should look like, what it could do, and so forth. The Administration is concerned about AIDS. He reaffirmed that current members can serve until they are replaced, and noted that it takes a long time to fill vacancies. He asked those who want to leave, and perhaps have been less active on the Council than some others, to let him know their wishes. He stated his desire that the Council set a time to discuss whether it should be reduced or enlarged. When one Council member said that he for one would like to stay on the Council, Dr. Hitt said that it is very difficult to reappoint current members of such councils.

Medical Update: Dr. Hitt then gave a medical update. He pointed to the March 1999 issue of Esquire magazine, which provides a dark view of the immediate future regarding HIV/AIDS cures or remedies. He said things are not as bad as Esquire painted them. He believes the

death rate will level out, since about 50,000 people a year get infected. Lots of people get AIDS. This has long-term implications, e.g., regarding costs. Of the HIV-infected, one-third do not even know it, one-third get the wrong treatment, and one-third are compliant with what they need. Given the currently available medications, the odds are good that those in the last third who are just now starting on medications have a very good life expectancy. But half the victims have already taken sequential drugs. These drugs are wearing off because of virus mutations, a condition shared by many people around this table. If we dont do something, we are in trouble.

HIV Life Cycle: Dr. Levine spoke about the life cycle of HIV. A part of HIV is a perfect fit for the CD4 cell receptors. It also docks into a _[QUERY]_____[T-something??]____ receptor. A new product called T20 prevents the docking with the second receptor. People without the second receptor apparently cannot be infected with HIVprostitutes in Nairobi have been exposed forever and have not contracted the disease. One can be infected, but the disease is different: long-term nonprogressors.

The HIVs RNA becomes the DNA of a human being and inserts itself into the T4 cell. HIV can be silent in that cell as long as there is no exposure to something foreign, e.g., smoke. HIV kills T4 cells, and the body makes up for themfor a while. The T4 cells control the immune system. AZT prevents viral RNA from becoming DNA. But if it has already become DNA, the virus can hide there as part of the DNA. So this kind of medication can never cure the infection.

Dr. Levine noted that AZT works for only a year or so. The next step is possible combinations of drugs. Clinicians never use only one drug in cancer because the cancer learns to live with it. At first there was only one drug for HIV, AZT. But as soon as there were more drugs, physicians started combining them. The real issue is the protease inhibitor. Protease inhibitors are more powerful and can take an infected cell and stop it from reproducing. Now medicines could attack HIV from different angles, and the question arose: Could this illness be curable?

Dr. David Ho at one time said he thought all infected cells would die within 3 years. But now it is known that some cells can live 20-25 years, not just 3. So the concept of cure becomes difficult. And there are the very difficult side effects. Forty pills a day for life: no one can do this. There is also the potential of contracting diabetes or lipodystrophy, the addition of significant body fat while the limbs become much thinner. But there are new drugs, T20 and integrase [QUERY?]. HIV/AIDS is a chronic disease.

Therapy: Dr. Hitt stated that four significant questions need to be addressed:

1.When do you start therapy?
2.What do you start with?
3.When do you switch?
4.What do you switch to?

Often, because the virus can mutate so easily, early therapy may be worse than none and result in a decrease in the quality of life. He noted that the patient has to be ready, in the psychological sense, to enter such a tough drug regimen. There can be severe side effects. This may require cutting back or even stopping therapy for a while. Patients should be careful of the claims of drug makerstheir statistics may be incorrectly analyzed, to their advantage. Promising combinations are being found, however, and the complexity of 40 pills a day appears to be going away.

Then there is the cost of saving a year of life, only $18,000 per year for triple therapy, compared with $18 million for saving a life from earthquakes. If a person is getting severe side effects, he or she should stop the drug and see what happensmaybe the numbers will only very slowly go bad, and the patient can always start up with drugs again if that happens. Mr. Landau asked whether HIV could actually stimulate the immune system in certain cases, and Dr. Levine said that certain symptoms like sweating are in fact the result of the immune systems fighting back.

Subcommitee Reports

Research Subcommittee: Dr. Levine said her committees only new recommendation was to repeal a rider to the Omnibus Appropriations bill passed late last year. This rider allowed individuals and organizations to use the Freedom of Information Act (FOIA) to acquire access to raw research data if the project was funded by a Federal grant. This could result in the misuse of inaccurate, only partial, research data; the potential loss of subject confidentiality; the potential loss of time to researchers who would have to expend time and effort to comply with the law; and other problems. Representative George Brown, the ranking minority member of the House Science Committee, introduced H.R. 88 to repeal this provision. The Research Committee recommended that the Council urge the President to support H.R. 88 and to help support a similar repeal bill in the Senate.

Mr. Summers, of ONAP, explained that this bill actually originated in problems relating to research supported by the Department of Energy, but it could have a serious effect on biomedical research. FOIA is a leaky vessel, not meant for the kind of information one finds in biomedical research. Dr. Hitt suggested that the Council should send individual letters or express itself as a whole. He then proposed that the Executive Committee write a letter in the name of the Council. The Council voted "aye" unanimously.

Dr. Levine also advocated the restoration of $15 million to the budget of the Department of Defense for its HIV/AIDS research, more than half of which is devoted to vaccines. She said she and her colleagues had already written a letter from the Council. The money was cut out of the FY 1999 budget at the last moment, and the Administration asked for the equivalent lower figure for FY 2000. There is a second issue of behaviors changing in the wrong direction. Why is this? Research is needed on why, including the positive effect of peer counseling.

Racial and Ethnic Populations Subcommittee: Rev. Altagracia Perez asked what the strategic plan is for the CDC funds. The Subcommittee has gathered information from all the other subcommittees that is relevant to its work, e.g., regarding American Indians. Subcommittee members have to find out who the strategic persons are to whom they can speak to build accountability. They may have an interim meeting before June. Dr. Hitt thought such a meeting is a good idea if everyone is available.

Prevention Subcommittee: Mr. Robinson said his group had received CDCs report on the current situation of the "Know Your Status" campaign. There is nothing inconsistent between CDCs plan and what the Subcommittee has proposed. The Subcommittee did make it very clear to Mr. Thurm that it thought the program should be administered by ONAP. The Subcommittee was pleased by CDCs overall strategy and the comprehensive way its staff are thinking about the issue. On surveillance guidance, few changes were made in the document sent by CDC to HHS. There will be some changes and the Subcommittee wants to stay informed. Dr. Hitt said

he thought that in dealing with Mr. Thurm on such issues, if the Council prepared 10 or 12 questions a week before meetings with Mr. Thurm, they would likely get good answers from him.

Services Subcommittee: Mr. Henderson described the bills introduced by Representative Nancy Pelosi and 59 consponsors, and Senator Robert Torricelli, to allow low-income HIV-positive but not yet overtly AIDS-suffering people to receive Medicaid. Ms. Pelosis staff suggested, and the Subcommittee agreed, that the Council should write a letter to add its weight to the forces behind these bills and help increase the number of cosponsors. Extension of the Medicaid entitlement would help to institutionalize, and thus make permanent, this new funding for HIV.

Dr. Hitt stated that ordinarily the Council does not endorse legislation at such an early stage in its development. The Council should perhaps wait until the bills pass their respective chambers and are at the conference committee stage. He asked whether some good people might refuse to endorse this change in Medicaid, and if they did refuse, whythe bills should be vetted.

Dr. Aranda-Naranjo said that such bills help elevate the issue. They are complementary measures, not alternatives, to the State waivers discussed earlier that would allow the States to provide Medicaid help to HIV-positive people. With such a law in effect, there is no need to find an offset in the budget. Mr. Henderson said the legislation would lessen barriers for the States; it would represent a kind of preapproval by Congress. Mr. Robinson said he had some of the same questions as Dr. Hitt. The Council could educate some of the Republicans in the House to what this would mean for some HIV-positive people. Are there any costs to the legislation? Would the financial costs have to be offset? What are the political dynamics?

It was suggested that the Council send a letter endorsing the objectives of the bill but with an escape hatch if the bill should be sharply mutated in a way the Council could not accept. Dr. Hitt suggested that the Executive Committee deal with any endorsement. This idea passed unanimously.

Service [QUERY: should this be Appropriations?] Subcommittee: Ms. Aragon said the Subcommittee received briefings from several people the day before about the Ryan White CARE Act reauthorization. It is not likely to occur before the end of 1999 or early 2000, as the current authorization does not end until September 2000. But because of the political volatility of AIDS issues in the Congress at times, it is important for the AIDS organizations community to come to a consensus as soon as possible on what changes have to be made. There may be some administrative changes, but none in the legislation.

One negative likely to come up in a debate is the threat of mandatory testing, names reporting, and partner notification. Also, the National Governors Association has spoken about the possibility of block grants to the States, instead of money going directly to cities or to community organizations, as is now the case. HRSA is looking at how well the CARE Act serves certain populations.

Mr. Charles Blackwell mentioned National Organizations Responding to AIDS (NORA) as a major Ryan White advocacy group.

Mr. Henderson discussed the Jeffords-Kennedy bill. It has 67 cosponsors in the Senate and excellent prospects in the House as well. It includes $300 million for demonstration programs for States, over 5 years, to allow people with diseases to go back to work without

losing their Medicaid coverage. To put this in context, it should be noted that the Kaiser Family Foundation estimates that HIV-infected people alone need $1.3 billion of this kind of support over 5 years. Mr. Anderson said giving people without insurance access to Medicaid even if they go back to work would lessen their fear of doing so.

International Subcommittee: Mr. Anderson said the Subcommittee was frustrated with the U.S. commitment, or lack thereof, to the international aspects of stopping HIV/AIDS. It would like to have at least some members of the Council meet directly with Frank Loy, Under Secretary of State for Global Issues, before the next Council meeting. On the other hand, under the World Trade Organization, there is also a danger that U.S. firms could be forced to license for a fee their medicines to overseas companies for production in those companies countriesat very low cost. The International Subcommittee wants to have a debate before it between advocates of both sides of this issue, ensuring that the developing world is represented along with the domestic side.

Ad Hoc Committee on Prisons: Dr. Hitt announced that Mr. Jeremy Landau will be taking off part-time from being Committee Chairman and Ms. Judith Billings will be helping out as Co-Chair. Mr. Landau said that Dr. Kendig, the new Medical Officer of the Federal Bureau of Prisons, is a good man from the standpoint of the Council. He noted CDC is putting together an RFP of $7-8 million on standards of care in prisons and linkages and transitions to the community. This will apply to 10 States and metropolitan areas.

Ms. Billings mentioned that the Committee representative had recently met with Dr. Kendig and believed they learned more in an hour with him than they had learned in the past 2 years. Because of H.R. 2070 there is now mandatory testing of prisoners when they enter prison for more than 6 months and meet a certain set of risk factors (testing is voluntary for the others).

One percent of the prison population is now HIV positive, about 1,100 individuals. About 700-750 are currently in treatment (the prisoners can choose to receive treatment or not). The number of deaths is going down, from 57 in 1995 to 19 in 1998, with more deaths in 1998, 25, from hepatitis C than from AIDS. Telemedicine could be of help, especially for prisons in rural areas. Continuity of care and the need for discharge planning are additional issues. As of 1998, 73 percent of prisoners in drug treatment programs were less likely to be rearrested than those not in treatment, and 44 percent were less likely to relapse into drug use.

After thanking Mr. Montoya for doing the work of three or four people, Dr. Hitt adjourned the Twelfth Meeting of PACHA.

Adjournment of General Council Session

April 11, 1997

MEMORANDUM FOR LIST

FROM:TODD STERN

SUBJECT:Presidential Medal of Freedom

Every year around this time my office puts together a list of possible recipients of the Medal of Freedom, which we then submit to the President for his review. We generally submit a list of around 15 names with a view toward ending up with 10 awardees. The awards are made in an East Room ceremony, which has occurred in August or September the past three years, although there is nothing magic about that time; the awards could be made somewhat earlier or later.

This is the highest civilian award the President can bestow and the winners should be people of great distinction. And, of course, who the President chooses says something about his concerns, values, etc. I have attached lists of the Medal winners for the past four years.

If you have any creative ideas for possible awardees, please let me know. I will be getting a brainstorming session together in the near future. Thanks.

To:Don Baer
Sandy Berger
Rahm Emanuel
Jack Gibbons
Elena Kagan
Ron Klain
Ann Lewis
Mike Mccurry
Katie McGinty
Sylvia Mathews
John Podesta
Vicki Radd
Bruce Reed
Chuck Ruff
Doug Sosnik
Gene Sperling
Jim Steinberg
Melanne Verveer
Michael Waldman

cc:Jim Dorskind

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Sally Katzen

SUBJECT:Heads-up on HUD "Mortgage Broker" Proposed Rule

We are about to conclude review of a HUD proposed rule to clarify existing confusion about when a fee paid by a lender to a mortgage broker is a service fee (permissible) and when it is a referral fee (prohibited). Because mortgage brokers frequently serve as intermediaries between consumers and lenders, it is often difficult to tell whether a fee paid by a lender is for the brokers services to the lender or for referring the consumer to the lender. The proposed rule would exempt mortgage brokers and lenders from the prohibition against referral fees when they give consumers information explaining their respective roles and the fees they receive, so long as the fees are not "excessive."

Secretary Cuomo is scheduled to hold a press conference Wednesday to announce HUDs proposed rule; the agency, however, does not expect to send the rule to the Federal Register for several weeks. The proposed rule should receive near unanimous support from consumer groups, mortgage brokers, and lenders, although there may be some concern from the mortgage brokers and lenders about HUDs methodology for defining "excessive" fees. Please give me a call if you have any questions.

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

February 25, 1998

David,

I am so sorry this has taken so long to get to you. Ellen would like to suggest the following people. Please call me about this so we can discuss it further.

Bruce Reed
Assistant to the President - Domestic Policy

Elena Kagan
Deputy Assistant to the President - Domestic Policy

Mark Gearan - Director, Peace Corps

I am waiting to hear back from a couple of people to get names from Treasury and from HHS. HHS is having a conference on Philanthropy this spring and I have the name of the person coordinating the conference. Does that sound like a possible invite? We are also trying to track down someone from Education. Again, Im sorry this has taken so long to put together. Were you able to find another keynote speaker? Please give me a call tomorrow or Friday. Thanks for your patience.

Ginger Cearley

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DRAFT -- FEBRUARY 7, 1996

MEMORANDUM FOR:MIRIAM NEMETZ

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

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

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

All calendars and phone records, message slips or phone logs . . . made to or from any of the following individuals, from May 1, 1995 through November 30, 1995 regarding the White House Travel Office matter22For purposes of responding to the subpoena requests, please use the definition of the term "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). or the case of U.S. v. Billy Ray Dale:" Jane Sherburne, Jon Yarowsky, Natalie Williams, Abner Mikva, Margaret Williams, Capricia Marshall, Patsy Thomasson, John Podesta, Catherine Cornelius, Mark Gearan, Bruce Lindsey, David Watkins, Janet Greene, Betsey Wright, Webb Hubbell, Bill Kennedy, Jeff Eller, Neil Eggleston, Cliff Sloan, Mike Berman, Harry Thomason, Darnell Martens, Beth Nolan, James Hamilton, Susan Thomases, James Lyons, Roy Neel, John Gaughan, any employee of the Military Office,33See attachment 2 for a list of all employees of the Military Office from January 20, 1993 through the present. Larry Herman, John Shutkin, any employee of KPMG Peat Marwick,44We are aware that at least he following KPMG Peat Marwick employees were involved in some aspect of the White House Travel Office matter: Larry Herman, Dan Russell, Leslie Casson, Carolyn Rawdon, Nicholas DiCarla, Charles Siu and John Shutkin. Billy Ray Dale, Barney Brasseaux, John Dreylinger, Ralph Maughan, John McSweeney, Robert Van Eimeren, Gary Wright, David Bowie, Pam Bombardi, Tom Carl, Stuart Goldberg, Lee Radek, Jamie Gorelick, Adam Rossman and David Sanford.

It is extremely important that staff members conduct a thorough search for responsive documents. Each Assistant to the President or Department head should ensure that his or her staff members conduct such a search. Please provide any responsive materials to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 12, 1996.

If you have any questions regarding the House subpoena, please call Special Counsel Jane

Sherburne (6-5116).

May 12, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: ELENA KAGAN

SUBJECT: DASCHLE AMENDMENT

The First Lady asked Sylvia for a copy of the amendment that Senator Daschle plans to offer tomorrow during the debate on the Partial Birth Abortion Act. Sylvia suggested that I send it to you too. Attached is the most recent draft. As you will see, the amendment prohibits all post-viability abortions, with an exception for life or "grievous injury." I am sorry I could not find a cleaner copy of the amendment. Please let me know if you have any questions.

May 12, 1997

MEMORANDUM FOR MRS. CLINTON

FROM: ELENA KAGAN

SUBJECT: DASCHLE AMENDMENT

Sylvia asked me to send you the amendment that Senator Daschle plans to offer tomorrow. Attached is the most recent draft. I am sorry I could not find a cleaner copy. Please let me know if you have any questions.

MEMORANDUM

TO: BRUCE REED, ELENA KAGAN, MICHAEL COHEN

CC: MARY SMITH, WILLIAM KINCAID

FROM: TOM FREEDMAN
JULIE MIKUTA

RE: SCHOOL TAKEOVERS

DATE: JUNE 9, 1997

SUMMARY

State takeovers of financially bankrupt schools have occurred for at least 15 years. In the last 8 years, this power has been expanded to include academically bankrupt schools. Currently, 22 states empower state boards to intervene in districts that underperfom academically for an extended period of time. Most state interventions occur in several stages, and some form of takeover is usually applicable after approximately two to three years of low performance. Takeover strategies vary but usually include the reconstitution of the school board, administration, school professional staff, or some combination of these bodies.

TAKEOVERS OF ACADEMICALLY BANKRUPT SCHOOLS/ DISTRICTS

Attached is a state-by-state list of the sanctions that states can take against failing schools, and a summary of actions that have been taken across the country. This list was compiled based on a survey of education journals and newspapers.

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December 17, 1998

MEETING WITH BUDGET TEAM
ON 2000 BUDGET

DATE:December 18, 1998
LOCATION:Cabinet Room
TIME:2:15 to 3:15 p.m.
FROM:Jack Lew
Gene Sperling

I.PURPOSE/BACKGROUND

To review major decisions required to finalize the FY 2000 budget. We plan to discuss tax issues and possible mandatory initiatives for fiscal year 2000.

II.PARTICIPANTS

Meeting

The President
The Vice-President
John Podesta
Secretary Rubin
Jack Lew
Gene Sperling
Larry Stein
Bruce Reed
George Frampton
Janet Yellen
Ron Klain
Melanne Verveer
Sylvia Mathews
Larry Summers
Maria Echaveste
Steve Ricchetti
Karen Tramontano
Doug Sosnik
Paul Begala

Sally Katzen
Elena Kagan
Barry Toiv
Michael Waldman
Martha Foley
Josh Gotbaum
Todd Stern
Clara Shin

III.PRESS PLAN

Closed press.

IV.SEQUENCE OF EVENTS

2:15-3:15Briefing and discussion with your advisors

V.REMARKS

No remarks.

VI.ATTACHMENTS

None.

September 23, 1997

MEMORANDUM

TO:Hillary Rodham Clinton
FROM:Nicole Rabner, Jennifer Klein
cc:Melanne Verveer
RE:Tomorrows Meeting on Adoption

The purpose of tomorrows meeting is to be briefed by HHS on the recently introduced Senate child welfare bill and explore Administration strategy. We participated with HHS in a briefing by key staff of Senators Rockefeller and Chafee on the PASS Act, and they expressed an eagerness to work with the Administration. Rockefeller and Chafee plan to hold a one-day Finance Committee hearing on the bill on October 8th, and hope that it goes directly to the floor for speedy passage. They urged our support.

As you know, the other important purpose of this meeting is to speed up what might otherwise be a lengthy Administration review.

Background

As you know, on Thursday, September 18, a bi-partisan group of Senators -- including Senators Rockefeller, Chafee, Craig, Jeffords, Dewine, Bond, Coats, Levin and Landrieu -- announced an agreement on child welfare legislation, called the Promotion of Adoption, Safety and Support for Abused and Neglected Children Act (PASS). The PASS Act represents the Senate version of the House adoption legislation which passed this past Spring, which the Administration endorsed. Through the Spring and Summer, Rockefeller had prevented speedy Senate consideration of the House bill, in order to work on more ambitious Senate legislation. The PASS Act incorporates many elements of the Administrations Adoption 2002 initiative, including the principle of health and safety for children in foster care, financial incentives for states to meet adoption targets, clarification of the "reasonable efforts" standard, and shortened waiting times for children in foster care. The PASS Act also includes other measures, including judicial reforms and health coverage for special needs children who are adopted (effectively de-linking adoption assistance from IV-E eligibility).

Unlike the House bill, the Senate Act, as you know, has budget implications (roughly estimated at $2.4 billion, althought CBO has not yet scored the bill), paid for by savings from "cost-allocation" -- ensuring that states do not shift TANF administrative costs to other federal entitlement programs, such as Medicaid and food stamps. The Administration has been on record as supporting some version of cost allocation. As you might suspect, however, there are many competing causes trying to capture this pot of savings (for instance, Agriculture research spending). Rockefellers argument is that if we are going use this savings for something, it should be for measures that re-invests in this same population.

Attached please find a one-page description of the PASS Act, the Congressional Research Service side-by-side of the introduced legislation from the House and Senate, and the PASS legislation, as introduced on 9/18/97, as well as the Adoption 2002 report.

Meeting Participants

The First Lady
Melanne Verveer
Bruce Reed
Elena Kagan
Gene Sperling
Janet Murguia
Jennifer Klein
Nicole Rabner
OMB TBD

Donna Shalala
Olivia Golden
Rich Tarplan
Mary Burdette

February 19, 1997

MEMORANDUM FOR LARRY IRVING, ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION, U.S. DEPARTMENT OF COMMERCE

FROM:BETSY MYERS, DEPUTY ASSISTANT TO THE PRESIDENT AND DIRECTOR, OFFICE FOR WOMENS INITIATIVES AND OUTREACH

SUBJECT:INVITATION TO SPEAK AT BRIEFING ON THURSDAY, FEBRUARY 27, 1997

I would like to invite you to join me and other senior Administration officials for an afternoon briefing hosted by the Office for Womens Initiatives and Outreach for the National Association of Commissions for Women (NACW) next Thursday, February 27, 1997, from 3:30 to 5:30 p.m. in the Indian Treaty Room of the Old Executive Office Building.

I understand from speaking with Sheila Williams that your schedule for that day is already very full, but this group of approximately 30 members of both NACWs Board of Directors as well as members from local commissions for women have asked for you by name to speak to them about telecommunications. Some of them have worked very hard on the Telecommunications Bill , namely Carolyn Gatov of Ameritech, Bonnie White of Nynex, and Bill Roberts of Bell Atlantic. All, however, have expressed sheer delight in the hopes they will be able to hear your remarks and have an opportunity to ask you a few questions.

If a 10-15 minute opening in your schedule looks possible, we would be appreciative if you could be our last speaker any time until 5:15 p.m. Other confirmed speakers include: Elena Kagan, Deputy Assistant to the President for Domestic Policy; Joan Lombardi, Associate Commissioner of the Child Care Bureau in the Administration on Children, Youth and Families at HHS; and Eleanor Dean Acheson, Assistant Attorney General, Department of Justice. We hope you will reconsider our request, but if you schedule does not allow your participation, we would appreciate someone in your Office to speak in your place.

Please contact Sondra Seba of our Office at (202)456-7300 at your earliest convenience to confirm your participation and address any questions you might have. We look forward to hearing from you soon.

CC: Sondra Seba

Attachments:
Letter from Camille Failla Murphy, President, NACW
Background on NACW

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August 4, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
MICKEY IBARRA
ELENA KAGAN
LYNN CUTLER

SUBJECT: NATIVE AMERICAN ECONOMIC DEVELOPMENT CONFERENCE

On Thursday, April 6, you will attend a conference at the Grand Hyatt Hotel in Washington, D.C., sponsored by the White House (Domestic Policy Council and Office of Intergovernmental Affairs) and 15 federal agencies, entitled "Building Economic Self-Determination in Indian Communities." This memorandum provides some background on the conference as well as some statistics about American Indians and Alaska Natives. At the conference, you will make several policy announcements in the areas of education, economic development, and health care for Native Americans. This event is the first time you have spoken in front of Native Americans since your meeting with tribal leaders in 1994. During this conference, you will reaffirm your commitment to protecting tribal sovereignty and reaffirm the government-to-government relationship between the United States and tribes. Finally, you will promote and encourage economic self-determination in Indian country.

Purpose and Structure of the Conference

This conference grew out of your meeting with tribal leaders on April 29, 1994, and the establishment of the Domestic Policy Councils (DPC) Working Group on American Indians and Alaska Natives. In addition, as a result of the government-wide survey of activities in relation to Indian country and your suggestion that initiatives be developed around economic development, the DPCs subgroup on economic development started planning this conference several months ago.

This conference will take place on August 5-6 at the Grand Hyatt Hotel in Washington, D.C. The event is sponsored by the White House (Office of Intergovernmental Affairs and the Domestic Policy Council), the Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, Interior, Justice, Labor, State, Transportation, the Treasury, and the Comptroller of the Currency and the Small Business Administration. Secretary Babbitt, Secretary Daley, Secretary Glickman, Secretary Herman, Attorney General Reno, and Administrator Alvarez will speak at the conference.

The conference will have approximately 800 participants including tribal leaders and members, businesses, and federal agency personnel. This conference will cover topics such as commerce in Indian country; building infrastructure and positive climate for business; tribal self-government and economic self-determination; agriculture and economic development; rural business; community development in Indian country; electronic commerce; welfare to work initiatives; and tourism.

Background on American Indians and Alaska Natives

Indian America is made up of more than 550 tribes, with a total population of approximately 2.4 million. Approximately forty percent of all American Indians and Alaska Natives are under the age of twenty. About twenty percent of the total American Indian and Alaska Native population resides on 314 reservations, Indian lands, and in Alaska Villages that make up Indian country.

While economic conditions in Indian country have improved in recent years, American Indian and Alaska Native communities continue to lag behind the rest of the United States with respect to social, economic, and educational attainment levels. Income levels of American Indians and Alaska Natives are substantially below those of all other Americans, and about 34 percent continue to live below the poverty level. In comparison, about 14 percent of all Americans live below the poverty level. Complicating factors such as geographical isolation, under developed infrastructures, and demographics, add to the challenges confronting tribes as they work toward a better standard of living and quality of life for tribal peoples.

Your Participation at the Conference

You will make remarks in the afternoon of August 6, which is the second day of the conference. You will speak to approximately 800 tribal leaders and representatives, business leaders, and federal agency personnel. The following person will introduce you:

*Dominic Ortiz, student, 21 years old, University of Kansas, Lawrence, Kansas. As a member of the Prairie Band Potawatomi Nation, Mr. Ortiz attended Haskell Indian Nations University, one of the tribal colleges. Currently, he attends the University of Kansas. While at Haskell, Mr. Ortiz founded and served as president of the Haskell chapter of the American Indian Business Leaders (AIBL). Through the guidance and mentoring he received from AIBL, Mr. Ortiz started his own business, Potawatomi Traders, which sells Native American jewelry at the wholesale level. Potawatomi Traders helps to sustain 200 Native American artists whose jewelry is sold at 15 retail sites in 4 states. Mr. Ortiz uses profits from his business to fund his education.

Following your remarks, you will sign at the conference a Native American education executive order, which is described below.

Policy Announcements to be Made at the Conference

We recommend that you make the following policy announcements at the conference, which focus on economic development, education, and health care. As obtaining an education and receiving quality health care are building blocks of economic self-determination, announcements in these areas will complement your economic development announcements.

Education

*Native American Education Executive Order. This executive order is designed to improve the academic performance of American Indian and Alaska Native students in grades K-12. The order focuses special attention on the following five goals: (1) improving student achievement in reading and mathematics; (2) increasing high school completion and post-secondary attendance rates; (3) reducing the influence of long-standing factors that impede educational performance, such as poverty and substance abuse; (4) creating strong,

safe, and drug-free school environments conducive to learning; and (5) expanding the use of science and educational technology. This order is structured to address Indian educational needs through participation at the federal, state, and local levels. At the federal level, the order establishes an Interagency Task Force which will plan budget initiatives, develop an education resource guide, and assist in implementing a comprehensive research agenda on Indian education. At the regional level, the order mandates a series of regional forums to be convened to identify promising practices. Finally, at the local level, this executive order sets up pilot sites which will receive comprehensive technical assistance in support of the goals of the order.

Economic Development

*Executive Directive for Economic Development in American Indian and Alaska Native Communities. You should announce the following directive which has the following three components:

*Technology Infrastructure Study. This memorandum will direct the Department of Commerce, in collaboration with the Department of the Interior and in consultation with tribal governments, to issue a report within 9 months on the technology infrastructure needs within Indian country, including distance learning facilities, telecommunications capabilities, and manufacturing facilities.

*Strategic Plan to Coordinate Economic Development. This memorandum also will direct the Department of the Interior, the Department of Commerce, and the Small Business Administration to develop, within 90 days, a strategic plan that will coordinate efficiently economic development initiatives across agencies for Native American and Alaska Native communities. The plan will build upon current efforts as well as look toward future efforts in collaborating on such matters as providing technical assistance, enhancing infrastructure, and developing software.

*One-Stop Mortgage Center. Finally, this memorandum will direct the Departments of Treasury and Housing and Urban Development, in partnership with local tribal governments and in cooperation with other federal agencies to initiate a project to help streamline the mortgage lending process in Indian country in order to improve access to mortgage loans on Indian reservations. The agencies will initiate this effort through a year-long pilot program on the Navajo Nation and in at least one other location.

*Providing $70 Million to Create Technology-Based Jobs in Indian Country. The U.S. Department of Agriculture (USDA), through its Bringing Rural America Venture Opportunities (BRAVO) initiative, will direct $70 million of its contracting dollars through Fiscal Year 2000 to assist seven American Indian and Alaska Native tribes in establishing small start-up technology companies that will provide software development, maintenance, and technical support services. Through the 8(a) program, USDA, large technology companies doing business with USDA, and the Tribal Colleges and other land-grant educational institutions will work with American Indian and Alaska Native tribes to mentor and assist them in setting up these businesses to bid on government contracts.

Health Care

*Support Elevating the Director of the Indian Health Service to an Assistant Secretary. You should call on Congress to pass legislation to elevate the Director of the Indian Health Service to an Assistant Secretary. Elevating the IHS Director to the position of

Assistant Secretary will strengthen the government-to-government relationship; facilitate communication and consultation with the Tribes on matters of Indian health; and raise awareness of Indian health concerns throughout HHS and the entire federal government.. The current director, Dr. Michael Trujillo, would become only the second full-blooded Native American to be an Assistant Secretary.

*Correct state CHIP allotments for undercount of Native American children. You could announce a change in the state-by-state allocation of the $24 billion in the Childrens Health Insurance Program (CHIP) to appropriately count Native American children. States receive a share of CHIP funds based on their proportion of uninsured children below 200 percent of poverty. When the Census Bureau produced these counts last September, it did not include Native American children with access to the Indian Health Service as "uninsured." Thus, even though such children are eligible for CHIP coverage, the states with a large number of Native American children did not receive a larger share of funds. You could announce that both the Census Bureau and Administration recognize that this was inequitable and are thus revising the allotments.

Highlight actions taken for outreach to Native American children. As part of a Federal Interagency Task Force, both the Department of Interiors Bureau of Indian Affairs and HHSs Indian Health Service proposed a number of actions to increase enrollment of uninsured Native American and Alaska Native children. These include developing and distributing culturally relevant referral information (e.g., brochure, poster, supplementary packets of information) to Native American families through the Bureau of Indian Affairs, especially focusing on tribal schools, colleges and social services agencies.

Attachments
*Conference Agenda
*The American Indian, Eskimo, and Aleut Population (U.S. Census Bureau)
*Key Facts About American Indian and Alaska Native Children and Youth (prepared by IHS)
*Testimony on Native American Economic Development Before the U.S. Senate Committee on Indian Affairs

Presidential

Advisory

Council on

HIV/AIDS

808 17th Street, N.W., Suite 820
Washington, DC 20006

December 7, 1997

The Honorable William Jefferson Clinton
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

The Presidential Advisory Council on HIV/AIDS urgently recommends, based on an examination of extensive scientific research, that a determination that needle exchange programs effectively reduce HIV transmission and do not increase drug use be made by Secretary of Health and Human Services Donna Shalala immediately. The Council has made several recommendations of this nature during the past two years to no avail. The most recent Congressionally imposed moratorium prevents federal funding of any programs until April 1, 1998, and requires the Secretary to establish a framework for the implementation and funding of any such programs. The guidelines for needle exchange programs, as part of a continuum of HIV prevention and substance abuse treatment programs, should be developed during the remaining months of the moratorium in consultation with affected communities and exchange service providers. The debate at this time should no longer be if, but how, needle exchange programs should be established. The Presidential Advisory Council on HIV/AIDS strongly recommends that the determination by the Secretary on this issue occur before January 27, 1998.

Thank you for your attention to this important matter.

Sincerely yours,

(original signed by RSH 12/7/97)

R. Scott Hitt, M.D.
Chair

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FFcc:
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September 16, 1998

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC October Event Ideas

Health Care

Long-Term Care: If Democrats decide to introduce an alternative tax bill, we could do an event (either before or concurrent with the Democratic unveiling) that highlights the Presidents long-term care initiative. The Presidents proposal would provide for a $500-$1,000 tax credit to people with long-term care needs or their caregivers. It would cost about $5 billion over 5 years and help about 2.2 million people. At the same time, the President could call for the Federal Employees Health Benefit plan to offer long-term care insurance to federal employees. OPM estimates that 300,000 people would buy these policies.

Work Incentives and Health Care for People with Disabilities: Within a week, we will know whether the Senate will vote on the Jeffords-Kennedy Work Incentives Improvement Act -- the disability communitys top health priority -- this year. If the bill does come to a vote, we could do a strong event with the disability and AIDS communities emphasizing our involvement in developing the bill and calling on the Senate to pass it. We also could announce the approval of four states for the new "date certain" grant program. This initiative (long sought by the disability community) gives states the ability to use Medicaid funds to offer a time-limited opportunity for institutionalized disabled persons to return to their communities to receive the long-term care services they need. The disabilities community views the program as an important step in moving Medicaid away from its historic bias toward institutionalizing the chronically ill.

Childrens Health: October is the first anniversary of the effective date of the Childrens Health Insurance Program (CHIP), and October 5 is Child Health Day. We could release the first annual report on states' progress in implementing CHIP, which is expected to coincide with a sufficient number of state approvals to cover 2.5 million kids. At this event, we would launch phase one of our childrens health outreach campaign with NGA, which includes new radio ads in 10 states (set to begin October 1) targeted to parents of uninsured children eligible for CHIP or Medicaid. We also are trying to get a commitment from Americorps to participate in signing families up for Medicaid and CHIP on the local level.

Patients Bill of Rights: We would like to do at least one more patients bill of rights event, preferably on the road, prior to the election. We might want to do a kind of wrap-up event, now that we have just about finished applying the bill of rights to federal health plans, toting up everything we have done by executive action (i.e., how many people covered) and comparing it to what Congress has accomplished (i.e., nothing). The AFL-CIO (per Jerry Shea) strongly favors this event.

Cancer Event(s): In addition to the September 26 Cancer March (and the Presidents possible involvement through a radio address), October is National Breast Cancer Awareness month. It is also the fifth anniversary of the Presidents launching of the National Action Plan on Breast Cancer. We have tentatively scheduled October 21 for an event with the First Lady to (1) release a new report on the progress the Administration has made in the fight against breast cancer, and (2) highlight a new information outreach and screening campaign focused on underserved minorities. Because of the Presidents strong cancer record, as well as his desire to underscore our commitment to ending health disparities among races, the President might want to participate in this event.

Elder Abuse: See Crime section of this memo.

Education

September Grants: The Education Department will announce prior to September 30: (1) technology grants ($30 million to 17 states); (2) charter school grants ($60 million to 20 states); (3) safe and drug free school grants ($5 million for model school partnerships and universities); and (4) school-to-work grants ($40 million to urban and rural communities, which must be given on September 30). We can try to combine as many of these grants as possible into a single event, perhaps in Chicago.

Potential Bill Signings: (1) The Higher Education Act is virtually certain to pass this session, though the timing is uncertain. It is likely to contain provisions to reduce student loan interest rates, as well as programs based on our High Hopes and Teacher Recruitment and Preparation proposals. (2) Prospects for passing the charter schools legislation are decent, though hardly guaranteed. (3) Ditto the prospects for passing an early literacy bill.

Safe Schools Conference: On October 15, the President will host a White House Conference on School Safety and take the following actions: (1) release the first annual report on school safety, including school crime data, information on model safe schools, and recommended action steps for parents and teachers; (2) unveil a proposal to reform the Safe and Drug Free Schools program and call for additional funds in the FY 2000 budget; (3) announce a new FEMA-like program of assistance for communities that have experienced school-related violence; (4) launch new comprehensive school safety grants that will bring together disparate streams of funding from the Departments of Justice, Education, and Health and Human Services; and (5) start a partnership with MTV on school safety, which includes a year of PSAs.

Crime

September COPS Grants: The President could announce in late September $370 million in grants to hire or redeploy 11,500 more police officers. This announcement would include $100 million for Los Angeles to hire 700 new police officers, $70 million for the rest of California to hire 800 new officers, and $200 million for COPS MORE grants to allow police departments in communities across the nation to redeploy more than 10,000 officers.

Elder Abuse and Fraud: The President could take several actions to combat elder abuse and fraud, including: (1) releasing the preliminary findings of an HHS study on elder abuse; (2) creating a new national center on elder abuse; (3) calling on Congress to reauthorize the Older Americans Act, which includes services to help older Americans at risk for abuse; (4) launching a new partnership between the Justice Department and AARP to create Elder

Fraud Prevention Teams (EFPTs) in four cities (Miami, Phoenix, San Diego, and Seattle); (5) releasing roughly $3 million in Justice Department grants to combat fraud against the elderly (by September 30); and (6) posting new information on telemarketing fraud on the Department of Justice Web site.

TOP COPS Legislation: The President could sign legislation to expand educational benefits for the children of slain local law enforcement officers at the NAPO TOP COPS event on October 9, assuming the legislation is passed in time. The President endorsed this proposal at last years TOP COPS event. The bill has passed the Senate and is waiting for a floor vote in the House.

1997 FBI Crime Statistics: Coinciding with the October 18 release of the final 1997 FBI Uniform Report -- which will continue to show large decreases in crime -- the President could give a major policy speech on how this Administrations efforts have helped to fuel the longest sustained drop in violent crime in nearly 40 years. The speech would commemorate the fourth anniversary of the landmark 1994 Crime Act; highlight the crime policies, including signature initiatives such as COPS, that have helped to change the nations approach to crime; and begin to make the case for new crime proposals that will be included in the State of the Union and FY 2000 budget.

Youth Crime Gun Interdiction Initiative: Anytime after October 23, the President could: (1) release the second annual report on the Youth Crime Gun Interdiction Initiative (YCGII), which will provide new ATF data on guns used in crimes in 27 cities; (2) announce the availability of new funds to hire new ATF agents to investigate gun trafficking in these 27 cities; and (3) propose a dramatic expansion of this initiative in the FY 2000 budget to all major cities (i.e., the 65-70 cities with populations of 250,000 or more), which would cost about $30 million (pending OMBs approval). Additionally, because we expect the YCGII report to make a strong case for cracking down on "straw purchasers" and gun shows, we are considering whether the President should announce his support for legislation requiring background checks for all secondary market gun purchases.

Children and Families

Head Start Reauthorization Bill: The President should have the opportunity to sign a Head Start Reauthorization bill this year. A bill signing could highlight the how the Administration has (1) significantly increased Head Start participation; (2) dramatically improved program quality; and (3) created Early Head Start for infants and toddlers.

Quality Child Care for Federal Employees Act: The President may get an opportunity to sign the Quality Child Care for Federal Employees Act, which makes important improvements to federally-sponsored child care by building on an executive memorandum that the President issued in March 1998. (Congress, however, might add this measure to an appropriations bill.) We could announce new CCDBG data (see just below) at this signing.

New Child Care Data. The President could announce new data of the number of children served with child care assistance through the Child Care and Development Block Grant (CCDBG). This data will point to the need for increased investment in the block grant; we expect the data to indicate that we are serving approximately 1.8 million children of the 10 million eligible for assistance. This is the first data to examine the CCDBG created by welfare reform in 1996 (when four child care assistance programs were consolidated).

CEO Roundtable Discussion on Work/Family Issues: The President could host a meeting of CEOs to discuss "family-friendly" workplace practices that meet the needs of the nations changing workforce. The President could release a new CEA report, if it is ready, on Families and the Changing Labor Market. Additionally, the President could signal support for the design of a paid parental leave program (policy development process required). This meeting would build on the work of the Treasury Child Care Working Group, run by Secretary Rubin.

Welfare

National Child Support Case Registry: HHS is almost ready to put in place a new national database of child support cases, called a Federal Case Registry. This database will make it easier to locate deadbeat parents, especially if they have moved to a different state; HHS will check the Registry daily against an existing database of new employees; when it finds a match, it will report the information to the state, which then will arrange to garnish the wages of the delinquent parent. The registry was proposed by the President in 1994 and enacted as part of the 1996 welfare reform law. States will begin to submit their case 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. We could unveil the new registry anytime in October.

Work Participation Rates and Other Statistics: In late October, the President could visit a welfare-to-work program and announce (1) new state work participation rates, showing that almost all states are meeting the welfare laws single-parent requirements, but some are failing to meet the laws separate two-parent requirement; (2) new caseload data showing continuing declines; and (3) new data on the number of people who were on welfare in 1997 and working in March 1998.

Tobacco

OSHA Rule: The President could sign an Executive Order directing OSHA to issue within one year a standard establishing a smoke-free workplace for all private sector employees. OSHA has been working since 1991 on a standard regulating all indoor air pollutants (including but not limited to environmental tobacco smoke), but is years away from completing the standard, principally because there is scanty scientific evidence to justify the regulation of certain non-ETS pollutants. If the President ordered a separate standard only on ETS, OSHA believes it could complete the work within a year. The resulting standard would be similar to the August 1997 Executive Order banning smoking in federal buildings.

Counteradvertising: In an event focusing on counteradvertising, the President could direct HHS to: (1) designate the CDCs Media Campaign Resource Center as a National Clearinghouse on Tobacco Counteradvertising; (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; and (3) make effective anti-tobacco curriculum available to every school. Supermodel Christy Turlington and the musical group "Boyz II Men" have made PSAs that would be among the top-10 package, and we could invite them to participate in the event.

Department of Defense Anti-Tobacco Plan: The President could help unveil the DODs new comprehensive anti-tobacco plan. This plan includes: health plan coverage of over-the-counter nicotine replacement therapies; an extensive counteradvertising campaign; and the incorporation of anti-tobacco messages into military education and training

programs. The total cost is about $60 million. The Secretary of Defense and/or Chairman of the Joint Chiefs of Staff could join the President.

Food Safety

Salmonella and Research: The President could announce a preliminary USDA study showing that salmonella risks have declined by almost 50 percent in chicken and almost 40 percent in swine, largely because of the HACCP program. At the same time, he could participate in a kind of "show and tell" event demonstrating the importance of research to food safety, showing for example how federal research has led to technologies dramatically reducing salmonella in chicken and e-coli in cows.

Service

Americorps 100,000th Member Event: CNS is planning national service events in Washington and around the country on October 23 to celebrate the swearing-in of the 100,000th Americorp member. At this event (or at some other time), the President also could announce: (1) new grants to support 500-1000 Americorps Promise Fellowships to support the goals set at the Presidents' Summit; (2) the recipients of the Presidents Service Awards, the nations highest volunteer service award; and (3) the recipients of the President's Student Service Awards.

Community Empowerment

Individual Development Accounts: The President may have an opportunity to sign a bill to provide funds for IDAs, which the President has supported since 1992. At the bill signing, the President could announce that he is sending a letter to the bank regulators asking that IDA accounts count towards a financial institutions CRA requirements.

September 8, 1998

MEMORANDUM FOR BRUCE REED
ELENA KAGAN

FROM: Domestic Policy Council Staff

SUBJECT: Compilation of Preliminary New Ideas

CHILDREN AND FAMILLIES

1. Child Care. While this is not a new idea, we must maintain our support for our child care initiative in order to have credibility on the rest of a new "families first" agenda.

2. Paid Parental Leave. Funding for paid-parental leave for the purpose of looking after a newborn baby, or a newly-adopted child for 12 weeks (although we may reduce the length of time, depending on costs). A leave initiative may be targeted to families whose incomes are below a certain level.

3. Home Visitation. Funding for programs that counsel and support parents in the parenting process. These programs are often conducted by trained professionals, such as nurses and counselors, and they tend to dramatically decrease levels of abuse, which in turn decreases rates of delinquency and crime amongst children and youth.

4. Child Welfare. Additional funding and improvements of independent living. (Specifics to follow.)

5. Child Tax Credit. Double the Child Tax Credit, from $500 per child to $1000, for parents of children aged 0 to three.

6. Home Office Tax Deduction. Expand the allowable expenses for those who work out of their home.

7. Flex-Time. Offer tax incentives for companies that offer flexible work hours for their employees, compressed work weeks, part-time work with benefits, job sharing, career sequencing, and extended parental leave.

8. After-School Programs. Support after-school programs in both school-based and non-school-based settings, with a priority to those programs that are tailored to work hours.

CIVIL RIGHTS

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

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

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

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

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

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

COMMUNITY EMPOWERMENT

1. Access To Capital For All Americans.

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

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

*Micro-Enterprise. Provide authorization and funding for CDFI Fund to provide technical assistance to micro enterprise organizations and micro-entrepreneurs (PRIME Act, Kennedy-Domenici).
*Secondary Market. Develop coordinated administration initiative to take first steps towards secondary market for community development loans, including data collection, education, standardization, regulatory review, and the creation of a loan loss reserve fund to back pools of community development loans pooled and sold by the private sector.

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

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

2. Sustainable Development.

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

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

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

any community.

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

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

3. Job Creation in Distressed Communities.

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

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

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

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

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

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

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

4. Low Income Savings.

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

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

5. Affordable Housing.

*Elderly Housing Initiative. 1) Housing modernization grants to existing elderly housing projects for modernization, physical redesign, and/or conversion to assisted living; 2) Expanded and more flexible service coordinator grants to meet needs of increasingly frail population in public and assisted housing; 3) authority for PHAs to use vouchers for the housing component of assisted living costs.

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

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

6. Promoting Homeownership In Distressed Communities.

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

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

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

*First-Time Homebuyer Tax Credit. The 1997 tax law put in place a $5,000 tax credit for first-time homebuyers in the District of Columbia. To boost homeownership in Empowerment

Zones, we could propose allowing any first-time homebuyer in an EZ to take advantage of this tax provision.

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

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

EDUCATION

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

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

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

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

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

in high poverty schools. Provide incentives for Board-certified teachers to teach in high poverty schools.

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

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

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

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

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

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

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

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

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

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

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

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

* Support English Plus. In addition to ensuring that all LEP students learn English, we

should promote foreign language learning, starting in the early grades, for students whose native language is English. The objective is to dramatically increase the number of students who leave school fluent in two or more languages, regardless of their native language.

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

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

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

11. "High Hopes" for Adults. While the President has made enormous progress in making available resources for higher education for people of all ages, the primary focus of Administration informational campaigns and initiatives like High Hopes have been to encourage young people to go to college. A new initiative could combine two efforts. First, the Administration could launch an informational campaign encouraging adults to go back to school and inform them of new resources available to help, including Lifetime Learning and Hope Scholarship Tax Credits, Individual Training Accounts under the new Workforce Investment Act, and Pell Grants (which apparently few realize can be used for

part-time students). Second, a new "High Hopes" grants program targeted at adults, partly focused on encouraging minorities and women to go back to school, could support local partnerships of business, community colleges, labor unions, one-stop centers and others to provide the information and counseling needed to encourage and assist adults to enroll in courses and programs that will help them succeed in their local job market.

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

HEALTH

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

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

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

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

New Family Care giver "One-Stop-Shop" Support Program. About 50 million people provide

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

Adding prescription drug coverage to Medicare (new policy). The lack of coverage for prescription drugs in Medicare is widely believed to be its most glaring shortcoming. Recognizing the medical communitys reliance on prescriptions for the provision of much of the care provided to Americans, virtually every private health plan for the under-65 population has a drug benefit. Medicares lack of coverage is largely responsible for the fact that drug costs are the highest out-of-pocket cost for three out of four elderly. This burden will only become more acute in the next century as the vast majority of advances in health care interventions will be pharmacologically-based. Responding to this fact, Republicans and Democrats on the Medicare Commission, as well as almost every health care policy expert, are consistently stating that reforming Medicare without addressing the prescription drug coverage issue would be a mistake. We are developing a wide variety of options, including a means-tested option, a managed care benefit only approach, and a traditional benefit for all beneficiaries. If desirable, a proposal could be included in the budget or coordinated with the March release of the Medicare Commissions recommendations. (Cost: Varies significantly depending on proposal, but could be $1 -20 billion a year; assumed offset would be Medicare savings, which might more easily be achieved in context of a broader reform proposal).

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

* Redesigning and increasing enrollment in Medicares premium assistance program (extension of July executive action and new policy). Over 3 million low-income Medicare beneficiaries are eligible but do not receive Medicaid coverage of their Medicare premiums and cost sharing. Many more may not get enough assistance through the new, BBA provision that is supposed to help higher income beneficiaries. We are developing a range of proposals that build on the Presidents actions in this area to better utilize Social Security Offices to educate beneficiaries about this program, to reduce administrative complexity for states and to give them incentives to engage in more aggressive outreach efforts. (Costs vary depending on policies; probably about $500 million to $2 billion over 5 years).

2. Health Insurance Coverage Expansions.

* Providing new coverage options for people ages 55 to 65 (FY 1999 budget; not passed). Americans ages 55 to 65 have a greater risk of becoming sick; have a weakened connection to work-based health insurance, and face high premiums in the individual insurance market. This three-part initiative would: (1) allow Americans ages 62 to 65 to buy into Medicare, through a premium designed so that this policy is self-financed; (2) offer

a similar Medicare buy-in to displaced workers ages 55 and over who have involuntarily lost their jobs and health care coverage; and (3) give retirees 55 and over whose retiree health benefits have been ended access to their former employers health insurance. A proposal such as this would be minimally necessary for any serious consideration of proposals to raise Medicares eligibility age. (Cost: About $1.5 billion over 5 years, which would assist about 300,000 people).

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

* Childrens health insurance outreach (FY 1999 budget; not passed and new policy). By the first anniversary of CHIP, we expect about 45 states to have CHIP plans approved. These new expansions have great potential to help uninsured children, but not if families do not know or understand the need for insurance. Moreover, over 4 million uninsured children are eligible for Medicaid today. Last years budget included several policies to promote outreach, including allowing states to temporarily enrolling uninsured children in Medicaid through child care referral centers, schools, etc; and allowing States to access extra Federal funds for childrens outreach campaigns. An additional proposal is to pay for a nationwide toll-free number that connects families with state eligibility workers. NGA is sponsoring this line for one year only; such a line is essential for the nationwide media campaign that we are planning to launch in January with the NGA and Americas Promise (Colin Powells group). (Cost: Between $400 and $1 billion over 5 years.)

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

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

*Voluntary purchasing cooperatives (FY 1997, 1998, and 1999 budgets; not passed). Workers

in small firms are most likely to be uninsured; over a quarter of workers in firms with fewer than 10 employees lack health insurance almost twice the nationwide average. This results in large part because administrative costs are higher and that small businesses pay more for the same benefits as larger firms. This proposal would provide seed money for states to establish voluntary purchasing cooperatives. These cooperatives would allow small employers to pool their purchasing power to try to negotiate better rates for their employees. (Cost: about $100 million over 5 years).

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

HOMELESS

1. Homeless Veterans. The National Coalition of Homeless Veterans estimates that there are as many as 275,000 homeless veterans on any given night. According to the Department of Veterans Affairs, an approximately $60 million increase in funding would constitute the single largest investment into breaking the cycle of homelessness among veterans. This proposal would seek to increase residential alternatives, community-based contracted care, job preparation activities, stand down activities (community-sponsored events that conduct one-stop service delivery programs for homeless veterans), the distribution of clothing, and long-term housing. The VA estimates that this proposal would positively impact approximately 100,000 to 150,000 veterans annually.

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

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

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

CONSUMERS

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

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

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

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

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

TOBACCO

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

2. Tobacco Cessation. Each year, 20 million smokers attempt to quit, but only 1 million, or 5 percent, succeed. More than 90 percent smokers who attempt to quit do so on their own, and the vast majority fail within 2 to 3 days. However, research shows that effective cessation methods could raise success rates to 10-20 percent (over 2 million people annually). The Agency for Health Care Policy and Research (AHCPR) endorsed 5 smoking cessation methods that have been proven to be effective in helping people to quit: gum, patch, nasal spray, inhaler, and pill (Zyban). A full course of these treatments costs around $200-300 (for a three months supply, without counseling). However, less than half of managed care organizations provide coverage of any AHCPR-approved therapies, and those that provide coverage may impose cost-sharing requirements that hinder access to treatment. In fact, a study of managed care in Washington State found that eliminating copayments for smoking cessation services significantly increased participation rates.

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

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

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

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

* Veterans. We should re-propose the plan from the Presidents 1999 budget which created a new discretionary program open to all veterans who began using tobacco products while in the service, regardless of their eligibility for other VA health care services (currently less than 15 percent of veterans receive their health care through the VA system because of statutory limits --veterans must be low income or have a service-related injury.) The VA would contract with private sector entities to furnish AHCPR-approved services to

interested veterans. OMB estimates that this proposal would cost $87 million for the first year, and $435 million over 5 years. Thirty-six percent of the 25 million veterans in this country smoke.

*Tax Treatment. Currently, the cost of cessation treatment cannot be claimed as a deductible medical expense because the IRS does not recognize smoking or tobacco addiction as a "disease." The IRS has indicated in written opinions that an official medical authority classification of smoking as a disease would allow cessation to deduct these expenses. Treasury is interested in pursuing this in 1999. This would be done outside of the budget.

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

WELFARE

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

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

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

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

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

2. Helping New Workers Succeed in the Workforce/Achieve Self-Sufficiency.
There are several ways to ensure people moving from welfare to work can get to their jobs:

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

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

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

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

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

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

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

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

DISABILITY POLICY

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

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

2. Tax Credit for Disability Related Expenses. New tax credit for employers and/or individuals with disabilities with extraordinary disability-related expenses, such as assistive technology or a personal assistant. The proposed credit would allow a credit of 50 percent of the first $10,000 of disability-related work expenses. [Need Treasury information on scoring.]

3. New BRIDGE grant program. This program would create interdisciplinary consortiums of service providers (employment, transportation, etc.) to better assist people with disabilities in going to work. NEC and DPC will receive revised proposal shortly from the Presidents Task Force on Employment of People with Disabilities and will evaluate and vet.

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

September 8, 1998

MEMORANDUM FOR BRUCE REED
ELENA KAGAN

FROM: Domestic Policy Council Staff

SUBJECT: Compilation of Preliminary New Ideas

CHILDREN AND FAMILIES

1. Child Care. Reintroduce the Presidents child care proposal. This includes: increased funding for the Child Care and Development Block Grant; increased tax credits for working families to help them pay for child care; a fund to invest in programs that support early childhood learning and development; after-school care through the 21st Century Learning Center program; and programs to improve child care safety and quality through a fund to states to enforce standards better, scholarships for child care providers, and additional funding for evaluation and research.

2. Paid Parental Leave. Many workers, including those covered by the Family and Medical Leave Act, cannot afford to take leave at the birth or adoption of a child. This proposal would provide paid parental leave for a limited period of time to working parents with family incomes below a set amount. For example, a new proposal could provide 6 weeks of paid leave to all new parents who have been in the workforce either part-time or full-time for one year and whose family income is below $50,000, at a cost of $1 billion per year. This proposal could use the unemployment insurance system to provide the leave payments, but would be paid for by the federal government.

3. Home Visitation. Home visiting programs, in which a trained professional (such as a nurse) pays routine and intensive visits to pregnant mothers and new parents, have proven successful in strengthening families and improving child outcomes, particularly reducing child abuse. We propose to create a grant program to fund the development or expansion of home visitation programs, with priority given to areas with high rates of child maltreatment.

4. Child Welfare. Each year, thousands of foster children "age out" of the child welfare system; at age 18, children lose their foster care maintenance assistance funding, and many have neither been reunified with their family nor adopted. In the next 3 years, approximately 65,000 children will "age out." We propose increasing by 50% the Federal Independent Living Program (ILP), which assists adolescents aged 16-18 in the foster care system as they prepare for independence. The ILP provides services to help foster care children earn a high school diploma, receive vocational training, and learn daily living skills such as budgeting, locating housing, planning a career, and finding a job. The program was begun in 1984, and has been funded at $70 million annually since 1992. Funds are awarded directly to the States, which receive a base amount by formula and additional funds at a 1:1 match ratio.

5. Child Tax Credit. The 1997 Balanced Budget Agreement created a Child Tax Credit of $500 per child for families. We would propose an expansion of the credit to families with children under three, in order to better support working families. This tax credit may

allow some parents to spend more time with children by enabling them to forego some income. The proposal would benefit both families in which both parents work, as well as families in which one parent stays at home. This proposal would roughly cost $5 billion over five years.

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

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

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

CIVIL RIGHTS

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

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

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

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

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

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

COMMUNITY EMPOWERMENT

1. Access To Capital For All Americans.

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

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

Micro-Enterprise. Provide authorization and funding for CDFI Fund to provide technical assistance to micro enterprise organizations and micro-entrepreneurs (PRIME Act, Kennedy-Domenici).
Secondary Market. Develop coordinated administration initiative to take first steps towards secondary market for community development loans, including data collection, education, standardization, regulatory review, and the creation of a loan loss reserve fund to back pools of community development loans pooled and sold by the private sector.

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

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

make more difficult small business loans.

2. Sustainable Development.

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

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

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

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

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

3. Job Creation in Distressed Communities.

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

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

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

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

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

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

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

4. Low Income Savings.

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

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

5. Affordable Housing.

Elderly Housing Initiative. 1) Housing modernization grants to existing elderly housing projects for modernization, physical redesign, and/or conversion to assisted living; 2) Expanded and more flexible service coordinator grants to meet needs of increasingly frail population in public and assisted housing; 3) authority for PHAs to use vouchers for the housing component of assisted living costs.

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

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

6. Promoting Homeownership In Distressed Communities.

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

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

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

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

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

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

EDUCATION

1. Class Size Reduction. Reintroduce Presidents proposal to reduce class size in grades 1-3 to an average of 18. Needs to be funded on the mandatory side. If necessary, we could combine this with a teacher quality/recruitment initiative, so that funds in the early

years of the program are devoted to (1) incentives for people to enter teaching and/or (2) teacher training and professional development.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and the Center for Applied Linguistics has sponsored an evaluation of their effectiveness.

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

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

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

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

HEALTH

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

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

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

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

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

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

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

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

Redesigning and increasing enrollment in Medicares premium assistance program (extension of July executive action and new policy). Over 3 million low-income Medicare beneficiaries are eligible but do not receive Medicaid coverage of their Medicare premiums and cost sharing. Many more may not get enough assistance through the new, BBA provision that is supposed to help higher income beneficiaries. We are developing a range of proposals that build on the Presidents actions in this area to better utilize Social Security Offices to educate beneficiaries about this program, to reduce administrative complexity for states and to give them incentives to engage in more aggressive outreach efforts. (Costs vary depending on policies; probably about $500 million to $2 billion over 5 years).

2. Health Insurance Coverage Expansions.

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

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

Childrens health insurance outreach (FY 1999 budget; not passed and new policy). By the first anniversary of CHIP, we expect about 45 states to have CHIP plans approved. These new expansions have great potential to help uninsured children, but not if families do not know or understand the need for insurance. Moreover, over 4 million uninsured children are

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

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

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

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

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

HOMELESS

1. Homeless Veterans. The National Coalition of Homeless Veterans estimates that there are as many as 275,000 homeless veterans on any given night. According to the Department of Veterans Affairs, an approximately $60 million increase in funding would constitute the single largest investment into breaking the cycle of homelessness among veterans. This proposal would seek to increase residential alternatives, community-based contracted care, job preparation activities, stand down activities (community-sponsored events that conduct

one-stop service delivery programs for homeless veterans), the distribution of clothing, and long-term housing. The VA estimates that this proposal would positively impact approximately 100,000 to 150,000 veterans annually.

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

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

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

TOBACCO

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

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

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

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

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

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

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

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

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

Tax Treatment. Currently, the cost of cessation treatment cannot be claimed as a deductible medical expense because the IRS does not recognize smoking or tobacco addiction

as a "disease." The IRS has indicated in written opinions that an official medical authority classification of smoking as a disease would allow cessation to deduct these expenses. Treasury is interested in pursuing this in 1999. This would be done outside of the budget.

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

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

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

WELFARE

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

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

Request Additional Welfare-to-Work Housing Vouchers. We are unlikely to get the full

50,000 housing vouchers requested for FY 99. This approach continues to have merit, both in helping families move from welfare to work and as a catalyst for changing the way local housing authorities, and HUD, do business. Cost to fully fund 50,000 vouchers is $283 million. Some, including Deich and Edley, have also suggested allowing housing authorities to convert Section 8 vouchers that are turning over to the more flexible approach of the WTW vouchers.

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

2. Helping New Workers Succeed in the Workforce/Achieve Self-Sufficiency.
There are several ways to ensure people moving from welfare to work can get to their jobs:

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

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

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

Connection between TANF and Unemployment Insurance. There is growing interest in exploring the relationship between these two systems. Historically, few welfare recipients have qualified for UI, and some have essentially used AFDC as a form of unemployment insurance. As more welfare recipients joining the labor force, we need to consider the most appropriate way to provide income support to them between jobs. Various approaches include: (a) changing rules of the UI system that make it hard for former welfare recipients to qualify for UI once they go to work and in the event they lose a job and (b) creative uses of federal TANF or state MOE funds to provide income support to people in between jobs. Either approach should be accompanied by a strong effort to promote job retention and rapid re-employment. This could be considered as part of a more

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

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

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

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

DISABILITY POLICY

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

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

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

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

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

NATIVE AMERICANS

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

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

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

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

CRIME AND DRUGS

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

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

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

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

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

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

CONSUMERS

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

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

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

penalties on slammers and would eliminate common slamming methods, such as contest entry forms that, when signed by unsuspecting customers, authorize a switch of their long-distance carriers.

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

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

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: Summary and Analysis of NGA Resolutions

HR-7. PUBLIC HEALTH SERVICES

7.2 Core Public Health Services

Summary

The NGA supports core public health functions and adequate reimbursement for them.

Analysis

The Administration supports the NGA position and has a strong record on investing in critical public health functions.

7.3 Federal, State and Local Responsibilities

Summary

The NGA believes that the Federal responsibility in public health is financing, collecting information, and taking the lead on certain public health functions that are national in scope. It outlines principals for Federal funding.

Analysis

The Administration supports the position of the NGA.

7.4 Coordination of Services

Summary

The NGA believes that coordination of public and private public health activities, as well as Federal, State and local initiatives is important.

Analysis

The Administration supports the NGA position.

7.4.1 Health Services Block Grants

Summary

The NGA supports more flexibility in block grants such as the Maternal and Child Health Block Grant, the Preventive Health Block Grant, the Substance Abuse Prevention and Treatment Block Grant, and the Mental Health Block Grant. Specifically, they recommend removing complex allocation and set-aside requirements and allowing inter-block transfer.

Analysis

The Administration has a strong record on providing States maximum flexibility while ensuring fiscal responsibility and the effective use of funds on important public health priorities. The requirements in these block grants are, for the most part, not overly burdensome and are intended to assure that our shared public health goals are met.

7.4.2.Maternal and Child Health Services

Summary

The NGA believes that improving the health status of children is a top priority, and recommend that WIC be improved by reducing prescriptive and burdensome regulations.

Analysis

The Administration shares the Governors belief that childrens health is a national priority. The WIC program has assured that low-income children get the needed food, nutrition, education and health referrals regardless of where they live. Although administrative flexibility is important, it could interfere with assuring that WIC providers a nationwide safety net.

7.4.3Early Child Health Development

Summary

The NGA has, in the last two years, focused on the special needs of children ages 0 to 3, believing that health services are especially important during these formative years.

Analysis

The Administration fully supports the Governors belief in the importance of health services for young children.

HR 9: COMMUNITY POLICING AND FEDERAL SUPPORT FOR PRISONS

Summary

This resolution states that while crime rates have declined to the lowest levels in twenty years, crime remains a crucial issue for states -- and federal resources should continue to be committed to anti-crime efforts. Specifically, the resolution makes three recommendations: (1) that the Byrne Law Enforcement Memorial block grant, the primary source for state anti-crime funds, should receive full funding -- without earmarks or set asides, and that statutory language limiting grants to three years should be changed to allow for extended funding; (2) that community policing initiatives should be as flexible as the Byrne block grant and allow states to fund enhanced information systems, training, and technical support; and (3) that federal grants for state prisons should not require states to enact tougher sentences or other anti-crime initiatives to qualify for funding.

Analysis

The Administration has been generally supportive of NGAs crime policies, with a few exceptions. Overall we have provided an unprecedented level of support for state and local law enforcement, increasing anti-crime funding by about $5 billion annually through the 1994 Crime Act. Our position on their specific issues are as follows:

Byrne -- Except for the Administrations first budget, we have consistently funded Byrne block grants and resisted earmarking the program. During this time, funding for Byrne has increased from $450 million in FY 1995 to $553 million in the FY 1999 budget.

Community Policing -- Through the COPS initiative, the Administration has provided nearly $5 billion to date for state and local governments to increase police presence and expand community policing. Nearly every state police agency has received COPS funding, including some funds for training, technology and other non-hiring purposes. The Illinois State Police, for example, received a $1 million grant to provide community policing training to local police departments. As you know, however, we have fought efforts to convert the COPS program into a block grant.

Prisons -- Since passage of the 1994 Crime Act, the Administration has provided states with more than $2 billion to incarcerate violent offenders and criminal aliens. While this program generally requires states to move towards "truth-in-sentencing" and to develop drug testing and intervention plans, it is considerably more flexible than the prisons programs originally advanced by Congressional Republicans. Also, the Administration has repeatedly pushed for legislation that would give states the flexibility to use their prison funds to help them implement drug testing and intervention plans. Congressional Republicans, however, strongly oppose this legislation.

HR-31. INDIAN HEALTH SERVICES

Summary

The NGA recommends that (1) any proposed changes to publicly funded health care take into consideration the financing of care for Native Americans; and (2) that the Federal government, not the States, fund such services.

Analysis

The Administration has strengthened its commitment to consulting with Federally recognized American Indian and Alaskan Native Tribes when policy that affects them is being considered. The Administration also shares the belief that health services for Indians be fully financed by the Federal government, as seen in the guidance on the new Childrens Health Insurance Program (see December 9, 1997 letter to State Medicaid Directors).

HR-45. CHILD SUPPORT INFORMATION SYSTEMS AND INCENTIVE PAYMENTS

Summary

This resolution recommends that the current penalty for failure to put in place statewide child support computer systems --the withholding of all federal child support funds --should be replaced with a more reasonable penalty structure that would allow HHS to impose limited or graduated penalties. The resolution also calls for a moratorium on penalties until a new penalty structure is devised and for flexibility in how a "statewide system" is defined, so that states could link local computer systems into one "statewide" system.

Analysis

We support the governors call for a new penalty structure that does not withhold all federal child support funds from states without statewide computer systems. We have worked on a bipartisan basis with Congressmen Clay Shaw, Sandy Levin, and others to devise such legislation. The Shaw-Levin bill, which HHS called "tough but fair" in recent testimony, calls for a 4 percent penalty in the first year a state misses the deadline, with an automatic increase to an 8, 12, and 20 percent penalty in the following years.

Because we believe it is critical that every state puts in place a statewide computer system to track deadbeat parents and make them pay the child support they owe, we will insist on legislation that provides clear financial incentives for states to move quickly. Thus, unlike the states, the Administration wants these penalties to be imposed swiftly and automatically, rather than at the Secretarys discretion. We have opposed state proposals, though not outlined in this resolution, for lower penalties (i.e., 2, 4, 6 percent) and we oppose the states call for a moratorium on penalties until the new penalty structure is devised.

And finally, we have expressed concerns with proposals that would allow states to apply for a waiver to link local computer systems into a "statewide" system. At our insistence, the Shaw-Levin bill would allow such waivers only in circumstances when such linked systems were as functional and cost-effective as statewide systems. Our concern is that some states may use precious time and resources to try, unsuccessfully, to demonstrate that they could develop an approvable linked system, rather than move forward on a single statewide system.

EC-1. BLOCK GRANT POLICY

Summary

This proposal would take the current array of more than 600 categorical grants in the areas including education, crime, community development, homelessness, and childrens health care, and consolidate them into eight flexible block grants to states.

Analysis

The Administration does not fully support this proposal.

Your Administration has done much to to consolidate federal programs, reduce red tape, reduce unfunded mandates, and provide more flexibility. Under your direction the federal

government has eliminated 16,000 pages of regulations and dramatically simplified 31,000. States can now combine 15 separate EPA funding streams across water, air, hazardous waste, and similar programs; USDA state directors can combine 18 programs into three funding streams for rural housing, utilities, and business or cooperative services; your Education Flex program gives states the ability to waive requirements of some significant federal education laws; and your administration supported turning AFDC into a block grant program. In 1995, you signed legislation to curtail the growth of unfunded mandates on state, local, and tribal governments.

You have also fought for legislation to give the Federal government greater waiver authority in discretionnary grant programs. However, Congress has disregarded these proposals.

Your record indicates a willingness to consider innovative new ways to combine funding streams and eliminate set-asides and unfunded mandates. However, your Administration does not support block grants when they threaten the social safety or interfere with national policy goals that are better attained with direct funding.

EC-4. NGA POLICY RESOLUTION --HEALTH CARE FOR UNDOCUMENTED IMMIGRANTS

Summary

NGAs position is that the federal government should pay all the costs of health care for undocumented immigrants and repeal any current federal law that requires states to spend money to provide health care and other services to undocumented immigrants. NGA notes that a new $100 million fund passed in the Balanced Budget Act is a step in the right direction. (The Administration supported this fund.)

NGA is also adding new policy that calls on the appropriations committees to provide funds under an obscure part of the 1996 immigration law. This section of the law said that, subject to the availability of funds, the Attorney General should reimburse states for the costs of emergency ambulance services while undocumented immigrants are crossing the border. (The NGA policy resolutions description of this feature of the immigration law makes it sound much broader than it actually is.)

Analysis

The Administration does not support the basic thrust of this resolution. However, we did support the $100 million fund referenced in the resolution. The Presidents 1999 budget did not provide funds for the reimbursement of costs cited in the immigration law, because we did not consider it a high enough priority.

EC-11. CHILD CARE AND EARLY EDUCATION

Summary

The Governors primary goal is a seamless child care and early education system that provides a safe, nurturing, and developmentally sound environment for the children it serves. Such a system is particularly important in light of recent research on childrens development and studies that show investments now can prevent larger expenses later. At

this time, the needs for a productive workforce, the increasing number of two-earner families, and recent welfare reforms combine to make increasing access to child care and improving its quality a national priority. Nevertheless, there are gaps in the nations child care system that warrant particular attention: the needs of low-income non-TANF families, access to child care during non-traditional hours, and after-school care. In order to create a seamless system of child care, we must involve families, local communities, the states, the federal government, and the private sector to promote the coordination of programs serving children through links at all levels of the child care system. First, parents are foremost responsible for their childrens well-being and must become smart consumers of child care. Communities coordinate programs, assessing their needs and tailoring programs to meet their needs. In addition, states have the primary role of coordinating their efforts to increase access and improve quality. The federal government should support state efforts, not control them, by supporting state efforts to build a quality system of care, through such funding mechanisms as block grants. Finally, the public sector must form partnerships with the private sector, and the private sector must acknowledge and accommodate the child care needs of employees through such measures as the provision of on-site care as well as the adoption of family-friendly work policies.

Analysis

The Governors policy proposal dovetails well with our child care initiative. They share with the Administration both rationales for efforts to improve child care as well as many of our policy prescriptions. Their largest priority for federal action is to maintain state flexibility and to provide adequate funding to meet demand, both of which our initiative does through our proposed dramatic expansion of the Child Care and Development Block Grant. In addition to these two main points, they mention the following areas that are included in our package: promoting research and evaluation of exiting child care and early education programs and disseminate information on what works, which is a goal of our Research Fund; encouraging professional development through scholarships, which is the purpose of our Scholarship Fund; providing tax incentives for the private sector, as our Business Tax Credit does; providing tax credits for individuals, as our proposed expansion of the Child and Dependent Care Tax Credit does; increased funding for Head Start and Early Head Start, as we do; and supporting state efforts to enforce state licensing and accreditation, as our Standards Enforcement Fund and our Early Learning Fund are designed to do. In short, in the areas of child care and early learning, the Administration shares with the Governors both goals and strategies for achieving them.

HR-43. COMMUNITY SERVICES BLOCK GRANT PROGRAM

Summary

We do support continued funding for the Community Services Block Grant (CSBG). The President's budget proposes to fund CSBG at $490.6 million in FY99 (also the FY98 enacted level).

Analysis

CSBG issues block grants to States, territories and Indian tribes to provide services and activities to reduce poverty, including services to address employment, education, housing assistance, nutrition, energy, emergency services, health, and anti-drug needs. States are required to pass 90% of funds allocated to eligible entities, which in

most cases are Community Action Agencies.

The President's Budget does not request funding for Community Services Discretionary Activities (FY 98 enacted level -- $51.6 million).The discretionary activities include $33 million for Community Economic Development, $14 million for National Youth Sports camps and $4 million for Community Food and Nutrition. The Administration has not requested funding for these items for several years and has argued that they can be funded, at State option, under CSBG.

*

May 19, 1998

MEMORANDUM FOR THE PRESIDENT

FROM:Bruce Reed and Chris Jennings

RE:NGA Agreement on Tobacco Spending

cc:Erskine Bowles, Larry Stein, Gene Sperling, Mickey Ibarra, Elena Kagan

Attached is a one page summary of the agreement we reached with NGA on Friday night regarding the allocation of the Federal portion of the state spending options. Keeping in mind the interests of all the parties, we believe we achieved a strong agreement. It has the support of OMB, HHS, and, of course, DPC/NEC. In short, we agreed to:

*Commit that states would be allocated $196 billion from the overall Federal settlement. (The $196 billion figure is viewed as a sacred, inviolable number.) Since we are now assuming a $500 billion (or so) total from the legislation, the 40 percent state investment figure we have been carrying matches well with this number.

*Use the restricted funds for seven existing programs related to children or health. Among these, child care is the largest programmatic option. We succeeded in eliminating over 10 categories that the states desired; in so doing, we also were successful in assuring that grant options that could syphon large dollars away from our priorities did not make this list. As the attached table illustrates, we project that states will likely spend at least $5 billion on the Child Care and Development Block Grant over the next 5 years.

*A 50/50 split between restricted versus unrestricted funds. We reached an agreement on the 50/50 split because we allowed the states to spend a portion of their restricted dollars (6 percent) on buying down the state portion of the state match of the new Childrens Health Insurance Program (CHIP).

*Childrens health outreach. The Governors accepted our budget proposals for outreach that, among other things, allow schools and child care referral centers to enroll children in Medicaid ("presumptive eligibility"). These options are critical in light of a new study that shows that 4.7 million children who are uninsured are already eligible for Medicaid.

*Include strong language prohibiting substitution of Federal for state funds. This language assures a maintenance of effort for grant options that now have a state match.

The Governors did succeed in taking our class size program off the list. We agreed to remove it only after it became clear that any compromise on this issue would water down our education priorities to the extent that it would be viewed as a loss. The DPC, NEC, and OMB education advisors all concurred with this decision.

The result of our compromise makes it a virtual certainty that significant, new dollars

will be invested in child care by the states. Realizing this, the child care staff within the White House are generally quite pleased. We have asked them to try to get some validation in this regard. Unfortunately, and not too surprisingly, the child advocates want more money and more strings than our compromise guarantees. Therefore, they probably cannot be counted on to say anything overly positive in public until the last vote is counted.

Finally, over the weekend, we had a number of conversations with both NGA and the advocates of various Administration priorities. It became clear that we are likely headed towards a difficult predicament on expected floor amendments. On the one hand, if we support expected Democratic amendments (e.g., an amendment that requires more spending and administrative strings on the child care option), we risk being accused of bargaining in bad faith by the Governors. On the other hand, if we oppose these amendments, many on our side of the aisle will criticize us for not even supporting our own budget priorities.

Legislative Amendment Strategy for State-Based Investments. Keeping in mind the interest of all parties, we have worked out a position that neither pleases nor totally alienates anyone. Our positioning strategy on all state-based investment amendments is:

1.We oppose any amendment that changes either the overall allocation of the tobacco funds (40 percent for states, not lower than $196 billion over 25 years) or the split between the restricted and unrestricted (50/50) within the state funds.

2.We will oppose any amendment that adds, subtracts, or earmarks options from the restricted share portion of state funds, with one exception: We will not oppose (nor actively support) amendments that reflect Administration budget priorities. (In response to NGAs criticism that we appeared to be backing away from the initial agreement, we did agree to oppose amendments that reflect our priorities should any one such amendment be successful in passing the Senate.)

3.We will oppose amendments that totally prescribe (e.g., fixed percentages for each spending option) the restricted share of the state funds, even if one of the options is an Administration budget priority.

Today, before votes begin, we plan on meeting to review likely amendments to the tobacco bill to ensure we have a Administration-wide position on these and other types of amendments.

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Franklin D. Raines

FROM: Sally Katzen

SUBJECT: Heads-up on EPAs Final National Low-Emission Vehicle Rule

We are about to conclude review of EPAs final National Low-Emission Vehicle (sometimes called the "49-State car") rule. Without this rule (and its companion rules -- the last of which was the subject of an earlier heads-up memo attached), the 13 Northeastern States could require auto companies to produce cars for sale that meet Californias extremely tough emissions standards. This rule, which establishes an alternative voluntary program, authorizes auto manufacturers to sell cars that are cleaner than current models, but not as clean as the California car. Once States and car manufacturers opt-in to the program, the standards become federally enforceable. There have been endless negotiations between the auto industry and the Northeastern States to establish such a program. This rule addresses the last set of issues and is the final piece for the program.

Ongoing negotiations between auto companies and the Northeastern States were not able to resolve the long-standing concern raised by at least two States (New York and Massachusetts) on a requirement that a certain portion of the fleet be electric vehicles if the car manufacturers opt to produce the 49-State car instead of the California car. The auto manufacturers have initiated legal action in these States to prohibit them from requiring electric vehicles, but the auto companies have agreed not to condition their acceptance of the 49-state alternative on States dropping their electric vehicle requirements.

The 49-State car program is voluntary and will not be effective unless the car companies and States agree to participate. The car companies want all the States to sign up; the States want all the car companies to sign up. There are potential hold outs in both camps. EPA believes the decisions made in this rule will give the program its best chance of working (EPA estimates 50-50 odds).

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
Katie McGinty
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
T.J. Glauthier
Larry Haas

MEMORANDUM FOR ERSKINE BOWLES

FROM:Don Arbuckle

SUBJECT:Heads Up -- National Practitioner Data Bank Proposed Rule

In the next few days, we will complete E.O. No. 12866 review of a Department of Health and Human Services (HHS) proposed rule establishing a National Practitioner Data Bank (NPDB), which closely follows the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The statute requires that the national data bank include information pertaining to final adverse actions, such as civil judgments and criminal convictions, against health care providers, suppliers, or practitioners. This data will only be accessible by appropriate State agencies and health plans. In addition, suppliers and practitioners may query their own data.

One controversial provision, however, may be the definition of health care "supplier," which some consider too broad. This rule would include not only suppliers of durable medical equipment (DME), but also DME and pharmaceutical manufacturers and other ancillary service entities. These entities strongly objected to another, recent HHS OIG final rule which allowed for government-wide health fraud and abuse sanctions of such manufacturers; we expect that they will oppose their inclusion in this rule, as well.

The Department and OMB coordinated extensively with State agencies, Federal health programs, and the Department of Justice. The Federal costs of establishing and maintaining the data base will be covered by user fees. HHS estimates that total annual costs to the States will be approximately $1 million, and annual costs to private health plans will be $2 million.

FF

cc:Maria Echaveste
Rahm Emanuel
Larry Stein
Ron Klain
Thurgood Marshall, Jr.
Ann Lewis
Sally Katzen
Minyon Moore
John Podesta
Bruce Reed
Gene Sperling
Elena Kagan
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Michael Waldman
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Danny Mendelson
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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 Rockefellers 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 Utilitys 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 dont 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 arent 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.

NLWJC – Kagan

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DRAFT -- FEBRUARY 7, 1996

MEMORANDUM FOR:NATALIE WILLIAMS

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

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

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

All calendars and phone records, message slips or phone logs . . . made to or from any of the following individuals, from May 1, 1995 through November 30, 1995 regarding the White House Travel Office matter22For purposes of responding to the subpoena requests, please use the definition of the term "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). or the case of U.S. v. Billy Ray Dale:" Jane Sherburne, Jon Yarowsky, Miriam Nemetz, Abner Mikva, Margaret Williams, Capricia Marshall, Patsy Thomasson, John Podesta, Catherine Cornelius, Mark Gearan, Bruce Lindsey, David Watkins, Janet Greene, Betsey Wright, Webb Hubbell, Bill Kennedy, Jeff Eller, Neil Eggleston, Cliff Sloan, Mike Berman, Harry Thomason, Darnell Martens, Beth Nolan, James Hamilton, Susan Thomases, James Lyons, Roy Neel, John Gaughan, any employee of the Military Office,33See attachment 2 for a list of all employees of the Military Office from January 20, 1993 through the present. Larry Herman, John Shutkin, any employee of KPMG Peat Marwick,44We are aware that at least he following KPMG Peat Marwick employees were involved in some aspect of the White House Travel Office matter: Larry Herman, Dan Russell, Leslie Casson, Carolyn Rawdon, Nicholas DiCarla, Charles Siu and John Shutkin. Billy Ray Dale, Barney Brasseaux, John Dreylinger, Ralph Maughan, John McSweeney, Robert Van Eimeren, Gary Wright, David Bowie, Pam Bombardi, Tom Carl, Stuart Goldberg, Lee Radek, Jamie Gorelick, Adam Rossman and David Sanford.

It is extremely important that staff members conduct a thorough search for responsive documents. Each Assistant to the President or Department head should ensure that his or her staff members conduct such a search. Please provide any responsive materials to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 7, 1996.

MEMORANDUM TO ELENA KAGAN AND SALLY KATZEN

FROM:Julie Fernandes and Cecilia Rouse

DATE:April 8, 1998

RE:Background on H-1B Visa Reform

Though the Administration has endorsed a set of principles that should guide any legislation that proposes to increase the cap on the number of H-1B visas, we need to evaluate key components of possible legislative proposals and decide our priorities. This memo outlines aspects of the existing legislative proposals on which we need to focus.

Background

The H-1B visa program was designed to allow for the temporary admission of foreign "specialty workers" for employment in the United States. In its current form, it allows the admission of up to 65,000 non-immigrant workers each year. Each visa lasts for three years, and is renewable for another three. The program was designed to meet the short-term employment needs of employers seeking highly-skilled workers. Currently, H-1B visas are issued on a first come, first served basis.

Under current law, before obtaining a temporary foreign worker under the H-1B program, employers must attest that: (1) they will pay the prevailing wage; (2) notification has been provided to their employees and the representing union; (3) there is no strike or lock-out; and (4) the employment of H-1B non-immigrants will not adversely affect the working conditions of workers similarly employed. The Labor Department only has the authority to review these attestations for completeness and obvious inaccuracies.

Since 1993, the Administration has sought reforms to the H-1B visa program, including requiring employers to attest that they have and are taking timely and significant steps to recruit and retain U.S. workers in the jobs in which they seek to employ H-1B non-immigrants; prohibiting employers from laying-off a U.S. worker to replace them with a temporary foreign worker; and reducing the authorized length of stay from six to three years to better reflect the temporary nature of the presumed employment need. INS and Labor agree that these reforms would target H-1B usage to employers experiencing genuine skill shortages, thus relieving the pressure on the cap.

Industry is strongly opposed to these reforms. In general, they assert (1) that DOLs occupational classifications do not reflect the breadth of occupations within the industry, thus causing a recruitment or no lay-off provision to be unworkable; (2) that they do not want the government to second-guess their hiring and firing decisions; and (3) that these reforms would be equivalent to the labor certification requirement that exists in the permanent visa program, and thus would be slow and ineffective. Organized labor, however, supports these reforms, arguing they are needed to protect U.S. workers.

Issues to Consider

1.What does "recruit and retain" mean?

According to the Department of Labor, the Administration has never defined what precisely

would satisfy the "recruit and retain" requirement. Industry opposes this provision, in part, because it is not clear exactly what would be required.

The Kennedy-Feinstein legislation includes a provision that would require employers to attest to having taken timely, significant, and effective steps to recruit and retain U.S. workers prior to obtaining an H-1B foreign worker, with compliance measured by comparison to "industry-wide standards." However, it is unclear how this would work. For example, how would these "industry-wide standards" for recruitment and retention be identified? Also, should we endorse a process that simply identifies standards that reflect what industry is currently doing (therefore codifying the status quo) or should we ask industry to do more to recruit U.S. workers before being able to hire a temporary foreign worker? If we want them to do more, how do we define what we want them to do?

The "recruit and retain" provision of the now-defunct foreign nurses program (H-1A) set out several steps that an employer could take to recruit and retain U.S. workers, and then defined satisfaction of the statutory requirement as compliance with some subset of those. This method, though effective in the context of a single industry (where it is easier to define the universe of possibly acceptable recruitment methods), could prove unworkable for the H-1B program, given the diversity of industries that use it.

2.Occupational classification

Industry objects to a proposal that would permit the Department of Labor to use "recruit and retain" or "no lay-off" provisions to limit industrys employment choices based on occupational classifications established by the DOL. At the same time, industry has argued for broader occupational categories for the prevailing wage calculation since more general categories usually result in lower wage estimates.

Labor has agreed that it would not make sense to require employers to use existing occupational classifications to establish compliance with a "recruit and retain" or "no lay-off" provision. An alternative is to consider defining who needs to be recruited or who cannot be laid-off based on skill-level (e.g., the ability to program in java) or on the amount of additional training an incumbent or other U.S. worker would need to perform the job (e.g., someone who could program in java with six weeks training), rather than on occupational classification (e.g., computer programmer).

3.Practicability of a no lay-off provision

Industry also argues that a no lay-off provision would be difficult to administer, given the decentralized nature of employment decisions in large companies. They ask, for example, whether a firm that lays-off a worker in Chicago, but wants to hire one in Houston, would be considered to have "laid-off" the Chicago worker, and thus unable to hire an H-1B worker in Houston.

The Abraham bill includes a no lay-off provision that would not achieve our goals. His proposal would prohibit an employer from employing a temporary foreign worker "at the specific place of employment and in the specific employment opportunity from which a U.S. worker with substantially equivalent qualifications and experience in the specific employment opportunity has been laid-off." This language makes every employee unique, and thus is likely unenforceable.

4.The role of job contractors

In 1995, the Administration endorsed a proposal that job contractors seeking to use the H-1B program would be precluded from placing H-1B workers at sites of customers that had not also attested to complying with the H-1B criteria. Given that the top ten users of the H-1B program are job contractors, we may want to consider this as part of our overall reform package.

5.Reduced maximum stay from six to three years

Under current law, the H-1B visa lasts for six years (it is a three year visa that is almost always renewed for an additional three years). The proposed reform would eliminate the possibility of renewal, thus creating a maximum stay of three years. In both 1993 and 1995, the Administration strongly supported this limitation as better comporting with the "temporary" nature of the presumed employment need.

However, the Administration proposed this reform in the context of not increasing the cap on the annual number of H-1B visas. It would be somewhat incongruous to both increase the annual cap and effectively limit by half the number of H-1B visa holders in the country at any one time. Thus, if we were to endorse raising the annual cap (even temporarily), this increase should not be coupled with a proposed reform to limit the annual number of visas.

6.Enhanced enforcement

In addition to the above reforms to the H-1B program, the Labor Department has proposed that they be given greater authority and resources to ensure that employers comply with the standards for hiring temporary foreign workers under the H-1B program (either current or proposed).

Under current law, it is not clear that the Department of Labor has independent authority (i.e., where there has been no complaint) to initiate an investigation of an employer suspected of not substantively complying with the labor market attestations. The Kennedy-Feinstein proposal would give the Secretary independent authority to investigate (upon a finding of probable cause), subpoena authority, an ability to conduct random audits, and would increase the penalties for employers found in violation (from $5,000 to $10,000). These changes seem appropriate to ensure compliance with the objectives of the H-1B program. However, though each element of this enhanced enforcement is important, the subpoena authority and the ability to investigate without a complaint are the most critical.

The Abraham bill increases the penalty for willful violations of the H-1B program, but eliminates penalties for less than willful violations. In addition, the bill allows DOL to conduct random inspections of willful violators (for 5 years), but does not authorize additional money to do so. Also, under Abrahams bill, an employer could only be investigated for having violated the "no lay-off" provision if the employer were already being investigated for another violation. These reforms would weaken, rather than strengthen, the Secretarys enforcement authority.

7.Prevailing wage

Under current law, an employer must pay each H-1B non-immigrant the "higher of prevailing or actual wage paid to similarly-employed U.S. workers." The Kennedy-Feinstein bill would modify this requirement to include benefits and all other compensation when calculating the wage standard. However, according to the Department of Labor, they would not be able to

calculate a reliable prevailing wage that includes non-wage compensation.

While the Abraham bill uses the current definition of wages, it would allow employers to use any published survey "which shall be considered correct and valid if the survey was conducted in accordance with generally accepted industry standards and the employer has maintained a copy of the survey information" to determine the prevailing wage. The requirement would permit the use of outdated wage data and would give DOL little control over the quality of the surveys used to determine the prevailing wage.

In the past, DOL has advocated for a prevailing wage calculation based on the applicable prevailing wage plus the same benefits and additional compensation provided to similarly employed workers of the employer.

8.An application fee

Currently, employers only pay a small processing fee when filing for an H-1B visa. The Kennedy-Feinstein bill proposes a fee of $250 per H-1B visa application. An application fee is a straightforward way to require employers who use the H-1B program to directly contribute to more training for U.S. workers and to generate additional funds for enforcement. However, an application fee will likely be perceived as a tax, and thus could be unpopular.

If we decide to push for the establishment of an application fee, we may want to increase it to $500. First, the higher fee will generate more money for training. Second, as a tactical matter, if we begin negotiations at $500 we may end up at $250 (rather than beginning at $250 and ending up at $0). We should be careful, however, not to endorse a fee that would create such a disincentive to participation that it would effectively prevent the United States from meeting its treaty obligations (under the GATS) to permit 65,000 persons to enter annually under the H-1B program.

9.Training

In order to meet the short-term and long-term needs of industry, training should be geared towards incumbent workers as well as those who have yet to enter the workforce. In addition, there is widespread support among the agencies for programs that encourage employers to work together with educators or training providers.

The Kennedy-Feinstein bill contains a proposal for the creation of "Regional Skills Alliances." Money generated through application fees would be used to set up these Alliances that would bring together employers, organized labor, U.S. workers and educational institutions to focus on building the skills of U.S. workers. Another proposal is to allocate additional funds to the National Science Foundations (NSF) Advanced Technological Education (ATE) program. ATE is an educational institution-based program that is designed to foster partnerships between two- and four-year colleges, secondary schools, government, and industry to improve educational programs through curriculum and teacher/faculty development. These programs, in combination, could address the training of both new and incumbent workers.

There remains the question of whether the Administration should push for a provison that provides training money directly to individuals either through scholarships or loans. The Kennedy-Feinstein bill includes the creation of a new short-term student loan program. The Abraham bill adds funds to an existing scholarship program. According to OMB, the

Department of Education, and others, there currently exists a variety of both loan and grant programs that are available to most workers. In addition, the Lifelong Learning Tax Credit is available to enable incumbent workers to obtain additional training. Thus, it may not make sense to spend any money generated by an H-1B application fee to augment an already adequate pool of money for loans or scholarships.

10.Academic community concerns

Some members of the academic community have expressed concern that a "recruit and retain" or "no lay-off" provision would unfairly limit their ability to hire H-1B non-immigrants as part of (temporary) research grant programs.

MEMORANDUM FOR ELENA KAGAN AND SALLY KATZEN

FROM:JULIE FERNANDES AND CECILIA ROUSE

SUBJECT:POTENTIAL OPTIONS FOR THE H-2A PROGRAM

DATE:September 12, 1998

Background

In order to better understand the agencies positions, it is useful to understand the underlying policy tensions. Growers see themselves as having a choice between three categories of workers: legal U.S. workers, illegal workers, and H-2A workers. Which category they draw from is almost exclusively determined by total cost. For example, if the total cost of hiring a U.S. worker (including wages, taxes, housing, etc.) is higher than the total cost of hiring an H-2A worker, the grower will hire the H-2A worker. Because the H-2A program requires that growers pay the guestworkers a minimum wage (and the farmers have little incentive to pay more than this minimum wage because it is generally more than these workers would earn in their home countries), and provide housing and (generally) transportation, the total compensation offered by the H-2A program is the effective total compensation ceiling for U.S. workers.11 In a normal labor market, in response to a labor shortage wages would increase which would induce more U.S. workers to work in agriculture. However, with the option of hiring H-2A workers, if no U.S. workers are willing to work for the wage the grower is offering, the grower can claim that he or she is unable to hire U.S. workers and therefore apply for H-2A workers to whom he or she must pay at least the wage set by the H-2A program. Although it may seem that the minimum wage in the program should also increase if there is a shortage of U.S. agricultural workers, in fact because the growers can apply for H-2A workers, the average wage paid to U.S. workers need never exceed the minimum wage in the H-2A program.

In addition, the presence of large numbers of illegal farmworkers distorts the labor market such that the growers response to an inability to find sufficient legal U.S. workers is to hire illegal workers, rather than increase wages or improve working conditions. Thus, though we may want to require fair wages and working conditions in the H-2A program, if the cost of using the program is too high, the growers will hire undocumented workers.

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

DOL is concerned that a low wage (or total compensation) floor becomes a low ceiling for U.S. workers and therefore hurts these already impoverished workers. They are not as

convinced that the domestic labor force could never satisfy growers needs at a reasonable wage; rather, they argue that agricultural wages have been kept artificially low because of the large presence of undocumented workers. Labor believes that if agricultural wages were allowed to rise, additional U.S. workers would be willing to work in agriculture. They also assert that we can do a better job of facilitating matches between workers and employers that would give domestic farm workers more stable employment and growers access to a steady supply of workers.

The four major areas in which decisions must be made include: wages and other costs, recruitment of U.S. workers, enforcement, and immigration management. The most controversial components involve costs (e.g., wages, housing, transportation) where the issue is whether the proposal increases the total cost to the employer or shifts those costs to the government or the farmworker. USDA generally opposes reforms that would increase grower costs. The Labor Department generally opposes reforms that transfer costs to the government or the farmworker, and favors reforms that aim at improving labor conditions or wages for U.S. and foreign farmworkers. Because the focus is on total costs (with wages and housing being the most significant areas of concern) we cannot decide on individual reform components in isolation.

The rest of this memo discusses the issues for the major areas for discussion and describes the positions of the growers and workers.

Issues and Options

Wages and Costs

The 3/4 Guarantee

The issue

Under current law, workers hired under the H-2A program must be paid at least 75% of the work contract period for which they were recruited (unless there is an act of God that results in the termination of crop activity).

Growers believe that this requirement is overly costly and inflexible and would like it eliminated or modified. Workers, however, believe that elimination or weakening of this requirement would encourage growers to lure workers from far away with the promise of potentially high earnings without any obligation to fulfill at least a substantial part of that promise.

Under the MSPA, migrant farmworkers are guaranteed 100% of the work contract period for which they were recruited.

Options:

1. Eliminate this requirement (the current proposal in the Wyden/Graham bill).

2. Modify the requirement to allow H-2A growers to limit the contract period to the duration of crop activity and terminate the contract period offered due to changes in market conditions (the proposal of the Georgia growers).

3. Lower the required percentage of contract time covered from 75% to, say, 70%.

Pros of Options 1 and 2

Would help to lower the cost to growers of participating in the H-2A program.

Increases flexibility for growers

Cons of Options 1 and 2

Shifts the risk of changes in market conditions from the growers to the workers.

May encourage growers to recruit more workers than they actually need to hedge against uncertainties.

Because the MSPA requires growers to pay U.S. workers 100% of the work contract period for which they were recruited, these options would discourage the hiring of U.S. workers. (Because of the asymmetry in requirements.)

Pros of Option 3

Acknowledges the fact that this requirement potentially imposes a significant cost on growers.

Does not significantly weaken the guarantee for workers.

Cons of Option 3

Farm workers will be strongly opposed.

Recommendation:Option 3.

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

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

*Wages: Employers must pay H-2A workers the adverse effect wage rate (AEWR), the applicable prevailing wage rate, or the statutory minimum wage rate, whichever is higher. The AEWRs are the minimum wage rates which the DOL has determined must be offered and paid to U.S. and H-2A workers, and they are established for each state. The region- or state-wide AEWR for all agricultural employment for which H-2A certification is being sought, is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) for the region as published annually by the USDA.22Some 1998 AEWRs: California, $6.87; Florida, $6.77; Georgia, $6.30; Hawaii, $8.83; Kentucky, $5.92; and Ohio, $7.18. The AEWRs are designed to prevent the employment of these nonimmigrant alien workers from adversely affecting the wages of similarly employed U.S. agricultural workers.

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

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

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

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

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

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

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

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

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

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

FF

Reform Proposal

WH

USDA

DOL

Worker Recruitment

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

Y

okay

DOL implemented this administrative change.

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

Y

okay

DOL implemented this administrative change.

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

Y

USDA would not oppose.

DOL proposal; requires job order simplification.

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

Y

DOL and USDA agree to support this.

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

Y

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

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

N

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

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

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

Y

USDA agrees.

DOL regulatory initiative.

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

N

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

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

Require payment of competitive rates for FLC services.

Employment Eligibility Verification

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

Y

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

DOL agrees.

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

Y

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

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

Y

USDA would likely agree as part of an overall package.

DOL would likely agree.

Growers only responsible for recruiting and hiring farm workers in the U.S. through the DOL-administered Registries (and contacting former employees); Registries are

responsible -- and have only 14 days -- to locate, contact, verify employment eligibility, and refer U.S. workers to growers seeking foreign farm workers; failure to refer timely or to refer sufficient workers allows direct application for workers to Secy of State.

N

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

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

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

N

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

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

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

Y

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

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

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

N

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

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

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

N

USDA likely supports this measure.

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

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

Y

USDA agrees.

DOL agrees

Productivity Standards

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

?

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

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

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

Experience (and related) Requirements

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

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

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

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

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

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

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

Y

According to DOL, this is current law.

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

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

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

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

N

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

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

Wages and Costs

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

Y

Agrees.

Agrees.

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

N

Oppose.

Opposes.

Eliminate the 3/4 guarantee

N

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

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

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

N

Agree that effectively eliminates the 3/4 guarantee.

Agree that effectively eliminates the 3/4 guarantee.

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

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

No. The AEWR is calculated to compensate for the presence of illegals that depress the

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

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

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

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

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

Only require payment of federal minimum wage (not AEWR) as a training wage for inexperienced workers during a training period (in the K).

Another way to undercut the AEWR that USDA likes.

Another way to undercut the AEWR that Labor hates.

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

Y

USDA would likely not like. This would raise the total wage cost.

Labor would like. Most farmworkers are paid by the piece, so a conversion of the piece rate to the AEWR is consistent with their desire to keep or strengthen the AEWR.

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

Y

USDA would likely not like b/c this would raise the total wage cost and require farmers to set productivity levels early in the season and not allow conditions to change expectations.

Labor would like this. It discourages the farmers from changing productivity levels in ways designed to keep the wage low.

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

They are generally opposed to any change that would increase the overall wage cost. However, they may be open to setting the wage at some modest percentage higher than the local prevailing wage. Thus, though these numbers are high, there may be room to work here.

Labor is generally in favor of calculations that result in a higher wage, though they see no magic in the AEWR. The conflict with USDA would be over how high to set the percentile.

Apply AEWR to sheepherders.

?

Opposed. Sheepherders are different.

They want more for the sheepherders.

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

USDA would favor changes along these lines. They want to consider total cost of employing an H2A worker and compare that to total cost of hiring a non-H2A worker (legal or illegal).

Oppose. Though Labor is open to discussions that take into account total cost to growers to use the program, they do not want the farmworker wages to be too low.

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

?

Reforms to the 50% rule as recommended by OIG.

Y

USDA agrees.

Labor agrees.

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

N

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

Oppose. same reason.

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

Y

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

Agrees.

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

Y

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

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

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

N

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

Labor will hate this, b/c they have asserted that the task rate is too variable to be

susceptible to a prevailing wage determination. There are also likely problems with the group rate.

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

N

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

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

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

Y

May not like b/c like grower choice.

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

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

Y

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

Protecting wage rates would seem a good thing to Labor.

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

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

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

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

This is a shift of cost from the grower to the government. USDA will like this.

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

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

N

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

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

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

?

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

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

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

Y

USDA would likely be open to this.

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

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

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

Y

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

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

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

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

As noted, Labor is also open to a user fee. However, it is not clear that they would want to push for a fee that was a total reimbursement (making it cost neutral for the government). That would surely make it too expensive for growers to use.

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

Unclear how they would react to this.

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

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

USDA would oppose this as restricting grower flexibility.

Labor would likely favor, but it could be hard to administer.

Housing

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

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

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

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

USDA likes as a way to reduce cost.

Labor hates as a way to erode wages.

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

Same

Same

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

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

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

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

Y

According to DOL and USDA, this is current law.

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

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

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

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

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

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

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

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

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

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

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

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

Cant see the objection to this one.

Labor likely is in favor.

Enforcement

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

Y

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

Issue final H-2A regulations.

Y

DOL has agreed to this.

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

N

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

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

Institute a 12-mo. statute of limitations on complaints

USDA likely would favor.

DOL may think this is o.k.

Provide a reasonable cause threshold for investigations.

USDA would likely favor.

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

Limit penalties to certain types of violations.

Unclear what this recommendation means.

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

USDA would likely favor.

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

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

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

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

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

Cant imagine opposition, unless it costs a lot.

Labor would likely favor.

More timely initiation and completion of DOL enforcement actions.

We are all in favor of timeliness.

Immigration Management

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

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

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

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

Y

USDA would not likely have an objection.

DOL would not likely have an objection.

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

Y

USDA would not likely have an objection.

DOL would not likely have an objection.

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

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

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

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

Y

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

N

USDA would not likely oppose this idea. However, it does not advance their goals because they believe that growers need a ready supply of foreign workers to meet short-term labor needs. Once legalized these foreign farmer workers would likely move into other sectors of the labor market.

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

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

N

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

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

User fee offsetting FICA/FUDA advantage used as repatriation incentive

N

Same position as above.

Same position as above.

Require entry-exit control system for all H2A workers.

Y

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

Other issues

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

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

Y

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

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

Comprehensive report by AG and Secretaries of Labor and Agriculture.

Y

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

USDA will want more flexibility for growers.

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

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

Cap the number of visas available under the H2A program.

See above.

See above.

Administrative Processes

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

Y

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

Y

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

Y

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

Y

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

Y

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

Y

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

Y

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

Y

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

Y

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

?

Unsure how this changes employer obligations.

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Franklin D. Raines

FROM: Sally Katzen

SUBJECT: Heads-up on Proposed USDA Organic Rule

We are about to conclude review of a proposed USDA rule that would set national standards for products labeled with the term "organic." The rule, which implements part of the 1990 "Farm Bill," would establish a Federal accreditation program for States or private entities to certify that a farmer or handlers product can be labeled as organic; require farmers and handlers to prepare and follow "organic plans" that describe their farming and handling practices as a condition for certification; and identify substances approved for use (and, by implication, those that cannot be used) in organic farming.

We expect the rule to be somewhat controversial. Organized organic industry groups will be supportive of USDAs approach. However, many of the conditions in the rule will likely produce an unintended but unavoidable reaction. For example, the organic industry prefers natural manure as a fertilizer and the proposal includes "proper manuring" practices, whereas some of the consumer groups are concerned that manure may harbor pathogens that have been linked to recent food safety scares. In addition, the standards in the rule presume that organic farming is more environmentally friendly than conventional farming; this may offend some conventional farmers and implies that EPA and FDAs regulatory programs do not adequately ensure that pesticide approvals meet high environmental and human health standards.

USDA expects to publish this proposal in the Federal Register in two weeks. We are encouraging sooner rather than later so as not to spoil the holiday cheer. 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
Chris Jennings
Elena Kagan
Victoria Radd
Barry Toiv

Michael Waldman
T.J. Glauthier
Josh Gotbaum
Larry Haas

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Franklin D. Raines

FROM: Sally Katzen

SUBJECT: Heads-up on Proposed HHS Hospital Conditions of Participation Rule

We are about to conclude review of a proposed HHS rule revising the requirements that hospitals must meet to participate in the Medicare and Medicaid programs. The rule would shift HCFAs regulatory focus towards patient care and outcomes and away from unnecessary and burdensome procedural requirements. This rule is an important component of the Vice Presidents Reinventing Government initiative. Last winter, the Department published a proposed rule covering home health agencies. This rule is the next in a series of rules that will also cover end-stage renal disease facilities, ambulatory surgical centers, and hospices.

In particular, the rule requires hospitals to develop their own tailored quality assessment and performance improvement program and delineates the minimum items that must be included in the hospitals program, e.g. access to care, patient satisfaction, complaints and grievances, etc. To balance these new requirements, the rule would eliminate unnecessary paperwork, personnel, and administrative requirements.

This proposed rule is also an important component in the Departments organ donation initiative in that it would mandate that hospitals report all potential organ donors to Organ Procurement Organizations. Currently, such reporting is voluntary, based upon hospital-specific policies. Hospitals may react adversely to these new organ procurement reporting requirements, but the American Hospital Association has been consulted and has agreed to work constructively with the Department.

The hospital industry has been expecting this rule for some time and generally will be supportive of its increased flexibility and focus on patient care and outcomes. Health care professionals such as physicians, dieticians, etc. may oppose flexible staffing requirements, while other personnel such as certified registered nurse anesthetists will appreciate the streamlined oversight and management.

Please let me know if you have any questions.

FFcc:Maria Echaveste
Rahm Emanuel
Ron Klain
Thurgood Marshall, Jr.
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Sylvia Mathews
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Josh Gotbaum
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FEBRUARY 1, 1996

MEMORANDUM FOR:OFFICE OF RECORDS MANAGEMENT

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its investigation into the "White House Travel Office matter."11For purposes of responding to the subpoena requests, please use the definition of the term "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). Please review your "records,"22For purposes of responding to the subpoena requests, please use the definition of "records" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve the following White House records created on or before January 11, 1996:

1."Any records related to the White House Travel Office matter or the White House Project33For purposes of responding to these requests, the term "White House Project" refers to an endeavor which "involved both improving the 'staging' of Presidential events as well as finding a way to utilize excess Presidential Inaugural Commission funds for outsourcing White House assistance or providing assistance to the White House." from the following individuals and/or offices: The White House Counsel's Office,44For a list of the employees who have served in the White House Counsel's Office from January 20, 1993 to the present, see Attachment 2. Maggie Williams, Capricia Marshall, Lisa Caputo, Neel Lattimore, Isabelle Tapia, Mary Beck, Vince Foster, Deborah Gorham, Linda Tripp, Bill Kennedy, David Watkins, Catherine Cornelius, Clarissa Cerda, Jeff Eller, Patsy Thomasson, Ricki Seidman, Mark Gearan, Dwight Holton, Andre Oliver, Todd Stern, Jean Charleton, Brian Foucart, Janet Greene, Beth Nolan, Clifford Sloan, Mack McLarty, Bill Burton, David Dreyer, Anne Edwards, Rahm Emmanuel, David Leavey, Bruce Lindsey, Darnell Martens, Matt Moore, Dee Dee Myers, Lloyd Cutler, Jane Sherburne, Abner Mikva, Mark Fabiani, Tom Hufford, Roy Neel, John Podesta, Rita Lewis, David Gergen, Craig Livingstone, Marjorie Tarmey, Ira Magaziner, Bernard Nussbaum, Jennifer O'Connor, Penny Sample, George Stephanopoulos, Frank Stidman, Harry Thomason, Lorraine Voles, Jeremy Gaines, Dale Helms, David Gergen, Joel Klein, Neil Eggleston, Steve Neuwirth, Cheryl Mills, Jurg Hochuli, Andris Kalnins and Bruce Overton.

2.All calendars, "phone records (including message slips, phone logs, pages or any White House record of phone calls)" of the following individuals for the period May 1, 1993 through July 31, 1993: Bill Kennedy, Vince Foster, Mack McLarty, Ricki Seidman, John Podesta, Todd Stern, Dwight Holton, Andre Oliver, Brian Foucart, Bruce Lindsey, Jack Kelly, Matt Moore, Beth Nolan, Cliff Sloan, Bernard Nussbaum, David Watkins, Catherine Cornelius,

Jennifer O'Connor, George Stepha-nopoulos, Dee Dee Myers, Clarissa Cerda, Jeff Eller, Patsy Thomasson, Mark Gearan, Leon Panetta, Harry Thomason and Maggie Williams.

3.All "calendars, phone records, message slips or phone logs" of the following individuals for the period May 1, 1995 through November 30, 1995: Jane Sherburne, Jon Yarowsky, Natalie Williams, Miriam Nemetz, Abner Mikva, Maggie Williams, Capricia Marshall, Patsy Thomasson, John Podesta, Catherine Cornelius, Mark Gearan, Bruce Lindsey, David Watkins, Janet Greene, Betsey Wright, Webb Hubbell, Bill Kennedy, Jeff Eller, Neil Eggleston, Cliff Sloan, Mike Berman, Harry Thomason, Darnell Martens, Beth Nolan, James Hamilton, Susan Thomases, James Lyons, Roy Neel, John Gaughan, any employee of the Military Office,55For a list of the employees who have served in the Military Office from January 20, 1993 to the present, see Attachment 3. Larry Herman, John Shutkin, any employee of KPMG Peat Marwick,66We are aware that at least the following KPMG Peat Marwick employees were involved in some aspect of the White House Travel Office matter: Larry Herman, Leslie Casson, Carolyn Rawdon, Dan Russell, Nicholas Di Carla, Charles Siu and John Shutkin. Billy Ray Dale, Barney Brasseaux, John Dreylinger, Ralph Maughan, John McSweeney, Robert Van Eimeren, Gary Wright, David Bowie, Pam Bombardi, Tom Carl, Stuart Goldberg, Lee Radek, Jamie Gorelick, Adam Rossman, David Sanford.

4."All records related to the General Accounting Office review of the White House Travel Office."

5."All records related to the Justice Department's Office of Professional Responsibility review of the White House Travel Office."

6."Any records related to American Express obtaining the White House Travel Office business including all records related to any contact with GSA or American Express."

7."All records related to the Peat Marwick review of the White House Travel Office and any subsequent reviews such as that performed by Tichenor and Associates and any records reflecting any contacts, communications or meetings with any Peat Marwick attorneys or officials."77See footnote 6.

8."Any records of any contacts or communications related to any IRS matter regarding UltrAir and/or any IRS matter regarding any other White House charter company, any IRS matter related to any of the fired seven travel office employees, or any other IRS matter related to the White House Travel Office and any records of contact or communi-cations with IRS Commissioner Peggy Richardson by Mack McLarty, Webb Hubbell, Bruce Lindsey, Vince Foster, Bill Kennedy, or any other member of the White House Counsel's office88See footnote 4. from May 1, 1993 to" January 11, 1996.

9."All records related to the Treasury Inspector General's investigation of the IRS audit of UltrAir. (The investigation requested by Rep. Frank Wolf in May 1993)."

10."Any records relating to any proposal to use independent financing or unused Presidential Inaugural Committee funds to assist anyone on the White House staff, outsource White House duties or tasks, or otherwise assist White House operations. This would include records regarding any efforts, both inside and outside the White House to explore, evaluate or implement such proposal. It would also include records of any subsequent analysis of such efforts."

11."Any records relating to or mentioning the finding of the note in Mr. Foster's briefcase

or any other location following his death, any Travel Office records of Mr. Foster's and any records relating to the finding or existence of or explanations of any files of Mr. Foster's relating to the White House Travel Office matter, Special Government Employees, issues of nepotism, the use of volunteers or any efforts to obtain Office of Legal Counsel opinions on any of these matters and any records of any contacts with Mr. James Hamilton, Lisa Foster, Harry Thomason, Susan Thomases, James Lyons about Vincent Foster records."

12."Any records relating to Mr. Thomason, Mr. Martens, Ms. Penny Sample, Ms. Betta Carney and Mr. Steve Davison and any other World Wide Travel employees including, but not limited to, all records indicating what these individuals did while at the White House, any documents relating to issues arising out of any actions they took while at the White House, any personnel records, requests for passes or pass forms, requests for office space and any forms related to office space, phone or other equipment, and any records relating to any actions taken by these individuals regarding the White House Travel Office. (For Ms. Sample, this request would also include all trip files for trips she had any involvement with while at the White House.)"

13."All records about problems or allegations or wrongdoing in the Travel Office from January 20, 1993 to" January 11, 1996.

14."All tapes or videotapes produced by Mr. Thomason or any associates of his for the White House, the Bill Clinton for President Committee or the Clinton/Gore '92 Committee and all billings and financial statements relating to such work."

15."All records relating to Travel Office funds and/or documents being placed in the White House military office and all records of any inquiries about related events."

16."All records of any contacts with David Watkins or Bill Kennedy from the time they ended their employment at the White House to" January 11, 1996.99Bill Kennedy's effective date of resignation was 11/21/94. David Watkins' effective date of resignation was 6/17/94.

17."All Executive Order documents located in Mr. Foster's Travel Office files and/or his briefcases."

18."All records related to Harry Thomason and/or Darnell Martens discussing pursuing contracts with GSA, all records related to ICAP (Interagency Committee on Aviation Policy), and any records of the White House Counsel's office analyzing the issues raised by Mr. Thomason and Mr. Martens actions at the White House."

19."All records related to any sexual harassment complaints about Mr. David Watkins during the Clinton/Gore 1992 campaign or during his tenure at the White House and any records of meetings, actions, or communications regarding such complaints and all records related to the $3000 per month retainer provided to Mr. Watkins by the Clinton for President campaign."

20."All records of any contacts, communications or meetings regarding the `Watkins memo' produced to the Committee on January 3, 1996 and the chain of custody of this memo."

21."All indices or catalogues of Vincent Foster's office, tapes, computer and documents and who received each document from his office."

22."All records relating to the actions of Mr. Watkins at the White House regarding the use of White House helicopters, the names of all individuals in the two helicopters used in May

1994 for Mr. Watkins golf outing and all records relating to his departure from the White House."

23."All records relating to the matter of United States of America v. Billy Ray Dale, any investigation by the Justice Department into the White House Travel Office matter (as defined in the accompanying "Definitions and Instructions"), and all records relating to Billy Ray Dale as well as any records of talking points prepared about Mr. Dale."

24."All records related to the gathering of documents for any review or investigation related to the White House Travel Office matter (as defined in the accompanying "Definitions and Instructions"). This includes, but should not be limited to, the White House Management Review, the IRS internal review, the GAO Travel Office review, the OPR (Office of Professional Responsibility) investigation, the Public Integrity investigation, the Treasury IG investigation, the FBI internal review, Independent Counsel Robert Fiske, and Independent Counsel Kenneth Starr."

We recognize that, in many respects, the House subpoena is identical to the December 19, 1995 document request previously sent to you by the Counsel's Office. You do not need to provide any documents which have already been produced to the Counsel's Office in response to the December 19, 1995 request. But for all other responsive records that fall within the above categories, please provide such materials to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 7, 1996.

If you have any questions regarding the House subpoena request, please call Jane Sherburne (6-5116) or Associate Counsel Natalie Williams (6-5079).

Thank you for your cooperation.FF
ATTACHMENT 3

Military Office Employees

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

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

March 23, 1998

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Franklin D. Raines

FROM: Don Arbuckle
Acting Administrator

SUBJECT: Heads-up on Final HHS Organ Procurement and Transplantation Rule

In the next few days, we will complete review of a Department of Housing and Human Services (HHS) final rule that enhances the implementation of the National Organ Transplant Act of 1984. This regulation is another important step in the Administrations efforts to increase patient access to transplantation and to improve patient health outcomes. The Administration began these efforts last December with the announcement of the new National Organ and Tissue Donation Initiative. HHS submitted the rule formally to OMB on Friday and they plan to "roll-out" the rule on Thursday, March 26th.

This final rule establishes performance standards for the Organ Procurement and Transplant Networks (OPTN) development of organ allocation policies. Historically, patients who are most ill have been treated differently based upon their geographic location. The performance standards are intended to ensure that patients with the same medical need will be treated more equitably, regardless of where they live. HHS believes that these performance standards will ensure that available transplantation technology is maximized in saving patients lives. The OPTN must develop these new policies within a year of the effective date of the final regulation. However, for liver transplant policies, the OPTN must develop new final allocation policies within 60 days of the rules effective date.

This rule will be opposed by certain local transplantation center interests that fear that broader sharing of organs will threaten local organ supplies and their programs viability. The OPTN and certain Organ Procurement Organizations (Federal contractors and agents) may be concerned that the rules lead to too much Federal oversight of medical decision making. On the other hand, patients desiring more market choice will applaud the rule. Transplant centers that embrace competition also will support the rule. We believe that HHS has done its best to develop a rule that will make organ allocation both more equitable and efficient nationwide,
and will enhance patient choice and participation in the health care system.

FF

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

Sylvia Mathews
John Podesta
Bruce Reed
Gene Sperling
Elena Kagan
Barry Toiv
Michael Waldman
Josh Gotbaum
Linda Ricci

Figure 11

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Sally Katzen

SUBJECT:Heads-up on EPA Proposed Rule on Ozone Transport

We are about to conclude review on an EPA proposed rule that is directly related to the implementation of the new ozone ambient air quality standards. In setting the new standards, we emphasized that there was a process -- the Ozone Transport Assessment Group (OTAG) -- through which the 37 easternmost States agreed to take measures to tackle the problem of ozone transport across State lines. EPA stated that if the States complied with the requirements coming out of that process, there would be few areas out of attainment with the new ozone air standards.

The proposed rule we are clearing sets the OTAG requirements. Rather than imposing requirements on all 37 OTAG States, EPAs proposal would set statewide ozone emissions "budgets" for 22 of the States; while there are no new requirements on the remaining 15 States (generally on the periphery of the OTAG region), they can take action that will enable them to get "credit" toward the new standards.

The cost of the new requirements is $2 billion per year. As expected, the bulk (75 percent) of the cost will fall on electric utilities (and their customers). The reaction will be predictable -- we anticipate some opposition from the electric utility industry and support from the environmental groups. Please call me if you have any questions.

cc:Maria Echaveste
Rahm Emanuel
John Hilley
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
Katie McGinty
Bruce Reed
Gene Sperling
Don Gips
Elena Kagan
Victoria Radd
Barry Toiv
T.J. Glauthier
Larry Haas

February 28, 1997

MEMORANDUM FOR THE PRESIDENT

FROMBRUCE REED
ELENA KAGAN

SubjectWelfare to Work Outreach Strategy

This memo is a response to a Feb. 25 meeting between the Chief of Staffs Office, DPC, White House Counsel, Public Liaison, Intergovernmental Affairs, and HHS at which welfare to work outreach strategies were discussed. Following are decisions made about additional outreach steps, a summary of ongoing outreach efforts, and a suggested structure to create a more comprehensive and coordinated outreach and communications effort.

Outreach Decisions

The following decisions were made at the 2/25 meeting. Outreach and external coordination will be focused on four key groups: state governments and their social service offices; the business community; the nonprofit sector; and the faith communities. Outreach efforts will include but will not be limited to recruiting nonprofits, businesses, and religious organizations to the effort, building comprehensive lists of those committed, creating a referral network for individuals and organizations to relevant programs, assisting businesses and other entities with welfare to work programs, and preparing written material to educate states, nonprofits, business, and faith organizations about best practices on welfare to work.

A main vehicle for outreach will be to establish four private spokes people -- one for each of the outreach areas -- who will carry the Administrations welfare to work message to state governments, and the business, nonprofit and religious communities.

However, counsel has written that it will be legally difficult to recruit individuals to volunteer as spokes people for the welfare to work effort. Counsel says that there is no problem discussing issues with private individuals and indicating that we would like them to work on particular matters. However, we cannot direct a private persons activity and we must be careful not to give that person the impression that she holds an official position or that her activities are government sanctioned, or that she is acting on behalf of the White House.

Outreach Efforts To Date

Several outreach activities have been ongoing since the passage of the welfare law. Following is a summary of those ongoing activities.

*You are traveling to various state legislatures to challenge legislators to make welfare reform a success, and you are offering the legislators examples of what is working in other states and communities. HHS is currently putting together a suggested list of other states you might visit.

*You have met with and talked to 14 CEOs interested in becoming involved in the welfare to work effort, many of whom are also working with Eli Segal, the NGA, and the National

Alliance of Business (NAB). You announced five of these CEOs during your State of the Union address. Additionally, the Office of Public Liaison and the DPC are building a list of more corporations interested in becoming involved. Presently, the list tops 100 and is growing. We are sharing this list with Eli Segal and others.

*You and Mrs. Clinton have met with religious leaders both at the White House Prayer Breakfast and at the Congressional Prayer breakfast, both times challenging the faith community to help with the welfare to work effort. The Office of Public Liaison is currently coordinating a broader outreach effort to all faith-based institutions.

*Public Liaison has held several briefings for organizations interested in welfare to work and will continue to do so.

*The Department of Health and Human Services has consistently provided technical assistance and guidance to states as they implement their welfare to work plans.

Also key to our outreach will be to connect with and build on newly emerging welfare to work efforts. Following are private outreach efforts underway.

*Eli Segals Work Now (WN) will soon be established as a 501 (c)(3) organization whos mission will be to help businesses of all kinds move people permanently from welfare to work. WNs customers will be the businesses themselves, rather than welfare recipients, legislatures, Governors, or state welfare agencies. WN will encourage, mobilize, reward, and provide technical assistance to large and small companies and a broad range of so-called intermediaries that act as job placement and retention organizations.

*The NGA is beginning a process that connects Governors with private sector employers interested in hiring welfare recipients. In addition, the NGA will be collecting model programs and best practices for distribution in states. (White House Intergovernmental Affairs recently facilitated a meeting between Eli Segal and the NGA to discuss the welfare to work initiatives of both entities and possible areas of collaboration.)

*The National Alliance of Business (NAB), a Washington, DC-based business supported and led organization that helps companies with workforce development, is beginning its welfare to work initiative. NAB hopes its initiative will make employers involvement in the welfare to work effort more effective.

Coordinating the Outreach Strategy

Though outreach efforts are underway within the Administration and through private nonprofit organizations, both the outreach efforts and the welfare to work message are fragmented and lack coordination. We believe we should build upon existing and new outreach efforts to create a coordinated and comprehensive outreach and communications strategy. Following is a brief outline of what such a strategy might look like.

The following three-part plan should be run by the White House -- specifically the DPC, Office of Public Liaison, Communications, Cabinet Affairs, and Intergovernmental Affairs -- and is designed to ensure that the work provisions of the new welfare law are successfully implemented.

*Interagency Coordination. Coordinate all intergovernmental efforts related to welfare to work, particularly those ongoing at HHS, Labor, HUD, and the Departments of Commerce and

Transportation, (add National Service Corps, etc.) through regular meetings and conference calls with a designated group. With the help of the involved agencies, catalogue all welfare to work related activities ongoing at the agencies into one central document and regularly update that document.

*Outreach. Through outreach, build a comprehensive list of state legislators, nonprofit organizations, businesses, and faith organizations interested in becoming involved in the welfare to work effort who we need to educate. At the same time, build a list of those states, legislators, and private organizations with good programs in place to whom we can refer others.

*Communications. Discover, disseminate, and celebrate model public and private welfare to work efforts and existing Federal government programs that will help states, nonprofits, businesses, and religious organizations structure successful welfare to work programs. Disseminate information through written materials, public liaison briefings, the World Wide Web, and a speakers bureau made up of representatives from all of the agencies and departments involved.

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Sally Katzen

SUBJECT:Heads-up on EPA Proposed Rule on Ozone Transport

We are about to conclude review of an EPA proposed rule that is directly related to the implementation of the new ozone ambient air quality standards. In setting the new standards, we emphasized that there was a process -- the Ozone Transport Assessment Group (OTAG) -- through which the 38 easternmost States agreed to take measures to tackle the problem of ozone transport across State lines. EPA stated that if the States complied with the requirements coming out of that process, there would be few areas out of attainment with the new ozone air standards.

The proposed rule we are clearing would set the NOx reduction requirements for the OTAG States (a State would file a State Implementation Plan one year after the final rule (roughly September 1999) that shows how it intends to meet the limits by 2007). Rather than imposing requirements on all 38 OTAG States, EPAs proposal would set statewide NOx emissions "budgets" for only 23 of the States. At the same time, the limits set are at the high end for electric utilities (and in the middle for other States) of the OTAG recommendation. While there are no new requirements on the remaining 15 States (generally on the periphery of the OTAG region), they can take action that will enable them to get "credit" toward the new ozone standards.

The cost of the new requirements is at least $2 billion per year. As expected, the bulk (75 percent) of the cost will fall on electric utilities (and their customers). The reaction will be predictable -- we anticipate opposition from industry (particularly the electric utility industry) and support from the environmental groups (although the groups located in the Northeast may argue for more aggressive action). The States will likely be split, with the Northeast States supporting and the Midwestern and Southern States in opposition.

The agency is likely to announce the rule this week. Please call me if you have any questions.

FFcc:Maria Echaveste
Rahm Emanuel
John Hilley
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
Katie McGinty

Bruce Reed
Gene Sperling
Don Gips
Elena Kagan
Victoria Radd
Kathy Wallman
Lynn Cutler

MEMORANDUM FOR ERSKINE BOWLES

FROM: Sally Katzen

SUBJECT: Heads-up on Final OPM Rule Restricting Panama Canal Severance Pay

We are about to conclude review of an OPM final rule that would disallow severance pay for approximately 6,000 U.S. Federal employees (virtually all of whom are Panamanian citizens) of the Panama Canal Commission (PCC) when, by virtue of treaty agreements, the Canal is transferred to the Panamanian Government on December 31, 1999. The reason this rule is necessary is because an existing OPM rule requires severance pay for Federal Government employees even when they receive comparable jobs and pay. This rule was a product of the Reagan Administration effort to privatize government functions and was thought necessary and desirable to keep Federal employees on the job through the transition period. The OPM final rule would disallow severance pay for those PCC employees who receive comparable jobs and pay (presumably, the vast majority will become employees of the Panamanian entity that assumes operational control of the Canal); those PCC employees who do not have comparable jobs and pay would be given severance pay.

The notice of the proposed rule (issued in July 1995) produced negative comments from the Panamanian Government and two international labor unions -- the International Organization of Masters, Mates & Pilots and the International Association of Machinists and Aerospace Workers. The State Department agrees with OPM that the rules cost savings ($68 million) outweigh any potential foreign policy disadvantages. Because the rule is targeted only to PCC employees, it is unlikely that domestic labor unions will actively oppose the rule. Finally, several Members of Congress filed comments supporting the rule.

It is possible that this issue may come up at next months international conference on the Panama Canal, in Panama, which will be attended by senior Administration officials. Please call me if you have any questions.

PFcc:Sandy Berger
Maria Echaveste
Rahm Emanuel
Thurgood Marshall, Jr.
John Hilley
Ann Lewis
Sylvia Mathews
Mack McLarty
Bruce Reed
Gene Sperling
Elena Kagan
Kathy Wallman

Victoria Radd
Barry Toiv
Michael Waldman
Gordon Adams
Michael Deich
Larry Haas

Draft only

February 24, 1999

MEMORANDUM FOR THE CHIEF OF STAFF

FROM:BRUCE REED
ELENA KAGAN

SUBJECT:Administration Position on Comparable Worth
Senator Harkin has asked the Administration to support his equal pay legislation which provides for comparable worth, a controversial method that requires companies to equalize wages between "equivalent jobs." On March 10, the DPC held a meeting to discuss this issue with many offices inside the White House and with several agencies. The majority of people at the meeting felt that the Administration could not support comparable worth. This memorandum sets forth the positions of the relevant WH offices and agencies.

I.Participants of the Meeting

The following offices within the White House attended the meeting:

*Council of Economic Advisors (CEA)
*White House Counsels Office
*Domestic Policy Council (DPC)
*Legislative Affairs
*National Economic Council (NEC)
*Office of Management and Budget (OMB)
*Office of Public Liaison (OPL)
*Vice Presidents Domestic Policy

The following outside agencies attended the meeting:

*Commerce
*Equal Employment Opportunity Commission (EEOC)
*Justice
*Labor
*Office of Personnel Management (OPM)
*Small Business Administration (SBA)
*Treasury
II.Agency Positions

Comparable worth seeks to equalize wages within firms, not across firms, for "equivalent jobs." The Harkin/Norton legislation would prohibit employers from paying lower wages for jobs dominated by employees of a particular sex, race, or national origin than for jobs dominated by employees of the opposite sex or different race or national origin for work on

"equivalent" jobs. "Equivalent jobs" is defined as jobs that may be dissimilar, but whose requirements are equivalent when viewed as a composite of skills, effort, responsibility, and working conditions. The EEOC would establish criteria for determining whether jobs are dominated by employees of a particular sex, race or national origin. The bill also provides that no wage rates may be reduced in order to comply with comparable worth requirements. There have been several cases where jobs have been deemed equivalent, and the female-dominated job received a pay raise: in Wisconsin, female-dominated word processing operators and male dominated meatcutters; in Los Angeles County, female-dominated childrens social service workers and male-dominated probation officers; and in Illinois, female-dominated registered nurses and male-dominated electricians.

DPC began the meeting by having CEA define the scope of the wage gap. Last year, CEA published a report on the wage gap, showing that women earn approximately 75 percent of what men earn, without accounting for differences in skills, experience, industry, occupation, and union status. Accounting for these differences raised the female/male pay ratio in the late 1980s from about 72 percent to about 88 percent, leaving around 12 percent as an "unexplained" difference. CEA estimates that only about 5 percent of the 12 percent could be corrected by implementing comparable worth, which would still leave an "unexplained" gap of about 11 percent. Because comparable worth can only correct for differences within firms, it cannot solve, what CEA suspects is a greater problem, the payment of unequal wages for the same or equivalent jobs across firms. However, these differences in pay could result not only from discrimination, but market forces, and other individual employee differences in areas such as skill and experience.

Ida Castro, Chairwoman of the EEOC, then argued in favor of comparable worth. The EEOC stated that the Equal Pay Act, which was enacted in 1963, sought to address the prevailing problem of its time -- the payment of unequal wages for the same or similar jobs. However, as EEOC enforces the Equal Pay Act, it believes that the problem today is not the paying of unequal wages for the same job. The EEOC thinks that the Harkins bill is the only one that attacks the current problem in a credible fashion.

Labors chief economist then reiterated that comparable worth does not solve the problem of paying unequal wages across different establishments. Labor also mentioned that there may be market forces which contribute to pay differences and that the implementation of comparable worth could lead to job losses because it requires the raising of wages, without regard to supply and demand. Labor also pointed out that comparable worth has only been implemented in about 8 state governments, not the private sector, and that the cost to state governments is not comparable to the private sector.

Commerce then pointed out that comparable worth is more invasive of private business decision-making than other Federal mandates. For example, compared with the minimum wage which is uniform in its application and is relatively easy to administer, comparable worth would require more extensive record-keeping, incur greater administrative expenses, and affect wage levels and resource allocations without regard to productivity and other market conditions. Commerce argued that, as the American economy becomes more and more flexible, the rigid job classification framework of the Harkin/Norton bills would move us backwards -- against the tide toward more flexible job definitions, individual merit-based pay, and work teams.Commerce also argued that the process of deciding which jobs are "equivalent" is difficult and could lead to increased litigation.

CEA then stated that comparable worth only addresses a small amount of the remaining wage gap -- only about 1 percent. CEA also stated that implementing comparable worth would lead

to dislocations in the labor market and could create a problem in hiring.

DPC then argued that with our support of Senator Daschles bill, which strengthens existing law but does not support comparable worth, we have the political high ground. If we support comparable worth, we will not be able to maintain a consensus and could risk losing this as a viable political issue. Senator Daschles bill has 20 cosponsors currently (Sen. Harkin has yet to cosponsor, although he has in the past). On the House side, Congresswoman DeLauros bill, H. R. 541, has 34 cosponsors. Both of these bills are part of the "Democratic Leadership" package of bills. Senator Harkins bill had 8 cosponsors in the last Congress, while the House version garnered 64 cosponsors. (By contrast, last Congress, Senator Daschle brought 23 Democrats on board, while Congresswoman DeLauros bill had 95.) The Harkin-Norton bill is unlikely to attract more cosponsors because of lack of support from the leadership, lack of strong lobbying efforts by interest groups, and its controversial nature. The Daschle-DeLauro represents the bill with the greatest ability to move, to draw some bipartisan support, and to have some chance of passage.

As a political matter, the Daschle bill offers Democrats the ability to raise the issue on the floor, highlight our commitment to the issue, and spotlight differences between supporters and opponents. If the bill fails to pass, the vote would give members a record of fighting the wage gap and demonstrate that on a moderate bill where there is a national consensus, opponents of equal pay denied passage. Whether the bill passes or not, the attention such a fight would receive would focus attention on the problem and broaden the constituency for further measures, including, possibly, for Senator Harkins bill. In contrast, endorsement of the Harkin bill at this time would likely drive members away from the issue altogether in fear that they will be tarred as supporting government wage-setting and radical interference in the labor market.

In the end, nine agencies were against comparable worth: CEA, Commerce, DPC, OMB, Justice, NEC, SBA, Treasury, and the VPs Office. WH Counsel, Labor, and OPM did not take a position. Only EEOC and OPL (the Womens Office) were in favor of comparable worth.

III. Options & Recommendation

By backing Senator Daschles bill as a first step, the Administration has gained an excellent position from which to lead a national debate on the wage gap and advocate for policies that will lead to more fairness in the workplace. In contrast, endorsing comparable worth at this point would likely breakdown the chance to build momentum on the issue, and spark only a debate over big government interference with the market. Indeed, a recent Wall Street Journal op-ed attempted to attack the Daschle bill on the grounds that it promoted comparable worth, while giving only partial attention to the existence of a wage gap -- a shift in focus that would be greatly accelerated by Administration support for Harkins bill. We believe that the Administration should keep opponents of equal pay on the griddle by keeping the nations attention focused on the existence of the wage gap and the common-sense first steps we all should be able to agree to in attacking it.

*

June 9, 1998

REMARKS AT EQUAL PAY EVENT

DATE:June 10, 1998
LOCATION:Rose GardenEVENT TIME:2:30 pm - 3:30 pm
FROM:Bruce Reed
Gene Sperling
Audrey Tayse-Haynes

I.PURPOSE

To commemorate the 35th anniversary of President Kennedys signing of the Equal Pay Act, to call on Congress to pass Senator Daschles and Congresswoman DeLauros equal pay bills, to announce a Council of Economic Advisors report on the gender wage gap, and to announce a Department of Labor report that provides a historical perspective on the wage gap.

II.BACKGROUND

You will be making remarks to approximately 150 people, including equal pay and civil rights advocates, labor leaders, business persons, legislators, and persons from Cabinet agencies. This is an opportunity to highlight womens progress since the signing of the Equal Pay Act and to call for legislative action on the remaining wage gap.

The CEA report shows that a significant gap between the wages of women and men remains today although it has narrowed substantially since the signing of the Equal Pay Act. In 1963, the year that the Equal Pay Act was signed, women earned 58 cents for every dollar men earned. Today women earn about 75 cents for every dollar men earn, a 29 percent increase over the 1963 levels. Despite these gains, there continues to be a significant gap between mens and womens wages, even after accounting for factors such as educational attainment, work experience, and occupational choice.

III.PARTICIPANTS

Briefing Participants:
Gene Sperling
Elena Kagan
Audrey Tayse-Haynes
Janet Yellen
Rebecca Blank

Event Participants:

The Vice President
The First Lady

Mrs. Gore
Senator Barbara Boxer
Congresswoman Eleanor Holmes Norton
Dr. Dorothy Height, President Emeritus of the National Council of Negro Women
*Janet Yellen and Deputy Labor Secretary Kitty Higgins will be seated on the stage.

IV. PRESS PLAN

Open Press.

V. SEQUENCE OF EVENTS

- YOU will be announced onto the stage accompanied by the Vice President, the First Lady, Mrs. Gore, Senator Boxer, Congresswoman Norton, and Dr. Dorothy Height.
- The First Lady will make remarks and introduce Congresswoman Norton.
- Congresswoman Norton will make remarks and introduce Senator Boxer.
- Senator Boxer will make remarks and introduce Mrs. Gore.
- Mrs. Gore will make remarks and introduce the Dr. Height.
- Dr. Height will make remarks and introduce the Vice President.
- The Vice President will make remarks and introduce YOU.
- YOU will make remarks.
- YOU will then work a ropeline and depart.

VI. REMARKS

Provided by Speechwriting.

Attachments
-Background memo on Daschle Equal Pay Legislation
-Photo of Signing of Equal Pay Act Legislation in Oval Office in 1963
-Executive Summary of CEA Report

March 9, 1999

MEMORANDUM FOR ELENA KAGAN

FROM: THOMAS FREEDMAN
MARY SMITH

SUBJECT:Equal Pay Data Collection

This memorandum describes several alternatives for improving collection of wage data by the federal government. Last year, the Administration endorsed Senator Daschles bill which currently contains only a Sense of the Senate provision, recognizing that the Administration should look into ways to collect this data. A previous version of Daschles bill contained a general provision that required employers to submit wage data to the EEOC, broken down by race, sex, and national origin, but this provision was removed at the Administrations request. Recently, however, Senator Daschle has made it clear that he intends to return some kind of data collection provision to his bill before Equal Pay Day on April 8 -- either what he previously included or some other recommendation from the Administration. This memorandum outlines how the federal government currently collects wage data, how it uses this data, and what efforts could be made to improve data collection.

I.Current Methods of Collecting Wage Data

There are three major uses of wage data: enforcement, technical assistance, and research. Both the Equal Employment Opportunity Commission (EEOC) and the Department of Labors Office of Federal Contract Compliance Programs (OFCCP) currently collect data that is used for enforcement. The Bureau of Labor Statistics and the Bureau of the Census both collect data that is used for informational and research purposes, but not for enforcement.

A.EEOC

The EEOC currently collects annual data regarding the demographic breakdown of the workforces of private employers with 100 or more employees and of federal contractors with 50 or more employees on the EEO-1 form. However, the EEOC does not currently collect salary data with respect to private employers. (The EEOC does collect pay data from state and local governments through the EEO-4 form.) The EEOC uses the data on the EEO-1 form, after an individual claimants charge is filed, to examine a companys practices. In addition, the EEOC uses this data to determine whether it will file a Commissioners charge, a charge filed by the EEOC, not by a private citizen.

After a charge is filed, the EEOC can investigate and obtain wage data from an individual employer. This data could then be used in litigation. However, by statute, the data on the EEO-1 is subject to privacy protections, and the EEOC cannot give this data to the public.

B.OFCCP

OFCCP currently collects wage data from contractors when they are performing an compliance review on-site. While OFCCP is on-site, they obtain detailed wage data on individual employees. OFCCP has taken this data off-site in some instances. They use this data to settle cases with contractors and ensure that contractors correct their pay policies. OFCCP also uses the EEO-1 form in helping to determine which contractors they will audit. Recently, OFCCP has requested wage data before venturing on-site, at the earlier stage of the audit called the "desk audit" phase. However, they are formally requesting OMB to allow them to do this for all cases.

C.BLS and Census

In general, BLS gathers data from employers and from households. In virtually every case the respondents contribute information voluntarily. BLS, in turn, pledges to maintain the confidentiality of all survey responses and the identity of survey respondents.

The household-based surveys are the principal source of data on earnings by demographic variables such as sex and race. The employer-based surveys do not gather wage data on a demographic basis. BLS believes that voluntary employer-based surveys are not useful vehicles for obtaining demographic information.

The Census also collects some wage data by household but not by employer.

New Wage Gap Report. As announced by the Vice President last year, BLS will soon be issuing a report on womens earnings. This report will provide greater detail than previous reports. The data will be culled from the Current Population Survey (the major household survey). BLS intends to publish figures on womens earnings by various characteristics, such as full-time and part-time status; union status; occupation; educational attainment; and marital status. This compendium of tables will be accompanied by a brief analytical text.

II.Possible New Methods of Collecting Wage Data

Below are listed some options for collecting wage data for enforcement, technical assistance, and informational purposes.

A.Wage Data for Enforcement and Technical Assistance

If data were collected for enforcement or technical assistance, either the EEOC or OFCCP should collect this data.

1.EEOC

The most likely way for the EEOC to collect this data would be to add back in a provision to Daschles bill. The old version of Daschles bill provided for the collection of pay information by the EEOC from employers with 100 or more employees, analyzed by the race, sex, and national origin of the employees. It was somewhat vague on exactly how the wage data would be collected. In particular, it did not specify that the data needs to be collected on the EEO-1 form, which is the form used by the EEOC to collect employment data.

Senator Harkins bill also requires employers to submit wage data with respect to job

category, sex, race, and national origin. Unlike Senator Daschles bill which requires employers with 100 employees or more to submit this data, however, Senator Harkins bill requires employers with 25 or more employees in the first two years and 15 or more employees in subsequent years to submit this data. Furthermore, under Harkins bill, the EEOC is authorized to publish this data and may provide specific employers reports to the public. This provision is very controversial. As noted above, Senator Daschles bill had originally contained a requirement for greater collection of wage data, but the Administration felt this would draw a great deal of fire from Republicans and the business community and it was replaced with Sense of the Senate language that the President should increase the amount of information available on wage disparities.

The main concerns with collecting data on the EEO-1 form centered around opposition from the business community and Congress. The EEO-1 form has remained virtually unchanged for the past 30 years, despite its review every 3 years for OMB paperwork clearance (most recently in 1997). The nine occupational categories are so broad that each job category contains many individual jobs. As a result, many in the business community perceive the EEO-1 form as a waste of time and money. (OMB estimates that adding wage data would likely increase the compliance costs dramatically -- possibly by several hundred-fold -- although creating a supplement to the form or limiting it to a subset of the reporting universe could mitigate some of these costs.) Nonetheless, the EEOC believes that collecting wage data on the EEO-1 form would greatly improve its ability to target and prioritize discrimination cases. It also would assist the Department of Labor (DOL) in targeting its enforcement efforts and monitoring affirmative action programs.

There is consensus that any attempts to add wage data to the EEO-1 form will draw immediate fire from the Republicans and the business community. Indeed, any announcement of a process to determine the best way to gather this data would likely provoke a rider and risk the increase in funds requested for the EEOC in our FY2000 budget. (The budget requests $312 million for the EEOC -- $33 million or 12 percent more than enacted in the 1999 budget. Almost one-third of the increase, or $10 million, will be used for our Equal Pay Initiative. EEOC will advance outreach to businesses and employees to educate them about the legal requirements for paying equal wages, provide technical assistance, improve training for EEOC employees to better identify wage discrimination issues, and launch a public service announcement campaign to highlight the wage gap.)

We might consider adding in a more narrow provision to the Daschle bill such as a supplement to the EEO-1 form to send to a subset of businesses and/or federal contractors which would require employers to disclose data on experience, education, race, wages, and gender. This could be targeted on an industry basis. This data could be used for technical assistance and enforcement by both OFCCP and EEOC.

2. OFCCP

There are two basic methods by which OFCCP could collect wage data: (1) a Scheduling Request which is currently pending at OMB and (2) a new Affirmative Action Summary. The Scheduling Request at OMB proposes to collect detailed wage data (which identifies individual employees) by mail from the 5000 or so federal contractors that are scheduled for compliance reviews each year. (Incidentally, OFCCP has already requested and received this same data from some contractors without explicit OMB approval). While OFCCP currently is able to obtain this data on-site at a later stage of the review process, this pending request seeks to get detailed pay information on every single employee at a particular site by mail at the early "desk audit" stage of the process. This data would be permitted to be

used for technical assistance and enforcement. The Department of Labor requested that the decision on this issue be extended by 90 days until May of this year.

The other option for OFCCP to collect wage data would be in a proposed Affirmative Action Summary (also known as 60-2). For several years, OFCCP has been authorized to issue a regulation that would allow them to collect summary information from all the approximately 200,000 federal contractors, including wage data, by mail. OFCCP informs us that this proposal currently is being reviewed by their Solicitors Office. OFCCP believes the advantages of this proposal are two-fold: (1) OFCCP will be able to get some idea of how the entire universe of federal contractors, not only those scheduled for compliance reviews, are implementing the civil rights laws; and (2) every federal contractor, simply by being required to compile this data, will become more aware of how they can better implement the civil rights laws by paying equal wages and preventing discrimination.

Both of these options have received strong resistance from the business community and strong support from the womens groups. OMB, DPC, and the Womens Office have met with both contractors and the womens groups on the pending request at OMB. The business community believes that the request is overly burdensome because businesses do not keep in a readily available format the pay information that OFCCP is requesting. The business groups also do not believe that this is the most effective method for OFCCP to determine whether discrimination based on race, sex, and pay exists. They do not, however, have a better proposal, but OMB is setting up a meeting between the business groups and Labor to discuss further the issue. The womens groups, on the other hand, do not believe the pending request advances the data collection issue at all. The womens groups believe that this request is merely a reaffirmation of existing OFCCP authority. In their minds, they believe that this request is separate and distinct from trying to come up with other ways to collect wage data.

As for the Affirmative Action Summary, even though the request has not even cleared Labor, the business community is already gearing up for a fight on this issue. While the womens groups believe this summary would be a powerful tool because it would reach every single contractor, it is clear that Labor will not have this proposal ready for April.

B.Wage Data for Informational Purposes

BLS and the Census Bureau would be the appropriate places to explore if we decide to collect more pay data for informational purposes. BLS does not allow matching of its data with the data gathered from enforcement or regulatory agencies, owing to the clear differences in the respective missions. The Census Bureau and BLS have research programs that allow approved researchers, under carefully structured conditions, to gain access to "microdata" (the basic responses provided by survey respondents) in order to produce new research on relevant economic or social issues.

However, BLS asserts, as a general matter, that it can be a very complex undertaking to add additional data to existing surveys or to expand the surveys sample sizes. There are issues regarding cost and design that have to be taken into account while balancing the desire for new data with an attempt to maintain survey response rates and not add to respondent burden.

In addition, Treasury has suggested funding a grant for a third party academic study. They believe this would lead to useful information. We have asked them to draft a brief proposal for our meeting on March 10.

FF

FF

February 9, 1999

MEMORANDUM FOR JOHN PODESTA

FROM: BRUCE REED
LARRY STEIN
ELENA KAGAN

SUBJECT: Equal Pay

The Administration has supported Senator Daschles equal pay bill which strengthens enforcement of the Equal Pay Act. The Administration has not supported Senator Harkins bill which provides for comparable worth, a method that tries to address wage discrimination by equalizing wages between "equivalent" jobs. This memorandum discusses the differences between the equal pay bills by Senators Daschle and Harkin and describes what actions the Administration has taken with respect to equal pay. Finally, this memorandum discusses some of the issues surrounding data collection with respect to equal pay.

I. Administration Actions

Last year, the Administration held two equal pay events, on April 3 and June 10. This year, the Presidents radio address on January 30 announced $14 million in the FY2000 budget for a new equal pay initiative for the Equal Employment Opportunity Commission (EEOC) and the Department of Labor.

Last April 3rd, the Vice President announced the Administrations support for Senator Daschles legislation to improve the enforcement of wage discrimination laws and to strengthen the remedy provisions in the Equal Pay Act by permitting victims of wage discrimination to seek compensatory and punitive damages.

In addition, the Vice President also announced the following:

*Memorandum Of Understanding (MOU) Between EEOC and DOL. EEOC and DOL are developing an MOU to train each others staff on pay issues, to refer potential violations to the applicable EEOC or DOL office for appropriate action, and to permit the DOLs Office of Federal Contractor Compliance Programs (OFCCP) to serve as the EEOCs agent for purposes of seeking damages for wage discrimination.

*10-Step Voluntary Self-Audit for Businesses and Employees. To help employers who would like to improve their pay and hiring practices, DOL placed on the Internet a 10-step package that gives companies guidelines in determining whether they offer equal pay, hiring, and promotional opportunities. A similar checklist for employees, to help them determine if they are being paid equitably, also is on the Internet.

*Self-Audit for Agencies. To make the federal government a "model" employer, federal

agencies will conduct a self-audit, similar to the one described above, and use these results to monitor their efforts on equal pay.

*Increased Data Analysis on Pay Equity. DOL will publish an annual report on pay differences by gender. The purpose of this report will be to highlight the important issue of wage disparities. The Department of Labor estimates that this report will be ready in late March or April 1999.

*Guide to Recruitment and Retention of Women in the Federal Government. OPM published a new Guide on Recruitment and Retention of Women in the Federal Government, which contains information to make agency managers aware of career opportunities for women and to provide guidance on recruitment and career development for women.

*Federal Contractor Best Practices. DOL will publicize successful programs of federal contractors by placing them on DOLs web site.

On June 10, the President commemorated the thirty-fifth anniversary of President Kennedys signing of the Equal Pay Act and urged passage of Senator Daschles and Congresswoman DeLauros legislation to strengthen the laws that prohibit wage discrimination against women. In addition, the President released a Council of Economic Advisers (CEA) report on the gender wage gap, and announced a Department of Labor report that provides a historical perspective of the wage.

The CEA report found that there still exists a significant wage gap that cannot be explained by differences between male and female workers in labor market experience and in the characteristics of jobs they hold. In 1963, the year that the Equal Pay Act was signed, women earned 58 cents for every dollar men earned. Today, women earn about 75 cents for every dollar men earn -- a 29-percent increase over the 1963 levels. The most recent detailed longitudinal study found that in the late 1980s about one-third of the gender pay gap was explained by differences in the skills and experience that women bring to the labor market and about 28 percent was due to differences in industry, occupation, and union status among men and women. Accounting for these differences raised the female/male pay ratio in the late 1980s from about 72 percent to about 88 percent, leaving around 12 percent as an "unexplained" difference.

Most recently, in his January 30, 1999 radio address, the President announced that his FY2000 budget includes funding for a $14 million equal pay initiative for the EEOC and the DOLs Office of Federal Contractor Compliance (OFCCP):

Equal Employment Opportunity Commission
The Presidents FY2000 budget includes $10 million for the EEOC to:

*triple the number of EEOC enforcement staff who receive training in identifying and responding to wage discrimination;

*provide, for the first time ever, training and technical assistance to employers (about 3,000 in total) on how to comply with equal pay requirements; and

*develop public service announcements to educate employees and employers on their rights and responsibilities under equal pay laws.

The Department of Labor

The Presidents FY 2000 budget includes $4 million for the Labor Departments OFCCP to:

*help women obtain and retain employment in non-traditional jobs by identifying and disseminating model employer practices and assisting contractors to finding qualified women employees, including through the new nationwide network of One-Stop Career Centers established by last years Workforce Investment Act; and

*increase outreach, education, and technical assistance to federal contractors on equal pay issues, by providing legal guidelines and industry best practices.

II.Endorsement of Daschle Bill

The Administration has endorsed "The Paycheck Fairness Act," introduced by Senator Daschle and Congressman DeLauro, to strengthen laws prohibiting wage discrimination. The highlights of this legislation include:

*Increased Penalties for the Equal Pay Act (EPA). The legislation would provide full compensatory and punitive damages as remedies for equal pay violations, in addition to the liquidated damages and back pay awards currently available under the EPA. This proposal would put gender-based wage discrimination on equal footing with wage discrimination based on race or ethnicity, for which uncapped compensatory and punitive damages are already available.

*Non-retaliation provision. The bill would prohibit employers from punishing employees for sharing salary information with their co-workers. Many employers are currently free to take action against employees who share wage information. Without the ability to learn about wage disparities, it is difficult for employees to evaluate whether there is wage discrimination.

*Training, Research, and Pay Equity Award. The bill would provide for increased training for Equal Employment Opportunity Commission employees to identify and respond to wage discrimination claims; research on discrimination in the payment of wages; and the establishment of an award to recognize and promote the achievements of employers in eliminating pay disparities.

*Data Collection. Daschless bill contains only a Sense of the Senate that the President should take appropriate steps to increase the amount of information available with respect to wage disparities.

III.Harkins Bill

Last year, Senator Harkin introduced a comparable worth bill called the "Fair Pay Act of 1997." (It doesnt appear that he has reintroduced the bill this year.) The highlights of this legislation include:

*Comparable Worth. Harkins bill amends the Fair Labors Standards Act to prohibit the paying of unequal wages for work on "equivalent jobs" dominated by employees of a particular sex, race, or national origin and those dominated by a different sex, race, or national origin. The legislation defines "equivalent jobs" as "jobs that may be dissimilar, but whose requirements are equivalent, when viewed as a composite of skills, effort, responsibility, and working conditions." It exempts from this provision wage differences on the basis of seniority, a merit system, or an quality/quantity system.

*Data Collection. The other major provision of Harkins bill is the requiring of employers to submit wage data to the EEOC. Employers must submit data not only with respect to job category but also with respect to sex, race, and national origin. Furthermore, the EEOC is authorized to publish this data and is authorized to provide specific employers reports to the public. This provision also is very controversial.

*Non-Retaliation Provision. Harkins bill also contains a non-retaliation provision and a provision to permit the awarding of expert fees.

*Education, Training, and Technical Assistance. The bill also provides for research, education, and technical assistance.

IV.Issues Surrounding Comparable Worth and Data Collection

The Administration decided last year that it could not support comparable worth because it is difficult to administer and it would impose severe burdens on employers.

In addition, the Administration removed a more substantive data collection provision from the Daschle bill that would have collected wage data on the EEO-1 form and replaced it with a Sense of the Senate. There was a consensus that any attempts to add wage data to the EEO-1 form will draw immediate fire from the Republicans and the business community. In addition, the thought was that any announcement of a process to determine the best way to gather this data would likely provoke a rider and risk the increase in funds requested for the EEOC in the budget.

Currently, there are two data collection issues pending at OMB. They are:

*OFCCP Information Collection Request for Affirmative Action Plans and agency reviews of federal contractor compliance: The request raises two important issues, the reviewability of OFCCP desk audits by OIRA and the collection of detailed compensation data at the desk audit stage of OFCCP compliance reviews. This came in for review in mid-December and is due on February 20. The Department of Labor has asked for a 90-day extension on this.

*Bridgestone/Firestone - OFCCP dispute: This dispute on which OMB has been asked for an opinion involves the collection of information by OFCCP from Bridgestone/Firestone during a compliance review. Bridgestone/Firestone contends that OFCCP was making a standardized data request that was not covered under the previous submission of the collection discussed above. OMB staff are currently deliberating the claim.

V.Next Steps

It doesnt seem likely that the Administration will be able to support comparable worth anytime soon. However, there are a couple of items where we could do more:

*Data Collection. The DPC is starting a process to review how we might be able to collect more data, either through the EEOC or the Department of Labor.

*Strengthening the Daschle bill. At a recent meeting, the AFL-CIO suggested about four or five minor changes we could make to the Daschle bill. The EEOC has done a preliminary review and feels that we should be able to make a few of these changes.

*EQUAL PAY ANNOUNCEMENT
Roosevelt Room

2:15pm - 3:00pm, Thursday, April 2, 1998

Briefing prepared by Robin Leeds

EVENT

You are participating in a White House event and press conference to announce the Administrations support for Senator Daschles and Congresswomen DeLauros equal pay legislation and to announce new Administration initiatives to enhance enforcement of wage discrimination laws and to encourage equal pay practices in the public and private sector. This event will be attended by approximately 50 people, including equal pay and civil rights advocates; labor leaders; Senators and Congress people; and representatives from the DOL, OPM, and EEOC. You will also be announcing the Administrations intent to nominate Ida Castro, currently head of the Labor Departments Womens Bureau, to serve as Chair of the EEOC. Note: This event is open to pool press and specialty print reporters.

LOGISTICS

1:45pmYou are briefed by Susan Liss, Audrey Tayse Haynes, Sally Katzen and Elena Kagan;
2:00pmYou meet program participants for an event pre-brief;
2:15pmSecretary Herman opens, provides equal pay framework and introduces Senator Daschle and Representative DeLauro;
2:20pmSenator Daschle highlights his commitment to Equal Pay, share a South Dakota story, and mention his Senate bill;
2:25pmCongresswoman DeLauro speaks and highlights House bill, and introduces Thompson;
2:30pmAFL-CIO Vice President Linda Chavez Thompson highlights "Working Women Count" survey and shares a "real story", then introduces Susan Bianchi Sand;
2:35pmNational Committee on Pay Equity Executive Director, Susan Bianchi Sand highlights significance of Equal Pay Day, national organizing efforts, and shares a "real story", then introduces you;
2:40pmYou announce endorsement of Daschle/DeLauro and other new initiatives and announce the nomination of Ida Castro to serve as Chair of the EEOC;
2:55pmEvent closes and you depart.

YOUR ROLE AND CONTRIBUTION

This event will give you the opportunity to highlight the significance of EQUAL PAY DAY and the positive role of women in the economy. The event also gives you the opportunity to:

1. Announce the Administrations support for legislation, introduced by Senator Daschle and Congresswoman DeLauro, to improve enforcement of wage discrimination against women and to strengthen the remedy provisions in the Equal Pay Act to allow for compensatory and punitive damages. Highlights of this legislation include: Increased Penalties for the Equal Pay Act; Non-Retaliation Provision; Class Actions; Training, Research, Education, and Outreach; and a Pay Equity Award.

2.Announce several Administration initiatives aimed at enhancing enforcement of wage discrimination both in the private sector and the federal government: Annual study by the Bureau of Labor Statistics to analyze the wage gap; MOU between EEOC and DOL to cross train staff and to permit DOL to seek damages as EEOCs agent; DOL publication of federal contractor best practices on the Internet; 10-Step voluntary self-audit for businesses and employees; federal agencies will conduct a self-audit; and OPM Guide to Recruitment and Retention of Women.

PROGRAM NOTES

*April 3 is the day on which American womens wages, added to their previous years earnings, equal what men make in just one calender year. The President is issuing a proclamation declaring April 3, 1998 as National Equal Pay Day. There are 650 local Equal Pay events planned across the country organized by the AFL-CIO and the National Committee on Pay Equity. Most of these events are being held on Friday, April 3.

*More than three decades after the passage of the Equal Pay Act and Title VII of the Civil Rights Act, women and people of color continue to suffer the consequences of unfair differentials. The average woman works a full year, plus three more months, just to earn the same pay that men earn in one calender year. According to the Department of Labor, the average woman who works full-time earns just 74 cents for each dollar that men earn. For women of color, the gap is even wider. On average, African American women earn only 63 cents, and Hispanic women earn only 53 cents for each dollar earned by white men. Some wage differences exist due to differing levels of experience, education, and skill. However, studies show that even accounting for differences in education, experience, and occupation, there is still a significant wage differential.

*Equal pay is good for the economy. Higher, fairer wages for women will increase their purchasing power. A growing number of businesses support the elimination of wage discrimination as "good business" and believe that pay equity is not inconsistent with staying competitive.

*On the federal level, The Paycheck Fairness Act, which you are endorsing today, has been introduced in the Senate by Senator Daschle and the House by Congresswoman Rosa DeLauro. The Paycheck Fairness Act would amend the Equal Pay Act and the Civil Rights Act of 1964 to provide more effective remedies to women who are not being paid equal wages for doing equal work. The Fair Pay Act has been introduced in the Senate by Senator Tom Harkin and in the House by Congresswoman Eleanor Holmes Norton. The Fair Pay Act addresses the issue of comparable worth by expanding the Equal Pay Acts protections against wage discrimination to workers in equivalent jobs with similar skills and responsibilities, even if the jobs are not identical. The Administration has not endorsed that bill.

ATTACHMENTS

Policy Announcement.
Questions and Answers.
List of Participants.

November 6, 1995

MEMORANDUM FOR DISTRIBUTION

FROM:Debbie Fine and Jeremy Ben-Ami

SUBJECT:Attached on Partial Birth Abortion Ban Bills

In addition to the e-mail that went out this evening, attached are several documents you might find helpful as a follow-up to our meeting last week:

*suggested internal talking points;
*statements/letters from American College of Obstetricians and Gynecologists, the California Medical Association, American Medical Women's Association, Planned Parenthood (American Association of Nurse Practitioners have also released a statement that we are waiting to receive);
*the SAP that went to the House (Senate SAP is likely to be virtually the same);
*a couple of news articles; and
*an ad placed by NARAL.

cc:Carol Rasco
Alexis Herman
George Stephanopoulos
Martha Foley
Nancy-Ann Min
Jennifer Klein
James Castello
Elena Kagan
Mary Ellen Glynn
Kitty Higgins
John Hart
Betsy Myers
Judy Gold
Barbara Woolley
Tracy Thornton
Barbara Chow
Janet Murguia
Marilyn Yager

November 6, 1995

SUGGESTED TALKING POINTS FOR INTERNAL USE ONLY

ON THE "PARTIAL BIRTH ABORTION BAN ACT"

*The President believes that the decision whether or not to have an abortion should be between a woman, her doctor and her faith; and that abortions should be safe, legal and rare. He has consistently opposed late term abortions except to protect the life or health of the mother.

*H.R. 1833 does not include consideration of the health of the mother. This is the wrong policy. The President believes it is wrong in this case to substitute political decision making for medical decision making. These decisions must be made on the basis of the woman's health.

*It is also in conflict with constitutional law, since the Supreme Court has ruled in Roe v. Wade that women's health must always be considered as a factor in such decisions.

*For these reasons, the Administration cannot support H.R. 1833.

January 17, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN
SEAN MALONEY

SUBJECT: Recent Information Items

We are forwarding the following recent information items:

(A) Memo from Chuck Ruff on the Farmer Case -- responds to your question concerning University and Community College System of Nevada (Reno) v. Farmer; case involves a white female professor who alleges the University violated Title VII in hiring a black male instead of her to fill a faculty position; she also claims after she was eventually hired that the University engaged in gender discrimination and violated the Equal Pay Act; the trial court ruled in her favor; the Nevada Supreme Court reversed, concluding the Universitys affirmative action plan was constitutional and pay disparities were justified by market conditions unrelated to gender; plaintiff has filed a writ of certiorari with the U.S. Supreme Court; while comparisons to Piscataway are inevitable, this case is different in that it involves hiring, not firing; the hiring of a minority did not preclude hiring a non-minority; the University has a demonstrable need to promote diversity; and there is some evidence the minority candidate was more qualified.

(B) Note from Ann Lewis re: New York Times Ad to run tomorrow. Sara Ehrman wanted you to see ad (attached), sponsored by Center for Middle East Peace and Cooperation and signed by many of your supporters. Ad features your picture and quote from you upon receiving Rabin-Peres award and is timed to coincide with Netanyahu and Arafat visits.

(C) First Annual America Reads Challenge Report from Carol Rasco -- first report since your 1997 State of the Union Challenge; Carol says in the first year, over 830 colleges and universities and 160 organizations signed up; urges making America Reads legislation a priority; must pass by July 1, 1998 or the initiative will lose funds reserved in the FY98 budget. We have forwarded copies of the report to Bruce Reed and Elena Kagan.

(D) Economist article on the Asian Crisis forwarded by Larry Summers -- says, "Here is a perspective relatively close to ours which appeared on January 10;" article argues that IMF intervention, while creating some bad incentives/moral hazard with respect to investors, was, on balance, necessary given the small though not negligible risk of systemic failure and the opportunity to spare Asian economies much pain.

(E) Nikkei Survey on PM Hashimotos Policies forwarded by Tarullo -- Dan says it "reinforces my belief that Japanese politics rarely reflect popular views in a direct fashion; tempts me to believe that a bold series of policy steps could contribute to a realignment of the political dynamic within Japan;" poll shows only 30.4% support Hashimoto (down from 35% in December); 41% favor more income tax cuts and public spending; and 49% want an economic stimulus package from the government (up from 37% last June).

(F)Berger Memo on Chilean Salmon -- you asked how the Commerce Departments Jan. 12 ruling on the dumping of Chilean Salmon related to your Nov. 25 discussion with Frei; Sandy says U.S. industry has been pursuing a dumping action and a separate subsidy/countervailing duty action. Chile won the countervailing duty case just before APEC, and your comment to Frei related to that case; however, NSCs talking points had incorrectly characterized it as a dumping case; last Monday there was a preliminary finding in the dumping case in which Commerce assessed only a 5.79% duty -- far less than the 40% being sought by U.S. industry; Chiles reaction has been muted because the penalty is very small and may yet be thrown out by the ITC.

(G)Advance Seminar Thank You Letter forwarded by Podesta -- John says, "We received a lot of very positive feedback from our advance seminar. Thank you for your participation. I think you and HRC recharged a lot of batteries;" he forwards a thank you letter from Roshann Parris praising the seminar.

(H)Outline of Gov. Bushs proposal to end "Social Promotion" in Texas public schools. Forwarded by Rahm who thought you would find it interesting.

(I)Note from Sen. Daschle forwarded by Brophy -- Daschle says, "My family and I want to thank you for taking the time to meet with us the day after Christmas. It was the highlight of their trip! And I am glad they got to talk with you personally and meet Buddy at the same time! We hope 1998 is filled with good health and happiness. I look forward to going through it with you."

(J)Letter from Arthur Schechter forwarded by Paul Begala -- Paul says Arthur loved your talk in Houston; Schechter says your speech was "excellent" and that you made a real impression on the students and on him.

(K)Articles from Sid Blumenthal on Mid-East. Sid sends you a piece by Jonathan Broder from the online magazine Salon -- Broder is the Washington correspondent for The Jersulam Report, and a piece from Mort Kondracke in Roll Call.

We have also received the following items:

*Note from Begala on the Harvard/"Nieman Report" on the Media -- report was sent out to some 570 opinion makers, news organizations, etc.

*Note from Ann Lewis passing along message from Mel Weiss -- Ann spoke in NYC on Wednesday and Weiss (of Milberg Weiss) wanted you to know that: "your meeting in Argentina had a real impact on getting action on the terrorists who blew up the Jewish Community Center. I travel often to Argentina and there has a real change in attitude."

August 15, 1995

MEMORANDUM FOR THE PRESIDENT

FROM:TODD STERN
PHIL CAPLAN

SUBJECT:Recent Information Items

We are forwarding the following recent information items:

(A)Mikva/Kagan memo on federal law enforcement. Discusses three subjects: violent threats to law enforcement from right-wing extremist groups; the "Good Ol' Boys Roundup"; and Ruby Ridge. Note that hearings on both militias and Ruby Ridge are planned for September. Ab and Elena suggest that our the broader message linking these three subjects should be emphatic support for our law enforcement agents, but also insistence that they live up to their own high standards -- a message of reciprocal responsibility between law enforcement and the broader community. Several policy suggestions are offered, including: continued advocacy of counterterrorism legislation; support of legislation to ban paramilitary training; withholding monies from communities that deny federal authority over lands; issuance of directives relating to the way Justice handles cases involving threats or assaults on federal agents.

(B)Senator Ford press release on tobacco announcement. From Leon. Calls your action disappointing. Says his farmers lost out to the zealots. "No one...was attempting to block the President's position of reducing underage smoking. We were offering a fair and enforceable way to get there. Mr. Kessler wanted a scalp on his belt and the White House was determined to give it to him." He says he will not be vindictive and will introduce a bill after recess that he thinks we can accept.

(C)Pena memo on air traffic control outages. Secretary Pena outlines a multi-part plan to address recent outage problems, including: 1) expert teams from FAA will visit each air traffic control center starting August 21 to review emergency and backup procedures and report by November 15; 2) within 60 days, an outside expert in power systems and backup procedures will complete a review of systems in each center; 3) new training courses will begin in October to better train technicians on the maintenance of 30 year-old systems; 4) 116 new technicians will be hired by September 30. Also, the FAA last week moved forward with a $65 million plan to replace the computers in five key facilities -- Chicago, Cleveland, Dallas-Ft. Worth, New York and Washington -- 16 months ahead of schedule.

(D)CIA task force on state failures. From Tony Lake in response to your inquiry. Task force formed in June 1994 to examine factors that could be used in predicting the failure of states -- defined as revolutionary wars, ethnic conflict, abrupt regime transition and genocide -- over the past 40 years. Task force found that a combination of three variables -- infant mortality, level of foreign trade and level of democracy -- can be used to predict, with 70% confidence, failure or non-failure of states two years in advance. Tony

emphasizes that while the report indicates new empirical relationships between state failure, quality of life, trade and governance, it does not suggest specific policy approaches and shouldn't be considered without expert regional qualification.

(E)Rasco update on immunization program. The Vaccines for Children program has been sharply criticized on two grounds: (i) that cost is not a major barrier to immunization, so VFC funds would be better spent on improving public clinics than on purchasing so much free vaccine; (ii) that VFC is poorly run. Drug companies hate the program because it gives HHS the right to purchase a much larger amount of vaccine than it did before the program. Manufacturers and some Members will try to kill the program this fall, probably by folding it into a Medicaid block grant. We have a two-part strategy: (1) get out the word that VFC is valuable and is filling a critical need; while (2) preparing a fall-back position that will preserve some part of public purchase, perhaps as entitled grants to states rather than as a true entitlement.

(F)Rubin memo on status of North American Development Bank. Responds to your recent request. Provides overview of program and remaining steps.

(G)Mack comment on John Brown's recent letter. Mack endorses Brown's counsel, particularly his comments on two very popular presidents, FDR and JFK, who offered hope and a positive outlook for the future, contrasted with LBJ, Carter and Bush, whom he describes as "handwringers."

(H)Letter from Senator Leahy on telecommunications. Leahy commends you for the strong stand you are taking on the bill. He offers to be supportive in any way on this matter and thanks you for the ride back to Washington from Vermont.

(I)Appreciation from Major Meadows' family. When learning that you were going to award him with the Citizens Medal, Meadows asked that the presentation be delayed until the July 29 reunion of those involved with the Son Tay prison raid. Dying from leukemia, Meadows passed away unexpectedly the night before the reunion. His family received the medal on his behalf and was very grateful and appreciative.

(J)Regional and local Medicare clips. Generated by release of the county-by-county numbers on the impact of the Republican Medicare cuts.

(K)Regional media update from McCurry. On tobacco, the budget and Charlotte trip.

(L)Cisneros/Roger Kennedy paper on anger in American public life. A 47-page historical thought piece that grew out of conversations Henry had in the aftermath of Oklahoma City with Roger Kennedy, Director of the National Park Service.

FOR INTERNAL DISCUSSION PURPOSES ONLY

Child Care Policy Options

Draft Working Paper

1. Make the Dependent Care Tax Credit Refundable for Child Care Expenses and/or Increase the Amount of Credit Available on a Sliding Scale to Reach Low and Moderate Income Working Families

The Dependent Care Tax Credit (DCTC) is an income tax credit for taxpayers who incur employment related expenses for child care or elder care. The credit is now available to single parents who work and to two-parent families in which both parents work. The maximum allowable credit, available on a sliding scale depending on income, ranges from $480 to $720 for families with one child and from $960 to $1440 for families with two or more children. Since the credit is not refundable, it cannot be used by most low income working families with incomes below the federal income tax threshold (approximately $24,000 for a family of four).

2. Double the Number of Children from Working Families Receiving Child Care Assistance through the Child Care Development Fund (CCDF) By Increasing CCDF Funds Over Five Years To Reach 2 Million Children by 2002

Low-income families face major obstacles in finding or affording child care services. While the average family spends about 7 percent of their income on child care, low-income families spend approximately a quarter of their income for child care services. An estimated 10 million children from working families will be eligible for federal child care assistance, yet only 1-1.4 million children currently receive assistance. Among working families earning 150% of poverty, 4 out of 5 do not receive federal child care assistance. Among working families earning at or below the poverty line, 2 out of 3 do not receive assistance.

3. Establish a Quality Incentive Grant Fund to Provide Grants to States (With Match from the Private Sector) to Improve Child Care for Young Children Based on the Military Child Care Model, Including Support for Achieving Accreditation

Research confirms that the quality of child care can impact childrens language and cognitive development and can affect school-readiness. Yet study after study reveals a crisis in the quality of child care across the country. At the White House Conference on Early Childhood Development and Learning, the President pointed to the military child care program as a model for the rest of the country. Of particular note is the militarys focus on establishing family child care networks, achieving outside accreditation of its facilities, and tying professional training to compensation.

4. Launch an Infant/Toddler Family Child Care Initiative by Providing Additional Funds through CCDF or Another Funding Mechanism to Encourage Communities to Establish and Support Family Child Care Networks

As the number of infants and toddlers in care increase, many families are turning to small

family child care homes to provide a more home-like setting for their children. One of the most effective strategies for improving the quality of these settings is the establishment of networks of support and training specifically designed for family child care providers.

5. Establish a Scholarship Program for Child Care Professionals By Exploring Loan Forgiveness and Scholarship Funds

Research confirms the importance of early childhood staff to the quality of child care services. Yet child care providers receive inadequate wages and there are limited resources to recruit and retain staff. When scholarships are provided, the quality of care improves (as seen in the TEACH scholarship program in NC).

6. Double the Number of School Age Children Who Have Access to Quality Child Care By Providing Incentive Funding to Stimulate Community-Wide School-Age Child Care Efforts, With Involvement of Schools and Community-Based Organizations

The need for after-school care has grown dramatically in recent years. With the vast majority of parents with school-age children in the workforce, millions of school-age children go home to an empty house after school. Yet most schools close at 3:00 pm and remain closed in the summer months. While the number of school-age programs has grown over the last decade, there are still dramatically few school-age programs for low-income working families, particularly for children aged 10-13. Despite poor access to quality programs, recent research documents the positive effects that school-age programs can have on academic achievement of low-income children. FBI studies report that crime rates increase between 3-6pm.

FF

July 24, 1997

MEMORANDUM FOR DISTRIBUTION

FROM:Jennifer Klein, DPC/OFL
Nicole Rabner, DPC/OFL

RE:Background for Working Group Meeting on Child Care

Attached please find a draft working paper of policy options relating to child care for your review in advance of the working group meeting at the White House, which will take place on Tuesday, July 28 at 5:15pm, in room 180 OEOB. The paper is meant for discussion purposes only and does not represent an exhaustive list of ideas for consideration and discussion. Please bring reactions, as well as other suggestions, to the meeting, and feel free to call either of us at 202/456-6266. Thank you.

DISTRIBUTION:

Elena Kagan, DPC
Cynthia Rice, DPC
Olivia Golden, HHS
Cherrie Carter, OPL
Faith Wohl, NPR
Ann Rosewater, HHS
Joan Lombardi, HHS
Mary Bourdette, HHS
Keith Fontenot, OMB
Jeff Farkas, OMB
Jennifer Friedman, OMB
Mark Mazur, DPC/NEC/CEA
Anne Lewis, NEC
Kris Balderston, WH Cabinet Affairs
Emily Bromberg, WH IGA
Lynn Cutler, WH IGA
Janet Murguia, WH Legislative Affairs
Carolyn Beecraft, DOD
Linda Smith, DOD
Carrie Wofford, Labor
Martha Johnson, GSA
Pauline Abernathy, DOE
Michael Barr, Treasury
TBD, Labor
TBD, SBA
TBD, Commerce
PF
July 25, 1997

MEMORANDUM

TO:Elena Kagan
FROM:Nicole Rabner
CC:Jennifer Klein
RE:Child Care

Our first child care working group meeting is set up for Tuesday, July 28, with representation from the appropriate agencies (list attached). You had asked Jen and me to distribute paper to the working group on possible policy options for discussion. With Olivias blessing, we sent out the attached 2-page document, which is a shortened version of the document that HHS sent to us earlier.

Also attached is a summary of the focus groups you chaired, prepared by Joan and her staff for internal use, as well as the final, released statement by the President on the conference and the accomplishments document.

We also have a meeting scheduled with the First Lady, Melanne, David Hamburg and Deborah Phillips to discuss child care and get feedback from them on policy- and conference-development direction.
PF

July 25, 1997

MEMORANDUM

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

As you know, over the past many weeks, we have been meeting with child care experts and Administration officials on child care, both to consider policy options and to begin thinking about the structure and message of the White House Conference in October. Attached for your review and comment are several documents:

-A Draft Working Paper on Child Care Policy Options
-A Summary of the Focus Group Meetings on Child Care
-A Statement by the President on the White House Conference
-Administration Accomplishments on Child Care

On your schedule for Wednesday, we have a meeting with David Hamburg, Deborah Phillips, Elena Kagan and Joan Lombardi from the Child Care Bureau to discuss the direction and themes of the Conference and to consider child care policy options.

Notes from March 31, 1997

Education Strategy Meeting

Key people attending: Bruce Reed, Elena Kagan, Mike Smith, Mike Cohen, Kay Casstevens, Bob Shireman, Bill Kincaid, Terry Peterson.

Upcoming Events

The first 50 minutes of the meeting was devoted to 6 April education events and the themes of each.

*California testing endorsement/CEOs (4/2). The Cal. State superintendant will accept the Presidents challenge to adopt the national reading and math tests. No one is sure how Governor Wilson will react (some think he will not make an issue of it.) The State board of education will likely support Wilsons position, whatever it is.

*D.C. Netday (4/4). The Vice President will participate in a school wiring event. There was not much discussion of this.

*FLOTUS event in Tallahassee (4/7). No topic yet.

*Al Shanker memorial (4/9). USIA plans to announce the renaming of an existing fellowship program for Al Shanker. (Note- this proposal was faxed to us by Bruce Reeds office on 4/1 for review. The Ed. Branch is checking with the USIA examiner to see if there would be any problems with this. We have no problem with it.)

*Zero to Three Conference (4/17). Mike Cohen is following up on early learning standards. The head of Georgia's PTA organization is talking about organizing parents of preschool children to get them informed about what services preschools should be providing so that they can hold these schools accountable. Mike Smith noted that the Head Start organizations will hate this effort.

There was a lengthy discussion of options for what new policy or program the President could announce at this event. Some of these would have resource needs not reflected in the Presidents Budget. Options discussed included:

- Elaboration on the current budget proposal to spend $100 million over 5 years to support board certification of teachers. The group was concerned that there wasn't enough "new" here to warrant being the major theme.

- The Administration could talk about the need for clear, rigorous standards for entry-level teachers.

- The Administration could announce a higher education reauthorization proposal for teacher training (perhaps an inter-State testing proposal currently under development within ED).

NOTE - Smith indicated that ED's plan was to get this done by May or June, but that if asked, they could accelerate it. No one at the meeting mentioned that there is no money in the 1998 Budget for the new authority they are considering.

-The Administration could talk about the need to make the teaching profession more atractive by making retirement benefits portable from State to State. Perhaps the Federal government could take the lead in calling for (or setting up) an intermediate bank for teacher pensions.

-The Administration could piggyback on the reading and math standards, challenging universities to put together courses that would really teach students how to teach math, and perhaps reading too. Mike Smith noted that many or most elementary teachers don't know the k-8 math curriculum themselves and couldn't pass the TIMMS. Mike Cohen asked if NSF could spend some of their money on this. Smith said he didn't think NSF funding was focused on this now, but thought it could be. He noted that NSF has become very sensitive to external pressure to shift priorities.

May/June/July events. There was a long discussion of what the President might want to do during these months with State legislatures, mayors, and other groups (once his leg has healed) to push his education agenda. Interesting tidbits from the discussion:

-Washington State's legislature wants to repeal participation in GOALS 2000. They do have a strong charter schools initiative. Mike Cohen suggested the President might want to address the legislature directly, making clear that GOALS 2000 is not Federal intrusion, but praising their efforts to move ahead on charter schools.

-Los Angeles has 3 or 4 initiatives underway to help low-achieving kids meet high standards.

-Chicago would likely sign on to the national tests. In Illinois, the focal point for national testing will need to be individual districts, since Illinois has a law that limits the amount of time any child can spend on State-required tests to a total of 25 hours over the k-12 period. Some suggested the President might want to appeal to the Illinois voters to change this law. (The national tests will be a total of 3 hours: 1 1/2 for reading in 4th grade and 1 1/2 for math in 8th grade.)

-Someone suggested the President might want to meet with test publishers (as opposed to test developers), or a group of midwestern mayors. In the end, the consensus was that inviting a half dozen mayors to DC for a testing-related event would probably be the best option.

Miscellaneous Items.

The WH is sitting on the "Community Schools Guide", but it's ready to go.

ED's Title 1 report on "Barriers to Parent Involvement" is ready.

The Early Pre-reading Report is scheduled to be released at the 0-3 event.

A community colleges event is scheduled for April 12-15.

The America Reads event is still to be scheduled. Something is happening with Reading is Fundamental on April 22-25.

HOPE Scholarships.

Bob Shireman ran this discussion, noting that Sunday's (3/30) Washington Post and New York Times had both carried very unfavorable articles. David Longanecker is drafting a response. The WH and Education Department are looking for outsiders to write Op-eds and other pieces in support of the proposal.

Student organizations (USSA,USPIRG, and Rock the Boat) support some important aspects of the President's plan (they like the tax credits if they aren't offset by Pell). Shireman suggested that they make the effort to work with student groups so that when they visit Congress, they declare their support for "something like" the President's proposals.

Daschle, Kennedy, Rangel, and Clay plan to introduce the legislation soon, and then seek co-sponsors. They want a briefing about guarantee agency issues first.

Mike Smith noted the serious inconsistencies in the Administration proposal (poor kids get only $1500 and must maintain a "B" average; rich kids can go to expensive schools, get a "D", and receive a tax deduction worth $2800). He thought it was time to consider modifications that would make it more defensible.

There was widespread agreement that we are losing the PR war. But most felt it was too soon to signal a willingness to change our proposal. The group agreed that the WH and ED need to be more aggressive (in their own presentations to organizations, in getting op-eds and other favorable stories printed, and seeking endorsements from organizations that represent the broader public...like the PTA). At some later time, the Administration can consider signalling its willingness to make changes.

America Reads

There was a brief discussion of America Reads as the meeting was breaking up. Bob is definitely the key WH person on this now, so we should probably stay in close touch with him. Things that were discussed yesterday:

-The WH is looking for the right "event" to announce the legislation.

-Susan Frost is still looking at options for changing the legislation to pacify the education organizations. (NOTE - on 4/3, we saw some draft language from ED on this, with changes suggested by Bob Shireman.)

-ED met with Goodling (and continued with his staff after he left). Goodling is very supportive -- and believes there is bipartisan support -- of the aspects of the President's reading challenge that do not require legislation (e.g., using work study students as reading tutors).

-There was speculation by the group that there might even be bipartisan support for the legislation if the Americorps piece was dropped. Kay Casstevens agreed with this, but said this was not a question she was comfortable asking on the Hill.

-Bob Shireman noted that there was slow progress getting college presidents to commit their work-study students. He suggested that one way to begin to build bipartisan support would be to seek out Republican members of Congress and get them to call the college and university presidents.

The meeting concluded around 6 pm when Bruce Reed and ED officials had to leave.

May 29, 1997

MEMORANDUM FOR THE PRESIDENT

FROM:Elena Kagan
Deputy Assistant to the President for Domestic Policy

SUBJECT:Cloning Policy Options

Two upcoming events create the need to develop a position on legislation banning the cloning of human beings. First, the National Bioethics Advisory Commission (NBAC) is about to complete the review you requested of the ethical and legal issues associated with cloning human beings. On Saturday, June 7, at its final public meeting, NBAC is expected to vote in favor of a legislative ban. Second, France has proposed that the Denver Summit communique include a paragraph urging countries to pass domestic legislative bans, and to work together toward a global ban.

We recommend: (1) that you support domestic legislation banning human cloning, and that you announce specific legislation at the top of your June 10th press conference; and (2) that the U.S. support France's proposed cloning paragraph while insisting on critical modifications.

DISCUSSION

NBAC's Findings and Recommendations

In its draft final report, NBAC unanimously concludes that "it is morally unacceptable for anyone . . . to attempt to create a child" using the technology that created Dolly the sheep -- that is, the transfer of the nucleus from an adult somatic (non egg or sperm) cell into an enucleated egg. NBAC bases this conclusion on safety concerns, finding that the technology is "likely to involve substantial risk to the potential child." The report also states that "serious ethical concerns... require a great deal more widespread and careful thought and public deliberation before this technology should be used."

NBAC also concludes, however, that some forms of "human cloning" -- such as the cloning of DNA sequences, cell lines, and tissues -- are scientifically important and not ethically problematic. Moreover, NBAC finds that nuclear transfer cloning in animals is ethically acceptable and promises important benefits. Hence, the Commission cautions that any restrictions on cloning should not preclude these activities.

The Commission notes that current restrictions effectively prohibit federally funded and regulated entities from attempting to clone a human being through somatic cell nuclear transfer. However, fertility clinics and other privately-funded clinical and research establishments face no prohibition on human cloning. NBAC expresses doubt in certain organizations' willingness to adhere to a voluntary moratorium.

Accordingly, NBAC calls for carefully-worded national legislation prohibiting anyone from "attempting to create a child through somatic cell nuclear transfer techniques." The

Commission specifies that the legislation should include a sunset provision and that, prior to the sunset date, an oversight body should review and report on the status of somatic cell nuclear transfer technology and the ethical and social issues associated with its use in humans. NBAC also recommends that the U.S. cooperate with other countries to enforce mutually-supported cloning restrictions.

National Legislation

We recommend that you embrace NBAC's proposal to establish a narrowly crafted time-limited legislative moratorium. Legislation is the only way to establish a comprehensive, enforceable prohibition on cloning entire human beings in all research and clinical settings. If carefully written, it will not preclude important research.

Reaction to proposed legislation should be primarily favorable. A national and international consensus is emerging that attempting to apply the technology used to clone Dolly to humans is morally wrong. The American Medical Association has conveyed this view to NBAC, and the World Medical Association has issued a similar statement. Given NBAC's recommendation, we expect many in the scientific and ethics communities to support a legislative moratorium.

But some who agree that cloning a human being using nuclear somatic cell transfer is morally unacceptable will oppose a legislated moratorium. In particular, the biotechnology and pharmaceutical industries strongly oppose legislation. These two industries are deeply concerned that a legislative debate will produce broadly drawn language that impairs critical research. Some academic researchers may share this view. Fertility clinics may also oppose legislation, but to date have not signaled a position. Finally, some in the right-to-life community will argue that NBAC's proposed approach will not fully protect embryos.

We recommend that you announce your support for legislation and propose specific legislative language on June 10, at your scheduled press conference, three days after NBAC's recommendation will become public. By acting quickly you can maintain your leadership on the issue and carefully frame the legislative debate. As a practical matter, the biotechnology and pharmaceutical industry associations understand you may choose to take this approach and, notwithstanding their opposition to a bill, have quietly advised us on legislative language.

Approve ___ Disapprove ___

Group of Eight Statement on Cloning

France has proposed the following paragraph for inclusion in the G-8 communique:

We have taken note with great concern of recent scientific experiments which could open the way to reproductive human cloning. We agree that the prohibition of any form of reproductive human cloning needs both strict domestic legislation and close international cooperation to adapt current international law. We are encouraged by the reflections underway within national ethics committees as well as in various regional and international fora. We are determined to give a strong impetus to their work with a view to arriving as soon as possible at a universal ban on reproductive human cloning.

Germany will support the statement; Canada will support it with some modification.

U.S. biotechnology and pharmaceutical industries strongly oppose including any paragraph on cloning in the communique. They fear that it will not be carefully drafted and may inadvertently extend to the cloning of genes and cells as well as entire human beings. Further, industry is concerned a statement on cloning could ultimately provide cover for protectionist efforts to restrict U.S. biotechnology products and activities.

Nevertheless, we recommend that the Administration support the french proposal with critical modifications. Specifically, we suggest that the U.S. insist on changes to: (1) affirm the potential medical and agricultural benefits of cloning technology; (2) limit the prohibition to "the use of somatic cell nuclear transfer technology to create a child;" and (3) propose a time-limited moratorium instead of a ban. USDA and HHS support this position.

Approve ____Disapprove ____

May 29, 1997

MEMORANDUM FOR THE PRESIDENT

FROM:Jack Gibbons
Assistant to the President for Science and Technology

Elena Kagan
Deputy Assistant to the President for Domestic Policy

SUBJECT:Cloning Policy Options

Two upcoming events create the need to develop a position on legislation banning the cloning of human beings. First, the National Bioethics Advisory Commission (NBAC) is about to complete the review you requested of the ethical and legal issues associated with cloning human beings. On Saturday, June 7, at its final public meeting, NBAC is expected to vote in favor of a legislative ban. Second, France has proposed that the Denver Summit communique include a paragraph urging countries to pass domestic legislative bans, and to work together toward a global ban.

We recommend: (1) that you support domestic legislation banning human cloning, and that you announce specific legislation at the top of your June 10th press conference; and (2) that the U.S. support France's proposed cloning paragraph while insisting on critical modifications.

DISCUSSION

NBAC's Findings and Recommendations

In its draft final report, NBAC unanimously concludes that "it is morally unacceptable for anyone . . . to attempt to create a child" using the technology that created Dolly the sheep -- that is, the transfer of the nucleus from an adult somatic (non egg or sperm) cell into an enucleated egg. NBAC bases this conclusion on safety concerns, finding that the technology is "likely to involve substantial risk to the potential child." The report also states that "serious ethical concerns... require a great deal more widespread and careful thought and public deliberation before this technology should be used."

NBAC also concludes, however, that other forms of "human cloning" -- such as the cloning of DNA sequences, cell lines, and tissues (which do not involve the creation of entire human beings) -- are scientifically important and not ethically problematic. Moreover, NBAC finds that animal cloning by somatic cell nuclear transfer is ethically acceptable and promises important benefits. Hence, the Commission cautions that any restrictions on cloning should not in any way impede these activities.

The Commission notes that current restrictions effectively prohibit federally funded and regulated entities from attempting to clone a human being through somatic cell nuclear transfer. However, fertility clinics and other privately-funded clinical and research

establishments face no prohibition on human cloning, and NBAC questions whether some of these organizations will adhere to a voluntary moratorium.

Accordingly, NBAC's draft final report calls for carefully-worded national legislation prohibiting anyone from "attempting to create a child through somatic cell nuclear transfer techniques." The Commission specifies that the legislation should include a sunset provision and that, prior to the sunset date, an oversight body should review and report on the status of somatic cell nuclear transfer technology and the ethical and social issues associated with its use in humans. NBAC also recommends that the U.S. cooperate with other countries to enforce mutually-supported cloning restrictions.

National Legislation

We recommend that you embrace NBAC's proposal to establish a narrowly crafted time-limited legislative moratorium. Legislation is the only way to establish a comprehensive, enforceable prohibition on cloning entire human beings in all publicly and privately funded research and clinical activities. If carefully written, it will not preclude important research.

Reaction to proposed legislation will be mixed. A national and international consensus is emerging that attempting to apply the technology used to clone Dolly to humans is morally wrong. The American Medical Association has conveyed this view to NBAC, and the World Medical Association has issued a similar statement. Given NBAC's recommendation, we expect many in the scientific and ethics communities to accept a legislative moratorium.

But some who agree that cloning a human being using somatic cell nuclear transfer is morally unacceptable will oppose a legislated moratorium. In particular, the biotechnology and pharmaceutical industries strongly oppose legislation. These two industries are deeply concerned that a legislative debate will produce broadly drawn language that impairs critical research. Some academic researchers may share this view. Fertility clinics may also oppose legislation, but to date have not signaled a position.

Finally, some in the right-to-life community will argue from the other side that NBAC's proposed approach does not go far enough. This community will push for a comprehensive ban on the creation of embryos -- through any means -- for research purposes (i.e. not for the purposes of creating a child), a restriction you have applied to federally-funded research. This is an issue NBAC declined to review and that we do not recommend revisiting it in this context.

We recommend that you announce your support for legislation and propose specific legislative language on June 10, at your scheduled press conference, three days after NBAC's recommendation will become public. We anticipate that the release of NBAC's report will prompt Congressional hearings and legislative proposals. By acting quickly you can maintain your leadership on the issue and carefully frame the legislative debate, making clear the value of biotechnology research while prohibiting an unethical use of a specific technology.

Approve ___ Disapprove ___

Group of Eight Statement on Cloning

France has proposed a paragraph for inclusion in the G-8 communique embracing national and intrenational bans on "reproductive human cloning." Germany will support the statement; Canada will support it with some modification.

U.S. biotechnology and pharmaceutical industries strongly oppose including any paragraph on cloning in the communique. They fear that it will not be carefully drafted and may inadvertently extend to the cloning of DNA, cells, and tissues as well as entire human beings. Further, industry is concerned a statement on cloning could ultimately provide cover for protectionist efforts to restrict U.S. biotechnology products and activities.

Nevertheless, we recommend that the Administration support the French proposal with critical modifications. Specifically, we suggest that the U.S. insist on changes to: (1) affirm the potential medical and agricultural benefits of cloning technology; (2) limit the prohibition to "the use of somatic cell nuclear transfer technology to create a child;" and (3) propose a time-limited moratorium instead of a ban. USDA and HHS support this position.

Approve ___Disapprove ___

Attachment

France's Proposed Language for G-8 Communique

We have taken note with great concern of recent scientific experiments which could open the way to reproductive human cloning. We agree that the prohibition of any form of reproductive human cloning needs both strict domestic legislation and close international cooperation to adapt current international law. We are encouraged by the reflections underway within national ethics committees as well as in various regional and international fora. We are determined to give a strong impetus to their work with a view to arriving as soon as possible at a universal ban on reproductive human cloning.

Our Proposed Substitute Language

We have taken note that further development of the technology that enabled the recent cloning of a sheep offers the promise of enormous medical and agricultural benefits. We have also taken note with great concern that this scientific advance could open the way to using this technology (by which we mean somatic cell nuclear transfer technology) to create a child. We agree on the need for appropriate domestic legislation and close international cooperation to prohibit the use of somatic cell nuclear transfer to create a child while countries explore ethical and scientific implications in greater depth. We are encouraged by the reflections already underway within national ethics committees as well as in various regional and international fora. We are determined to give a strong impetus to their work with a view to arriving as soon as possible at a universal moratorium on the use of somatic cell nuclear transfer to create a child.

DRAFT

April 10, 1997

MEMORANDUM FOR THE PRESIDENT

FROM:Melanne Verveer
Elena Kagan

RE:White House Conference on Early Childhood Development and Learning

As you know, on Thursday, April 17, you and the First Lady will host the White House Conference on Early Childhood Development and Learning: What New Research on the Brain Tells Us About Our Youngest Children. The purpose of this memorandum is to provide for you the plan leading up to the Conference, an overview of the Conference and the likely policy announcements to be unveiled, pending your approval.

Lead Up to the Conference

The lead up to the Conference may well be our best opportunity to frame the discussion on why issues relating to childrens early development are important, and why your Administration has invested so heavily to enhance those years of life.

Your radio address on Saturday 4/12 (which you are scheduled to tape on Friday, 4/11) will be an important opportunity for you to introduce for the Nation the themes of the Conference and its significance. On Monday, 4/14, the First Lady will host a roundtable with reporters, in which she will build on your radio address and underscore the themes of the Conference. On Wednesday, 4/16, the First Lady will host an event at the White House to announce an initiative to encourage pediatricians to "prescribe" that parents read to their children, when families visit the doctor. This announcement builds on an existing program, based on the generous donation of childrens books by Scholastic, Inc. This event will be optional on your schedule, pending activity on the budget.

Conference Overview

The Conference will spotlight the exciting new findings about how our children develop and explore how we can make the most of this information to give our children what they need to thrive. Central to the Conference will be a discussion of your Administrations accomplishments in this area, in terms of significant investments that target early childhood development, such as Early Head Start and WIC.

The Conference will be divided into two parts -- a morning session and an afternoon session, each of which will follow the format of a roundtable discussion.

Morning Session

You and the First Lady will make remarks to open the Conference and frame the day,

outlining why this Conference and the issues it will underscore are important. This will also be the opportunity for you to make a policy announcement on child care, outlined below. In this session, you will be joined on a panel by experts who will present an overview of the emerging knowledge on early childhood development in neuroscience and behavioral science. Dr. David Hamburg, President, Carnegie Corporation of New York will help to facilitate the brief presentations of the first three speakers, listed below.

Dr. Donald Cohen, Director of the Yale Child Study Center, will discuss how childrens behavior helps us understand their cognitive, emotional and social development.

Dr. Carla Shatz, Neuroscientist at University of California, Berkeley, will explain how childrens brains grow and develop in the earliest years of life.

Dr. Patricia Kuhl, Chair of the Department of Speech and Hearing Sciences at the University of Washington, will discuss how children learn language.

A discussion session will follow these presentations, in which the presenters from the opening session are joined by the experts listed below -- who represent front line services for young children and their parents -- to address concerns and questions of parents about their childrens development and their own parenting. These concerns of parents will be generated by a poll conducted by Hart Research with parents across the country for Zero To Three, an advocacy and umbrella early development organization. You and the First Lady will pose these concerns of parents to the experts assembled, as well as other "hot button" questions for discussion, such as "does this research suggest that it would be better if women did not work?" or "does this research suggest that adopting an older child is a bad idea?" The panel of expert will be ready to engage in this discussion.

Dr. Ezra Davidson, Drew University of Medicine, can address the importance of prenatal and perinatal services.

Dr. T. Berry Brazelton, Harvard University, can discuss the pediatrician's role in early childhood development.

Dr. Deborah Phillips, Institute of Medicine, can address how child care can affect early development.

You and the First Lady will close the session.

Luncheon

The luncheon in the State Dining Room will be optional on your schedule, and is intended for informal discussion among the Conference participants.

Afternoon Session

The purpose of the afternoon session is to highlight model efforts that communities are undertaking to support parents and enhance early childhood development. We intend for this panel to be action-oriented, so that you would highlight your Administrations policy achievements and new initiatives during the course of the panel discussion. The discussion participants include:

Dr. Gloria Rodriguez, Avance Family Support Program, San Antonio, TX

Avance is a widely acclaimed family support and education program serving predominantly Hispanic communities.

Harriet Meyer, Ounce of Prevention, Chicago, IL
Ounce of Prevention is a statewide program in Illinois that develops and tests innovative early childhood development programs for replication, and runs model Early Head Start and child care programs.

Melvin Wearing, Chief of Police, New Haven, CT
Will talk about a pioneering initiative that trains community police officers to use child development principles in their work.

Arnold Langbo, The Kellogg Company CEO, Battle Creek, MI
Kellogg launched a community-wide effort last fall to provide practical early brain development information to every Battle Creek parent and caregiver.

Rob Reiner, CastleRock Entertainment
Los Angeles, CA
Will talk about the "I Am Your Child" campaign launched this month, and the media's role in making early childhood development information available.

Respondents:

Governor Bob Miller, Nevada, Co-chair of the NGA Children's Task Force
TBD Republican Governor

Policy Announcements

Child Care Proposal

Child care experts believe the Defense Departments child care system is the best in country and possibly also the best in the world. This was not the case as recently as the early 1980s, but legislation enacted in the late 1980s has led to dramatic improvements in DoDs child care and parenting programs. DoD child care is now characterized by: high standards enforced by four unannounced annual inspections and an 1-800 hot line for parents to report concerns; a high percentage of accredited centers; relatively generous wages and benefits that have reduced staff turnover; wages tied to training and an "up or out" personnel policy requiring completion of training requirements; and adequate funding to make quality child care affordable, although there are still waiting lists.

We recommend you hold the DoD child care system up as a model for the nation and issue an executive order at the Conference directing the Secretary of Defense to share the Departments expertise with civilian child care communities by: each military child development center adopting a local civilian child care center to help increase its quality and training; local military bases partnering with state and county governments to provide on-the-job training to welfare recipients in their child care programs; establishing military regional "Child Care Masters Programs" that local civilian child care managers could attend for two to three weeks to learn best practices; publicizing more widely DODs model designs for child care facilities and playgrounds; and providing DoDs benchmarks for cost, compensation, evaluation, standards against which local child care programs could evaluate themselves. Clearly, most civilian child care systems will come up short against DoDs benchmarks, particularly in terms of salary, benefits and

affordability, but a debate on this topic might help build public support for greater investment in child care.

To show that you are serious about the DoD system being a model for civilian child care, the executive order could also direct the GSA to evaluate its child care centers against DoDs model practices and report back to you and recommended actions.

[Elena, based on what I can see, I would not release the RAND report. It does not say it is the greatest thing since sliced bread; it says the Bush Administration legislation has worked to improve the program dramatically. We have not gotten feedback from Joan on these DoD proposals. We are continuing to try to reach Joan.]

America Reads Challenge Early Childhood Kits for Families and Caregivers: Ready*Set*Read

You will announce the release of the America Reads Challenge Early Childhood Kits. The kits include booklets for families and caregivers suggesting activities for children ages 0 to 5, a
calendar listing ideas for daily activities, and a developmental growth chart. The kits will be released at early childhood programs and through requests by callers to the Department of Educations 1-800-USA-LEARN phone line.

CEO Summit

Kaiser Permanente, whose CEO David Laurence will be in the audience at the Conference, will convene a CEO Summit in the fall of 1997 to discuss what businesses can do to enhance early childhood development -- for their own employees in terms of family-friendly workplace practices, for the communities in which they have a presence, and for their own products and services. This effort will be announced at the Conference, with you challenging Kaiser and the Summit to follow the themes raised at the White House Conference.

Childrens Health Initiative

In your remarks, you will discuss the importance of insurance coverage for childrens health and development, and you will highlight the Childrens Health Initiative in your 1998 budget proposal. In 1995, 10 million children did not have health insurance. Your childrens health proposal will extend coverage to up to 5 million of those children by the year 2000. The proposal includes: (1) grants to states to cover workers and their families between jobs; (2) a program to cover children whose families earn too much to qualify for Medicaid but too little to afford private coverage; and (3) efforts to strengthen Medicaid and ensure that all eligible children are enrolled. The deans of academic medical centers will endorse your proposal at the conference.

We are also planning a follow up childrens health event, where you will release a study showing the links between insurance coverage, health status and development and learning for children from 0 to 18 years old, talk in more detail about your health proposal, and announce a project by Kaiser-Permanente to spend $100 million over the next 5 years to provide health insurance to uninsured children.

November 17, 1997

MEMORANDUM TO THE PRESIDENT

FROM:Chris Jennings

SUBJECT: Quality Commissions "Consumer Bill of Rights"

cc: Rahm Emanuel, Bruce Reed, Gene Sperling, Ann Lewis, Elena Kagan

On Thursday, an event has been scheduled for you to accept the Quality Commissions "consumer bill of rights." In preparation for this must anticipated report, this memo provides background on the Commission, summarizes its key recommendations, compares it with major bills on the Hill, and outlines the likely reaction by the major interest groups and elite validators. It also suggests a how you might best respond to the Commissions first report to you.

Background. In reponse to growing concerns about quality shortcomings in the rapidly changing health care system, you pledged to establish a Quality Commission during the 1996 campaign. In March of this year, you unveiled the 34-Member Advisory Commision on Quality and Consumer Protection. This Commission has a broad-based membership of business, labor, provider, consumer, insurer/HMO, and state and local representatives, is co-chaired by Secretary Herman and Secretary Shalala, and is required to report to you through the Vice President.

At the Commissions inception, you asked the members to produce -- as their first order of business -- recommendations for a "consumer bill of rights." This week they are responding to that charge by releasing their final report on this issue. Their preliminary recommendations received widespread acclaim by the elites. They achieved this by balancing the desires of
the consumer advocates and providers against the fears of the insurers and business community. Not surprisingly, the former generally felt the recommendations did not go far enough and the latter concluded they generally went too far.

The Commission was structured to end up to the middle/left of this debate from the beginning,
as Donna and Alexis insisted that all final recommendations be done on a purely consensus basis. But what really assured that the business and insurer community would not make excessively loud complaints was the Commissions decision to push off making recommendations regarding how the "rights" would be enforced. It may or may not be able to resolve the Federal enforce-
ment issue by the time the final report is released next March. (That report will also include recommendations that could have the most long-lasting impact on the health care

delivery system; it will focus on how to measure and actually improve quality outcomes.)

Two weeks ago, the release of a Kaiser Foundation survey seemed to strongly support additional quality protections. It found that 60 percent of Americans said that managed care plans have made it harder for the sick to see specialists. It also reported that over three-fifths say they are very or somewhat worried that their health plan would be more concerned about saving money than about the best treatment for them if they were sick, while only 34 percent of those in traditional plans had similar concerns. However, the report also seemed to indicate that Americans are vulnerable to criticisms that government intervention could increase costs.
While 52 percent of Americans said that government should protect consumers of managed care, 40 percent said that such intervention is not worth the increased costs that could result.

Key Findings of the Commission. The Quality Commissions "bill of rights" do not include a host of insurance and benefit reforms that some consumer groups would like to see (such as elimination of life-time caps, 48-hour rules for mastectomies, and required coverage of reconstructive surgery following a mastectomy.) However, the Commissions eight rights do include the access to provider and appeals process provisions that most consumer groups feel are their highest priority, including:

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(7) Grievance and Appeals Processes for consumers to resolve their differences with their health plans and health care providers -- including an internal and external appeals process; and

(8) Consumer Responsibilities which asks consumers to take responsibility by maximizing healthy habits, becoming involved in health care decisions, carrying out agreed-upon

treatment plans, reporting fraud, among others.

Analysis of the Bill of Rights. The consumer bill of rights provides a solid framework for assuring consumers protections. Having said this, the Administration has taken -- and will likely take -- different positions on some of the Commissions recommendations. For example, the Commission establishes a strong internal and external appeals process for consumers to address grievances, but it does not make the external appeals process binding, leaving it unclear as to how these decisions would be enforced. Also, the bill of rights is ambiguous with regard to access to specialists; it calls for direct access to specialists, but at the same time allows plans to require prior authorization to see specialists. And, as mentioned above, the Commission made an explicit decision not to include any benefits in their list of rights, including the Administration supported 48-hour mastectomy bill. There is little doubt, however, the Commissions recommendations will lay the foundation of almost any legislation that has any chance of emerging from the Congress.

Bipartisan Legislation on the Hill. There are already a number of consumer protection bills on the Hill that have received broad, bipartisan support. The bill that has received the most attention was introduced by Congressman Norwood (R-GA) and already has over 205 cosponsors in the House, including over 85 Republicans. Senator DAmato has introduced the companion bill in the Senate. In addition, Congressman Dingell and Senator Kennedy have introduced companion bills, which emphasize consumer (more than provider) protections. Senator Jeffords (R-VT) and Chairman of the Labor Committee has indicated his intention to introduce a bipartisan bill with Senator Kennedy, which is much more likely to reflect most of the Quality Commissions recommendations and be a more moderate alternative to the Norwood and original Dingell/Kennedy legislation.

Ironically, the Norwood/DAmato bill goes further than the Quality Commission in many areas, particularly those that focus on provider protections. Some of these provisions could notably increase the cost of health plans. For example, their bill requires a mandatory point-of-service option which would raise premiums for health plans that do not currently offer this option.

Republican Leadership Positioning on the Quality Issue. A great deal of public attention to the consumer protections issue has been raised lately, largely as the result of memos associated with the Republican Leadership (Senator Lott, Senator Nickles, Congressman Armey) that call on their business and insurer allies to oppose Federal legislation in this area. A quote that suggests that these industries "get off your butts and get off your wallets" has been attributed to Senator Lott; Congressman Armey has been labeling any effort in this area to be "Clinton II."
While their strategy may be paying dividends with their target audience (the NFIB and the Health Insurance Association of America), the publicity around the memos has not appeared to serve the Leadership well. Moreover, since over 85 Republicans have signed onto Federal legislation, it is difficult for them to pin the "Government-takeover label" onto the Administration.

Business and Insurer Positioning. Most managed care plans and big business representatives have taken a fair low profile, wishing this debate would go away but understanding it will not. They oppose Federal intervention, but seemingly increasingly believe it is going to happen.
The big business groups greatest concern that any Federal legislation will NOT preempt the states ability to go further, thus making them comply with Federal as well as state rules.

In contrast, the HIAA and the NFIB have already indicated that they are going to raise dollars to attack any Federal consumer protection legislation. They will (and are saying) that such legislation will inevitably increase premiums and reduce coverage.

Response to Cost/Coverage Loss Argument. In response to cost concerns raised by the business and insurer representatives of the Quality Commission, Lewin ICF (an analytical consulting firm) was commissioned to evaluate the cost impact of the two Commission "consumer bill of rights" provisions that the Commission believed had the most potential to increase premiums -- the information disclosure and consumer appeals requirements. The study concluded, in a report that was released to the Commission members today, that the provisions would increase the cost of premiums by about 90 cents per month per beneficiary. These projections go a long way to undermining the HIAA/NFIB/Republican Leadership argument that consumer protections will increase premiums by "90 percent" and will reduce insurance coverage.

Ramp-Up to Thursday Event: JAMA "Quality" Issue and the Vice President. Tomorrow, the Journal of the American Medical Association (JAMA), is dedicating their entire edition to the coverage of the quality issue. They will be holding a press conference at the National Press Club to highlight this publication. To enhance coverage of the quality issue, the Vice President has agreed to meet with the JAMA editors tomorrow morning. We will "pool-spray" the meeting and, while that is occurring, the Vice President will announce that you have asked the Quality Commission members to stay one extra day, so that you can formally receive their report and provide your first public response to it. This will further increase the medias interest in this already quite "hot" topic.

Thursday Event and Your Remarks. We have designed the Thursday event to take as br

We will to be briefed on their interest in the quality issue and to Coincidnetlyhy ; in short, these projections go a , confirming that the consumer phardly the ...

Administration Strategic Positioning. There are a number of ways you could respond to the Consumer Bill of Rights next week. The best way for you to get credit for providing leadership in the area of health care quality and consumer protections is for you to call for a Federal legislative approach (not necessarily an Administration-specific bill) to ensure that these protections are real. At this point, the Administration has not weighed in how we would like to see comprehensive consumer protections ensured. Your leadership in this regard will increase momentum for this legislation to move when the Congress returns in January.

However, if you go too far down this road, there is a danger of splintering the Commission, undermining their ability to be as effective as they have been so far in developing consensus in these areas. So far, businesses and insurers have stayed invested in the work of the Commission. Also, strong leadership from you could cause businesses and insurers to step up their campaign while Congress is out of session, creating a difficult environment for to move this agenda forward when they return. (Too negative?) We would recommend that while you call for Federal legislation to make these protections real, that you look forward to working with all of the relevant parties to determine which of these rights should be ensured by Federal legislation and which should be left to the private sector.???

We would also recommend that you applaud the Commission and state that their work provides a good framework that will guide you during this debate. However, as discussed above, we would not recommend that you fully accept all of the Commissions specific recommendations.

We are also working with HHS and the Labor Department to determine if they can come up with executive actions that illustrate our commitment to apply the Commissions recommendations to Federal government programs.
Some are arguing that even though the recommendations of the Quality Commission are not as objectionable as they might have expected, that the Administration is planning to use these recommendations as a way to spark another health care debate in which we will recommend far more comprehensive reforms.

**
Harvard Law School
Cambridge MA 02138

draft 2
9:51am
MEMORANDUM FOR THE PRESIDENT

THROUGH:ERSKINE BOWLES
SYLVIA MATHEWS

FROM:CHRISTOPHER EDLEY, JR. 1 Any useful elements of this memorandum reflect discussions with Sylvia Mathews, Sid Blumenthal, and Michael Waldman, Judy Winston and John Hope Franklin. Other members of the White House staff who will have an ongoing role in the confidential effort to prepare your report include Paul Begala, Maria Echaveste, Elena Kagan, Ann Lewis and Susan Liss. Under Sylvias leadership, we will involve a somewhat broader group of internal and external advisers on a regular basis.
1
Professor of Law

RE:Preliminary Thoughts on Your Race Report

This memorandum sketches the approach we propose for working with you to prepare your report to the American people next fall. It suggests some parallels to the Affirmative Action Review, while noting that this is a far larger undertaking. Accompanying it are two other documents: A Sid Blumenthal essay on identity, community and One America; and a notional table of contents for your report.

Recapping 1995

In the 1995 review of affirmative action, you rejected the values framework of extreme colorblindness and gender neutrality, choosing instead a framework that acknowledges some moral and other costs to using color and gender in decisionmaking, while insisting that those costs are worth paying in some circumstances because:
I.affirmative action is needed as an effective tool to remedy and prevent discrimination; and
II.
some organizations need diversity to achieve excellence in their mission and to build a better nation.
Race Report Outline: November 3, 1997p.2
You also rejected a flat insistence on substituting class for color. Race-neutral measures are always preferable, ceteris paribus, but there are situations in which effective

responses to the demands of remediation and inclusion must include some attention to race. Finally, however, you insisted that affirmative action be done "the right way."

In our discussions, though not always in public communications, we wrestled with the problem that easy, familiar phrases very often obscure and even intentionally mislead. To the far left, "discrimination" means any social or economic disparity; to the far right, it means only individually identifiable acts revealing rabid racial animus. Across the spectrumfrom Farrakhan to Edley to Connerly to David Dukepublic voices proclaim their commitment to antidiscrimination principles. So too with "equal opportunity," "fairness" and the American Dream. Consensus at this level counts for something, but not enough. Both in staff discussions and with you, therefore, we sought to get beyond the platitudes by wrestling with a series of hard questions, or hypotheticals, designed to refine a coherent values framework. We considered, for example:
I.the Coal Miners Daughter hypothetical, pitting the poor white woman against the prosperous black man in university admissions;
II.
Piscataway, contrasting recruitment, hiring, promotion and layoffs;
I.targeted NSF graduate fellowships for women;
II.
how to reconcile the celebration of diversity-as-excellence with support for black and womens colleges;
I.whether prosperous minorities should participate in programs for disadvantaged businesses.
One of our basic conclusions was that this is complicated, and context matters. Hence, "Mend it, dont end it."

A last point: Our method in 1995 was, in my mind, based on a conviction that appealing to shared values is unlikely by itself to bridge our deep differences. This is because (a) those basic values can readily be given sharply differing specific content, and (b) we share a number of values, some of which are in tension when it comes to the toughest issues. Therefore, we worked hard not just to contemplate what unites us, but also to understand what divides us and why. (The Vice Presidents comments to the Advisory Board on September 30 sounded this theme.) In a sense, the success of your Race Initiative this year depends in part on whether we can take the next step: a set of strategies to overcome those divisions by building bridges to connect communities across lines of color and class. Once we understand the differences in value commitments and perceptions, what is to be done? You have heard me say, This is not rocket science. This is harder.

Beyond Affirmative Action: This Initiatives Broader Canvass

When you finally report to the American people, the central element of that living document must be Bill Clintons vision of what racial and ethnic justice mean for the 21st century, and why your vision is preferable to the alternatives. The rest of the report should provide the motivation for that vision and a workplan to move the nation towards it, including ideas for public and private action, from national to local to personal. Instead of a blizzard of policy plumbing details, which should be left to supporting documents, you should offer a combination of principles and promising practices. A suggestive outline of what we contemplate in your book, or report, is attached. It is very preliminary, and will evolve based on our own work and on feedback from you.

We envision a process similar to 1995: simultaneously working on the plane of framework or basic values, and on the plane of "hard questions" and practical examples. Over the months, with you, we will develop more detail and more confidence in the framework and

prescriptions. Some serious writing will take place in connection with your speeches; borrowing from that, the drafting for your report will begin in earnest in the summer. Of course there is no sharp division between the conceptual tasks and the communications work. As an approximation, however, we will concentrate first on getting the ideas and evidence right, then worry about how best to communicate them.

The Advisory Board and Judy Winstons staff have several missions not directly related to your report. Nevertheless, their role here is important. The Board will offer recommendations on both programs and "values," and will assemble thoughtful essays by a range of contributors. The staff is working on several fronts to assemble evidence and information that are important to the Boards mission of public education, but will also provide background for expository sections of your report. Thus, for example, we know we want your report to include examples of replicable promising practices. Therefore, even before your public comments on September 30, Judys staff was at work constructing an appropriate process to collect examples and separate the bridge-building efforts that have effective public relations from those that promise effective change. (Your comments tripled the pace.) Similarly, we think your report should contain a chapter describing "Where America is on race," providing some authoritative information on demographics, disparities, discrimination and intergroup relations. The staff and several agencies are at work producing supporting information, and the public presentations on September 30 were related to that effort. The evolving outline of your report will be the single most important guidance for the Board and staff as they implement priorities for study and deliberation.

The Substance

On the plane of values, stated too abstractly, the Initiative must face at least these four broad questions:

1.One America: In your vision, how do we reconcile (or perhaps integrate) the competing claims of individualism, melting pot, multiculturalism, nationalism, universalism, identity politics and so forth? Accompanying this memorandum is an essay by Sid Blumenthal on the subject, which we will debate at length in the coming months. The answer to this broad question has implications for countless particular issues. For example: What are we to make of the black communitys ambivalence about integration? Whats wrong with allowing overwhelmingly white suburban communities to wall themselves off (fiscally and literally) from the challenges of central city schooling and housing? Do claims for "language rights" threaten a conception of the American identity to which we in fact subscribeand who is "we"? And when we have achieved your vision of racial justice, what will be the continuing social significance of racial difference?

2.

The Limits of Race: What is a "race" problem and what isnt? When are public and private fights about class or competence or culture, rather than color? Many whites accuse minorities of being too color-conscious, while many minorities see in our civic discourse a pernicious trend towards denying that race matters. We must face this broad question when wrestling with such questions as: Whats the best way to define and detect discrimination? Should integration of K-12 schools and diversity in higher education be focused on class rather than color? What are the dimensions of unfairness within the criminal justice systemfrom alleged police misconduct to crack sentencesand are those racial problems? To what extent are our fights over immigration policy and bilingual education importantly about color?something most civil rights leaders know in their bones to be true.

1.

The Public-Private Distinction: What are the respective roles of the government, private, civic and personal spherestheir roles as part of the problem, and as part of the solution?

Implicit in this are value choices about how intrusive we want government to be as regulator or even nanny, and how much we want to leave to more autonomous and private decision.

1.

The Role of History: Fundamentally, history explains why race is different, why many people are impatient for justice, and why others believe that progress must take still more time. Expressions of white male backlash and resentment reflect, in part, a stance towards history (and autonomy) that limits or even denies personal responsibility for sacrificing to create solutions. On the other hand, demands for reparations or for proportional results in various economic settings reflect a view of history in which there is a continuing legacy that requires remedy, now. Ultimately, your vision of racial justice in our future, and your sense of the appropriate urgency in pursuing it, will depend upon your stance towards our history.

Just as we wrestled in 1995 with the value choices posed by arguments over color-blindness, or class-based substitutes for racial targeting, we will work at the staff level to refine our views on the major issues above, coming to you at appropriate junctures to frame decisions and seek guidance.

The slate is not blank. You have said a great deal. And, beyond the matter of color, you have developed a set of conceptual and rhetorical foundation stones for leadership in several areas. Among these are: [I need help here, especially from Michael W., Sid B.]

I.investing for the future; preparing for the 21st century

II.

opportunity and responsibility

I.playing by the rules

II.partnerships: public-private-civic, and federal-state-local

III.broad-based strategies; rather than narrow-interest sops

IV.positive focus on what unites us

V.

pragmatic solutions that avoid failed approaches of the past, and that avoid ideological extremes

I.

government that is fiscally responsible and "reinvented"

I.inclusion

II.community: One America

III.our children

IV.continuity with your personal history

All of these will play a role in your race report. (Or it wouldnt be yours.)

FFEdley, Blumenthal, Mathews

The Presidents Report

draft outline

Introduction: Americas Challenge

1.the sense in which we have lost our way, and why it is imperative that we find it again

2.

the nature of the problem is somewhat the same, and somewhat different

1.
framework: the values and commitments that provide a framework for us, including the meaning of identity and community in One America
1.we need both a workplan for nation, and leadership at all levels

2.Where is race, and where are we going?
\ demographic history and trends
\ disparities, socioeconomic indicators, economic mobility, opportunity measures
\ discrimination: authoritative data using various methodologiesHow much discrimination is there?
\ intergroup relations: how integrated are our lives, how have attitudes and stereotypes changed, etc.

3.Policy and racial justice
\ the effects of key public policies and private practices on the state of racial justice today
\ the effects of race on our civic discourse: how race poisons politics and policymaking, overtly or subtly

4.Vision: Bill Clintons vision of racial and ethnic justice in the 21st century, and why it is preferable to competing visions
\ seeking clarity about our value commitments and ambitions for One America
\ this pivotal section is an elaboration of the framework sketched in speeches and in the introduction to this Report

5.Wrestling lessons: What vexes us, and constructive engagement of our differences
\ "modeling" how we can face up to some of the hardest questions dividing us in an honest and constructive way (list to be developed)
\ applying the values and vision to address a few major issues (list to be developed)

6.Promising practices: examples of public and private efforts to promote racial reconciliation and racial justice, and some counterexamples of destructive practices
\ criteria for making these judgments
\ examples from different sectors: government, business, the media, the faith community, education, nonprofit sector, etc.
\ establishing an ongoing program to recognize and replicate promising practices

7.A workplan for the nation over the next decade
\ policy prescriptions building on the preceding sections, including action items for governments at all levels
\ practice prescriptions for private, voluntary, community and personal actions
\ leadershipcall to action, recruiting a cadre of leaders from all sectors who will dedicate themselves to learning, teaching and practicing the difficult tasks of building One America

**

Notes:

(i)The Core Group will refine this preliminary outline iteratively, developing detail and wrestling with the many difficulties it suggests.

(ii)The policy time frame is long a decade or more; this is grander than the budget and legislative agenda for one or two years.
(iii)Occasional meetings, as appropriate, with the President and Vice President.
(iv)Discrete supporting tasks will be delegated to the Initiative Staff, the Advisory Board, White House policy councils, agencies, and to outside experts and friends.
(v)The developing effort on the Report will inform work on speeches and events.
(vi)Report will be completed late fall 1998.

November 17, 1997

MEMORANDUM TO THE PRESIDENT

FROM:Chris Jennings

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cc: Rahm Emanuel, Bruce Reed, Gene Sperling, Ann Lewis, Elena Kagan

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treatment plans, reporting fraud, among others.

Analysis of the Bill of Rights. The consumer bill of rights provides a solid framework for assuring consumers protections. Having said this, the Administration has taken -- and will likely take -- different positions on some of the Commissions recommendations. For example, the Commission establishes a strong internal and external appeals process for consumers to address grievances, but it does not make the external appeals process binding, leaving it unclear as to how these decisions would be enforced. Also, the bill of rights is ambiguous with regard to access to specialists; it calls for direct access to specialists, but at the same time allows plans to require prior authorization to see specialists. And, as mentioned above, the Commission made an explicit decision not to include any benefits in their list of rights, including the Administration supported 48-hour mastectomy bill. There is little doubt, however, the Commissions recommendations will lay the foundation of almost any legislation that has any chance of emerging from the Congress.

Bipartisan Legislation on the Hill. There are already a number of consumer protection bills on the Hill that have received broad, bipartisan support. The bill that has received the most attention was introduced by Congressman Norwood (R-GA) and already has over 205 cosponsors in the House, including over 85 Republicans. Senator DAmato has introduced the companion bill in the Senate. In addition, Congressman Dingell and Senator Kennedy have introduced companion bills, which emphasize consumer (more than provider) protections. Senator Jeffords (R-VT) and Chairman of the Labor Committee has indicated his intention to introduce a bipartisan bill with Senator Kennedy, which is much more likely to reflect most of the Quality Commissions recommendations and be a more moderate alternative to the Norwood and original Dingell/Kennedy legislation.

Ironically, the Norwood/DAmato bill goes further than the Quality Commission in many areas, particularly those that focus on provider protections. Some of these provisions could notably increase the cost of health plans. For example, their bill requires a mandatory point-of-service option which would raise premiums for health plans that do not currently offer this option.

Republican Leadership Positioning on the Quality Issue. A great deal of public attention to the consumer protections issue has been raised lately, largely as the result of memos associated with the Republican Leadership (Senator Lott, Senator Nickles, Congressman Armey) that call on their business and insurer allies to oppose Federal legislation in this area. A quote that suggests that these industries "get off your butts and get off your wallets" has been attributed to Senator Lott; Congressman Armey has been labeling any effort in this area to be "Clinton II."
While their strategy may be paying dividends with their target audience (the NFIB and the Health Insurance Association of America), the publicity around the memos has not appeared to serve the Leadership well. Moreover, since over 85 Republicans have signed onto Federal legislation, it is difficult for them to pin the "Government-takeover label" onto the Administration.

Business and Insurer Positioning. Most managed care plans and big business representatives have taken a fair low profile, wishing this debate would go away but understanding it will not. They oppose Federal intervention, but seemingly increasingly believe it is going to happen.
The big business groups greatest concern that any Federal legislation will NOT preempt the states ability to go further, thus making them comply with Federal as well as state rules.

In contrast, the HIAA and the NFIB have already indicated that they are going to raise dollars to attack any Federal consumer protection legislation. They will (and are saying) that such legislation will inevitably increase premiums and reduce coverage.

Response to Cost/Coverage Loss Argument. In response to cost concerns raised by the business and insurer representatives of the Quality Commission, Lewin ICF (an analytical consulting firm) was commissioned to evaluate the cost impact of the two Commission "consumer bill of rights" provisions that the Commission believed had the most potential to increase premiums -- the information disclosure and consumer appeals requirements. The study concluded, in a report that was released to the Commission members today, that the provisions would increase the cost of premiums by about 90 cents per month per beneficiary. These projections go a long way to undermining the HIAA/NFIB/Republican Leadership argument that consumer protections will increase premiums by "90 percent" and will reduce insurance coverage.

Ramp-Up to Thursday Event: JAMA "Quality" Issue and the Vice President. Tomorrow, the Journal of the American Medical Association (JAMA), is dedicating their entire edition to the coverage of the quality issue. They will be holding a press conference at the National Press Club to highlight this publication. To enhance coverage of the quality issue, the Vice President has agreed to meet with the JAMA editors tomorrow morning. We will "pool-spray" the meeting and, while that is occurring, the Vice President will announce that you have asked the Quality Commission members to stay one extra day, so that you can formally receive their report and provide your first public response to it. This will further increase the medias interest in this already quite "hot" topic.

Thursday Event and Your Remarks. We have designed the Thursday event to take as br

We will to be briefed on their interest in the quality issue and to Coincidnetlyhy ; in short, these projections go a , confirming that the consumer phardly the ...

Administration Strategic Positioning. There are a number of ways you could respond to the Consumer Bill of Rights next week. The best way for you to get credit for providing leadership in the area of health care quality and consumer protections is for you to call for a Federal legislative approach (not necessarily an Administration-specific bill) to ensure that these protections are real. At this point, the Administration has not weighed in how we would like to see comprehensive consumer protections ensured. Your leadership in this regard will increase momentum for this legislation to move when the Congress returns in January.

However, if you go too far down this road, there is a danger of splintering the Commission, undermining their ability to be as effective as they have been so far in developing consensus in these areas. So far, businesses and insurers have stayed invested in the work of the Commission. Also, strong leadership from you could cause businesses and insurers to step up their campaign while Congress is out of session, creating a difficult environment for to move this agenda forward when they return. (Too negative?) We would recommend that while you call for Federal legislation to make these protections real, that you look forward to working with all of the relevant parties to determine which of these rights should be ensured by Federal legislation and which should be left to the private sector.???

We would also recommend that you applaud the Commission and state that their work provides a good framework that will guide you during this debate. However, as discussed above, we would not recommend that you fully accept all of the Commissions specific recommendations.

We are also working with HHS and the Labor Department to determine if they can come up with executive actions that illustrate our commitment to apply the Commissions recommendations to Federal government programs. Some are arguing that even though the recommendations of the Quality Commission are not as objectionable as they might have expected, that the Administration is planning to use these recommendations as a way to spark another health care debate in which we will recommend far more comprehensive reforms.

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CLOSE HOLD. Page 1June 8, 1998

DRAFT BACKGROUND MEMORANDUM FOR EOP PRINCIPALS MEETING

FROM:REBECCA BLANK
ELENA KAGAN
SALLY KATZEN
JOE MINARIK

Subject:Meeting on Income and Poverty Measures

Purpose of the Meeting

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

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

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

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

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

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

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

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

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

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

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

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TECHNICAL BACKGROUND ON INCOME AND POVERTY MEASURES

The Current Poverty Measure

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

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

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

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

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

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

The NRC Recommendations

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

1.Defining Family Resources

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

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

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

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

2.Defining a Poverty Threshold

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

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

OPTIONS FOR DISCUSSION

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

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

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

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

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

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

Cons of using the NRC Measure:
*Results in a higher poverty rate (although the trends over time are similar.)

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

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

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

2. Recommendation regarding updating the thresholds over time

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

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

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

Pros of Re-calculating the Thresholds:
*Regular recalculation will allow the poverty thresholds to reflect more accurately changes in consumption patterns and standards of living.

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

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

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

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

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

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

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

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

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

Pros of Adjusting for Geographic Variation in Cost of Living:
*Most statisticians and economists agree that such adjustments should be made if data are available.

Cons of Adjusting for Geographic Variation in Cost of Living:
*There is no one "right" way to make such adjustments and the issue could be highly politicized.

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

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

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

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

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

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

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

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

controversial of the NRC recommendations.

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

There are three approaches to incorporating medical care and expenses:

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

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

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

Pros of Adjusting for MOOP (either options (A) or (B)):
*While not perfect, under the NRC recommended adjustment families with higher unreimbursed medical expenditures will be "poorer." The NRC recommended adjustment would also be sensitive to changes in health care financing that would decrease MOOP and thereby increase disposable income and reduce poverty.

Cons of Adjusting for MOOP (either options (A) or (B)):
*The data that are currently available are out-of-date (but we should have updated information available in a more timely fashion within another year.)

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

Pros of Imputing the Value of Health Insurance into Resources and Thresholds:
*Provides a more complete accounting of all medical resources available to a family.

Cons of Imputing the Value of Health Insurance into Resources and Thresholds:
*There is no accepted "correct" way to do this. The data here are probably more unreliable than the data needed to impute the value of MOOP to families.

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

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

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

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

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

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

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

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

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

	Official measure	Benchmarked to 1996	NRC Experimental
Poverty Rates			
1991	14.2	14.5	18.9
1992	14.8	15.3	19.6
1993	15.1	15.7	20.2
1994	14.6	14.7	19.0
1995	13.8	13.8	18.2
1996	13.7	13.7	18.0
Thresholds for 2 adults and 2 children (in dollars)			
1991	13,812	11,891	13,891
1992	14,228	12,249	14,309
1993	14,654	12,616	14,738
1994	15,029	12,938	15,115
1995	15,455	13,305	15,543
1996	15,911	13,698	16,002

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

	Official measure	Benchmarked to 1996	NRC Experimental
All persons	13.7	13.7	18.0

Children 20.5 18.1 23.8
Nonelderly adults 11.4 11.5 15.0
Elderly 10.8 15.6 20.4

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

One or more workers 9.5 10.0 13.6

Persons in family of type:
Married couple 6.9 7.8 11.1
Female householder 35.8 32.3 40.4

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

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

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APPENDIX

The Effect of the Poverty Measure on Program Eligibility and Benefits

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

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

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

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

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

programs. That belief is an exaggeration of the actual situation. Most of the Federal programs using the guidelines are medium-sized or small, with only a few big programs. Moreover, most...are discretionary programs...Only a few programs using the guidelines are mandatory: Medicaid, the Food Stamp Program, and child nutrition programs (mainly the National School Lunch Program).1G. Fisher, " Disseminating the Administrative Version and Explaining the Administrative and Statistical Versions of the Federal Poverty Measure." Clinical Sociology Review, vol. 15 (1997), p. 165.1

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

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

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

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

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

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

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

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CLOSE HOLD. Page 1June 8, 1998

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

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

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

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

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

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

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TECHNICAL BACKGROUND ON INCOME AND POVERTY MEASURES

The Current Poverty Measure

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

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

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

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

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

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The NRC Recommendations

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

1.Defining Family Resources

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

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

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

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

2.Defining a Poverty Threshold

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

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

OPTIONS FOR DISCUSSION

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

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

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

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

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

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

Cons of using the NRC Measure:
*Results in a higher poverty rate (although the trends over time are similar.)

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

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

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

2. Recommendation regarding updating the thresholds over time

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

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

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

Pros of Re-calculating the Thresholds:
*Regular recalculation will allow the poverty thresholds to reflect more accurately changes in consumption patterns and standards of living.

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

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

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

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

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

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

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

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

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

Pros of Adjusting for Geographic Variation in Cost of Living:
*Most statisticians and economists agree that such adjustments should be made if data are available.

Cons of Adjusting for Geographic Variation in Cost of Living:
*There is no one "right" way to make such adjustments and the issue could be highly politicized.

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

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

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

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

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

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

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

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

controversial of the NRC recommendations.

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

There are three approaches to incorporating medical care and expenses:

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

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

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

Pros of Adjusting for MOOP (either options (A) or (B)):
*While not perfect, under the NRC recommended adjustment families with higher unreimbursed medical expenditures will be "poorer." The NRC recommended adjustment would also be sensitive to changes in health care financing that would decrease MOOP and thereby increase disposable income and reduce poverty.

Cons of Adjusting for MOOP (either options (A) or (B)):
*The data that are currently available are out-of-date (but we should have updated information available in a more timely fashion within another year.)

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

Pros of Imputing the Value of Health Insurance into Resources and Thresholds:
*Provides a more complete accounting of all medical resources available to a family.

Cons of Imputing the Value of Health Insurance into Resources and Thresholds:
*There is no accepted "correct" way to do this. The data here are probably more unreliable than the data needed to impute the value of MOOP to families.

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

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

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

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

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

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

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

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

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

	Official measure	Benchmarked to 1996	NRC Experimental
Poverty Rates			
1991	14.2	14.5	18.9
1992	14.8	15.3	19.6
1993	15.1	15.7	20.2
1994	14.6	14.7	19.0
1995	13.8	13.8	18.2
1996	13.7	13.7	18.0
Thresholds for 2 adults and 2 children (in dollars)			
1991	13,812	11,891	13,891
1992	14,228	12,249	14,309
1993	14,654	12,616	14,738
1994	15,029	12,938	15,115
1995	15,455	13,305	15,543
1996	15,911	13,698	16,002

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

	Official measure	Benchmarked to 1996	NRC Experimental
All persons	13.7	13.7	18.0

Children 20.5 18.1 23.8
Nonelderly adults 11.4 11.5 15.0
Elderly 10.8 15.6 20.4

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

One or more workers 9.5 10.0 13.6

Persons in family of type:
Married couple 6.9 7.8 11.1
Female householder 35.8 32.3 40.4

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

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

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APPENDIX

The Effect of the Poverty Measure on Program Eligibility and Benefits

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

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

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

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

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

programs. That belief is an exaggeration of the actual situation. Most of the Federal programs using the guidelines are medium-sized or small, with only a few big programs. Moreover, most...are discretionary programs...Only a few programs using the guidelines are mandatory: Medicaid, the Food Stamp Program, and child nutrition programs (mainly the National School Lunch Program).1G. Fisher, " Disseminating the Administrative Version and Explaining the Administrative and Statistical Versions of the Federal Poverty Measure." Clinical Sociology Review, vol. 15 (1997), p. 165.1

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

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

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

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

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

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

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

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CLOSE HOLD. Page 1June 8, 1998

DRAFT BACKGROUND MEMORANDUM FOR EOP PRINCIPALS MEETING

FROM:REBECCA BLANK
ELENA KAGAN
SALLY KATZEN
JOE MINARIK

Subject:Meeting on Income and Poverty Measures

Purpose of the Meeting

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

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

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

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

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

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

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

Cons of using the NRC Measure:
*Results in a higher poverty rate (although the trends over time are similar.)

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

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

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

2. Recommendation regarding updating the thresholds over time

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

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

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

Pros of Re-calculating the Thresholds:
*Regular recalculation will allow the poverty thresholds to reflect more accurately changes in consumption patterns and standards of living.

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

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

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

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

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

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

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

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

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

Pros of Adjusting for Geographic Variation in Cost of Living:
*Most statisticians and economists agree that such adjustments should be made if data are available.

Cons of Adjusting for Geographic Variation in Cost of Living:
*There is no one "right" way to make such adjustments and the issue could be highly politicized.

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

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

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

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

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

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

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

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

controversial of the NRC recommendations.

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

There are three approaches to incorporating medical care and expenses:

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

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

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

Pros of Adjusting for MOOP (either options (A) or (B)):
*While not perfect, under the NRC recommended adjustment families with higher unreimbursed medical expenditures will be "poorer." The NRC recommended adjustment would also be sensitive to changes in health care financing that would decrease MOOP and thereby increase disposable income and reduce poverty.

Cons of Adjusting for MOOP (either options (A) or (B)):
*The data that are currently available are out-of-date (but we should have updated information available in a more timely fashion within another year.)

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

Pros of Imputing the Value of Health Insurance into Resources and Thresholds:
*Provides a more complete accounting of all medical resources available to a family.

Cons of Imputing the Value of Health Insurance into Resources and Thresholds:
*There is no accepted "correct" way to do this. The data here are probably more unreliable than the data needed to impute the value of MOOP to families.

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

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

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

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

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

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

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

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

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

	Official measure	Benchmarked to 1996	NRC Experimental
Poverty Rates			
1991	14.2	14.5	18.9
1992	14.8	15.3	19.6
1993	15.1	15.7	20.2
1994	14.6	14.7	19.0
1995	13.8	13.8	18.2
1996	13.7	13.7	18.0
Thresholds for 2 adults and 2 children (in dollars)			
1991	13,812	11,891	13,891
1992	14,228	12,249	14,309
1993	14,654	12,616	14,738
1994	15,029	12,938	15,115
1995	15,455	13,305	15,543
1996	15,911	13,698	16,002

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

	Official measure	Benchmarked to 1996	NRC Experimental
All persons	13.7	13.7	18.0

Children 20.5 18.1 23.8
Nonelderly adults 11.4 11.5 15.0
Elderly 10.8 15.6 20.4

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

One or more workers 9.5 10.0 13.6

Persons in family of type:
Married couple 6.9 7.8 11.1
Female householder 35.8 32.3 40.4

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

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

FF
APPENDIX

The Effect of the Poverty Measure on Program Eligibility and Benefits

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

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

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

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

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

programs. That belief is an exaggeration of the actual situation. Most of the Federal programs using the guidelines are medium-sized or small, with only a few big programs. Moreover, most...are discretionary programs...Only a few programs using the guidelines are mandatory: Medicaid, the Food Stamp Program, and child nutrition programs (mainly the National School Lunch Program).1G. Fisher, " Disseminating the Administrative Version and Explaining the Administrative and Statistical Versions of the Federal Poverty Measure." Clinical Sociology Review, vol. 15 (1997), p. 165.1

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

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

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

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

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

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

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

*

March 27, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
ELENA KAGAN

SUBJECT: WELFARE REFORM -- PRIVATIZATION AND MINIMUM WAGE

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

Privatizing Food Stamp and Medicaid Administration

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

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

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

Background

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

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

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

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

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

Recommendation

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

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

to do the same for other states as well.

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

II. Application of Labor Laws

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

Recommended Administration Position

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

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

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

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

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

Anticipated State and Congressional Response

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

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

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

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

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

MEMORANDUM TO GENE SPERLING

FROM:ANNE LEWIS

CC:EMIL PARKER

RE:WELFARE REFORM AND TEXAS

DATE:MARCH 18

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

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

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

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

July 2, 1997

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

FROM:GENE SPERLING

SUBJECT:Draft product liability memo

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

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

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

cc:
Andrew PincusMichael Deich
Jeffrey HunkerSteve Aitken
Fran AllegraTim Brennan
Donald RemyTracey Thornton
Tom McGivernPeter Jacoby
Ed MurphyBill Marshall
Ron MatznerLisa Brown
Pam Gilbert

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

To:
Product Liability Working Group

From:
Sally Katzen
Sarah Rosen

Subject:
Final Decisions on Gorton Proposals

Date:
April 27, 1998

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

Outstanding Issues

1. Findings Language

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

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

2. When to Apply the Small Business Test

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

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

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

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

Senator Gorton proposed to make the following change:

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

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

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

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

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

comparative/contributory negligence regimes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Proposed Changes to Workers Compensation Subrogation Provisions

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

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

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

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

a.Notification to Employer of Settlement

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

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

b.Notice to Insurer By Product Manufacturer or Seller

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

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

c.Reduction of Damages by Amount of Claimants Benefits

The Rockefeller working group proposed amending the language as follows:

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

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

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

D. Future Credit Rights

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

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

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

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

E. Rules of Construction

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

The first rule provides:

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

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

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

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

_____ B -- Reject rule of construction

The second rule provides:

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

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

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

F.Attorneys Fees

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

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

The substantive change1 As noted below, changes need to be made throughout the bill to consistently eliminate references to "coemployees" because such persons are included in the definition of employer.1 proposed involves giving the court discretion to order reimbursement of attorneys fees, which would be mandatory under the current bill. With the workers compensation provisions of this legislation, manufacturers may be motivated to allege employer fault to reduce their liability, potentially increasing significantly the legal expenses of workers compensation insurers in enforcing their liens. The mandatory attorneys fees provision in the current bill mitigates this effect by encouraging product manufacturers and sellers to raise the issue of employer fault only where it is reasonably clear that the employers fault was, in fact, a substantial factor in causing the harm. The proposed change (to discretionary award of attorneys fees) would reduce somewhat the deterrent effect of the current attorneys fee provision.

Options:____A -- Accept change (discretionary attorneys fees)
____ B -- Reject change (mandatory attorneys fees)

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

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

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

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

7. Biomaterials Changes from Senator Lieberman

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

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

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

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

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

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

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

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

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

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

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

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

Miscellaneous

9. Clarification on ADR

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

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

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

10. Definition of Alcoholic Product

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

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

11. Coemployee

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

12. Due Process Clause

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

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

ATTACHMENTS

Addressees:

Bruce Lindsey, Counsel
Charles Burson, Counsel to VP

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

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July 22, 1997

MEETING ON PRODUCT LIABILITY

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

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

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

III.PARTICIPANTS:

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

Chuck Ruff
Chuck Burson

V. PRESS COVERAGE:

None

VI. REMARKS:

None

September 17, 1997

MEETING ON PRODUCT LIABILITY

DATE: September 18, 1997
LOCATION: Oval Office
TIME: 4:30pm-5:00pm
FROM: Bruce Lindsey
Gene Sperling

I.PURPOSE:

For an internal meeting between you and your advisors to discuss and reach a position on Senator Rockefellers and Mr. Dingells separate proposals on product liability reform.

II.BACKGROUND:

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

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

III.PARTICIPANTS

Vice President
Erskine Bowles
John Podesta
Sylvia Mathews

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

IV. PRESS PLAN

Closed

V. SEQUENCE OF EVENTS

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

VI. REMARKS

None required

February 27, 1996

Leon --

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

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

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

Todd

November 24, 1997

TO:DISTRIBUTION LIST

FROM:ANN LEWIS

SUBJECT:RACE PSAS

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

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

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

June 15, 1998

ADDRESS TO 1998 PRESIDENTIAL SCHOLARS

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

I. PURPOSE

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

II. BACKGROUND

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

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

The Presidential Scholars Program

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

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

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

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

Presidential Scholars from Arkansas

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

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

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

III.PARTICIPANTS

Pre-Brief Participants:
YOU
Secretary Donna Shalala
Thurgood Marshall, Jr.
Bruce Reed
Kris Balderston
Elena Kagan

Meet and Greet Participants:
YOU
Secretary Donna Shalala
Thurgood Marshall, Jr.
Bruce Reed
Kris Balderston
Elena Kagan
Members of the Commission on Presidential Scholars. Please see the attached list.

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

IV.PRESS PLAN

Open Press

V. SEQUENCE OF EVENTS

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

YOU are announced to the stage in the tent.

Bruce Reed makes remarks and introduces YOU.

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

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

YOU depart.

VI.REMARKS

Provided by Speechwriting.

March 10, 1998

MEMORANDUM TO THE PRESIDENT

FROM:Chris Jennings

SUBJECT:Events Surrounding Thursdays Final Quality Commissions Meeting

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

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

Democratic Leaderships "Patients Bill of Rights"

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

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

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

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

Final Quality Commission Meeting

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

Recommendation

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

Could be expensive and lend credence to charge that the protections will increase costs and decrease health insurance coverage. Cost to Medicare and Medicaid -- IF WE WANT TO BE CONSISTENT. Could be undermined later on after CBO releases final analysis. Undermine are preliminary positive working relationships with the Republicans. Strong argument could be made for waiting to ensure costs are manageable and continue to ride positive outside validation. If we dont wait until later, the remedies provisions will attract a broad, strong, and extremely negative response from the business community. They will threaten to drop coverage because of their fears of litigation.

January 8, 1998

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

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

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

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

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

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

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

MEMORANDUM FOR DISTRIBUTION

FROM:GREG SIMON

SUBJECT:QUINN-EXON LETTER RE: COMMUNICATIONS DECENCY ACT

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

Q: What was the purpose of Mr. Quinns letter, especially given the fact that some Administration officials have expressed concern about the Acts constitutionality?
A: * Mr. Quinns letter properly reflects the fact that the Justice Department is defending the Communications Decency Act in the current court case and that the President supports protecting children from computer pornography. Because the Act contained a provision for expedited review, the Justice Department announced it will not take action to enforce the Act prior to the Court completing its review.

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

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

November 18, 1997

MEMORANDUM FOR JOHN PODESTA

CC:SARA LATHAM

FROM:PETER RUNDLET

SUBJECT:The R&D Meeting

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

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

Jack Gibbons, OSTP

Jeff Smith, OSTP

Gene Sperling, NEC

Tom Kalil, NEC

Frank Raines, OMB

Jack Lew, OMB

Josh Gotbaum, OMB

Ron Klain, OVP

Don Gips, OVP

Jim Kohlenberger, OVP (Don said hes been working the R&D issues)

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

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

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

Dan Golden, NASA

Harold Varmus, NIH

Donna Shalala, HHS

John Hamre, DoD

Federico Pena, DOE

Bill Daley, Commerce

March 11, 1999

TAPED RADIO ADDRESS

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

I. PURPOSE

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

II. BACKGROUND

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

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

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

III. PARTICIPANTS

BriefingDining Room8:45 - 9:00 AM
The President
Ann Lewis
Loretta Ucelli
Bruce Reed
Elena Kagan
Charles Ruff
Minyon Moore

Ben Johnson
Jose Cerda
Jordan Tamagni

TapingOval Office9:00 - 9:25 AM
The President
Megan Moloney
Mary Morrison
White House Communications Agency (WHCA) staff
White House Television
White House Photographer
Approx. 15 guests (see attached for list)

IV.PRESS PLAN

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

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

V.SEQUENCE OF EVENTS

Briefing
Radio Address
Greet guests

VI.REMARKS

To be provided by the Office of Speechwriting

July 2, 1997

TAPED WEEKLY RADIO ADDRESS

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

I. PURPOSE

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

II. BACKGROUND

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

III. PARTICIPANTS

Briefing:
The President
Ann Lewis

Elena Kagan
Cynthia Rice
Jordan Tamagni

Radio Address:
The President
Megan Moloney
White House Communications Agency (WHCA) staff
White House Television(WHTV)
White House photographer
(see attached for special guest list)

IV.PRESS PLAN
The ABC, CNN, AP, C-SPAN, CBS, NBC, Mutual, UPI, USA,
American Urban Radio Network, and Standard News radio networks will carry the address in its entirety to their thousands of stations across the country this Saturday at 10:06 AM ET.

V.SEQUENCE OF EVENTS

Briefing
Tape Radio Address
Greet Guests

VI.REMARKS

To be forwarded by the Office of Speechwriting.

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

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

EVENT

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

LOGISTICS

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

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

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

*YOU WILL DELIVER BRIEF, VERY INFORMAL REMARKS for 5 to 7 minutes. Speechwriting will provide very brief talking points.

*You will take questions from the audience for 10 minutes.

PROGRAM NOTES

*This group will meet with Dennis Ross, immediately following your appearance.

*During their 4-day meeting in D.C., they will already have met with Jack Lew (OMB); Elena Kagan (DPC); Bill Marshall (Counsel) and Eric Schwartz (NSC-Human Rights).

*This group will be coming from a session about the environment before meeting with you. They will have heard from the League of Conservation Voters and two religious environmental coalitions. You are speaking at the last session of the four day seminar.

BACKGROUND

This ad hoc group of non-Orthodox rabbis from across the country have come to Washington for a four day seminar on social action advocacy training. Although sponsored and run by the Union of American Hebrew Congregations (Reform) Religious Action Center, the rabbis come from all three non-Orthodox movements: Reform, Reconstructionist and Conservative.

Rabbi David Saperstein is the Director of the UAHC Religious Action Center and is the unofficial dean of the Washington Jewish lobbyists. Attached is a recent letter David wrote you praising your decision to go to the Kyoto conference.

ATTACHMENTS

*List of Attendees
*Bio of Rabbi Saperstein
*Letter from Rabbi Saperstein
*Brief talking points

August 19, 1997

NOTE TO:Elena Kagan, Jose Cerda

FROM:Cynthia Rice

SUBJECT:Data Sources for the Race Initiative

Attached are some data sources that may be helpful for the race initiative. In addition, these individuals are good resources of information on families and social programs:

HHS: Patricia Ruggles, Deputy Assistant Secretary for Human Services Policy, Office of the Assistant Secretary for Planning and Evaluation, 690-7409.

Labor Dept.:Ed Montgomery, Chief Economist, 219-5109 ext 156.

Census Bureau: Daniel Weinberg, Chief, Housing and Household Economics Statistics Div., 301/457-8550;
Don Hernandez, Chief, Marriage and Family Statistics Div. 301/457-2465.

National Center forStephanie Ventura, Research Statistician, 301/436-8954 ext. 131.
Health Statistics:(Stephanie is a specialist in teen pregnancy and birth data.)

March 19, 1999

MEMORANDUM FOR DISTRIBUTION

FROM:PHIL CAPLAN

SUBJECT:Race Book - Draft

Attached is a draft of the race book. Im circulating it for your review and comment; its important that you read it carefully and thoroughly. The President is reading it at the same time.

John and Maria have tasked Todd Stern to edit the book in its final stages. Please feed him all edits/comments so that the project may be completed in a timely fashion.

Comments are due to him by March 26.

FF
March 26, 1999

MEMORANDUM FOR DISTRIBUTION

FROM:Phil Caplan

Attached for your review is one of the missing sections of the race book -- Part III: The Opportunity We Deserve.

Edits/comments to Todd Stern by COB March 30.

FFDistribution List (wont go out with note):

The First Lady
The Vice President
Melanne Verveer (Shirley Sagawa)
John Podesta
Ron Klain
Maria Echaveste (already has one)
Todd Stern
Bruce Reed
Elena Kagan
Gene Sperling
Chuck Ruff (Eddie Correia)
Minyon Moore
Michael Waldman
Sylvia Mathews
Ben Johnson
Sid Blumenthal

Josh Gotbaum

*

October 27, 1997

Health Division
Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503
Please route to: ACTION REQUESTED:TIME SENSITIVITY:

Richard Turman
Barry Clendenin
Josh Gotbaum Decision or Approval Urgent
Please sign ASAP
Per your requestAction Requested by
Please comment Not Time-Sensitive
X For your information With informational copies for: HPS Chron, Murray, Miller, Blum, HPS staff, HD Chron

Subject:DPC Meeting w/HHS on Racial Health Disparities -- Potential Add-on for FY99 Budget

From: Greg WhitePhone:202/395-7791
Fax:202/395-3910
Room:NEOB #7002
HPS and HFB staff attended a meeting on 10/17 with Chris Jennings and Elena Kagan of DPC and Bill Corr, John Callahan and other HHS policy officials regarding a potential Presidential initiative on reducing racial disparities in health status (e.g. infant mortality). DPC and HHS have apparently had several meetings on this subject over the last few weeks. OMB staff were invited to attend this meeting since it was designed to discuss "budget issues" regarding this initiative.

DPC and HHS discussed the possibility of having the President announce certain FY 1998 and FY 1999 funding initiatives in this area on November 11th, 1997 at a meeting of the American Public Health Association (APHA). HHS was uncertain they could prepare all of the press materials for an announcement on this date, but was going to get back with DPC during the week of 10/20 to let them know when they could be ready. Both DPC and HHS noted that any resource commitments made for FY 1999 would have to be cleared by OMB.

BACKGROUND
In earlier meetings, DPC asked HHS for their input on how to develop a Presidential initiative in this area. HHS has since identified six health areas were there are notable racial differences (See Tab A for prior correspondence between DPC and HHS on this subject.)

(1) Infant Mortality(4) Diabetes

(2) Breast and Cervical Cancer(5) AIDS
(3) Heart Disease and Stroke(6) Immunizations

HHS staff noted that the current HHS "Healthy People 2000" goals seek "to close the gap" to varying degrees in these six general health areas by the year 2000, but do not seek to eliminate the full racial disparity. HHS noted that if the President were to propose a full scale initiative in this area, he may like to establish an Administration goal for the year 2010 to eliminate racial health disparities in these areas.

HOW HHS WOULD STRUCTURE A PRESIDENTIAL ANNOUNCEMENT
Melissa Skofield, HHS Assistant Secretary for Public Affairs, presented her thoughts on how the President could present a racial health initiative to the public. She outlined the following two-tier structure:

FY 1998 Initiatives -- The Administration would announce three projects in each of the six health areas highlighted above that HHS plans to do with FY 1998 funds. For example, it would highlight a $25 million NIH project to increase minority participation in research clinical trials related to Type II diabetes and some coordinated HRSA grant activities to address infant mortality in the Mississippi Delta.

FY 1999 Initiative -- The Administration would also announce a new HHS program activity titled "Healthy Life" that would be very similar to HRSAs "Healthy Start" infant mortality program. Under this initiative, HHS would give grants to 30 communities across the nation to address one of the six health areas cited above. (In theory, five communities would address each of the six goals.) In the first year, each community would establish baseline data and set goals to eliminate racial disparities over a five year period. According to HHS, this project would require $360 million (BA) over five years; $30 million of which would be in FY 1999. This initiative was not included in HHS original FY 1999 submission in September. (See Tab B for description of this proposal.)

HHS HAS BEEN MEETING WITH MINORITY ORGANIZATIONS -- HHS Office of Civil Rights staff have been meeting with minority organizations to gauge their probable reaction to a Presidential initiative in this area. In general, HHS believes that minority groups would react positively to this type of initiative, but many groups noted that a better way to address racial health disparities is by increasing the number of minorities who have health insurance.

DPC NOTES WEST WING SUPPORT FOR INITIATIVE
Chris Jennings noted that Erskine Bowles has a keen interest in this possible initiative.

SUGGESTED FOLLOW-UP AND OTHER QUESTIONS
Following the meeting, John Callahan advised me privately that the documents in Tab B "do not represent an official HHS request for FY 1999." They were developed merely in response to queries by DPC. You may want to discuss this issue with him to get a sense where this proposal fits in with the other HHS proposals for FY 1999.

In addition, you are scheduled to meet with Chris Jennings on 10/21 to discuss DPCs priorities for the FY 1999 Budget. You may want to discuss this issue with him to get a sense of how they would like to proceed on this potential initiative.

We also understand that there is an upcoming FY 1999 Budget Crosscut on Civil Rights. Would you like the new HHS proposal to be addressed in this context?

Attachment

-- D R A F T --

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
ELENA KAGAN

SUBJECT: POLICY DEVELOPMENT FOR THE RACE INITIATIVE

This memorandum proposes a policy development process for the Race Initiative -- and recommends an initial policy announcement to be unveiled at the NAACPs annual meeting on July 17th. Although we would have preferred to develop this process with the assistance of the Race Commissions staff director, we believe that it is of critical importance to get started right away. Thus, we recommend that DPC immediately convene three workgroups in the key areas of economic empowerment, education and administration of justice, and that a fourth issue -- health -- be addressed through DPCs ongoing relationship with HHS.

Our goal for these workgroups is three-fold: (1) to provide a statistical "snapshot" of racial and ethnic minorities and, thus, an informed starting point for policy development; (2) to assess the impact of Administration initiatives on racial and ethnic minorities; and (3) based on our analysis, to recommend policy initiatives to announce throughout the upcoming year -- as well as longer-term policies to incorporate into the Race Commissions final report.

I. WORKGROUPS

A. Economic Empowerment

Managed jointly by DPC and NEC, this groups mission will be to look for ways to promote job growth and the culture of work among disadvantaged minorities. Increasing job opportunities for unemployed and underemployed blacks and Latinos, and assimilating them into the workplace, is the way to strike right at the economic root of racism in our society. Jobs give minorities what they want most -- a chance to participate in the mainstream economy -- and help dispel majority fears about racial and ethnic minorities who are at the margins of society. Other participants in the Economic Empowerment group will include: CEA, OVP, OMB, Treasury, Labor, HUD, HHS, Agriculture, Commerce, Interior, SBA and Transportation.

We have already met with the CEA to begin compiling the economic data for this task. Some analysis was conducted during the Administrations affirmative action review, but more needs to be done. We will also specifically examine a host of Administration initiatives -- including the Welfare jobs initiative, EITC, EZs, CDFIs, changes to CRA, the minimum wage

increase, One Stop Career Centers and Capital Shops, HUDs Bridges-to-Work, Home Ownership Zones , etc. -- and look at their impact on racial and ethnic minorities. We will try and build on existing economic efforts wherever possible.

With respect to longer-term policy development, the Economic Empowerment group will also look at other topics, such as: (1) strengthening job recruitment networks; (2) matching and transporting workers to where there us worker demand; (3) promoting mixed-income, multi-racial communities; (4) affordable housing strategies; (5) housing mobility; and (5) rural economic development.

B. Education

This group, which will be managed jointly by DPC and the Department of Education, will consist of two subgroups: one specifically to look into the dramatic drop in minority enrollment at the Universities of California and Texas; and one to promote improvements in elementary and secondary education. If addressing the "jobs gap" is the most visible and immediate way to begin addressing economic disparities and racial stereotypes, than increasing levels of education among disadvantaged minorities must be our primary long-term challenge.

The experience of Latinos in many parts of our country makes clear the importance of education to climbing the economic ladder. While Latinos in some cities have been able to overcome discrimination in hiring and develop successful job recruitment networks -- often leading to coveted industrial jobs -- their average income is either stagnant or declining. A recent study by the Woodstock Institute in Chicago found that while unemployment rates for Hispanic Empowerment Zone (EZ) residents were half that of their African American counterparts, their average income was considerably lower than that of employed African Americans.

The Minority Enrollment subgroup will consists of DPC, White House Counsel, Education and Justice, and has already started to meet and collect data. In addition to DPC and Education, the broader subgroup on elementary and secondary education will include NEC, CEA, OVP, OMB and HHS. This group will look at how performance standards, teacher training, technology and infrastructure improvements can help our poorer schools. Also, we are particularly interested in reviewing what Mayor Daley of Chicago and other mayors are doing to turn their school systems around, and how such comprehensive -- and race neutral -- changes can benefit all Americans.

C. Administration of Justice

This group will also be split into two subgroups, both led by DPC: the first will focus on crime control and prevention; and the second will target government-wide enforcement of our civil rights laws. Other members of these groups will include: OVP, OMB, Treasury, DOJ, Education, Labor, HUD, HHS, Agriculture, Interior and EOC.

The primary focus of the Crime group will be to examine the under protection of racial and ethnic minorities. Although minorities, particularly in our inner cities, are the most likely victims of crime, they have been historically under protected by local law enforcement. Even now, as crime has dipped to its lowest level in 35 years, initial data indicate that minority communities have not benefitted as much from this decline as other communities. This is especially true for Indian Country, where the homicide rate has jumped more than 80 percent since 1992.

We strongly believe that the Administrations community policing initiative is on the right track and helping to reverse the trend of under protection. It is helping thousands of communities put more police in neglected, high-crime areas -- as well as allowing police officers to work collaboratively with community residents to solve a broad spectrum of crime problems (youth violence, domestic abuse, hate crimes, etc.) With more than 40,000 new police officers to be hired, there is still much the Administrations community policing -- and other crime initiatives -- can do to address the considerable public safety needs of minority communities.

The Civil Rights Enforcement group will seek to develop a coordinated strategy and common mission for the many federal agencies involved in civil rights enforcement. In addition to reviewing how to reduce the considerable backlog of cases in some of these agencies, the Civil Rights group will tackle and troubleshoot some of the policy quandaries that arise when communities try to be innovative. For instance, the Fair Housing Act has prevented some EZs from targeting their housing monies to EZ. residents. Similarly, school districts that have tried to improve by implementing initiatives such as teacher testing have come into conflict with Title VII of the Civil Rights Act.

D. Health

Instead of establishing a new work group to review health issues, we intend to build on DPCs close working relationship with HHS and existing health initiatives.. HHS has already commenced an internal review to identify disparities in health needs and the provision of services. Also, we are reviewing the Administrations immunization initiative to see how it has impacted racial and ethnic minorities, and considering how we can ensure that the low-income childrens health initiative meets the significant needs of certain minorities.

II. INITIAL EDUCATION ANNOUNCEMENT

We are recommending that you announce a two-part education initiative when you speak to the NAACP on July 17th. This initiative, which will be included as part of the reauthorization of the Higher Education Act, focuses on improving teacher recruitment and preparation, with a particular focus on preparing teachers to teach in urban and poor rural school systems. The teacher preparation component of the program will provide funds to partnerships involving institutions of higher education with exemplary teacher preparation programs, other institutions of higher education seeking to strengthen their teacher preparation programs, and local school systems that will employ new teachers. These partnerships will work together to implement teacher preparation programs that effectively equip new teachers to teach in urban and rural environments.

The second component funds scholarships for individuals preparing to teach; scholarship recipients will be required to teach for at least three years in an under served community. Funds will be distributed on a competitive basis to partnerships of eligible local school systems and institutions of higher education. The partners together will define the priority local needs (e.g., teachers in particular disciplines, specialties or grade levels) and target populations (e.g., mid-career adults, paraprofessionals already in the classrooms, or more traditional teacher candidates), and will provide scholarships to individuals meeting these criteria.

By focusing on better training for teachers and improving our neglected schools, we believe that you will be in a strong position to urge the NAACP not to abandon it long history in

support of integration -- and to support the Administrations education initiatives.

POLICY DEVELOPMENT FOR THE RACE INITIATIVE

I. ECONOMIC OPPORTUNITY AND HOUSING

- LEAD: DPC (Jose Cerda)/NEC (Anne Lewis)

- OTHER PARTICIPANTS:
CEA, OVP, OMB, Treasury, Labor, HUD, Agriculture, Commerce, Interior, Transportation, and SBA.

- KEY STAFF TO CONSIDER:
Micheal Barr, Treasury; Michael Stegman, HUD.

- POLICY REVIEW/DEVELOPMENT:
Jobs and Housing. To what degree have racial and ethnic minorities benefitted from the current economic expansion -- and specifically from the Administrations economic policies? What improvements can or should be made to promote economic opportunity. Initial tasks include:

- Work with CEA on "dump" of economic inidicators;
- Provide "snapshot" of opportunities for minorities today;
- Conduct review of key Administration initiatives -- EZs, CDFIs, EITC expansion, changes to CRA, One Stop Career Centers, Bridges-to-Work, minimum wage, Welfare-to-Work, etc;
- Draft outline of policy framework for Commission staff;
- Identify options for relevent short-term policy initiatives;
- Develop longer-term policy issues/initiatives for Report;
- Provide guidance to OMB at start of budget process.

II. EDUCATION

- LEAD: DPC (Elena Kagan)

- OTHER PARTICIPANTS:
NEC, CEA, OVP, OMB, WH COUNSEL, EDUCATION, and HHS.

- KEY STAFF TO CONSIDER:
Mike Cohen, DPC; Dawn Chirwa, WH Counsel; Leslie Thornton, Education.

-POLICY REVIEW/DEVELOPMENT:
Improving Educational Opportunities. What can be done -- by way of standards, physical improvements, technology, increased aid, reforming local school systems, etc. -- to enhance educational opportunities for racial and ethnic minorities? Start-up tasks include:

- Work with CEA/Education on "dump" of inidicators;
- Provide "snapshot" of minorities and education today;
- Conduct review of key Administration initiatives -- School-to-work, Goals 2000, charter schools, testing, standards, etc.;
- Draft outline of policy framework for Commission staff;
- Identify options for relevent short-term policy initiatives;
- Develop longer-term policy issues/initiatives for Report;
- Provide guidance to OMB at start of budget process.

Minority Enrollment. Convene special subgroup to respond to drops in minorty enrollment at CA and TX state universities.

III. HEALTH

- LEAD: DPC (Chris Jennings)

- OTHER PARTICIPANTS:
NEC, CEA, OVP, OMB, HHS, ONDCP, Interior, VA and EPA.

- KEY STAFF TO CONSIDER:
...

- POLICY REVIEW/DEVELOPMENT:
Improving the Health of Racial and Ethnic Minorities. What are the unmet -- or special -- health needs of racial and ethnic minorities?

- Work with CEA/HHS on "dump" of health inidicators;
- Provide "snapshot" of health of minorities today;
- Conduct review of key Administration initiatives -- Child immunization initiative, health care initiative for low-income kids;
- Draft outline of policy framework for Commission staff;
- Identify options for relevent short-term policy initiatives;
- Develop longer-term policy issues/initiatives for Report;
- Provide guidance to OMB at start of budget process.

IV. ADMINISTRATION OF JUSTICE

- LEAD: DPC (Elena Kagan/Jose Cerda)/WHC (Dawn Chirwa)

- OTHER PARTICIPANTS:
OVP, OMB, PCPC, Treasury, DOJ, Education, Labor, HUD, HHS, Interior and EOC.

- KEY STAFF TO CONSIDER:

- POLICY REVIEW/DEVELOPMENT:

1. Crime Control and Prevention (Cerda). Analyze victimization rates for racial and ethnic minorities and law enforcement response. Also, review data on number of at-risk youth and what prevention strategies/programs are available.

2. Coordination of Civil Rights Enforcement (Kagan). Review enforcement of civil rights laws in all federal agencies; how these laws can clash with other policy goals; and develop long-term, coordinated, administration-wide strategy for civil rights enforcement.

3. Affirmative Action (Chirwa). Oversee and further develop Administrations effort to "mend" Affirmative Action. Review and make appropriate recommendations on state and local efforts, too.

FF

- have to include rural as well, racial isolation in public schools, civil rights enforcement (when NYC took over schools), teacher testing (title 7) and disparate impact, "ebonics", employers helping out on testing,standards and civil rights disincentives, charter schools to focus on college admissions, urban ed bill by Rangel -- ed tax credits? Any serious proposal must deal with school construction and repair? Fatah proposal on pell grants for kids in 75% poverty schools?

- by end of July, higher ed reauthorization -- teacher training, ???. historically black colleges are included in higher ed.,

-- D R A F T --

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
ELENA KAGAN

SUBJECT: POLICY DEVELOPMENT FOR THE RACE INITIATIVE

This memorandum proposes a policy development process for the Race Initiative -- and recommends an initial policy announcement to be unveiled at the NAACPs annual meeting on July 17th. Although we would have preferred to develop this process with the assistance of the Race Commissions staff director, we believe that it is of critical importance to get started right away. Thus, we recommend that DPC immediately convene three workgroups in the key areas of economic empowerment, education and administration of justice. A fourth issue -- health -- can be addressed through DPCs ongoing relationship with HHS.

Our goal for these workgroups is three-fold: (1) to provide a statistical "snapshot" of racial and ethnic minorities and, thus, an informed starting point for policy development; (2) to assess the impact of Administration initiatives on racial and ethnic minorities; and (3) to recommend both short- and long-term policy initiatives to respond to the issues identified by our analysis.

I. WORKGROUPS

A. Economic Empowerment

Managed jointly by DPC (Jose Cerda) and NEC (Jonathan Kaplan), this group will take a broad look at the economic expansion, and to what extent racial and ethnic minorities have been able to benefit from it.

Other participants will include: CEA, OVP, OMB, Treasury, Labor, HUD, Agriculture, Commerce, Interior and Transportation.

II. EDUCATION

After independently reviewing the Sentencing Commissions revised report, and having met to discuss their findings, the Attorney General and ONDCP Director have come to different conclusions. In brief, here are their recommendations:

III. ADMINISTRATION OF JUSTCE

The Attorney General is recommending that the Administration support and work with Congress to reduce the disparity between the triggering amounts of crack and powder cocaine for five-year mandatory sentences from 5 grams of crack and 500 grams of powder, to 25 grams of crack and 250 grams of powder cocaine.

The Attorney General believes that this revised structure will help ensure that federal prosecutors target mid- and high-level cocaine traffickers, generally leaving lower-level traffickers and users to be prosecuted by state and local law enforcement. She contends that this "division of responsibility" for prosecuting drug cases is sensible: the federal government is better situated to target and dismantle major drug trafficking organizations through its powerful enforcement tools, such as the RICO statute, wiretapping authority and its national and international enforcement programs.

She also argues that the current sentencing structure creates an incentive to concentrate on lower level street dealers since sales of 5 grams of crack can still result in a long mandatory sentence. A mid-level crack dealer, however, typically deals in ounce (28 grams) or multi-ounce quantities. By directing resources toward lower-level dealers, otherwise scarce federal law enforcement resource are diverted away from higher priority, serious drug traffickers.

Finally, the Attorney General makes the case that the current 100:1 sentencing scheme has become a symbol of racial bias in the criminal justice system for many African Americans. Thus, reducing the disparity from 100:1 to 10:1 is not only good law enforcement, it will also help address this concern.

IV. HEALTH

The ONDCP Director is recommending that the Administration support and work with Congress to repeal the disparity in sentencing for crack and powder cocaine, and establish a 100-gram threshold for triggering 5-year mandatory drug penalties for cocaine violations.

The ONDCP Director strongly believes that the different sentencing guidelines for crack and powder cocaine are flawed and serve no useful. The only real difference between these two forms of cocaine, he argues, is the systematic violence associated with drug sales at crack markets, and this issue can be addressed through existing enhancements for weapons offenses provided for in the sentencing guidelines.

Additionally, the ONDCP Director points out that crack use has stabilized, and that federal cocaine policy should focus limited law enforcement resources on international dealers and domestic wholesalers -- or those who deal in quantities of a kilogram or more. Thus, by setting the threshold for 5-year mandatory drug penalties at 100 grams, the federal government can dedicate more resources for serious drug dealers, target mid-level dealers (those who deal in multiple ounce quantities) as informants and save on incarceration costs.

Finally, the ONDCP director also makes the argument that the current crack cocaine sentences have had a disproportionate impact on African Americans, and have served to undermine public support for the criminal justice system.

III. RECOMMENDATION

We recommend that you endorse the recommendation submitted by the Attorney General and issue a statement encouraging her and the ONDCP Director to work with Congress to address this matter. We believe that the proposed 10:1 ratio, which triggers 5-year mandatory drug penalties at 25 grams of crack cocaine and 250 grams of powder cocaine, is the best alternative. In addition to significantly reducing the disparity between crack and powder

cocaine sentences -- while preserving the Congressionally mandated policy of tougher penalties for crack -- this recommendation makes the most sense from a law enforcement perspective. It links the increase in threshold for mandatory crack penalties (25 grams) to an amount that corresponds with the practice of mid-level crack dealers to traffick in ounce (28 grams) or multi-ounce quantities.

We have several major concerns with the ONDCP Directors recommendation and, thus, strongly advise you to reject it. First and foremost, the ONDCP recommendation is contrary to the crack sentencing legislation that you proposed and Congress passed -- and which expressly endorsed tougher penalties for crack cocaine because of the violence associated with its use and sale. Second, ONDCPs recommended threshold of 100-grams for crack and powder cocaine does not even correspond with the overall ranges recommended by the Sentencing Commission (25 to 75 grams for crack, and 125 to 375 grams for powder). And third, despite ONDCPs law enforcement rationale for the change, we expect that such a dramatic reduction in crack penalties will not be supported, and more likely opposed, by the law enforcement community.

Finally, despite concurring with the Attorney Generals recommendation, we are not optimistic that she and the ONDCP Director will have much success in persuading Members of Congress to pass such legislation any time soon. In fact, it is very likely that the Administrations call for legislation to reduce the disparity between crack and powder cocaine penalties will lead to congressional action to simply increase the penalties for powder cocaine violations. We believe this is especially true if the Administration proposes repealing the disparity between crack and powder cocaine sentences, as recommended by ONDCP. As it stands, Senators Abraham and Hatch have already proposed legislation to drop the threshold for mandatory drug penalties for powder cocaine violations from 500 grams to 100 grams, and are considering offering it as an amendment to the juvenile crime bill. Reversing our position on tougher penalties for crack is sure to elicit the same response as the original Sentencing Commission recommendation to equalize the threshold for crack and powder cocaine sentences at 500 grams -- more likely to result in Congress passing legislation that equalizes the threshold for crack and powder cocaine sentences at 5 grams. As you know, addressing the disparity in this manner will not only increase the federal governments role in low-level drug cases that are best addressed by state and local law enforcement -- it will add billions of dollars to the federal prison budget.

December 16, 1997

MEMORANDUM FOR SYLVIA MATHEWS

FROM: Bruce Reed
Elena Kagan

SUBJECT: Timing of Race Initiative Policy Ideas

Below is a suggested timetable to announce the policy ideas the DPC and NEC have developed for the race initiative.

January

Hispanic Education Action Plan -- This initiative will increase funding for a number of existing programs to improve education for Hispanic Americans and other limited English proficient (LEP) children and adults. It would double our investment in training teachers to address the needs of LEP children; boost the Migrant Education Program by 16 percent; increase the TRIO college preparation program by 10 percent; and create a 5-year, $100 million effort to disseminate best practices in ESL training for adults. We would accompany these program increases with administrative actions to help Hispanic students complete high school and succeed in college.

College-School Partnerships -- This initiative, which builds on Eugene Langs model of helping disadvantaged youth, will provide funding for college-school partnerships designed to provide mentoring, tutoring, and other support services to students in high-poverty schools, starting in the sixth grade and continuing through high school. The six-year funding path will provide help to nearly 2 million students. The proposal also will include Chaka Fattahs idea of early notification to disadvantaged 6th graders telling them of their Pell Grant and loan eligibility.

Notes: We should do the Hispanic Action Plan in Texas. Announcing the College-School Partnerships Program the same week (even the day before or after) could strengthen both events, given their mutually reinforcing messages.

We also will have our Martin Luther King Day event this month. As I think you know, we strongly support a service event -- not a Town Hall.

February

Education Opportunity Zones -- This initiative will provide funding to about 25 high-poverty urban and rural school districts for agreeing to adopt a "Chicago-type" school reform agenda that includes ending social promotions, removing bad teachers, reconstituting failing schools, and adopting district-wide choice.

Employment Discrimination Enforcement -- This initiative will fund reforms to the EEOC, allowing it to expand its mediation program (so that more than 70 percent of all complainants to choose mediation by the year 2000), increase the average speed of resolving

complaints (from over nine months to six) and reduce the EEOCs current backlog (from 64,000 cases to 28,000). We can also announce reforms to other civil rights offices in the federal government, although these are far less dramatic.

Note: These are two good announcements for right after the State of the Union and the budget. (Of course, weve already told the press about the concept of EOZs, but havent provided any details.) We should push EOZs early in the legislative session, and its important to announce fairly soon an initiative focusing on civil rights enforcement.

March

Housing Opportunity -- This announcement can combine a number of initiatives in the budget, none of which will get much play alone: proposals to expand homeownership, improve housing portability, increase vouchers, and attack housing discrimination. (The fair housing proposal can go either here or with the EEOC announcement; we think it fits best with a package of housing opportunity proposals.)

Community Empowerment Fund -- This initiative establishes a public/private fund ("Eddie Mac"), which will invest in inner-city businesses and create a secondary market for economic development loans (like Fannie Mae).

Note: By this point, well have presented most of our education initiatives; housing and economic opportunity seem the natural next issues. We also must announce the housing package (at least if it includes the fair housing proposal) before or during April, which is the thirtieth anniversary of the Fair Housing Act.

April

Assisting the Unbanked -- The electronic funds transfer regulation, due in April, will bring as many as 10 million people into the banking system.

Racial Disparities in Health Care -- This initiative will address racial disparities in six areas of health care: infant mortality, breast and cervical cancer, heart disease and stroke, diabetes, AIDS, and immunization. The proposal includes additional funding ($50 million) to established public health programs to adapt and apply their prevention and education strategies to eliminate racial disparities. It also includes funding ($30 million) for up to thirty local pilot projects to test innovative approaches to reach this goal.

May

Community Prosecutors -- This initiative will provide grants to prosecutors for innovative, community-based prosecution efforts, such as Eric Holder adopted in the District of Columbia. A full 80 percent of the grants will go to pay the salaries and training costs associated with hiring or reassigning prosecutors to work directly with community residents.

June

Indian Country Law Enforcement and Education -- The current budget includes substantial additional funds for law enforcement activities and school construction in Indian Country.

August 8, 1997

JOINT LIVE WEEKLY RADIO ADDRESS WITH THE VICE PRESIDENT

DATE:August 9, 1997
LOCATION:Oval Office
TIME:10:06 AM EDT
FROM:Brenda Anders

I.PURPOSE

To announce, along with the Vice President, an executive order banning smoking on U.S. government property.

II.BACKGROUND

This is the broadest smoking ban on federal property ever. Until now, government agencies have had discretion in restricting smoking in their facilities.

III.PARTICIPANTS
Pre-Brief:
Rahm Emanuel
Elena Kagan
Elizabeth Drye
Jordan Tamangi
Radio Address:
The President
The Vice President
Brenda Anders
(see attached for special guest list)

IV.PRESS PLAN

The ABC, CNN, AP, C-SPAN, CBS, NBC, Mutual, UPI, USA, American Urban Radio Network, and Standard News radio networks will carry the address live to their collective thousands of stations across the country at 10:06 AM EDT.

V.SEQUENCE OF EVENTS

Briefing.

Live broadcast of radio address with the Vice President.
Greet guests.

VI.REMARKS

To be provided by the Office of Speechwriting.

STATISTICAL POLICY

[Revised] Statistical Confidentiality and Data Sharing

The Statistical Confidentiality Act, which was transmitted by the Administration to the Congress at the end of April 1996, was introduced on a bipartisan basis (Steve Horn and Carolyn Maloney) in the House of Representatives (H.R. 3924) on July 31 and was subsequently referred to the Committee on Government Reform and Oversight. Discussions were initiated with staff of Senators Glenn, Cohen and Thompson with the objective of gaining a bipartisan introduction of the bill in the Senate. The Statistical Confidentiality Act would provide uniform protection of data across eight principal statistical agencies and permit them to manage and exchange information for statistical purposes more efficiently and effectively. While the congressional calendar did not permit culmination of efforts to pass this bill, we believe interest remains strong and are prepared to transmit the legislation to the new Congress at the earliest appropriate date. We are preparing a briefing note for Senator Bingaman who has expressed interest in the bill recently.

The companion administrative Order on Confidentiality was published on January 29, 1996, in the Federal Register for a 60 day public comment period. We received comments and questions from all the affected statistical agencies as well as some highly favorable comments from the public, including a unanimous endorsement from the Board of the Council of American Survey Research Organizations (CASRO). We also participated in many informal discussions of issues and responded to individual inquiries. We anticipated some minor changes in language of the order to ensure consistency with revisions in the proposed Statistical Confidentiality Act. However, a disclosure dispute between the Justice and Energy Departments raised some unanticipated issues concerning the Energy Information Administration that delayed final revisions. Drafts of the final order have been coordinated with affected parties and revised language to resolve all issues is being closely scrutinized by our OGC. Consultations and internal review of the final order will be completed in January.

We have just learned that Senator Moynihan has (re) introduced his "Commission to Study the Federal Statistical System" bill (S. 144) and will review it to determine (1) if it is the same bill introduced late last year and (2) implications of this bill in relation to our initiatives.

[No Change] Transfer of the Census of Agriculture

Following the budget decision to transfer the Census of Agriculture from the Census Bureau (CB) to the National Agricultural Statistics Service (NASS), Statistical Policy took the lead in coordinating actions among the many interested parties in OMB. On June 17 the bill to authorize the transfer was introduced (H.R. 3665) with 17 cosponsors. The legislation passed the House but stalled in the Senate because of a proposed amendment by Senator Brown (R-CO). Meanwhile, funding to effect the transfer was included in the FY 97 Agriculture appropriation. We have met with representatives of the Census Bureau, NASS, and IRS/Treasury to develop plans for meeting the information security and confidentiality requirements of all current statutes during the various stages of the transition period (through 1998). Current plans assume that the Administration's Statistical Confidentiality Bill (which provides a long-term solution for these problems) will be passed by Congress

during this period. Initial analysis by IRS indicates that the problems are manageable in the short term, but will become critical if proposed amendments to the Tax Code are not in place in 1998. In December, Census and NASS developed a draft plan for operations using tax data and submitted copies to IRS and OMB. We have reviewed the plan and provided feedback to the agencies.

[Revised] 2000 Census Planning

Members of Congress continue to express concern about the use of sampling for nonresponse follow up. On May 30, Representative Carrie Meek introduced legislation [H.R. 3558] that would permit the Census Bureau to "use sampling as a substitute for direct contact in a particular census tract only after direct contact has been made with at least 90 percent of the households in such a tract." Early in June, Representative Tom Petri introduced legislation [H.R. 3589] that would prohibit the use of "sampling or any other statistical procedure...in determining the total population by States...for purposes of the apportionment of Representatives in Congress..." On September 18, the House Committee on Government Reform and Oversight approved by a 22 to 12 vote a nonbinding report that recommends that the Census Bureau not use sampling to complete or adjust the 2000 decennial census.

Concerns about funding the 2000 census have stemmed not only from increasingly stringent spending limitations but also from House CJS Appropriations Subcommittee Chairman Rogers' repeated complaints about having his subcommittee bear the full cost of the 2000 census. Despite the House and Senate budget resolutions that endorsed the single payer approach that we favor, the report language accompanying the House subcommittee markup for the FY 1997 Census Bureau budget states that "the Committee expects the Bureau, working with the Office of Management and Budget, to submit a plan, not later than September 1, 1996, to include the following: 1) allocation of the costs of long form among the Federal users of this data; 2) number of questions proposed for elimination and the necessary statutory changes required." Although we worked to coordinate a single response to Chairman Rogers from the OMB Director, a separate response was sent to Mr. Rogers from the Census Bureau without being cleared by OMB, thereby precluding the planned single response. We continue to work with our RMO colleagues to determine appropriate next steps.

On December 6 we met with Census staff to coordinate the submission due to Congress on April 1 that will contain the content of the Census questionnaires. Census has produced a notebook with one page (two sides) for each question describing each data element, its statutory requirements, and how it is used by Federal and non-Federal users. The Census Bureau Director and OMBs Chief Statistician co-chaired a January 23 meeting of senior officials from the agencies across government that use decennial census data to discuss the need for their support in justifying their data requirements and to engage their cooperation in working with OMB, the Census Bureau, and congressional committees. A memorandum will be sent to the Secretarial officers in these agencies asking them to provide auxiliary information concerning what they would do if the data were not available from the 2000 Census. The senior officials who attended the meeting will facilitate the collection of the information and advise their Secretarial officers of the need for their involvement.

We also learned this week (from Wendy Zenker) that GAO plans to include the Census 2000 as a new "high risk" area. GAO will be issuing an overall status report on high risk areas the week of February 10th (probable testimony on February 12). We have indicated an interest in a briefing GAO has offered to give us on this matter.

[Revised] Welfare Reform

Joan Turek of HHS has initiated an informal interagency working group on changes required in national level surveys in response to changes in welfare and health care programs. OIRA colleagues and several RMO staff members are participating in this working group, which met 3 times before the holidays and is scheduled to meet weekly in January and February. There has been some discussion about the need for OMB (SP) to lead an interagency group on this topic because needed changes are likely to be more extensive than the addition of a few questions to existing surveys.

A two day Conference on National Statistics on Health and Social Welfare Programs was hosted by the Committee on National Statistics on December 12-13. Several OIRA and RMO colleagues participated. The focus of the conference was information needed under welfare reform, implications for data collectors, and statistical and research issues. At the end of the conference, OMBs Chief Statistician agreed to provide leadership for an interagency committee to address the issues which were raised.

We are in the process of forming a two-tiered committee consisting of representatives of both data supplying and data using agencies. The higher level Oversight Committee will develop charters for Technical Coordinating Committees (TCC), make appointments to those committees, and review and adopt resulting recommendations. One of the TCCs will focus on Questionnaire Changes. This group will continue the work of Joan Tureks informal group to identify the changes needed to the questionnaires of current surveys (SIPP, CPS, and HIS). Another TCC may coordinate the work of the Federal agencies with the States, a third may take a long term view and consider how Federal surveys should be redesigned to achieve desired results most efficiently. We are currently developing a specific proposal for the interagency committee.

[Revised] OMB's Racial and Ethnic Categories.

The results of two major 1996 decennial census tests are being used to study the effects of suggested changes to OMBs Directive No. 15 on the quality and usefulness of data the Federal agencies collect on race and ethnicity. On December 5th, the Bureau of the Census released the findings from the March 1996 National Content Survey (NCS), a mail-out/mail back survey to a nationally representative sample of 90,000 households. Four panels in the NCS tested adding a multiracial category to the race question, placing the Hispanic origin question immediately before the race question, and a combination of these two changes. The key findings from the NCS are: (1) about one percent of persons reported as multiracial; (2) the multiracial category had no statistically significant effect on the proportions of persons reporting as Whites, Blacks, American Indians, or Asian and Pacific Islanders; (3) an apparent decline in the proportion of persons reporting as Asian and Pacific Islanders occurred in the panels with a multiracial category; (4) placing the Hispanic origin question before the race question significantly reduced the nonresponse to the Hispanic origin question; (5) placing the Hispanic origin question before a race question that did not include a multiracial option reduced reporting in the "other race" category and increased reporting of Hispanics in the White category.

The 1996 Race and Ethnic Targeted Test (RAETT), the second national test this year, is the primary test of alternative questions on race and Hispanic origin questions. The RAETT was mailed in June 1996 to 114,000 households in urban and rural areas of the country with different concentrations of racial and ethnic populations. The sample is expected to

represent Whites, Blacks, American Indians, Alaska Natives, Asians, Pacific Islanders, Hispanics, and persons who identify with more than one race. The seven experimental panels in RAETT provide tests of : a multiracial category; check-more-than-one approaches to reporting as multiracial; alternative sequencing of the race and Hispanic origin questions; combined race, Hispanic origin, and ancestry questions; a combined category for American Indians and Alaska Natives with a write-in line for tribe; a Native Hawaiian category; and several alternative terminologies and formats. The RAETT results are expected to be available in late April or early May 1997.

The RAETT results will be incorporated into the final report of the Research Working Group of OMBs Interagency Committee for Review of Racial and Ethnic Standards. Under the current schedule, the final report of the Working Group is expected to be available for review by the full Interagency Committee in mid-May 1997. We plan to publish the report and the Interagency Committees recommendations to OMB on Directive 15 for public comment in a mid-June Federal Register notice for public comment. OMB must announce its decision on the recommendations by no later than September 15, 1997, so that changes, if any, in the racial and ethnic data categories can be incorporated into the 2000 Census Dress Rehearsal questionnaire forms.

[Revised] Statistical Crosscut

At the statistical crosscut held November 22, 1996, the Director approved the recommended option to provide $58.25 million in FY 1998 add backs to improve the Federal statistical system. These add backs will support initiatives to address fundamental shortcomings in economic statistics ($3.1 million), to modernize our most basic industrial classification ($5 million), to institute a program that will provide far more timely and flexible demographic information ($19 million), to improve the CPI ($2.1 million), to provide statistical expertise for GPRA measurement problems ($3.55 million), and to preserve BLS programs to be cut at the decision level ($25.5 million).

At the Interagency Council on Statistical Policy meeting on December 11, the OIRA Administrator delivered the Directors message that the agencies of the Federal statistical system need to work toward development of a "virtual" statistical agency with the goal of restoring the U.S. statistical system to "world-class" status. On the whole the message was well received. A subcommittee of six agency heads has begun meeting with the Chief Statistician to identify areas that would benefit from greater interagency exchange and planning and to develop next steps to carry out coordinated efforts. At our first meeting, we identified three general areas for extending collaboration: what we collect (gaps, overlaps, etc.); statistical methods research; and technological innovation. We are currently reviewing agency strategic plans and developing an inventory of collaborative efforts underway. Our initial target is to identify a first set of initiatives by the spring of 1997 for consideration in formulating the FY 1999 budget.

[Revised] Standard Industrial Classification Revision

Since March 31, 1993, the Office of Management and Budget has published six Federal Register notices under Title 44 U.S.C. 3504 seeking public comment on various aspects of the development of the North American Industry Classification System (NAICS) --the new international industry classification being proposed to replace the current domestic Standard Industrial Classification (SIC) that was issued in 1987. On November 5, 1996, OMB published the seventh notice in the series, seeking public comment on OMBs Economic Classification Policy Committees (ECPC) final recommendations to OMB for NAICS, including

its classification principles, hierarchy, industry structure, and coding scheme. These recommendations reflect public and Federal agency comments on the previous Federal Register notices and have been carefully coordinated with the statistical agencies of Canada and Mexico, the other codevelopers of NAICS. At an international ceremony in Ottawa on December 10, 1996, the heads of the three countries statistical services congratulated the NAICS development committees on completing their portions of the structural development process.

The closing date for comments was December 20, 1996. We received about 40 comments on NAICS ranging from wholehearted support (7) to opposition to the new system (3). Most (20) comments were about individual NAICS industries, with 2 letters (representing the views of 8 organizations) about insufficient codes for Office Furniture Manufacturing. Four comments express concern about the ECPCs proposed classification of auxiliaries. We are completing analysis of the public comments and are drafting the last notice in this revision cycle for the 1997 NAICS in consultation with the ECPC as well as Canada and Mexico.

We have received a draft text of portions of the new NAICS manual. The proposed format varies considerably from that of the current manual. We are undertaking a review of the advantages and disadvantages of this new format in consultation with the ECPC and users and are exploring various options for its publication. As part of the publication preparations, we have asked both the Government Printing Office and the National Technical Information Service to submit proposals for publication and dissemination of hard copy and electronic versions of the 1997 NAICS manual.

[Revised] One-Stop Shopping for Federal Statistics

The Task Force on One-Stop Shopping for Federal Statistics has made considerable progress in developing a prototype for a single point of access that will make our decentralized statistical system more transparent and easier for the public to use. Major statistical agencies have appointed a liaison for the one-stop site. The liaisons will suggest improvements and consider options to provide continuing content, technical, and financial support for the site. The one-stop shopping development site prototype may be visited at www.census.gov/fedstat/www/. We have obtained a new domain name so that when we publicly launch the site it will have its own address at www.fedstats.gov. The Task Force is now exploring available options to obtain the copyright to this domain name. The Task Force has developed several icons for the one-stop site and will ask the Interagency Council on Statistical Policy (ICSP) to select one as the official logo. Current plans call for the selected logo also to be copyrighted.

An interagency agreement to provide long-term support for the one-stop site was approved by the ICSP at its December 11 meeting and signed by the agency heads at the January 15 ICSP meeting.

[Revised] Boskin Commission Report on the CPI

The Senate Finance Committee's Advisory Commission To Study the Consumer Price Index, chaired by Stanford University economist Michael Boskin, said in its final report released December 4 that the Federal Government should devise a new inflation measure that is a "true cost-of-living" measure. The panel also concluded that the current CPI overstates inflation by 1.1 percentage points because of various "biases" related, in part, to difficulties in quickly updating the market basket of goods and services and to adjusting for quality improvements.

The Administration has indicated its intention to thoroughly study the implications of the report before taking any action. Congressional comments indicate a desire to capture the budgetary rewards of changing but not without the cover that would be provided by a clear call to implement some change from the President. BLS has been spending substantial time briefing various Members of Congress in recent weeks, and will be testifying before several congressional committees. We expect testimony will arrive for OMB clearance in the next few days.

[Revised] Data on Families and Children

The Interagency Forum on Child and Family Statistics which has participants from across government as well as from partners in research organizations, is fostering coordination, collaboration, and integration of collection and reporting of Federal data on child and family issues and conditions. The Forum already has made substantial progress on a proposed Indicators of Child Well-Being report targeted for publication in the spring of 1997. The report will provide about two dozen indicators on young peoples family characteristics, economic security, health and health care, behaviors, and education; monitor these indicators over time; and stimulate improvements in information collection.

The Forums efforts have proven most timely in relation to the Domestic Policy Council initiative "Partnerships for Stronger Families" that is working to make the Federal Government a more responsive and supportive partner in efforts to implement comprehensive community- based initiatives to serve children and families. This week we met with Elaine Kamarck, Elena Kagan and HHS officials to discuss next steps including a possible Executive Order or other means to institutionalize the annual production of the indicators report.

*TO:John Hilley
CC:Elena Kagan
FROM:Jennifer Klein
DATE:7/10/97
RE:Child Care and Child Welfare Proposals

As you consider uses for the toabacco tax funds, you had asked for descriptions of our child welfare and child care priorities.

1.Child Welfare

The Administration has stated its strong support for the House child welfare bill sponsored by Camp and Kennelly (H.R. 867). We would recommend supporting two additional provisions in the Senate bill sponsored by Chafee, Rockefeller, Jeffords and DeWine. The first proposal provides funds for services to resolve family problems that have caused the child to be placed in the foster care system as well as to develop alternative permanent arrangements for the child. The second provides grants to states to remove barriers to adoption. I have attached a more detailed description of these proposals.

2.Child Care

We are considering three child care proposals.

*The first would make the Dependent Care Tax Credit refundable for child care expenses so that it could be used by the lowest income working families and would increase the amount of credit available on a sliding scale to low and moderate income working families.

*The second would expand Healthy Start programs. This would link child care providers and health care providers to ensure that children are in safe, healthy and high quality environments. (We are waiting for more detail from HHS. Secretary Shalala prefers this option because she thinks the tobacco tax money should be used for initiatives closely tied to health care.)
*The third would provide funding for child care subsidies and create a quality incentive grant fund. It would: (1) increase child care development fund subsidies over the next five years to double the number of children served, reaching 2 million children by 2002; and (2) provide grants to states (with matching funds from the private sector) to improve the quality of child care for young children by modeling programs after the military system.

MEMORANDUM FOR ERSKINE BOWLES

FROM:Sally Katzen

SUBJECT:Heads-up on USDAs Final Rule on Regionalization

We are about to conclude review of a final USDA rule implementing part of the GATT agreement that will allow animal products to be imported from certain regions of countries that pose minimal risk of animal disease, despite the potential for higher risk of disease in other parts of that country.

Under current rules, export eligibility is determined on a national -- not regional -- basis. Countries with documented risks cannot export to the U.S. even from regions where there is no evidence of harm. With the new rules, countries applying to export animal products to the U.S. will be evaluated based on an assessment of the risk of transferring animal diseases from the particular region included.

Regrettably, the criteria for conducting the risk assessments are still being finalized, but USDA must issue the rule now to fulfill the Secretarys commitment to the European Union that final rules would be issued by October 1 of this year. Indeed, even before the rule was finalized, USDA issued individual rules allowing imports from specific regions (pork from Sonora, Mexico and beef from Argentina).

While the proposed rule (which took a very different approach) was heavily criticized by both our trading partners and the scientific community, this final rule is likely to be well received. The international community has been anxiously awaiting the rule and will welcome USDAs approach to allowing imports based on science.

Please let me know if you have any questions.

FFcc:Maria Echaveste
Rahm Emanuel
John Hilley
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
Bruce Reed
Gene Sperling
Elena Kagan
Victoria Radd
Dan Turullo
Kathy Wallman
T.J. Glauthier
Larry Haas

MEMORANDUM FOR LEON PANETTA

FROM: Sally Katzen
Kitty Higgins
Katie McGinty

SUBJECT: Reg Reform Legislation

Toward the end of last year, we found ourselves in a position where it appeared likely that the Senate would not pass any reg reform legislation. The Administration articulated a "high bar" we would insist upon before we could sign a bill. The end result was that the session finished without any legislation. That was last year.

This year, the landscape has shifted somewhat, with forces on both sides of the aisle pushing towards some type of bill. Senate Democrats have continued drafting, meeting with each other (as well as outside groups, principally business), and redrafting. And the Republicans have again made reg reform one of their major agenda items for the year (see Lotts recent remarks to the Chamber of Commerce). In light of this activity, and the belief that there is a strong possibility that there will be a bill this year, we need to decide what our role should be. The main players on the Democratic side are Levin, who is working with Daschles blessing to craft a bipartisan bill that can get a large number of Democratic votes; Johnston, who is attempting to reestablish himself as the Democratic point man on the issue (and is in close contact with business); and Robb, who is speaking with both and has never abandoned his desire for a bill.

Weve had several meetings within the complex, and with the chiefs of staffs of the most affected agencies, to discuss the following questions:

*Should we be engaged in the discussions?

*If so, at what point, in what manner, and to what end?

Sally, who has the lead on substance, has an interagency group in place that provides input. Before we move along this path, however, we need a high level decision on these threshold questions. Given the agencies reaction to last years decision-making process, it is important to provide a meaningful opportunity for cabinet members or under-secretaries from the most affected agencies to provide their input before you or the President makes a final decision. There are real and strongly held differences of opinion on the threshold questions. Accordingly, we suggest that you have such a meeting, at which you should solicit their views of the political situation (and the strategies that flow from this) as well as what they think are the two or three most important substantive points for their agencies (for example, the petition process, decisional criteria, and judicial review have been our most important issues).

Recommendation:

___ We should have a meeting

___ We should not have a meeting

___ Lets discuss

CC:Alice Rivlin
Laura Tyson/Ellen Seidman
Pat Griffin/Tracey Thornton
Jack Quinn/Elena Kagan
Joe Steiglitz/Mike Toman
Jack Gibbons/Tim Newell
Ron Klain/Linda Lance
Mike Fitzpatrick
Wes Warren
Kris Balderston

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Sally Katzen

SUBJECT:Heads-up on OSHAs Final Rule on Respirators

We are about to conclude review of a final DOL/OSHA rule that updates current OSHA standards on the use of respirators (which are used on the job by about 5 million U.S. workers). The new standards require employers to (1) create a written respirator program and (2) take certain actions with respect to the safe and effective use of respirators, including the respirators selected, training provided, testing conducted, medical assessments to ensure appropriate use, and proper maintenance. While the rule is expected to impose annual costs on employers of $111 million, including 10 million hours of paperwork burdens, OSHA estimates that the new standard will save between 200-2,200 lives and avoid 400-18,300 injuries and illnesses each year.

Reactions to the rule are expected to be generally favorable. Large employers should not object to the new standard and, in fact, should appreciate a number of simplifying changes made by the rule; labor unions and companies in the safety equipment industry will also be supportive. Criticism of the new standard is expected from small employers who do not already have a comprehensive respirator-use program and who object to the new burdens and costs imposed. To ease burdens on small businesses, OSHA has delayed the effective dates and is developing a small business compliance guide.

Please let me know if you have any questions.

cc:Maria Echaveste
Rahm Emanuel
John Hilley
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
Bruce Reed
Gene Sperling
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Josh Gotbaum
Larry Haas

Budget Rollout: Six Priority Areas
Education, Health Care, Child Care, Tobacco, Environment and IMF

In February and March, we plan to execute a coordinated rollout of six components of the Presidents FY99 budget: education; health care; child care; tobacco; environment, and IMF. A separate budget team, comprised of White House offices and agencies, will lead each of these efforts. These teams will meet weekly to plan press events, outreach, and other activities designed to gain support for Presidential initiatives.

Offices involved in this rollout include the NEC, DPC, OMB, Public Liaison, the Press Office, NSC, Intergovernmental Affairs, Cabinet Affairs, CEQ, Communications, Legislative Affairs, the First Ladys office, and others. Agencies include Education, Health and Human Services, Treasury, Labor, EPA, Interior, and USTR.

Schedule:February 10White House meeting with team leaders
February 11-13Separate meetings for each of six teams
Week of February 16Meetings continue for six teams

Education
Bob Shireman/Michael Cohen

As a kickoff, the Vice President will likely be releasing a state-by-state analysis of the school modernization proposal on Wednesday, February 11, just as he and the President did last year. One of the principals could also celebrate the first sale/use of Rangel bonds.

*Campaign for Higher Education. The President or Vice President could conduct an event announcing that they are embarking on an 18-month campaign to tell Americans that "every American can go to college." Since student aid has been expanded so much, every American is now eligible for some help to go to college. There is $15 million in the FY99 budget to undertake this informational campaign.

*Dropout Conference. The President could announce that the White House will host a formal Conference on Staying in School, following up on the Hispanic Education Action Plan, which was announced by the Vice President on February 2 and is a component our the Presidents budget.

*High Hopes. Following up on the major mentoring event of February 4, the President could announce a prominent foundation's large commitment to the program. (There is significant interest already).

*America Reads. To continue raising the profile of the America Reads initiative, the White House could conduct an event highlighting Read Across America, which will kick-off on Dr. Seusss birthday on March 2; announce a summer campaign for reading; and celebrate the 1000th college to commit to dedicate work-study students to America Reads

Health Care
Chris Jennings

Several of the health components of the budget are already on the calendar, with a tobacco event on February 13, a childrens health event on February 17, a quality event on February 20 and a race and health event on February 23. Additional ideas include:

*Unveiling pre-65 legislation. Senator Moynihan is considering introducing this legislation, and he may pick up some Republican co-sponsors. There could be an event surrounding the unveiling of this legislation in the next few weeks.

*Pre-65 groups event. We are encouraging AARP and other groups to identify people helped by our policies and describe their stories at an event, maybe outside of Washington, that the President could attend in the next month or so.

*Beneficiary involvement in Medicare fraud detection. In March, the AARP kicks off a beneficiary education project on Medicare fraud. By then, we will have put the HHS hot line for reporting fraud on all Medicare claims and also be close to implementing a beneficiary incentive program for detecting fraud. The President could commit to going to educational sessions, appearing in PSAs, etc. in this public-private effort.

*Follow-up kids' health outreach event. The 17th will focus on the new children's health program state plan approvals, budget policies, foundation contributions, and private sector efforts. We are beginning to explore the feasibility of having a nationwide 1-800 number, public service announcements, and getting interested Hollywood types to begin working on this, for a possible event in March or April.

Child Care
Jen Klein

Tobacco
Elena Kagan

Environment
Katie McGinty

IMF
Jake Siewert/Tony Blinken

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

19-Jul-1996 10:32am

TO: (See Below)

FROM: Lyndell Hogan
Domestic Policy Council

SUBJECT: RU-486 Talking Points Re: Today's Hearing

M E M O R A N D U M

To:Distribution
From:Lyn Hogan
Date:July 19, 1996
Re:Q&A For Mifepristone (RU-486) Hearing

Please refer questions about the FDA process to Jim O'Hara, 301-443-1130, at FDA Public Affairs.

Background

Today, Friday, July 19, the FDA's Reproductive Health Drugs Advisory Committee will consider data submitted by the Population Council as part of a New Drug Application (NDA) for Mifepristone. FDA routinely refers NDAs to this Advisory Committee and asks the panel for a recommendation on the drug's safety and efficacy.

Mifepristone, commonly referred to as RU-486, is an effective, non-surgical method of early abortion that has been in use since 1981. The drug was approved for use in France, Great Britain and Sweden following extensive clinical trials that demonstrated its safety and efficacy.

During the Bush Administration, the FDA issued an import alert which helped ensure that mifepristone would not be available in the United States for any purpose.

On January 22, 1993 the President issued an executive order that directed the FDA to reassess whether mifepristone qualified for importation.

1) What is expected to happen at today's FDA hearing?

Today, Friday, July 19, the FDA's Reproductive Health Drugs Advisory Committee will consider data submitted by the U.S.-based Population Council as part of a New Drug Application (NDA) for Mifepristone.

FDA routinely refers NDAs to this Advisory Committee and asks the panel for a recommendation on the safety and efficacy of the drug. Today's advisory committee is the usual next step in the review process of the marketing application.

There will not be a decision on Mifepristone in 1996.

FF

2) What official action has the President taken to date regarding RU-486?

January 22, 1993 the President issued an executive order that:

?Directed the FDA to reassess whether Mifepristone qualified for importation under FDA's personal use import policy;
?Said that if the FDA concluded Mifepristone meets the criteria for personal use importation exemption, Sec. Shalala should rescind the Import Alert 66-47; and
? Ordered HHS to assess initiatives to promote the testing, licensing, and manufacturing in the U.S. of Mifepristone.

3) Prior to this hearing, what has the FDA concluded?
In July 1993, the FDA concluded that Mifepristone is not an appropriate candidate for the FDA's personal use policy governing the importation of unapproved new drugs.

In its assessment, FDA determined that the distribution of Mifepristone is very tightly controlled in the UK, France, and Sweden, where it is approved. The strictly regulated administration of mifepristone in those countries suggests that it may not be able to be safely taken without careful medical supervision and controls.

4) Since the FDA ruled that this drug is not safe for personal use, why are they continuing with regulatory hearings?

The FDA believes the drug can be taken safely with careful medical supervision and controls, and therefore, in routine fashion, has referred the New Drug Application to this Advisory Committee to ask the panel for a recommendation on the safety and efficacy of the drug.

5) How can we be sure the FDA process is a fair, objective process?

? The FDA advisory committee is a nonpartisan, objective committee comprised of scientists and doctors from outside the FDA.
? The process for approving New Drug Applications is based in science and medicine.

? The FDA is giving mifepristone a straightforward, honest review and will make their decision on the basis of whether this drug is safe for American women.

? The FDA follows well established procedures to assess independently all published studies and data, including those from other countries.

? Voting members of the FDA Advisory Committees are subject to conflict of interest laws and regulations governing federal employees and Advisory Committee members are required to have diverse professional education, training, and experience.

6) I understand that two members on the review panel were forced to resign because of pressure from right-to-life groups. Is this true?

This is a rumor and is inaccurate. Two members on the panel had conflicts of interest so were recused.

7) What are the pro-life groups and pro-choice groups saying about RU-486?

Pro-Life

On July 18, pro-life groups held a press conference on the FDA hearings.

The Family Research Council (FRC) lead by Gary Bauer issued a statement calling on the FDA not to approve RU-486 due to ethical considerations. In the statement, the FRC questioned the drug's safety and efficacy.

At the same time, the FRC accused the FDA of attempting to circumvent its own approval statutes that ensure safe and effective drugs for the sake of the lives and safety of women and children.

Other pro-life organizations claim RU-486 has long-term health risks for mothers and children.

Last summer a pro-life group, Americans United For Life, and other abortion opponents, submitted a Citizen's Petition to the FDA opposing approval of mifepristone. They did so before the clinical trials were over and before the extensive scientific data collected by the Population Council was submitted to the FDA.

Pro-Choice

Also on July 18, women's and reproductive health advocates held a press conference to call for approval of mifepristone. These groups called mifepristone a major medical advance for women and described its expected positive impact on the provision of women's health care services in this country.

The Feminist Majority is concerned that five Reproductive Health Advisory Committee members have demonstrated that they have a conflict of interest with the subject matter of the July 19 meeting concerning mifepristone, They expressed their concern in a July 10 letter to FDA Commissioner David Kessler.

8) Why does the Population Council hold the U.S. patent on mifepristone?

Roussel Uclaf, a French subsidiary of the German company, held two United States patents for its product, Mifepristone. On May 16, 1994 Rousell Uclaf, at the encouragement of the Clinton Administration, donated its United States patent rights for mifepristone to the U.S.-based Population Council, a not-for-profit organization, to allow the Population Council to begin the necessary steps to bring Mifepristone to market in this country. U.S. clinical trials conducted by the Population Council were completed in September 1995.

Distribution:

TO: Jeremy D. Benami
TO: Martha Foley
TO: Elena Kagan
TO: George Stephanopoulos
TO: Deborah L. Fine
TO: Todd Stern
TO: Betsy Myers
TO: Peter Jacoby
TO: Carol H. Rasco
TO: Nancy-Ann E. Min
TO: Marilyn Yager
TO: Elizabeth E. Drye
TO: Douglas B. Sosnik
TO: Karen L. Hancox
TO: Jennifer L. Klein
TO: Katharine M. Button
TO: Barbara C. Chow
TO: Kathleen D. Hendrix
TO: Evelyn S. Lieberman
TO: Kevin Moran
TO: Victoria L. Radd
TO: Michael McCurry
TO: Barry Toiv
TO: Mary Ellen Glynn

00*

June 24, 1996
(Senate)

S. 1219 - Senate Campaign Finance Reform Act of 1996

(McCain (R) Arizona and 4 cosponsors)

The Administration strongly supports Senate passage of S. 1219, as amended by the Senate on June 20th.

This bipartisan legislation includes many proposals that have been endorsed by the President since 1992. It will limit campaign spending, provide free and discounted broadcast time to candidates for Federal office, curb the influence of political action committees and lobbyists, and put an end to the "soft money" system. S. 1219 will open the political process and shift power from special interests to ordinary citizens.

[The Department of Justice, in a June [24th/25th] letter to _____, has suggested how certain provisions of S. 1219 could be strengthened against potential constitutional challenge.]

* * * * *

(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy (SAP) was developed by the Legislative Reference Division (Johnson) in coordination with the Departments of Justice (Silas) and the Treasury (Dorsey), the Federal Election Commission (Surina), the Office of Government Ethics (Ley), White House Counsel (Kagan), Domestic Policy Council (Weinstein), White House Political Affairs (Hancox), White House Legislative Affairs (Weber), VAPD (Long, McCormick), HRD (VanWie), BRCD (Fairhall), and BASD (Stigile).

Commerce, FCC, HTF, and GC did not respond to our request for views on this SAP.

Elena Kagan of the White House Counsels office has asked that she be checked with before

this SAP is sent to the Senate, so that she can verify that Jack Quinn has personally approved it.

The United States Postal Service (USPS) objects to the SAP and to the bill because of the requirement (described below) for postal subsidies to qualified candidates. USPS has previously testified in opposition to S. 1219 and has characterized the subsidy requirement as an "unfunded mandate" on its customers that could cost "well over $50 million per election."

Status of Senate Floor Action on S. 1219

On June 20th, the Senate began consideration of S. 1219 and, by unanimous consent, adopted for consideration an amendment in the nature of a substitute (described below). A cloture vote on S. 1219 (as amended by the substitute) is scheduled for June 25th at 2:15 p.m.

Administration Position to Date

The President referred favorably to S. 1219 in his February 17th radio address to the Nation. He stated that, as a candidate in 1992, he supported spending limits, curbing the influence of PACs and lobbyists, and an end to the soft money system. He called on Congress to pass a bipartisan campaign finance reform bill.

Constitutional Issues

The Department of Justice expects to transmit to Congress on June 24th a letter recommending amendments to S. 1219 to strengthen the bill against constitutional challenge. LRD has not yet received the letter for clearance.

Background

The Revenue Act of 1971 initiated public funding of presidential general elections. Funding was later extended to presidential primaries and nominating conventions by the Federal Election Campaign Act (FECA) of 1971. The FECA and subsequent amendments imposed limits on contributions, required uniform disclosure of campaign receipts and expenditures, and established the Federal Election Commission (FEC) as the central administrative and enforcement agency.

S. 1219 addresses congressional campaign finance. Its proponents are concerned about the increasing costs of congressional campaigns, the influence of special interest groups, and the fundraising advantages of incumbents. The principal focus of S. 1219 is on Senate campaigns. (In recent years, Senate campaign finance bills have addressed Senate campaigns, House bills have addressed House campaigns, and the two have been joined in conference.)

Major Provisions of S. 1219 as Amended on June 20th

--Voluntary Spending Limits

S. 1219 would establish voluntary Senate election spending limits. Candidates who comply with the limits and meet other requirements would be eligible for the broadcast and postal benefits described below.

Election expenditures by a Senate candidate or the candidates authorized committee could not exceed:

*for general elections, an amount based on State voting-age population, ranging from $950,000 to $5,500,000;

*for primary elections, the lesser of 67 percent of the general election expenditure limit or $2,750,000;

*for runoff elections, 20 percent of the general election expenditure limit; and

*for election expenditures from the candidates personal funds (including certain loans), $250,000 or 10 percent of the general election expenditure limit.

A candidate who complies with the spending limits and runs against a candidate who does not comply is allowed to: (1) increase his or her spending limits according to a formula in the bill; and (2) receive contributions from individuals of up to $2,000 per individual (instead of the $1,000 allowed under current law).

The bill also provides for inflation adjustments to the spending limits.

--Benefits

Free Broadcast Time. Under S. 1219, a candidate who has qualified for the general election and adheres to the spending limits above is entitled to receive 30 minutes of free broadcast time from stations within or adjacent to his or her State. Where there are more than two candidates, the bill provides for a total of 60 minutes of free broadcast time to be allocated among the candidates according to a formula.

Unless the candidate chooses otherwise, the time made available for broadcasting must be between 6:00 p.m. and 10:00 p.m. on any weekday. The length of each individual broadcast must be between 30 seconds and 5 minutes. A candidate may not request more than 15 minutes of free time from any one broadcasting station.

Reduced Broadcast Rates. Under S. 1219, eligible candidates are entitled to receive reduced television broadcast rates during the 30-day period prior to the primary election and the 60-day period prior to a general or special election. The maximum rate would be half of the stations lowest charge for an equal amount of time, for the same period on the same date.

Postal Subsidies. Eligible candidates are entitled to send two pieces of mail to each voting age resident at the lowest third class, non-profit bulk rate.

--Political Action Committees (PACs)

The bill prohibits candidates from accepting contributions from PACs and limits contributors to individuals and political committees. Political committees are defined as: (1) the principal campaign committee of a candidate; (2) any national, state, or district committee of a political party; and (3) some local committees of a political party. The bill provides that if this provision is held unconstitutional, PAC contributions would be limited to the maximum individual contribution, $1,000. In addition, contributions from PACs to a candidate could not exceed 20 percent of the candidates total election spending

limit. (In 1976, the Supreme Court ruled in Buckley vs. Valeo that certain expenditure limits placed substantial restrictions on the First Amendment rights of candidates, citizens and associations.)

--"Soft Money"

The term "soft money" refers to money that may influence the outcome of Federal elections, but that is raised and spent outside the scope of Federal election laws. (Examples include corporate- or union-sponsored voter registration drives that identify a Federal candidate.)

Under S. 1219, each time individuals, unions, corporations, or partnerships raise "soft money" in excess of $10,000, they must file statements including the purpose of the disbursement to either the Secretary of the Senate or the Clerk of the House of Representatives, and the Secretary of State of the relevant State.

The bill generally prohibits national party committees from seeking, accepting, or spending soft money. In addition, during Federal election years, funds spent by State and local committees for any activity which could affect the outcome of a Federal election are subject to FECA limitations and reporting requirements. In general, both national and State committees of a political party must report all receipts and disbursements to the FEC.

--"Bundling"

The term "bundling" refers to the collection by an intermediary of individual checks for a candidate. Under S. 1219, contributions to a candidate made by an intermediary would generally be treated as a direct contribution from both the original contributor and the intermediary for purposes of contribution limits. In addition, the intermediary must report to the FEC the original source and the intended recipient of the contribution.

--In-State Contributions

To comply with the spending limits of S. 1219, a candidate or a candidates authorized committee must receive not less than 60 percent of the total dollar amount of contributions from individuals legally residing in the candidates State. (For small States, the candidate could opt for a requirement that 60 percent of the contributors be residents of their home State.) In specified circumstances, candidates would have to report to the FEC their in-State contributions and the names and addresses of persons who contribute at least $50 in a year.

--Other Provisions

Other provisions of S. 1219 would:

*Require certain "independent expenditures" (i.e., funds spent on direct communication with voters to advocate the election or defeat of a candidate without the cooperation or participation of a candidate) to be reported to the FEC. The bill would also increase the spending limits of candidates who had more than $10,000 in independent expenditures spent against them (or for their opponents).

*Restrict the use of campaign contributions to legitimate and verifiable campaign expenses and prohibit the use of these contributions for personal purposes.

*Require paid campaign advertising in all types of media to include a verbal, written and/or visual (photographic) identification of the candidate. In addition, broadcast or cablecast advertisements must include a verbal statement naming the person or group responsible for the advertisement.

*Establish contribution limits for "State party grassroots funds" that would support party-building activities that are not candidate-specific.

*Authorize the FEC to: (1) prescribe regulations for computer and facsimile reporting; and (2) conduct random post-election audits to ensure voluntary compliance with the FECA.

*Limit congressional use of the franking privilege during the year in which an incumbent is up for re-election. The bill states the "intent of Congress" that any savings realized from this limitation be designated to pay for the postal subsidies required by the bill.

*Allow court decisions on the constitutionality of provisions of S. 1219 to be appealed directly to the Supreme Court.

Pay-As-You-Go Scoring

According to BASD (Stigile), S. 1219 is subject to the pay-as-you-go requirements of the Omnibus Budget and Reconciliation Act of 1990 because of provisions providing for fines for FECA violations. An OMB pay-as-you-go estimate has not been completed but similar provisions are generally scored at zero. VAPD (McCormick) advises that the postal subsidy provision would score at zero because USPS could recoup the subsidies by increasing postage rates. No CBO estimate is available.

Legislative Reference Division

6/24/96 - 3:45 p.m.

STATEMENT OF ADMINISTRATION POLICY

TO:RAHM EMANUEL
LARRY STEIN
JOHN PODESTA
SYLVIA MATHEWS
GENE SPERLING
ELENA KAGAN
JANET MURGUIA
TRACY THORNTON
BOB SHIREMAN
MIKE COHEN
BRODERICK JOHNSON
EDDIE CORREIA
RON KLAIN
KEVIN MORAN

CC:ACTING DIRECTOR LEW
CHARLES KIEFFER
BARBARA CHOW

DATE:6/15/98
FROM:Kate Donovan, OMB Legislative Affairs
RE:FOR YOUR CLEARANCE -- Draft SAP for S. 1882 - Higher Education Amendments of 1998

Attached is a draft SAP on S. 1882 - Higher Education Amendments of 1998.

Position:Strongly Oppose.

Background:On May 6, 1998, the House passed H.R. 6, its counterpart to S. 1882, by a vote of 414-4. A SAP was released with a Presidents senior advisers veto recommendation (copy attached). On June 5, 1998, Secretary Riley sent a letter to members of the Senate objecting to the same provisions as in this draft SAP.

Timing:The Senate is expected to consider S. 1882 early this week. Therefore, we aim to send the SAP c.o.b. today, Monday (6/15). Please get comments/clearance to me (5-4790) by 4pm today. Thank you.

SCHEDULE PROPOSALDATE: September 17, 1997

_____ACCEPT _____REGRET _____PENDING

TO:Stephanie Streett

FROM:Bruce Lindsey
Gene Sperling

REQUEST:For an internal meeting between the President and his advisors to discuss securities litigation preemption, in advance of the Presidents trip to California.

PURPOSE:Portions of the business community, led by the high tech companies, are urging the Administration to support legislation that would expand the reach of the Private Securities Litigation Reform Act (the "Reform Act") by preempting most state securities law fraud claims. A bill to do this has over 80 sponsors in the House and a parallel bill is being drafted by Senator Dodd. Particularly given the Presidents veto of the underlying legislation, it is important that the Administration have a carefully crafted position on this issue.

BACKGROUND:During the first year after enactment of the Reform Act, plaintiffs lawyers filed a number of class action suits in state court to avoid the impact of some of the Reform Acts provisions, primarily the stronger pleading requirements and the discovery stay. At the same time, the Reform Acts safe harbor went largely unused. Although the trend toward state actions has reversed in 1997, business wants assurances that there will be a uniform national standard on issues relating to misrepresentations, and wants to do this by preempting the jurisdiction of state courts in these cases. The high tech community believes the Presidents August 1996 remarks that Proposition 211 would "undermine national laws" means he supports their efforts.

The SEC, as well as the groups that initially opposed the Reform Act, believe it is far too early to know whether there is need for further legislation. They are also concerned that a number of lower court decisions interpreting the Reform Act have been very pro-defendant, and are reluctant to expand the Acts reach -- by removing the state court "safety valve"-- unless and until those decisions are reversed.

PREVIOUS
PARTICIPATION:The President held a series of meetings with his advisors on the Reform Act prior to vetoing the bill in late 1995. He was also briefed on the issue, including the question of attempts by the states to avoid the impact of the Act (Proposition 211), prior to a visit to California in August 1996.
DATE AND TIME:Prior to the Presidents trip to California, as he is likely to be asked his position on this legislation.

DURATION:One-half hour.

LOCATION:Oval Office

PARTICIPANTS:Erskine Bowles
John Podesta
Bruce Lindsey
Gene Sperling

Janet Yellin
Frank Raines
John Hilley
Ron Klain
Don Gips
Lisa Brown
Elena Kagan
Ellen Seidman
Paul Carey
Dan Tate

OUTLINE OF
EVENTS:Meeting

REMARKS
REQUIRED:None

MEDIA
COVERAGE:None

FIRST LADY'S
ATTENDANCE:Not required.

VICE PRESIDENT'S
ATTENDANCE:Not required.

SECOND LADY's
ATTENDANCE:Not required.

RECOMMENDED
BY:Bruce Lindsey
Gene Sperling

CONTACT:Ellen Seidman, 456-5359

SCHEDULE PROPOSALDATE: September 15, 1997

_____ACCEPT _____REGRET _____PENDING

TO:Stephanie Streett

FROM:Bruce Lindsey
Gene Sperling

REQUEST:For an internal meeting between the President and his advisors to discuss and reach a position on Senator Rockefellers and Mr. Dingells separate proposals on product liability reform.

PURPOSE:Both the House and the Senate are likely to take this bill up before they recess, and Senator Rockefeller -- whose proposal comes quite far toward the Administrations position -- is eager to have the Administrations support, as he believes he can ensure Senate passage of his bill if it has Administration support. Mr. Dingell and Mr. Armey are also pressing for our position.

BACKGROUND:Following an internal meeting on July 23, at which the President established the Administrations position on this issue, we have held a series of meetings with Rockefeller and Dingell staff and, at times, the Members. On September 5, Senator Rockefeller presented us a proposal that adopts the Administrations position on several liability for non-economic damages (i.e., there is no provision); limits the statute of repose to durable goods in the workplace covered by workers compensation; and has no large business cap on punitive damages. On the other hand, the Senators bill would not require punitive damages to be allowed in the seven states (including Washington state) that generally do not allow them, and has several more minor problems. In addition, Senator Rockefeller did not adopt our proposed position on limiting protective orders, the most consumer-friendly part of our proposal. While the Senators staff has indicated he would fix most of the minor problems, including tightening the small business cap on punitives, he will not move on requiring all states to allow punitives, and is unlikely to add the protective order provision without a lot more prodding. Mr. Dingells position is less defined, but he would include a firm 18-year statute of repose for all goods, which Senator Rockefeller will not support.

PREVIOUS
PARTICIPATION:The President met with his advisors on this issue on July 23.

DATE AND TIME:Should be early this week. If we are to come to agreement with Senator Rockefeller, the time is quite short to make that effective. Otherwise, we may face Rockefeller supporting a bill the President will not want to sign, and the need to veto it once again.

DURATION:One-half hour.

LOCATION:Oval Office

PARTICIPANTS:Erskine Bowles
Bruce Lindsey

Gene Sperling
Janet Yellin
Frank Raines
John Hilley
Ron Klain
Elena Kagan
Ellen Seidman
Peter Jacoby
Tracey Thornton

OUTLINE OF
EVENTS:Meeting

REMARKS
REQUIRED:None

MEDIA
COVERAGE:None

FIRST LADY'S
ATTENDANCE:Not required.

VICE PRESIDENT'S
ATTENDANCE:Not required.

SECOND LADY's
ATTENDANCE:Not required.

RECOMMENDED
BY:Bruce Lindsey
Gene Sperling

CONTACT:Ellen Seidman, 456-5359

SCHEDULE PROPOSALDATE: September 15, 1997

_____ACCEPT _____REGRET _____PENDING

TO:Stephanie Streett

FROM:Bruce Lindsey
Gene Sperling

REQUEST:For an internal meeting between the President and his advisors to discuss and reach a position on Senator Rockefellers and Mr. Dingells separate proposals on product liability reform.

PURPOSE:Both the House and the Senate are likely to take this bill up before they recess, and Senator Rockefeller -- whose proposal comes quite far toward the Administrations position -- is eager to have the Administrations support, as he believes he can ensure Senate passage of his bill if it has Administration support. Mr. Dingell and Mr. Armey are also pressing for our position.

BACKGROUND:Following an internal meeting on July 23, at which the President established the Administrations position on this issue, we have held a series of meetings with Rockefeller and Dingell staff and, at times, the Members. On September 5, Senator Rockefeller presented us a proposal that adopts the Administrations position on several liability for non-economic damages (i.e., there is no provision); limits the statute of repose to durable goods in the workplace covered by workers compensation; and has no large business cap on punitive damages. On the other hand, the Senators bill would not require punitive damages to be allowed in the seven states (including Washington state) that generally do not allow them, and has several more minor problems. In addition, Senator Rockefeller did not adopt our proposed position on limiting protective orders, the most consumer-friendly part of our proposal. While the Senators staff has indicated he would fix most of the minor problems, including tightening the small business cap on punitives, he will not move on requiring all states to allow punitives, and is unlikely to add the protective order provision without a lot more prodding. Mr. Dingells position is less defined, but he would include a firm 18-year statute of repose for all goods, which Senator Rockefeller will not support.

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OUTLINE OF
EVENTS:Meeting

REMARKS
REQUIRED:None

MEDIA
COVERAGE:None

FIRST LADY'S
ATTENDANCE:Not required.

VICE PRESIDENT'S
ATTENDANCE:Not required.

SECOND LADY's
ATTENDANCE:Not required.

RECOMMENDED
BY:Bruce Lindsey
Gene Sperling

CONTACT:Ellen Seidman, 456-5359

MEMORANDUM

TO: TOM FREEDMAN, MICHAEL COHEN

CC: ELENA KAGAN

FROM: JULIE MIKUTA

RE: SAN DIEGOS CHARTER SCHOOLS

DATE: JUNE 12, 1997

SUMMARY

San Diego has eight functioning charter schools (as of 1/10/97), which is more than any other district in California except LA (see attached list of schools). President Clinton spoke at OFarrell Community School on 9/22/95 (see attached description of OFarrell). He praised it and schools like it as "the envy of a nation" [San Diego Union-Tribune, 9/23/95].

SUPPORT/ OPPOSITION WITHIN CALIFORNIA

Gov Wilson is very supportive of charter schools. In 1992, he signed legislation allowing for up to 100 of Californias 7,700 public schools to convert to charter school status.

Teachers unions have been in adamant opposition to charter schools.

In May, 1996, Gov Wilson endorsed six pending bills that would raise or abolish the cap on the number of charter schools and allow entire school districts to propose local charters.

STATE SURVEY OF CHARTER SCHOOLS CITED 3 IN SAN DIEGO AS GOOD EXAMPLES

A report done by the Little Hoover Commission, a state watchdog agency, cited these San Diego charter schools as good examples: Darnall E-Campus; OFarrell Community School; and Academy High School in Vista. The Charter School of San Diego was mentioned for targeting students who are not doing well in the regular school system [San Diego Union-Tribune, 3/8/96].

OFarrell is recognized as one of the most innovative and successful middle-level schools in the country [Vice-President, Board of Education, San Diego Unified School District in Letter to Editor, San Diego Union-Tribune, 10/12/95].

0.00.

September 18, 1998

MEMORANDUM FOR ELENA KAGAN AND SALLY KATZEN

FROM:JULIE FERNANDES and CECILIA ROUSE

RE:AMENDED WYDEN-GRAHAM AGRICULTURAL GUESTWORKERS BILL

As you know, Senators Wyden and Graham have put forward a series of changes to their bill to reform the H-2A agricultural guestworker program. On Friday morning, you will be meeting with staff of Senators Ron Wyden (D-OR), Bob Graham (D-FL), Edward Kennedy (D-MA), and Dianne Feinstein (D-CA), and Representatives Howard Berman (D-CA), Sanford Bishop (D-GA), and Xavier Becerra (D-CA), to discuss where we are.

Though their new proposal does move in our direction in a few areas (e.g., it restores the requirement that growers reimburse workers for transportation; eliminates the provision that would have required reducing workers wages by 20% as an incentive to repatriate; adds a requirement that growers make a "good faith" effort to assist workers in utilizing the housing voucher), fundamental substantive objections remain. The following is a list of the most significant problems with the new Wyden-Graham proposal.

1.The bill would eliminate the current requirement that growers must conduct private market recruitment for workers, substituting a simple requirement to check a new and untested government-run "job registry".

The core of the Wyden-Graham bill remains the creation of a new "job registry" administered by the government. Under their bill, growers would need only to check this registry before employing H-2A workers. Thus, all responsibility for the recruitment of domestic farmworkers would shift to a new, untried, process for which the government and low-wage workers are entirely responsible. In addition, although this registry would take years to create and implement effectively, employers could begin to hire H-2A workers within 6 months of the enactment of the bill.

At last weeks meeting, there was some discussion about extending the start date for the use of the registry from six months to one year after the enactment of the bill. However, even if this change is made, it would not address the fundamental problems with the proposed registry: (1) that use of the registry would relieve the growers of any obligation to do positive recruitment; and (2) that the bill would require wholesale reliance on a method of recruitment that has not been shown to be effective.

2.The bill would erode U.S. worker wages.

The wage provisions of the Wyden-Graham bill have not changed. Under the current program, growers who employ H-2A workers are required to pay all their farmworkers the higher of the prevailing wage (equal to the average local wage for the crop) or an "adverse effect wage rate" (AEWR) (equal to the average statewide wage). The use of the AEWR reflects the fact that foreign workers (both undocumented and H-2A guestworkers) can sometimes dominate a local labor market and depress the local prevailing wage: in such a case, using a statewide

calculation (the AEWR) may be more appropriate. The Wyden-Graham bill caps the AEWR at 105% of the local prevailing wage. We continue to believe that this cap is not set high enough to compensate for the depression of wages in areas where there is a heavy reliance on foreign workers and not sufficiently high to attract new U.S. workers into agricultural employment.

In addition, the current proposal from Sens. Wyden and Graham does not include the much-discussed "user fee" (equal to 8 percent of the H-2A workers wage). Without this fee, the wage cost of hiring a U.S. workers remains 8 percent higher than hiring an H-2A worker.

3.The bill does not provide an adequate mechanism for housing foreign guestworkers.

Though the proposal continues to replace the requirement that growers provide housing with a requirement that the growers provide workers with a housing voucher, it now includes a requirement that growers make a "good faith" effort to locate housing for the worker. Though this minimal assistance obligation is an improvement, the fundamental obligation that the grower assure that workers are adequately housed would be eliminated. Also, though the Wyden-Graham proposal permits States to certify that there is inadequate housing for farmworkers (within one year of enactment of the bill), there is no requirement that States make an assessment of their rural housing stock and no incentive for them to do so. Further, even if such a certification is made by a State, the growers may still provide vouchers instead of housing for up to four additional years.

There are many areas (particularly in the West) where there simply is not an adequate supply of rural housing to meet the needs of farmworkers. This proposal does not address that. Rather, it gives a grower a minimum of five years after enactment of the bill to continue to use vouchers, regardless of the availability of adequate housing. Moreover, even with the "good faith" assistance by growers, it remains unrealistic to expect low-wage foreign migrant farmworkers to be able to secure housing using a federal voucher. Thus, many workers will likely end up without housing, or will overcrowd any available rental housing.

4.The bill would eliminate the requirement that growers guarantee part of the work offered to recruit U.S. and foreign workers.

This proposal continues to eliminate the requirement that growers guarantee 3/4 of the work offered to recruit U.S. and foreign farmworkers. Under current law, H-2A workers must be paid for at least 75% of the work contract period for which they were recruited, except when there is an "act of God." This "three-fourths guarantee" gives migrant workers some indication of their potential earnings and discourages employers from over-recruiting to secure a labor surplus and drive down wages. Though Wydens staff discussed trying to include a modified version of this requirement in their bill, their most recent proposal does not restore this protection. The elimination of the 3/4 guarantee would encourage growers to lure workers from hundreds or thousands of miles away with the promise of potentially high earnings without any obligation to fulfill any part of that promise. The change also could encourage growers to recruit more workers than they actually need to hedge against uncertainties.

The Wyden-Graham proposal would require H-2A workers to be covered under the Migrant and Seasonal Worker Protection Act (MSPA). Under MSPA, U.S. migrant farmworkers appear to enjoy a guarantee of 100% of the work contract period for which they were recruited. There is some internal dispute as to whether Wydens proposal to cover H-2A workers under MSPA

would mean that H-2A workers would enjoy a 100% work guarantee. No one on either Sen. Wydens or Sen. Grahams staff has claimed that this change would provide such a guarantee.

0.00.

September 18, 1998

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The core of the Wyden-Graham bill remains the creation of a new "job registry" administered by the government. Under their bill, growers would need only to check this registry before employing H-2A workers. Thus, all responsibility for the recruitment of domestic farmworkers would shift to a new, untried, process for which the government and low-wage workers are entirely responsible. In addition, although this registry would take years to create and implement effectively, employers could begin to hire H-2A workers within 6 months of the enactment of the bill.

At last weeks meeting, there was some discussion about extending the start date for the use of the registry from six months to one year after the enactment of the bill. However, even if this change is made, it would not address the fundamental problems with the proposed registry: (1) that use of the registry would relieve the growers of any obligation to do positive recruitment; (2) that the bill would require wholesale reliance on a method of recruitment that has not been shown to be effective; and (3) that even one year is likely not enough time for the registry to be implemented effectively.

2.The bill would erode U.S. worker wages.

The wage provisions of the Wyden-Graham bill have not changed. Under the current program, growers who employ H-2A workers are required to pay all their farmworkers the higher of the prevailing wage (equal to the average local wage for the crop) or an "adverse effect wage rate" (AEWR) (equal to the average statewide wage). The use of the AEWR reflects the fact that foreign workers (both undocumented and H-2A guestworkers) can sometimes dominate a local labor market and depress the local prevailing wage: in such a case, using a statewide

calculation (the AEWR) may be more appropriate. The Wyden-Graham bill caps the AEWR at 105% of the local prevailing wage. We continue to believe that this cap is not set high enough to compensate for the depression of wages in areas where there is a heavy reliance on foreign workers.

In addition, the current proposal from Sens. Wyden and Graham bill does not include the much-discussed "user fee" (equal to 8 percent of the H-2A workers wage). Without this fee, the wage cost of hiring a U.S. workers remains 8 percent higher than hiring an H-2A worker.

3.The bill does not provide an adequate mechanism for housing foreign guestworkers.

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As was outlined previously, there are many areas (particularly in the West) where there simply is not an adequate supply of rural housing to meet the needs of farmworkers. This proposal does not address that. Moreover, even with the "good faith" assistance by growers, it remains unrealistic to expect low-wage foreign migrant farmworkers to be able to secure housing using a federal voucher. Thus, many workers will likely end up without housing, or will overcrowd any available rental housing.

4.The bill would eliminate the requirement that growers guarantee part of the work offered to recruit U.S. and foreign workers.

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Presidential Advisory Council on HIV and AIDS

Services Committee Minutes

January 31, 1997

11:00 am

Present:Nicholas Bollman, Chair
Tonio Burgos
Joseph Edelheit
Patsy Fleming
Tom Henderson
Scott Hitt
Carol laFavor
Steve Lew
Daniel Montoya
Michael Rankin
Jason Wright

Absent:Stephen Abel
Regina Aragon
Mary Boland

1.Additions or deletions to the agenda

There are no additions or deletions.

2.General PACHA information to convey to the Committee

Patsy Fleming:SSS will be funded by HHS. The funding is satisfactory for the needs of the Council. The next meeting of the Council will be from April 5th (Saturday) to April 8th (Tuesday) at the Madison Hotel in Washington, DC. At a meeting arranged by Bruce Reed, she met with cabinet members including HHS, Education, and the Interior and head speech writer Michael Waldman to discuss the State of the Union Address and the inclusion of domestic policy issues in it. She had the chance to speak about the need to include AIDS language and gave a copy of some language to Michael Waldman. There is support for AIDS language in the State of the Union Address.

Daniel Montoya:He will send out information.

Joseph Edelheit:Because of the Sabbath, he requests that the most important sessions of the meeting of the Council not begin until Saturday afternoon.

Follow-up Activities:
(Please note: Committee members who have taken responsibility for an activity of Committee work, we identified as point persons.)

Leadership/Budget Recommendations:

Patsy Fleming:There are increases in the budget; however, they are not as large as past increases. The increases used the FY 1997 budget as the base, which was very good to begin with.

1)Ryan White, especially ADAP - Point Person: Bollman

Patsy Fleming:Almost everything will increase.

2)HOPWA - Point Person: Burgos (suggested)

Patsy Fleming:Almost everything will increase. HOPWA is protected categorically. The $25 million was reprogrammed into the base for 1997.

3)Medicaid/per capita cap - Point Person: Burgos

Patsy Fleming:President Clinton has proposed a Medicaid per capita cap. The Council should weigh in on the issue. There is no position on the issue from the Council.

Tonio Burgos:The NGA is preparing to send a letter to the President expressing their concern about the per capita cap. Governors of northeastern states are especially opposed to the per capita cap. The cap will pass on costs to county and local governments.

Mike Rankin:Governors of western states are also opposed to the cap.

ACTIONNOTE:A recommendation will be developed and presented at the April meeting.

4)Welfare reform/legal immigrants issues - Point Person on Welfare Reform: Isbell/Point Person on Legal Immigrants: Lew (suggested)

Patsy Fleming:President Clinton wants to make changes, but changes may be difficult because of resistance in Congress. She will try and obtain information on the proposed changes and timetable.

Native American recommendations - Point Persons: laFavor and Landau

Patsy Fleming:Native American issues will be discussed at the Roundtable on February 11, 1997, at the White House Conference Center. Relevant officials of the HHS and the Department of the Interior will be involved. A summary of the Roundtable discussion and recommendations will be sent out.

1)Reassess legislative intent re: Ryan White

Patsy Fleming:Joe O'Neill and Kathy Marconi are assessing the legislation.

2)IHS review of adequacy of access to prevention, care, and treatment

Patsy Fleming:Progress on the IHS review is slow.

3)Case management oversight guidelines

Access to Treatment

1)Standards of care - Point person: Abel

Patsy Fleming:There was a meeting on January 24, 1997. She was not at the meeting. A report will be forthcoming, and circulated tot he Committee (at the full Council meeting).

2)Cost of pharmaceuticals - Point Person: Bollman

Patsy Fleming:In the Office of the Vice President, there has not been action on the cost of pharmaceuticals, but there has been action on pharmaceuticals and children. It wants pharmaceutical companies to conduct tests on drugs for children as well as adults so that the drugs can be approved for children and adults simultaneously. The Office of the Vice President is working with the FDA as well as others such as the Pediatric AIDS Foundation.

3)"What if" dialogue - Point Person: Bollman

There is a movement to set up a "Keystone" process regarding the recommendation of the Council. The Office of the Vice President is interested, but it has not signed on to direct this effort.

4)HCFA and HRSA demos - Point Person: Bollman

Patsy Fleming:There has been no action. Jeff Levi had worked on the demos. She suggested that Nick Bollman contact Jeff Levi to discuss the status.

5)Disability Reform/Back To Work Issues - Point Person: Edelheit

There is work on health coverage policies under Medicare and Medicaid.

Daniel Montoya:He has talked with Diana Fortuna of the Domestic Policy Council staff responsible for this area. Any information available will be sent out as soon as it is available. There should be information around February 6th.

Joseph Edelheit:He is concerned about the definition of "disability."

ACTIONPatsy Fleming:There is a taskforce working on the redefinition. Diana Fortuna has been invited to the meeting of the Council in the past and should be invited for the April meeting. A table on the issue was sent out. One issue is the loss of benefits when someone returns to work.

Daniel Montoya:He will follow up with Diana Fortuna and work with Joseph Edelheit.

6)White House Advisory Council on Consumer Protection and Quality in Health

Patsy Fleming:The council will be appointed "soon." We have put forward names for the council. The point person will be determined later. Daniel Montoya will follow up.

Military clinical research program - Point Person: Henderson

President Clinton has asked for an increase for the DOD AIDS research program in the budget.

Michael Rankin:He has not heard anything about the program for a few weeks.

Tom Henderson:He has been working with Jim Bruce. He will send related correspondence sent by Jim Bruce to Daniel Montoya.

With the International Committee - Point Person To Be Determined

The issue is the access of developing countries to OI medications and other basic medications and medical interventions. The United States must play a leadership role in the issue of access.

Patsy Fleming:She has talked to UNAIDS. The issue is of great importance to her personally. There is nothing in the federal government on the issue. USAID has been concerned with prevention and care but not access. USAID should promote access. There is a need for coordination on this issue. There is a great deal of interest in many places although not in the federal government. We should work with the Department of State and/or USAID for action. Robert Fogel is preparing a letter to Undersecretary of State Tim Wirth and Acting National Security Advisor Sandy Berger. We should talk to Sally Shelton at UNAIDS. It will be harder to work with USAID than the Department of State. She suggests writing to Undersecretary Wirth.

Daniel Montoya:He asks that Tom Henderson talk with Robert Fogel about the issue.

With the Research Committee - Point Person: Rankin

The issue is medical marijuana. There is an editorial in the current New England Journal of Medicine. There is no recommendation from the Research Committee at this time.

Daniel Montoya:He will talk with Alexandra Levine.

2.New issues

Regina Aragon is taking a leave of absence of approximately nine months.
Daniel will touch base with her about her Council involvement and cc Peg Clark.

3.Schedule of conference calls and plans for April meeting

Daniel Montoya:He would like update reports from the point people.

Nicholas Bollman:He would like a to put these reports into a memorandum to the Council to be included in the materials sent for the April meeting.
Patsy Fleming:She has met with Bruce Reed, Assistant to the President for Domestic Policy and Elena Kagan Deputy Assistant to the President for Domestic Policy and will meet

with Sylvia Matthews. She would like to sensitize the new White House staff to AIDS issues. We should invite Bruce Reed to the April meeting of the Council, and/or a social event at the time of the April meeting.

M E M O R A N D U M

TO: BRUCE REED, ELENA KAGAN

FROM: TOM FREEDMAN, MARY L. SMITH

RE: EXECUTIVE ORDER ON SEXUAL ORIENTATION

DATE: JULY 15, 1997

SUMMARY

In response to your request to draft an executive order prohibiting discrimination regarding sexual orientation, enclosed is a draft executive order modifying Executive Order 11478 which concerns discrimination in the Federal Government.

There currently is no executive order concerning discrimination based on sexual orientation. As the result of an Office of Personnel Management recommendation, most of the agencies currently have explicit policies that prohibit discrimination based on sexual orientation, with the notable exceptions of the Department of Defense and NASA. Statutory authority seems to exist for prohibiting discrimination based on sexual orientation in the Civil Service Reform Act (CSRA), which covers certain federal employees.

Currently there are two bills on the Hill, one in the House and one in the Senate, that would prohibit discrimination based on sexual orientation.

STATE OF THE LAW

I. POLICY STATEMENTS

On March 10, 1997, OPM issued a recommendation to all agencies that they "issue a strong management statement which clearly defines the Federal Governments policy with regard to discrimination based on conduct which does not adversely affect the performance of employees or applicants for employment." The Federal Governments policy includes discrimination based on sexual orientation. The March 10, 1997 memo was a reiteration of two previous OPM memoranda that discussed the Federal Governments policy on discrimination in employment, one dated May 12, 1980, and one dated February 17, 1994. During President Clintons first term, most of the agencies complied with OPMs recommendation by issuing a policy statement prohibiting discrimination, explicitly including discrimination based on sexual orientation, with two notable exceptions. The Department of Defense appears to have taken no action to issue a policy statement. In addition, NASAs General Counsel explicitly refused to issue a policy because he believed that a policy statement was not necessary because employees were already adequately protected and to issue a new policy would elevate discrimination based on sexual orientation above other types of discrimination.

II. CIVIL SERVICE REFORM ACT

5 U.S.C. section 2302(b) states that "[a]ny employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority:

(10) discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining the suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, or the District of Columbia, or of the United States.

In a Civil Service Bulletin dated December 21, 1973, the Civil Service Commission stated:

You may not find a person unsuitable for Federal Employment merely because that person is a homosexual or has engaged in homosexual acts, nor may such exclusion be based on a conclusion that a homosexual person might bring the public service into contempt. You are, however, permitted to dismiss a person or find him or her unsuitable for Federal employment where the evidence establishes that such persons homosexual conduct affects job fitness --excluding from such consideration, however, unsubstantiated conclusions concerning possible embarrassment to the Federal service.

In Ashton v. Civiletti, 613 F.2d 923, 927 (D.C. Cir. 1979), the court cited the above bulletin as the policy "applicable to the great bulk of employees in the federal service."

In the May 12, 1980 OPM memorandum cited above, the Director of OPM elaborated on the Civil Service Reform Acts prohibition of discrimination based on non-job-related conduct by stating: "Thus, applicants and employees are to be protected against inquiries into, or actions based upon, non-job-related conduct, such as religious, community or social affiliations, or sexual orientation." In February 17,. 1994, OPM reiterated that the "1980 memorandum continues to reflect the Federal Governments longstanding policy on the matter of discrimination based on non-job-related conduct."

THE HILL

1.H.R. 1858 by Rep. Shays (R-CT) on 6-10-97 (150 cosponsors). EMPLOYMENT NON-DISCRIMINATION ACT OF 1997. This Act prohibits employment discrimination based on sexual orientation. The Act provides the remedies provided in Title VII of the Civil Rights Act of 1964 for aggrieved individuals. However, the Act does not apply to the provision of employee benefits.

2.S. 869 by Sen. Jeffords (R-VT) on 6-10-97(33 cosponsors). EMPLOYMENT NON-DISCRIMINATION ACT OF 1997. This Act is essentially the same as H.R. 1858 above.

3.S. 47 by Sen. Helms on 1-21-97. This bill prohibits the executive branch of the federal government from establishing an additional class of individuals that is protected against discrimination in federal employment other than those classes identified in the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

WHAT AGENCIES HAVE

*NASA refused to adopt a policy.
*The Department of Defense does not have a policy.
*Agencies that have adopted a policy of prohibiting discrimination based on sexual orientation: Department of Commerce, Department of Health and Human Services, Department of

Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of Treasury, Department of Veterans Affairs, Small Business Administration

OPTIONS

1.Modify Executive Order 11478 entitled "Equal employment opportunity in the federal government" to add sexual orientation as a category to Section 1.

PROS: This would be the most efficient method to include sexual orientation because E.O. 11478 already covers the topic of discrimination.

CONS: Sections 3 through 5 of E.O. 11478 discuss the EEOC. Title VII of the Civil Rights Act of 1964, 42 U.S.C. sec. 2000e, prohibits discrimination only on the basis of race, color, religion, sex or national origin. The Age Discrimination in Employment Act of 1967 prohibits discrimination on the basis of age. The Rehabilitation Act of 1973 prohibits discrimination on the basis of physical or mental disability. By adding "sexual orientation" to Section 1 of E.O. 11478, Section 1 will no longer mirror the classes of prohibited discrimination in Sections 3-5. Some persons may perceive that the President is trying to legislate via executive order.

2.Create a new executive order with only sexual orientation as a category of prohibited discrimination.

CONS: This may single out sexual orientation too much. Some persons may perceive that sexual orientation is entitled to greater protection than other types of discrimination.

January 22, 1996

MEMORANDUM FOR JANE SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

ELENA KAGAN
ASSOCIATE COUNSEL TO THE PRESIDENT

FROM:TERRY GOOD
OFFICE OF RECORDS MANAGEMENT

RE:SUBPOENA FOR DOCUMENTS

Attached are copies of various documents in response to your request for:
any and all documents and/or communications referring or relating to the location, efforts to locate, production, efforts to produce, whereabouts, or existence of documents referring or relating to: (a) legal representation provided by, legal work performed by, or Rose Law Firm compensation allocated to Hillary Rodham Clinton; or (b) legal representation provided to or legal work performed for Madison
Guaranty Savings & Loan.

STATEMENT OF ADMINISTRATION POLICY

TO:JACK LEW
SYLVIA MATHEWS
JOHN PODESTA
MARIA ECHAVESTE
LARRY STEIN
CHUCK BRAIN
LISA KOUNTOUPES
GENE SPERLING
ELENA KAGAN
KATIE MCGINTY
WESLEY WARREN
LYNN CUTLER
CHUCK KIEFFER
ELIZABETH GORE

DATE:8/4/98
FROM:Kate Donovan, OMB Legislative Affairs

RE:FOR YOUR CLEARANCE -- Draft Interior letter H.R. 4087/S. 1279 - To amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to emphasize the need for job creation on Indian reservations, and for other purposes.

POSITION:SECRETARY OF INTERIOR VETO RECOMMENDATION ON THE PROVISION TO SHIFT ADMINISTRATIVE RESPONSIBILITY FROM THE BUREAU OF INDIAN AFFAIRS TO THE OFFICE OF SELF-GOVERNANCE.

BACKGROUND:Interior sent a letter on S. 1279 to the Senate Indian Affairs committee on 3/31/98 with an "OPPOSE" position (copy attached). The Senate passed the bill on 6/18/98 by UC.

CLEARANCE:TJ Glauthier has approved.

TIMING:Interior aims to send the letter Wednesday morning to possibly get the bill pulled from future Committee action. Please review & provide comments/clearance to Kate Donovan at 5-4790. Thanks.

January 7, 1998

MEETING WITH CONGRESSIONAL DEMOCRATS

DATE:Thursday, January 8, 1998
LOCATION: Cabinet Room
TIME: 9:15 am-10:15 am
FROM: John Hilley

I.PURPOSE

This is an opportunity to elicit the views of Congressional Democrats on the use of the projected budget surplus and Social Security.

II.BACKGROUND

The projected unified surpluses are attracting increased attention, and a crucial part of your State of the Union address will be what you say about our approach to the unified surplus and to Social Security reform. Although our thinking on this subject has progressed significantly, the subject is extremely sensitive -- so we have not sounded out our likely allies and traditional supporters. At our meeting with you on Monday, you indicated that you wanted to meet with Congressional Democratic leaders regarding our potential proposal before having any further internal discussions. This meeting is intended to fulfill that request.

III.PARTICIPANTS

Pre-Brief (8:45 am-9:15 am-Oval Office)
The President
The Vice President
Secretary Rubin
Erskine Bowles
John Hilley
Gene Sperling
Frank Raines
Jack Lew
Larry Summers
Ken Apfel

Meeting (9:15 am-10:15 am-Cabinet Room)
The President
The Vice President
Secretary Rubin
Erskine Bowles
John Hilley

Gene Sperling
Frank Raines
Jack Lew
Larry Summers
Ken Apfel
Ron Klain
John Podesta
Sylvia Mathews
Janet Yellen
Rahm Emanuel
Paul Begala
Bruce Reed
Elena Kagan
Maria Echaveste
Martha Foley
Linda Robertson

MEMBERS CONFIRMED TO ATTEND:
Rep. Dick Gephardt (D-MO)
Sen. Byron Dorgan (D-ND)
Sen. Frank Lautenberg (D-NJ)
Rep. David Bonior (D-MI)
Rep. Charles Rangel (D-NY)
Rep. Sandy Levin (D-MI)
Rep. Vic Fazio (D-CA)
Rep. Earl Pomeroy (D-ND)
Rep. Cal Dooley (D-CA)
Rep. John Spratt (D-SC)
Rep. Bill Delahunt (D-MA)
Rep. Jim Davis (D-FL)

MEMBERS PENDING:
Sen. Barbara Mikulski (D-MD)
Sen. Paul Sarbanes (D-MD)
Sen. Ed Kennedy (D-MA)
Sen. Tom Harkin (D-IA)
Rep. Tim Roemer (D-IN)
Rep. John Tanner (D-TN)

MEMBERS INVITED BUT UNABLE TO ATTEND:
Sen. John Breaux (D-LA)
Sen. John Rockefeller (D-WV)
Sen. Daniel Moynihan (D-NY)
Sen. Joe Lieberman (D-CT)
Sen. Bob Kerrey (D-NE)
Sen. Kent Conrad (D-ND)
Sen. Tom Daschle (S-SD)
Sen. Chris Dodd (D-CT)
Sen. Bob Graham (D-FL)
Sen. Carol Mosely-Braun (D-IL)
Sen. Harry Reid (D-NV)
Rep. Xavier Becerra (D-CA)

Rep. Barbara Kennelly (D-CT)
Rep. Richie Neal (D-MA)
Rep. Ben Cardin (D-MD)
Rep. Chuck Stenholm (D-TX)
Rep. Steny Hoyer (D-MD)
Rep. Karen Thurman (D-FL)

IV. PRESS PLAN

Closed Press.

V. SEQUENCE OF EVENTS

As Usual.

VI. REMARKS

None.

VII. ATTACHMENTS

None.

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November 5, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Gene Sperling
Elena Kagan
Sally Katzen

SUBJECT: State of the Union/Budget Ideas

This memorandum provides a brief description of new ideas we are considering for the State of the Union. Some work has been done on fleshing them out, but many need additional work and further vetting through the interagency process. Most of these ideas involve increased spending, and you will have to make choices among them and/or scale them back as you consider the FY 2000 budget. Although our offices have worked together on many, if not most, of the ideas in this memo, we have noted, where possible, which of our offices has the lead role with respect to each proposal. Options relating to Social Security are not included in this memo.

EDUCATION AND TRAINING (DPC/NEC as specified)

1. Ending Social Promotion. Last years budget proposal included $200 million for Education Opportunity Zones in districts that agreed to remove bad teachers, turn around failing schools, and end social promotions. The proposal required authorization, which Congress will never give us. For next year, we recommend a simpler approach that uses existing authority and focuses entirely on ending social promotion. We would like to expand our after-school program from $200 million to $700 million and give a disproportionate share of this money to districts that end social promotion. These school districts could use the money (as Chicago does) to provide extra help after school and mandatory summer school for students who need it. (Cost: $300 million above FY99 budget.) (DPC)

2. Teacher Quality and Recruitment. Now that were on track to begin hiring 100,000 new teachers to reduce class size, we have an even greater responsibility to help communities attract talented new teachers to the profession. We envision a five-part strategy on teacher quality and recruitment: (1) a $100 million increase in the teacher recruitment scholarships we enacted this year in the Higher Education Act, which would put us on course to attract 60,000 new teachers at high-need schools over the next five years; (2) a $60 million initiative -- modeled after the successful Troops-to-Teachers program -- that would help states expand alternative certification routes and attract talented people from other professions, such as military personnel and employees in firms being downsized; (3) a nationwide crackdown on teacher education schools, including new regulations authorized by the Higher Education Act to require report cards for education schools; (4) a $50 million increase in the Eisenhower program to send secondary school teachers who teach outside their field back to college to take additional courses in the subjects theyre teaching, coupled with a new requirement that new secondary teachers pass competency tests in a subject before they can teach it; and (5) a high-profile effort to help states make the

most of the 15 percent set-aside for teacher quality in the recently passed class size legislation. (Cost: about $210 million above FY99 budget). We are also exploring a politically interesting counter to private school choice: vouchers for private school teachers -- i.e., an incentive program to encourage private school teachers to teach in public schools. (DPC)

3. Work-Site Schools. One of the most promising new education ideas sprouting up around the country is the creation of public schools at work sites, designed primarily to serve employees children. School districts provide the teachers and curriculum; companies provide facilities and upkeep. These schools-at-work serve a host of objectives at once, by (1) providing new facilities at no cost to the district; (2) increasing parental involvement in the schools and parental satisfaction in the workplace; (3) reducing employee turnover and absenteeism; and (4) increasing school diversity, because work sites are more diverse than residential neighborhoods. We propose a $100 million increase in an existing discretionary program to provide grants to 100 communities to launch work-site schools. We also could seek a stand-alone bill (like the charter school law) to advance this idea. In addition, we are working with Treasury to develop a tax credit for businesses that start on-site schools, similar to the Kohl business tax credit for on-site child care that is already in our budget. (Cost: $100 million for start-up grants. No estimate yet for tax credit, but it will be very small.) (DPC/NEC)

4. Public School Choice. As support grows for private school vouchers, we must continue our efforts to expand choices within the public schools. Charter schools are one answer, and we recommend a $20 million increase, to $120 million, to keep us on track to 3,000 charter schools by 2002. Work-site schools are another. We also recommend increased funding for (1) an existing grant program that helps urban and suburban school districts reduce racial isolation by forming interdistrict magnet programs; and (2) magnet schools on university campuses, especially in urban areas. (Cost: $25 million for interdistrict magnet programs; $15 million for 10 university-based schools.) (DPC)

5. School Leadership Academies. Research has shown that an effective principal is the single most important indicator of school success, yet little has been done at the national or state level to improve the management skills of principals. We propose a small initiative to create school leadership academies that would provide training in management, teacher evaluation, school discipline, and other areas to elementary school principals in high-poverty districts. (Cost: $50 million) (DPC)

6. Class size. To stay on course to reach 100,000 new teachers in seven years, we will ask for $1.3 billion in the FY2000 budget. We are planning an ambitious rollout of the class size initiative over the next year, as we award first-year funding, issue guidance to local districts on how the program works, and so on. We also will press Congress to restore the local matching requirement and strengthen the provisions to require competency testing of new teachers. (DPC)

7. Adult Literacy. According to the National Adult Literacy Survey, 44 million adults struggle with a job application, cannot read to their children, or are left on the welfare rolls because they lack basic skills. We are considering: (1) Workplace: a new tax credit and/or Federal grants to encourage employers to provide adult basic education classes at the worksite, and setting aside funds for work-based literacy projects within Welfare-to-Work competitive grants (se welfare section of this memo); (2) Community: expanding the infrastructure and funding for adult basic education through the Adult Education program, encouraging the development of programs focused on easing the transition

to the U.S. for new immigrants (through ESL and civics classes), subsidizing the provision of child care on college campuses and other adult education sites, and launching a national information campaign to make people aware of the problem of functional illiteracy and of available services; and (3) Home: using the new Learning Anytime Anywhere Partnerships to create software for adult basic education using $200 computers (e.g., WebTV, game players) and subsidizing public housing projects that create computer literacy programs. (NEC)

8. National Campaign to Open Doors of College. Notwithstanding enormous strides we have made in reducing the financial barriers to college, too many families assume college is more expensive than it really is and are not aware of the aid that is available (Even among low-income youth with high test scores, one-fourth say they have not been able to get much information about financial aid for college). We are planning: (1) launching a major national public information campaign about college costs and financial aid (e.g. naming a national chairman such as Bill Cosby, having a national college visit day, etc.), (2) building on the authority in the new GEAR UP program, providing every middle school (e.g. 7th grade counselor) with the ability to give students a "21st Century Scholar Certificate," indicating the financial aid that they are eligible for, and (3) seeking to provide every high-poverty middle school with a college partner. This does not require any new investment, just some focus and creativity. (NEC)

9. Improving the College Success Rate. Getting people in the doors of college is not enough to close the racial and income opportunity gaps. For example, only 21% of African-American and 18% of Hispanic students who begin college complete a bachelors degree within 5 years compared to 30% of White students. We are considering a package of policies, including: (1) a super-Pell grant for the lowest income families and/or to encourage a full-time focus on school in the first year of college (this would be expensive); (2) expanding successful mentoring and other support services in colleges (including those aimed at graduate school preparation); (3) promoting college course-taking while in high school; (4) improving articulation between two-year and four-year colleges; (5) encouraging partnerships between predominately minority-serving and predominately majority-serving institutions of higher education (particularly to promote graduate study); and (6) establishing a bridge fellowship program for graduate study in science and technology fields for minorities and women. (NEC)

10. School Modernization. The current assumption is that we will repeat this years proposal for tax credits to build and renovate schools covering the interest on nearly $22 billion in bonds. We are, however, critically comparing our current proposal against other possible mechanisms to ensure we have the most effective approach. (NEC)

11. Further Expanding Junior ROTC. In response to the Los Angeles riots, Colin Powell proposed and Congress approved in 1992 an expansion of the high school-based JROTC. Since then, 1,000 units have been added primarily in urban areas, bringing the total to nearly 2,600 units with 400,000 participants. The budget increased over that period from $76 million to $166 million. There is a waiting list of more than 450 schools that would like to have a JROTC unit. Because DOD does not plan any further expansion, these 450 schools on the waiting list will not likely be added. We could propose adding another 900 units over the next few years, to reach the authorized maximum of 3,500. Cost: about $235 million. (NEC)

12. Training American Workers for Current and Future Skills Gaps. We should challenge the private sector to make specific commitments to train more American workers, which they pledged to do during the debate on H1-B visas. They could provide more college

scholarships for women and minorities, partner with community colleges to develop cutting-edge curricula, and encourage their employees to serve as telementors for middle school students to get them excited about math and science. In addition, we are working on: (1) a program to foster partnerships ("Regional Skills Alliances") between industry and training providers to train both employed and unemployed workers; (2) competitive grants to encourage companies to develop programs in which they subsidize the training of individuals who they then commit to hire; (3) extensions and/or expansions of some of the current training tax provisions (such as the lifelong learning tax credit and Section 127);and (4) a major informational/media campaign by the Departments of Education and Labor to inform all Americans about available training opportunities, financial aid, and job search assistance to allow them to develop the skills required for employment opportunities around the country. (NEC)

13. Making Job Training Universal. We are considering an initiative to make job training more universal. The first component of this initiative would be to seek a significant increase in dislocated worker funding -- about $190 million -- so that we are on path to provide training to every dislocated worker who wants or needs it within five years. The second component would be to ensure that every unemployed person is eligible for core labor market services, e.g., job search assistance. The final component would be to take the steps necessary to ensure that every worker, regardless of where they live, would be able to have access to a One-Stop Career Center (where they can learn about job training, employment service activities, unemployment insurance, vocational rehabilitation, adult education, and other assistance.) (NEC)

14. Community Computing Centers. We have roughly 650 computing community centers, which empower low-income Americans in the Information Age by teaching them to type a cover letter and a resume, search for job vacancies on the Internet, or even start an Internet-related business. These efforts should be expanded. (NEC)

School safety -- see CRIME section

PRSERVICE (DPC)

1. AmeriCorps Seniors. In the wake of John Glenns return to space, we have an opportunity to give other senior citizens a mission. We propose adding $25 million to the current AmeriCorps program to create a senior corps of 10,000 volunteers to serve as tutors and mentors and in afterschool programs. We would build on a successful demonstration program that recruits seniors to serve 15-20 hours per week over a fixed period of time in schools and other community centers. In exchange, seniors would be eligible for small incentives, including awards to participate in senior learning programs. By inspiring responsibility among seniors, this initiative would provide an ideal complement to Social Security reform. John Glenn has expressed some interest in playing a role in AmeriCorps now that hes retired. We could invite him back to the State of the Union and place him in charge of a national effort to inspire seniors to serve. (Cost: $25 million)

2. Expand AmeriCorps. We propose expanding the AmeriCorps program from its current level of 50,000 members per year to approximately 70,000 per year, with the goal of reaching 100,000 per year by the end of this Administration. These additional members could be targeted to serve primarily in after-school and summer school programs. (Cost: $75 million)

3. Expand Service Component of Work-Study Program. Nearly 1 million students now receive

federal work-study funding. Despite our efforts, colleges and universities are required to use only 7 percent of their work-study money for students employed in community service. The higher education lobby would object, but we could propose a substantial increase in that requirement -- e.g., phasing it up to 25 percent over the next 3 years.

HEALTH CARE (DPC/NEC as specified below)

1. Long-Term Care Initiative. This package could include: (1) a tax credit of up to $1,000 for people with three or more limitations in activities of daily living (ADL) or their caregivers, at a cost of about $6 billion over 5 years; (2) a plan for OPM to offer federal employees a choice of high-quality private long-term care insurance policies at lower-than-market prices; (3) a family caregiver support program, costing about $500 to $750 million over five years, that would provide grants to states for "one-stop shops" to assist families who care for severely impaired elderly relatives through counseling, training, and respite services; and (4) a nursing home quality initiative, costing about $500 to $750 million over five years, that would include new enforcement provisions (e.g., increased penalties), new funds for surveys of repeat offenders and improved surveyor training, and perhaps a new commission to oversee HCFAs nursing home enforcement efforts and to investigate other kinds of facilities where health care is offered (e.g., assisted living facilities). (DPC/NEC)

2. Disability Proposals. A health-related disabilities package could include: (1) the Jeffords-Kennedy Work Incentives Improvement Act, which enables people with disabilities to go back to work by giving them an option to buy into Medicaid and Medicare, at a cost of about $1.2 billion over 5 years; (2) a proposal, costing $50 million over five years, to promote the deinstitutionalization of Medicaid beneficiaries by developing viable community-based care alternatives for people residing in nursing homes after a "date certain"; and (3) a proposal to make Medigap supplemental insurance more accessible to people with disabilities.

A separate work-related disabilities package could include: a tax credit of $1,000 to $5,000 for working people with disabilities to assist them in paying for the costs associated with employment, at a cost of about $1 to 2 billion over 5 years; a new competitive grant program, developed by your disabilities task force, to increase the employment rate of adults with disabilities; and efforts to ensure that new technologies are designed so as to be accessible to people with disabilities (see technology section). (DPC/NEC)

3. Health Insurance Coverage Expansions. We could propose again, in somewhat new and improved forms: (1) an initiative to encourage small businesses to form purchasing cooperatives for health insurance, costing about $50 to 100 million over 5 years; (2) proposals to improve outreach for childrens health insurance; and (3) a proposal, more limited than last years, to provide a Medicare buy-in for certain people ages 55 to 65, benefiting about 30,000 people and costing $500 million over 5 years. (DPC/NEC)

4. Biomedical Research. We should again propose an increased investment in biomedical research -- perhaps (depending on how we treat tobacco money in the budget) between $500 million and $1 billion. (DPC)

5. Antibiotics (Super Bug) Initiative. Resistance to antibiotics is becoming a public health crisis, causing prolonged illnesses and even death. A new initiative, costing about $25 million each year, could address this problem through: (1) a major outreach and

education campaign involving hospitals, health professionals, and managed care organizations; and (2) new research and surveillance efforts to understand where and why antibiotic resistance occurs and to develop effective responses. (DPC)

6. Bioterrorism Initiative. This initiative, costing $100-300 million each year, would: (1) train epidemic intelligence officers who can coordinate with state health departments to identify and respond to attacks; (2) develop a mass casualty emergency response system that includes primary care, emergency transportation, and decontamination abilities; (3) create and maintain a stockpile of pharmaceuticals; and (4) improve research to develop new vaccines and antibiotics to be used in the event of attack. (DPC)

7. Protecting beneficiaries from HMO withdrawals from Medicare. This year, a number of HMOs pulled out of Medicare with only a few months notice, leaving 50,000 beneficiaries with no plan options in their areas. You announced that the Administration would develop legislation to prevent this behavior in the future, and we are currently reviewing the best approaches. (DPC)

8. Redesigning and increasing enrollment in Medicares premium assistance program. Over 3 million low-income Medicare beneficiaries are eligible but do not receive Medicaid coverage of their Medicare premiums and cost sharing. Many more may not get enough assistance through a new provision that is supposed to help higher income beneficiaries. We are developing a range of proposals, costing up to $500 million over five years, to use Social Security Offices to educate beneficiaries about this program, reduce administrative complexity for states, and give them incentives to engage in more aggressive outreach efforts. (DPC/NEC)

9. Prescription drug coverage for Medicare beneficiaries. We are considering a variety of proposals to address the lack of coverage for prescription drugs in Medicare, including a means-tested Medicaid option, an approach that would apply only in managed care, a traditional benefit for all beneficiaries, and an unsubsidized purchasing mechanism that uses Medicares size as leverage for drug discounts for beneficiaries. If desirable, a proposal could be included in the budget or coordinated with the March release of the Medicare Commissions recommendations. The cost varies significantly depending on the proposal, ranging from $1 to 20 billion a year. (DPC/NEC)

10. Disease Initiatives. We are working on several initiatives designed to combat particular diseases. These initiatives, which you could choose to do individually or in combination, are: (1) an asthma initiative, which will curb recent steep increases in asthma cases especially among young children, by disseminating new treatment guidelines to state and local public health programs and encouraging them to work with schools, child care organizations, businesses, and other community organizations; (2) a mental illness initiative that will accompany a Surgeon Generals report on this subject (and perhaps a White House Conference recommended by Mrs. Gore) and will include public-private partnerships to improve access to prevention and treatment, reforms in federal health programs to improve delivery of mental health services, and funding increases in the mental health block grant; and (3) a heart disease initiative, which could include: a new partnership with aging networks to evaluate and improve nutrition; efforts to measure successful prevention approaches and replicate them nationwide; and the creation of a network of educators, churches, and community-based organizations to launch a nationwide awareness campaign. In each of these initiatives, the public health efforts described above would supplement NIH funding of research projects. The estimated cost of these initiatives is $50 million for asthma, $100 million for mental illness, and $20 million for

heart disease. (DPC)

11. Food Safety. We are working on a food safety initiative that will highlight safety standards and enforcement. Included in this initiative are: (1) a repackaged and somewhat modified legislative proposal giving the FDA and USDA additional enforcement powers (e.g., mandatory recalls and civil penalties); (2) additional food-specific regulations and/or guidelines (e.g., for certain fruits and vegetables); and (3) more extensive adoption of our model codes for restaurants and food service workers. In addition, we will focus on improving coordination with state and local agencies that regulate food safety in order to develop a wholly integrated national inspection system. (DPC)

TOBACCO (DPC)

1. State Menu. Our best vehicle for enacting tobacco legislation next year will be a legislative waiver of federal Medicaid claims to the states expected $200 billion settlement with the tobacco companies. We will seek bipartisan agreement on a menu of uses for the federal share of state money, with tobacco control and child care as our top priorities. We will try to use this measure as a vehicle for other key elements of our tobacco policy, such as FDA jurisdiction and warning labels.
2. Price Increase. One of the most difficult budget decisions will be whether to assume a tobacco tax increase in our budget request, and if so, what to do with the money. There are strong arguments on each side of the question whether to include a tobacco tax increase in our budget. If we do assume tobacco revenue, the candidates for it include: (1) assistance to tobacco farmers (about $1 billion a year); (2) the long-term care tax credit (about $1 billion a year); (3) other tax cuts, such as a child care / stay-at-home tax credit and/or a reduction in the marriage penalty; (4) NIH research; (5) public health programs; and (6) the Medicare trust fund and/or a new prescription drug benefit for Medicare beneficiaries.

FAMILIES AND CHILDREN (DPC/NEC as specified)

1. Expansion of the Child Care and Development Block Grant (old policy). We propose to expand the Child Care and Development Block Grant as we did in the FY 1999 Budget. The block grant is the primary federal child care subsidy program, helping low-income working families to pay for child care. Currently, between one and two million children are served by the program, leaving roughly nine million children who are eligible but unserved. This proposal would cost at least $7.5 billion over five years. (DPC)

2. Tax Relief for Parents, Including Parents who Stay at Home. We are considering replacing our last years proposal to expand the Child and Dependent Care Tax Credit with a new proposal to benefit all parents, including those who stay home. This change will address the criticism that our child care initiative did little for stay-at-home parents. We are reviewing proposals to (1) double the child tax credit to $1,000 per child for all children under the age of four, at a cost of about $12 billion over five years; (2) increase the standard deduction for each child under the age of three by $1,000, at a cost of about $3 billion over five years; or (3) expand the Child and Dependent Care Tax Credit as we did last year and extend its benefits to parents with children below age three by assuming minimum child care expenses of $150 each month, at a total cost of about $21 billion over five years. Each of these proposals can be dialed up or down by adjusting either the age threshold or the dollar amount. (DPC/NEC)

3. Tax Credit for Businesses Providing Child Care. We could again propose to provide a

tax credit to businesses that provide child care services for their employees. The credit, which covers 25% of qualified costs but may not exceed $150,000 per year, costs $500 million over 5 years. To further build on this concept, we also propose to provide tax credits to businesses that provide on-site schools (see education section). (DPC/NEC)

4. Parent Paid Leave Plan. Many workers cannot afford to take unpaid leave following the birth or adoption of a child, even though they have access to an unpaid leave policy through FMLA or voluntary employer benefit plans. To address this problem, we are considering a proposal to provide eligible parents who already have access to unpaid leave with partial wage replacement for a set period of time. The cost of the program, which would be administered through the Unemployment Insurance System, varies according to the selected eligibility criteria. If we choose, for example, to give $200 per week for four weeks to new parents with median income (about $37,000) or below, the cost will be about $875 million for FY 2000 (including start-up and administrative expenses). (DPC)

5. FMLA Expansion to Businesses with 25 Workers (old but unarticulated policy). Under current law, workers are eligible for FMLA coverage only if they work at a business with 50 or more employees and if they have worked at least twelve months and 1,250 hours for the employer. In your last State of the Union, you called for covering more workers under the FMLA, but did not fully articulate how you would do so. We could now advance a specific proposal to lower the FMLA threshold to 25 or more workers, which would expand coverage for up to ten million more American workers. (DPC/NEC)

6. Parent Education and Support Fund. We are considering proposals to create a competitive grant program administered by HHS to fund parent education and support programs, including home visitation programs and "second chance maternity homes" to support teen mothers and teach parenting skills. This fund could cost about $500 million over five years. (DPC)

7. Adoption Registry. We are working on plans to create an Internet-based adoption registry of foster care children waiting to be adopted, so that prospective adoptive parents can learn about these waiting children. Funding this registry would require very smally increase in HHSs Adoption Opportunities Grant Program. (DPC)

COMMUNITY EMPOWERMENT (DPC/NEC for all)

1. CDFI Tax Credit. We are looking at a proposal to extend tax incentives to encourage investment in CDFIs, which would leverage additional private investment in distressed areas and stimulate the economic revitalization of those areas. Under the proposal, $100 million in non-refundable tax credits would be made available to the CDFI Fund to allocate among equity investors in qualified CDFIs using a competitive process.

2. Microcredit Initiative. We are working to identify means to increase support for microenterprise finance, both domestically and internationally. We are examining whether to build on Senators Kennedys and Domenicis PRIME legislation which would provide technical assistance to microenterprise. We are also looking at increased funding for CDFI initiatives specifically targeted to microenterprise. On the international side, we are looking at whether we can increase microenterprise funding through USAID or MDBs, especially to countries hardest hit by the financial crisis.

3. Clean Water, Parks, and Communities Bonds. We are examining three proposals to encourage "green" infrastructure projects. The first model uses the same financing

mechanism as your school construction proposal for a menu of projects: protecting and improving water quality; cleanup of contaminated sediments; waterfront reclamation and revitalization; stormwater runoff control; purchasing of green spaces to prevent sprawl; park enhancements and revitalization, and brownfields cleanup. The second model, which provides a smaller incentive than the first model, would create new tax-exempt bond authority for these state and local areas to invest in clean water, parks, and communities. The advantage of this model is that it builds on the current system of bond finance. The final model would allocate tax credits (like the Low-Income Housing Tax Credit) to states and local areas to provide to the developers of these green infrastructure projects.

4. Employment Tax Credits. The Work Opportunity Tax Credit and the Welfare-To-Work Tax Credit encourage employers to hire and retain members of certain economically disadvantaged targeted groups. Both credits will expire on June 30, 1999. Under this proposal the two credits would be made permanent.

5. Re-Develop 10,000 Abandoned Buildings. Abandoned buildings are a symbol of urban blight, and an action plan to turn this around will be a powerful signal of change. We are examining different proposals to help re-develop 10,000 abandoned buildings, combining several existing programs or providing grants or tax incentives to spur private-sector redevelopment of these sites.

6. Low-Income Housing Tax Credit . Last year, you proposed a 40-percent expansion of the Low-Income Housing Tax Credit to spur the private sector to develop more affordable rental housing for low-income Americans. We recommend that you again ask Congress to take this action, which would restore the value of the credit to its 1986 level and help develop an additional 150,000-180,000 affordable housing units over the next five years. This proposal would cost $1.6 billion over five years.

7. Homeownership Tax Credit. We are examining two kinds of tax credits to promote homeownership among lower-income families, who generally do not benefit from the mortgage interest deduction. The first proposal would use the model of the Low-Income Housing Tax Credit to create a Low-Income Homeownership Tax Credit. Under this proposal, low-income families would receive a low- or zero-interest second mortgage, which would reduce their upfront costs (e.g., downpayment and closing costs) and investors would receive tax credits in return. The second proposal is a $5,000 tax credit for first-time homebuyers in Empowerment Zones or Enterprise Communities.

8. Housing for the Elderly Initiative. This proposal is designed to improve housing for elderly people and thereby provide an alternative to nursing home care. In addition to providing capital to improve and modify such housing to meet the needs of elderly residents, the initiative would provide housing vouchers for low income elderly who live in housing developed through the Low-Income Housing Tax Credit. Because the tax credit helps subsidize rent, this proposal would allow us to leverage our resources and provide more vouchers to the poor elderly.

9. Incremental Tenant-based Section 8 Vouchers. To build on our success in this past years budget, we recommend seeking an additional 50,000 welfare-to-work housing vouchers and another 25,000 vouchers to meet the needs of the homeless, including elderly homeless and homeless veterans.

10. Homelessness. We are working on a three-part proposal that would: (1) assist the

approximately 250,000 homeless veterans by increasing residential alternatives, community-based contracted care, job preparation activities, stand down activities (community-sponsored events that conduct one-stop service delivery programs for homeless veterans), the distribution of clothing, and long-term housing; (2) allow VA to sell surplus property with 10 percent of proceeds going to homeless veterans; and (3) start a demonstration project targeted to the chronically homeless to test the most promising models for moving the chronically homeless to self-sufficiency using a combination of permanent housing and links to mainstream services. Cost: $105 million -- $60 million for VA and $45 million for HUD demonstration project.

RURAL/AGRICULTURE (NEC/DPC as specified)

1. Strengthening the Safety Net. To help farmers suffering from the depressed export markets and natural disasters, we are considering various reforms of the crop insurance program and closing gaps in the emergency loan program. We are paying special attention to programs that will help small family farms. (NEC)

2. Bringing the knowledge of land grant colleges to every rural American: The USDA spends $1.6 billion on agricultural research, much of it at Americas land grant colleges and universities. The government could provide grants to ensure that this information is available on the Internet and is well-organized --so that all rural Americans can easily access information on topics such as crops, livestock, rural development, natural resource conservation, and food safety. (NEC)

3. Emergency Medical Services in Rural Areas. The presence of viable emergency systems is critical for residents in rural areas, because of the high rates of injury associated with jobs in these areas and the long distances to health providers. This proposal, costing about $50 million, would provide funds to States and local communities to improve access to 911 services or alternative emergency systems. It also would fund programs to help rural communities train local citizens in CPR and first responder techniques and to recruit and retain emergency personnel. (DPC)

4. Rural Transportation. Transportation is crucial to the efforts of residents and businesses in rural America to improve the livability of their communities and expand their economic activities. We are developing a rural transportation initiative that will help those who live and work in rural areas by improving the ability of farms and businesses to obtain materials and move their products to markets, and by making it easier for small communities to attract additional commercial jet air service. (NEC/DPC)

TECHNOLOGY (NEC)

1. Curbcuts on the Information Highway. We are looking at several options that would make information technology usable by people with disabilities in a manner that improves their lives: (1) investing in R&D (e.g., text-to-speech, automatic captioning, speech recognition); (2) giving disabilities groups a seat at the table as the standards for new technologies are developed; (3) making the government a model "user" of accessible technology; and (4) explore opportunities for greater deployment. In addition, the tax credit for work-related impairment expenses for people with disabilities could be used to expand the market for assistive technology.

2. A Digital Library for Science, Math and Engineering. We need to get every young student and undergraduate excited about math, science and engineering. We are exploring

creating a "digital library," which would contain lectures from Nobel Prize laureates, have an ability to track and replicate cutting-edge scientific experiments, and make it easier for students and teachers to locate the best instructional material on the Internet.

3. Information Technology Research Initiative. Increasing our investment in information technology research, which is currently about $1 billion of the federal research budget, could lead to the following breakthroughs: supercomputers that can more rapidly perform important functions, such as designing life-saving drugs and predicting severe weather systems; wireless networks that can bring telemedicine and distance learning to rural America; a device of the size of a paper that could monitor the vital signs of a senior citizen, send a "911" message in the event of a medical emergency, and provide an exact location using global positioning technology; new software tools that can help us cope with "information overload" by discovering patterns in huge quantities of data; and intelligent spacecraft that can explore the Solar System. Options have been developed at roughly $100, $200 and $400 million in FY2000; and $1, $2 and $3 billion over 5 years.

4. 21st Century Research Fund. One initiative that you announced in last years budget that we think is important to continue is the 21st Century Research Fund -- which provided across-the-board support for civilian R&D at agencies such as NIH, NSF, and Energy. For FY99, Congress provided a 10 percent increase for basic research, so this is an area where bipartisan cooperation is possible.
Currently, the FY2000 budget reflects only a 2% increase in civilian research.

CRIME (DPC)

1. Crime Bill II. The 1994 Crime Act will expire at the end of the FY 2000 budget cycle, guaranteeing that the next Congress will consider major crime legislation. We recommend that you get a jump on this debate by using your State of the Union and FY 2000 budget to challenge Congress to pass a new crime bill that builds on the core elements of the successful 1994 Act -- more police, smarter punishment, and more prevention. Most of the money required is already built into future budgets; continuation of the COPS program, however, will require new funds totaling about $1 billion. We believe that a new Crime Act should include the following elements:

*Community-Oriented Policing and Prosecution Services (COPPS). Your pledge to help fund 100,000 more police is likely to be fulfilled before the end of next summer. A new COPPS initiative (note the extra "P" for "Prosecution"), costing about $1.4 billion in the first year, could include funds to: (1) hire, redeploy, and retain an estimated 7,500 more police each year; (2) provide modern technology and equipment and support training in modern policing techniques, with a special emphasis on "hot spots" technology; (3) hire, train, and equip prosecutors to join local police in fighting crime on a more community-based, pro-active basis; and (4) support partnerships between law enforcement and community-based groups to prevent crime in their areas.

*A new focus on probation supervision and coerced abstinence. The punishment title of the crime bill now focuses largely on prison construction; we recommend shifting the focus to a new "Certainty of Punishment" initiative that will support the expanded use of probation supervision and of drug testing and treatment.

*Gun initiatives. A new crime bill should include your longstanding firearms priorities -- juvenile Brady, Brady II, federal CAP legislation and child safety locks. It also could include new proposals to: (1) close the loophole that exempts many firearms sales at gun

shows and flea markets from Brady background checks; (2) expand the Youth Crime Gun Interdiction Initiative (YCGII) -- to trace all crime guns and investigate gun traffickers -- to an additional 20-40 cities; and (3) assemble gun strike forces -- teams of federal prosecutors and ATF agents, acting with local law enforcement -- to target cities with high levels of gun violence and crack down on gun traffickers.

*Values-based crime prevention initiative. In addition to other crime bill prevention programs, we could invest in promoting values-based crime and violence prevention efforts, such as those of Rev. Eugene Rivers. Funds from this program would go to comprehensive prevention programs run by faith-based and other institutions seking to instill and reinforce common sense values in troubled youth.

2. Safe, Disciplined, and Drug-Free Schools. At the White House Conference on School Safety, you announced that you would overhaul and strengthen the Safe and Drug-Free Schools Program. Under this proposed reform, funds will be appropriately targeted to schools with serious drug and crime problems, and schools will have to adopt rigorous, comprehensive school safety plans that include: tough but fair discipline policies, such as zero tolerance for guns and drugs; safe passage to and from schools; effective drug and violence policies and programs; annual school safety and drug use report cards; links to after school programs; efforts to involve parents; and crisis management plans. We also could include in this package (1) funds for states that adopt a policy of drug testing first-time applicants for drivers licenses and (2) funds for school districts that adopt a policy of drug testing middle and high school students with parental consent. We believe that these reforms will require up to $450 million in new funding in FY 2000.

3. Parity for Substance Abuse Treatment. Appropriate substance abuse treatment remains unavailable to nearly half of the people who need it. To help fill this treatment gap, we could propose legislation to encourage parity between substance abuse treatment and other medical benefits. Similar to the Mental Health Parity Act signed into law in 1996, a current draft of this legislation would prohibit health care plans that provide a substance abuse benefit from setting annual or lifetime dollar limits on this benefit at a lower level than those for other medical and surgical benefits. At the same time, we would have to ensure that federal health programs provide parity between substance abuse treatment and other medical benefits; we are still exploring the cost of any necessary reforms to these programs.

4. Binge Drinking. We are working on a number of proposals regarding alcohol abuse, including (1) promoting a voluntary code for alcohol advertisements directed toward minors; (2) banning alcohol billboards near schools; (3) discouraging alcohol advertising on youth-oriented web sites; (4) and funding educational efforts about the dangers of alcohol consumption.

WELFARE REFORM, CHILD SUPPORT ENFORCEMENT, AND CHILD WELFARE (DPC)

1. Reauthorize the Welfare-to-Work Program. Congress authorized the Welfare-to-Work Program for only two years; if we wish to continue our current investment in the hardest-to-employ, we will have to propose a reauthorization of about $1.5 billion annually. Within this funding level, we propose several set-asides, totaling $500 million, for the following specific purposes: (1) work-based English-language literacy projects for immigrants and others; (2) work-based substance abuse testing and treatment programs; (3) employment services for welfare recipients with disabilities; and (4) a work-based program to promote responsible fatherhood, including efforts to increase low-income fathers

employment and earnings and ensure that they provide financial and other support to their children.

2. Child Support. One initiative, costing just a few million dollars each year, would increase the prosecution of egregious child support violators by establishing multi-agency teams, working with state and local law enforcement, to identify, analyze, and investigate cases for prosecution. A pilot project of this kind is already under way in five states; this proposal would put these units in place all across the nation within the next several years. A second initiative would seek legislation to exclude doctors and other health care providers who are delinquent in child support from the Medicare program or from programs offering health professional loans.

3. Children "Aging Out" of Foster Care. Each year, nearly 20,000 18-year-olds "age out" of the public child welfare system. Federal financial support for these young people ends just at the time they are making the critical transition to adulthood. Areas for increased investment for these young adults include: (1) expanding the independent living program, which provides services to foster care children in this age group; (2) expanding the transitional living program, a competitive grant program that funds community-based organizations that provide services to this population, including housing support; and (3) giving states the option of using Federal Medicaid dollars to provide health care coverage for this population. (Cost: roughly $150 million each year)

Welfare-to-Work Housing Vouchers and Tax Credit -- see COMMUNITY EMPOWERMENT Section

CIVIL RIGHTS AND WOMENS RIGHTS (DPC)

1. Equal Pay. We are working on a program to be run by the EEOC and DOL to increase outreach to businesses and employees about equal pay requirements, provide technical assistance to businesses seeking to comply, improve training for EEOC employees, and expand enforcement capabilities. In addition, the program will fund research on the nature and extent of wage discrimination, as well as a new Women in Non-Traditional Occupations Initiative designed to improve access of women into occupations such as construction and high technology. Cost: about $20 million for EEOC and $10 million for DOL.

2. Abortion Violence. We are working on a comprehensive initiative to address violence against providers of reproductive health services. This initiative may include: (1) a National Task Force established by the Department of Justice that will conduct investigations of abortion violence, collect and collate information related to clinic violence, and provide training to federal, state, and local law enforcement personnel on how to address this problem; (2) special security measures, including stepped-up U.S. Marshal support, at clinics identified to be at risk of violence; and (3) federal guarantees of loans taken out by clinics that must rebuild after they have been attacked. Cost: Unknown at this time.

TRANSPORTATION (NEC/DPC as specified)

1. Reauthorization of the FAA, with Focus on Modernization and Competition. A blue-ribbon bi-partisan panel concluded last year that the air transportation system faces "gridlock" within a decade without sweeping changes. We are considering various policy options to incorporate into the FAA reauthorization that you will propose in 1999 (it is a must pass this year) that will: (1) improve the efficiency and capacity of the nation's aviation system, and (2) enhance competition and service to rural areas. Some of the components of

this initiative would include: centralizing the air traffic control services (ATS) in a performance-based organization (recommended by the bi-partisan panel); financing ATS for commercial aviation through cost-based user fees (supported by the major airlines); increasing Passenger Facility Charges (PFCs) to finance airport expansion nationwide (supported by state and local governments); modifying federal rules on how airports can use PFCs and other funds to encourage new airline entrants; and enhancing service to underserved areas.

We are also looking at ways to further competition in international aviation. The Administration has extended the benefits of competition by negotiating dozens of bilateral open-skies agreements. We could press our trading partners for World Wide Open Skies and explore lifting other restrictions on foreign aviation investment and operation on a reciprocal basis. (NEC)

2. Auto Safety. We are making headway on auto safety. Last year, the number and rate of auto fatalities declined. However, we still have a long way to go -- more than 40,000 Americans die in auto accidents each year, at a direct cost of $150 billion. The keys are seatbelts (more) and alcohol (less). We are working on a comprehensive initiative that would include: (1) meeting the President's goal of 85 percent seatbelt compliance by the year 2000, which would save 4,000 lives and nearly $7 billion; (2) promoting education initiatives like the Buckle-Up America campaign; (3) enforcing the TEA-21 requirement that states lower the legal blood alcohol content level from .10 to .08; and (4) pushing a new Administration initiative on children's safety that will target auto accidents, among other problems, by promoting the use of child safety seats, booster seats (for children ages 4-8), and bicycle helmets. (NEC/DPC)

3. Transportation Needs of the Aged. With the number of Americans over 65 expected to grow by half by 2020, we should begin addressing the need to ensure their continued mobility, independence and safety in their later years. We are only beginning to look at this issue with DOT, which plans to hold six town meetings soon with senior citizens, medical experts, transportation safety specialists, and others to discuss the problems and challenges and identify best practices. The U.S. will host an international conference on this topic next year, in connection with the United Nations Year of Older Persons. This may be combined with the long-term care and the housing for the elderly initiatives. (NEC)

4."Smart Growth" and Sustainable Development. One of the biggest challenges facing Americas communities is that "sprawl" development is threatening the long-term economic vitality and quality of life in Americas urban, suburban and rural areas. Although land use decisions should remain the domain of state and local government, the federal government can be an effective partner. First, we will continue investing in sustainable transportation. TEA-21 authorizes a record $41 billion over the next six years for transit; increases tax-free transit benefits; and expands communities ability to transfer funds from highway construction to transit, bicycle and pedestrian programs, telecommuting and other forms of transportation that reduce congestion and pollution. Second, we will provide incentives to make it easier for communities to pursue smart growth policies, by exploring ways cities can capture the air quality benefits of sustainable development and by supporting a private sector initiative that would encourage mortgage lenders to consider the savings from "location efficiency"in making mortgage determinations for homebuyers . (NEC)

ENERGY (NEC)

1. Electricity Restructuring. You could call on Congress to enact legislation, to make the electricity industry more competitive and to provide more choices for industrial, commercial and residential customers. The Administrations Comprehensive Electricity Competition Act will save consumers $20 billion a year. Retail competition will not only improve efficiency, but also reduce the two-thirds waste of energy currently associated with fossil-fuel generation of electricity, thereby cutting greenhouse gas emissions. Prominent Republicans have included electricity restructuring on their list of priorities for 1999.

2. Distributed Generation ("Micropower"). To increase the consumer savings and environmental benefits from electricity competition, the Administration will pursue legislation to eliminate obstacles to the use of small, clean efficient generation technologies (e.g., fuel cells and photovoltaics) that can be installed at or near the electricity users site. Moving from large, central-station generation of electricity to distributed generation by small, clean sources is analogous to the move from mainframe computers to personal computers.

PENSIONS (NEC)

1. Expanded Private Pension Plan Coverage: Last year, you announced several initiatives to expand pension plan coverage which were not enacted, but which we continue to believe are important and have substantial support on the Hill. We should again call for legislation that: authorizes a simplified plan for small businesses that combines the best features of a defined benefit and defined contribution plan (SMART), costing $313 million over five years; provides a three-year tax credit to encourage small businesses to set up retirement programs, costing $508 million over five years; and authorizes payroll deductions for IRAs. We are exploring ways to expand coverage for moderate and lower-income workers. Consideration is also being given to ways of enabling multiple small businesses to pool together for pension plan administration.

2. Womens Retirement Security: To underscore the importance of pensions for womens retirement security, you would call for legislation enacting the two initiatives you announced in late October -- namely, that time taken under FMLA should count toward retirement plan vesting requirements and mandating that employer plans offer an option that pays less while the retired employee is living but pays a survivor benefit equal to at least 75 percent of the benefit the couple received while both were alive.

3. Pension Portability: You could renew your call for reducing vesting requirements from five years to three years for employer matching contributions to 401(k) and other plans to reflect an increasingly mobile workforce, and more workers moving in and out of the workforce over a lifetime. We are also exploring various options that would increase pension portability and facilitate the movement of retirement savings between plans, where this can be done without encouraging "leakage" or loss of worker protections -- e.g., providing that federal employees can roll over retirement savings from private sector qualified plans into the federal Thrift Savings Plan.

4. Expand Pension Right to Know Provisions: You could call for a pension right to know package that provides for both workers and their spouses general information relating to retirement needs and their benefits under employer retirement plans. In addition, an employees spouse should have the same rights to get information as the employee, before waiving the statutorily provided survivor protection. You should call for a Pension Right to Know package that provides information for both workers and their spouses. We are also

working on an employee education program that would provide employees with the tools they need to work with their employers to provide pension plans, and are thinking about how to encourage courses in high schools on the importance of savings and other general investment education (which can be combined with the Consumer Literacy and Education campaign described below). Consideration is also being given to a savings stamp book program in the schools (sell savings stamps in very small amounts; when the book is full, turn it in for a U.S. savings bond) to help educate the young about how to reach savings goals.

5. Increase Retirement Security: To promote security, we are continuing to work on the pension audit bill, changes to the multi employer (collectively bargained) plan rules, and expansion of PBGCs missing participant program.

FINANCIAL SERVICES (NEC/DPC as specified)

1. Consumer Financial Literacy and Education. We are currently developing a set of proposals to promote consumer financial awareness and enhance consumer credit literacy, ranging from a public awareness campaign to establishing an educational clearinghouse to disseminate quality curricula to high school students. We are also working on a study to identify what the biggest problems are with how Americans use consumer credit; and what basic banking services and steps they can take to help themselves (this may be very important if bankruptcy reform is a live item next year). Part of our focus is on reaching out to low-income households, building on (and expanding) two existing government programs -- Treasurys Electronic Funds Transfer program that was a first step in helping the "unbanked" enter into electronic commerce and a USDA extension program that is providing some (limited) services to rural low-income families. This proposal would cost $5-10 million. (NEC)

2. Consumer Financial Bill of Rights. In order to respond to the outrage consumers feel about ATM surcharges, without supporting economically questionable regulation of ATM fees, we are considering a proposal either for the government or for financial institutions voluntarily to make publicly available a list of basic banking services and fees on an individual or geographic basis to be published periodically over the Internet. The services profiled would include, but would not be limited to, charges for access to ATMs. We are also considering the adequacy of current credit card disclosure requirements (again, relevant to bankruptcy reform) and other areas where information about financial service arrangements would be helpful to consumers. This would cost $3-5 million. (NEC/DPC)

January 26, 1998

MEMORANDUM TO LAURA EMMETT

From:Megan Moloney, Director of Radio Services
Re:Confirmed Interviews for Elena Kagan

The following are confirmed interviews for Elena to do regarding SOTU. Attached is a briefing packet for her. Please let me know if you have any questions or problems with the stations. Thanks.

Tuesday, January 27

Station:Alabama Radio Network
Time:10:00 Am
Contact:Carol Bennett
Number:202-225-7134

Station:WCTC-The Ted Efaw Show
Time:5:40 PM
Contact:Ted Efaw
Number:732-249-2600 x222
Notes:Big supporter, (I need to get a better # to you and will tomorrow)

Wednesday, January 28

Station:KJFF, Festus, MO
Time:10:00 AM
Contact:Jim Podesva
Number:314-937-7642

State of the Union Radio Rollout

Summary of Radio Outreach

January 23, 1998:

Network Radio Roundtable with Domestic Policy Advisor Bruce Reed

Attended by: ABC Radio, American Urban Radio Network, AP Radio, Bloomberg Radio, CNN Radio, Mutual/NBC Radio, MetroSource, SRN/Standard News, USA Radio Network, Voice of America

Cabinet Radio Assignments:

Sec. Daley-Los Angeles, Monterey-Salinas, Minneapolis-St. Paul, Rochester, "The Ronn Owens Show" - KGO/KABC
Sec. Riley-LaCrosse-Eau Claire, Champaign-Springfield, Las Vegas, Reno
Sec. Herman -Montgomery, Anniston, Mobile, Pensacola, Philadelphia, Erie
Sec. Pea-Denver, Grand Junction-Montrose, Albany-Troy
Sec. Shalala-Kansas City, Quincy-Hannibal-Keokuk, "Newsmakers," KCRW- Los Angeles -- "Which Way LA"
Sec. Slater-Little Rock-PineBluff, Jonesboro, Syracuse
Adm. Alvarez-San Antonio, Hartford-New Haven
Sec. Glickman-Des Moines-Ames, Rochester-Mason City-Austin, Seattle, WBRY-Woodbury, TN
Sec. Reno-Miami-Fort Lauderdale
Sec. Cuomo-Olrando, New York City, Binghampton, Baltimore
Gen. McCaffrey-Raleigh-Durham
Adm. Browner-Cincinnati
Amb. Barshefsky-Boston, Springfield-Holyoke
Dir. Yellen-Burlington-Plattsburgh

January 26-28, 1998

White House Senior Staff Radio Interviews

Monday:

Mickey Ibarra
WTAM-AM, Cleveland, Ohio
WABE-AM, Atlanta, GA
WJNO-AM, West Palm Beach, FL

Tuesday:

Maria Echaveste
Metro Networks - San Jose
Metro Networks - Miami
Metro Networks - NYC
Radio Bilingue (UNCONFIRMED)

Audrey Haynes
WBT-AM, Charlotte
KFRU-AM, Columbia, MO
WBSM-AM, Mass.

Thurgood Marshall, Jr.
KINK, Portland, OR
WVLK-AM, Lexington, KY

Elena Kagan
Alabama Radio Network

Craig Smith
KOMO-AM, Seattle

Mickey Ibarra
KYMN, Northfield, MN -- "Tuesday Talk Live"
WOKQ-AM, Dover, NH
Newsmakers (nationally syndicated)

Elena Kagan
WCTC-The Ted Efaw Show

Fred Duval
KMPH-AM, Fresno, CA

Mike McCurry
WBBM-AM, Chicago

Wednesday:

Janet Murgia
KIKK - Houston, TX
WSYR, Syracuse, NY

Fred Duval
WBGN-AM, Bowling Green, KY

Thurgood Marshall, Jr.
KCRG, Cedar Rapids, IA

Elena Kagan
KJFF, Festus, MO

Craig Smith
KDCR, Sioux Center, IA

Sylvia Mathews
KTRS-AM, St. Louis - "The John Carney Show"

Lynn Cutler

KCNZ, Cedar Falls, IA

Maria Echaveste
KMND, Midland, TX

Ann Lewis
KGO/KABC - "The Ronn Owens Show"

Dr. Jack Gibbons
WVON-AM, Chicago

November 25, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
GENE SPERLING
ELENA KAGAN

SUBJECT: State of the Union Ideas

As you requested, this memorandum provides a brief description of new ideas we are seriously considering for the State of the Union. Most of these ideas involve increased spending, and you will have to make choices among them as you consider the FY 99 budget. Options relating to social security and tax reform are not included in this memo.

Education

1. Class size / 100,000 teachers: We are working with the Vice President's office and others on an ambitious initiative to reduce class sizes in the early grades by providing money to hire up to 100,000 new teachers, perhaps paid for by reducing the federal work force by another 100,000 positions. We estimate that 100,000 new teachers in grades 1-3 would reduce average class size from roughly 21 to roughly 18. The initiative would have three main elements: 1) grants to help states or communities hire new teachers (as in the COPS program, these grants would be time-limited (3-4 years) and the federal share would be 50-75%); 2) funds for teacher training, with a special emphasis on reading; and 3) provisions to ensure accountability, such as requiring testing of new teachers and/or ensuring the removal of bad teachers from the classroom. A serious proposal along these lines would cost $5-10 billion over five years, depending on the size of the federal match and the target date for reaching 100,000. We also would need to accompany the proposal with a school construction initiative (see below).

2. Education Opportunity Zones: As we outlined in an earlier memo on policy proposals for the race initiative, we are working with the Education Department on a plan that would reward 10-15 poor inner city and rural school districts for agreeing to adopt a school reform agenda that includes: ending social promotions, removing bad teachers, reconstituting failing schools, and adopting district-wide choice and/or public school vouchers. Our goal is to give school districts incentives to hold students, teachers, and schools accountable, in essentially the way Chicago has done. In our working proposal, each urban grant would be worth $10-25 million and each rural grant would be worth up to $2 million, for a total request in FY99 of $320 million.

3. National Public School Choice Law: We are exploring the possibility of proposing legislation to require that states and communities allow public school choice as a condition of receiving federal education funding. Together with a strong endorsement of bipartisan charter school legislation (bound to pass next year), this measure will show that we firmly support choice and competition. We are also looking into the concept of a parents' right-to-know law that would require states and communities to make key

information on school performance available, so that parents can make informed choices.

4. University-School Partnerships: As we also outlined in our earlier memo on the race initiative, we are working on a grant program to promote strong partnerships between colleges and high-poverty middle and high schools, with the goal of enabling more youth to go on to college. This initiative would encourage colleges to adopt the Eugene Lang model for helping disadvantaged youngsters. Colleges would encourage students to take demanding courses, while providing academic enrichment and intensive mentoring, tutoring, and other support services. The students would receive special certificates for participating in the program, somewhat along the lines of Chaka Fatahs proposal. The Department of Education has requested $200 million for FY 99 for this initiative.

5. Campaign on Access to Higher Education: We are preparing to conduct an intensive publicity campaign on the affordability of higher education. The goal of the campaign would be to make every family aware that higher education is now universally accessible, as well as to reiterate that higher education is the key to higher earnings.

6. School Construction: We will need to re-propose a school construction initiative this year. We are currently considering the appropriate size and duration of this initiative, as well as the possibility of structuring this initiative as a tax credit.

7. Teacher Training for Technology: We are currently weighing several options on training teachers to use educational technology. These include (1) expanding various innovation grants to ensure that within four years, all new teachers will be ready to use educational technology, or (2) using the Technology Literacy Challenge Fund to train and certify at least one "master teacher" in every school, who can then train other teachers in the use of educational technology.

8. Hispanic Education Dropout Plan: We have developed a plan to improve educational opportunities for Hispanic Americans (or limited English proficient students generally), with the goal of decreasing the current disparity in dropout rates. The draft plan includes a number of administrative actions, as well as targeted investments of roughly $100 million to programs for migrant, adult, and bilingual education.

9. "Learning on Demand": We are developing an initiative, related to some of Governor Romers ideas, to encourage the use of technology (e.g., the internet, CD-ROM, interactive TV) for lifelong learning. The initiative will begin the process of giving all Americans "anytime, anywhere" access to affordable and high-quality learning opportunities. The initiative is still in the developmental stage, and at this time we recommend only a small investment.

Child Care

1. Affordability: We are developing a proposal that will help working families afford child care by (1) increasing funding for federal child care subsidies through the Child Care and Development Block Grant, and (2) changing the Child and Dependent Care Tax Credit by raising the percentage of child care expenses for which taxpayers of certain income levels may take a credit. On the subsidy side, every additional $100 million in the block grant will pay child care costs for at least 35,000 more children with incomes below 200 percent of poverty. On the tax side, we are considering raising the maximum credit rate to 50 percent for taxpayers with adjusted gross income (AGI) of less than $30,000 (from a

current high of 30 percent for taxpayers with AGI of less than $10,000), and adjusting the income slide accordingly.

2. Safety and Quality: We are also considering targeted investments to improve the safety and quality of care. Our current proposal adds funding to the scholarship program for child care providers that you announced at the child care conference (which was very well received); provides resources for states to improve their enforcement of health and safety standards; and funds efforts to educate parents on quality child care.

3. Early Childhood Learning and Afterschool Programs: Our current proposal also expands early learning opportunities by increasing investment in Early Head Start and creating a new 0-5 Early Education Fund. The new fund will provide grants for innovative early learning programs for both working and stay-at-home parents. We are also considering ways of expanding and streamlining afterschool programs.

4. Helping Parents Stay Home: To support parents who wish to stay at home with their children, we are working on ways to expand the FMLA -- to six months instead of 12 weeks and to smaller-sized employers. We are also looking at a variety of ways to provide financial assistance, whether through a modified version of the Child and Dependent Care Tax Credit or through paid family leave administered under the unemployment insurance system. The cost of these financial proposals, however, may be prohibitive.

Health

1. Consumer Protection Legislation: We should reiterate our support for three pieces of health care consumer protection legislation: (1) the Quality Commissions Consumer Bill of Rights, which has strong public and elite support and arguably is more moderate than a bill in the House that already has attracted over 85 Republicans; (2) our genetic anti-discrimination legislation, which has attracted bipartisan support on both sides of the Hill as a way to protect Americans from the misuse of new advances in genetics; and (3) privacy protection legislation, which would establish strong federal standards to ensure the confidentiality of medical records. Although these consumer protections would benefit the entire population, women's health advocates are especially supportive of them, because the Consumer Bill of Rights would ensure direct access to OB/GYNs and our genetic anti-discrimination legislation would protect women who undergo new tests for the breast cancer gene.

2. Medicare Reform and Program Improvements: To build on the Medicare reforms in the balanced budget agreement, we are considering two reform initiatives: additional anti-fraud initiatives (perhaps providing $2-3 billion in savings over five years) and an income related premium (providing another $7-8 billion in savings assuming it kicks in at an income around $50,000). We are also considering a number of Medicare improvements to which we could apply the above savings: (1) a Medicare (or COBRA) buy-in for pre-65 year olds (or some targeted subset of this age group), the cost of which would depend on whether we decide to subsidize this benefit; (2) Medicare coverage of cancer clinical trials, which could substantially increase investment in the treatment and cure of cancer, including prostate cancer; and (3) a new mechanism to provide Medicare beneficiaries with information about private long-term care insurance that meets appropriate standards.

3. Doubling the NIH Research Budget with Proceeds from Tobacco Legislation: We (along with the Republicans) are considering a proposal to double the NIH budget, which would cost about $20 billion over five years. Such an investment could lead to breakthroughs in

research that would greatly improve our ability to prevent and treat diseases like diabetes and cancer -- and substantially lessen the costs associated with these diseases. Because the discretionary caps are so tight, the only realistic way to pay for such an initiative is through dedicated savings from the tobacco agreement. This link between tobacco legislation and health research should resonate strongly with the public.

4. Other Coverage Options -- Childrens Health, Workers In-Between Jobs, Voluntary Purchasing Cooperatives: We are working on a public/private outreach effort to ensure that every child eligible for health insurance under Medicaid or our new program actually gets covered. The public side of this effort could include proposals to: give bonuses for enrolling more children in Medicaid; expand the kinds of places where children can enroll; and simplify eligibility processes. In addition, we are considering whether to propose a demonstration of our old policy to provide coverage to workers who are in-between jobs. Finally, we are continuing to pursue proposals relating to voluntary purchasing cooperatives, as a way to help small business gain access to and afford health insurance coverage.

5. Racial Disparities in Health Care: We are working on a proposal to address racial disparities in six carefully selected areas of health care: infant mortality, breast and cervical cancer, heart disease and stroke, diabetes, AIDS, and immunization. This proposal will include nationwide actions to reduce these disparities, as well as focused pilot projects in thirty communities (say, a project on diabetes on an Indian reservation or a project on AIDS in an inner city). The stated aim of the proposal will be to eliminate racial disparities in these six areas by 2010.

Crime

1. Community Prosecutors: We are working on a proposal, costing up to $100 million, to provide grants to prosecutors for innovative, community-based prosecution efforts. A number of jurisdictions already have embraced such efforts; for example, community prosecution is an essential component of Bostons juvenile crime strategy. These jurisdictions have found that a "problem-oriented" (rather than incident-based) approach to prosecuting, using a wide variety of enforcement methods and attending to the concerns of victims and witnesses, can pay real dividends. A grant program could spread these innovative programs across the country.

2. Juvenile Crime Initiative: Although we got funds for much of our youth violence strategy in last years appropriations bills, we should continue to press for the passage of juvenile crime legislation -- especially for a juvenile Brady provision, which will stop violent juveniles from owning guns as adults. We also should challenge the four cities leading the nation in juvenile crime (New York, Los Angeles, Chicago, and Detroit) to replicate Bostons successful strategy and target resources to these cities to help them meet this challenge.

Welfare/Housing

1. Welfare-to-Work Housing Vouchers: We are working with OMB and HUD on a proposal for 50,000 new housing vouchers to help welfare recipients in public housing who need to move in order to find employment. We would distribute these vouchers on a competitive basis to public housing authorities working with local TANF agencies and/or grantees of the new $3 billion welfare-to-work program. We are working on a number of proposals to increase housing mobility (see below), and linking this issue to welfare reform may increase the

chance of attracting congressional support. At the same time, we should reiterate our support for welfare-to-work transportation funds as part of NEXTEA.

Housing

1. Housing Portability/Choice: In addition to the new welfare-to-work housing vouchers discussed above, a package on housing portability and choice could include: increasing the number of Regional Opportunity Counseling (ROC) sites; encouraging the use of exception rents (rents up to 120 percent of the "fair market rent") as a tool for opening up more expensive suburban housing markets; and eliminating obstacles to portability of Section 8 vouchers.

2. Fair Lending/Fair Housing: This proposal could include: an examination of the impact of credit scoring and risk-based pricing on the availability of credit/capital to lower-income and minority individuals; issuance of guidance by banking regulators on certain key credit scoring issues and, possibly, on risk-based pricing; a Presidential call to the FDIC and the Federal Reserve to obtain more data on reasons for home mortgage loan denials (OCC and OTS already collect such information); and collection of race and income data as part of the Equal Credit Opportunity Act/CRA small business and small farm lending reporting requirement.

3. Downpayment Reduction: We are working on a proposal to increase homeownership by reducing the barriers to buying a new home. Many low- and moderate-income families find a downpayment the largest hurdle to buying a new home; this initiative would lower this cost and help more families become homeowners. In 1992, Congress authorized the National Homeownership Trust, but never appropriated any money. We are investigating whether we should request money for this program or whether it is better policy to expand the existing HOME program (which serves a similar purpose).

Labor/Workforce

1. Child Labor: We are working on a comprehensive Child Labor Action Plan, anchored by a $100 million commitment to the International Program on the Elimination of Child Labor (IPEC) -- a voluntary program of the International Labour Organization which is dedicated to the elimination of child labor. The funds, which would be managed by the Department of Labor in accordance with criteria we would develop, would go to programs attacking the most intolerable forms of child labor. The initiative also might include a stepped up Customs program to enforce U.S. law banning the import of goods made with forced or bonded child labor; increased support for the Migrant Education Program to support elementary and secondary education to the hardest-to-serve migrant children; and a call for prominent organizations, such as the Boy Scouts and Girls Scouts, to adopt a "No Sweat" code for uniforms and an accompanying label.

2. Pensions: We have developed an expanded pension coverage initiative that focuses on a simplified defined benefit plan for small businesses, based on the SAFE plan proposed by the American Society of Pension Actuaries (ASPA). We are also looking at a payroll deduction IRA proposal, a three-year vesting requirement for employer matching contributions in 401(k) plans, a womens pension initiative, and a pension right-to-know proposal.

3. Community Adjustment: As part of the Fast Track debate, we proposed the creation of the Office of Community and Economic Adjustment (OCEA). As you know, this office will be

modeled after the Defense Departments Office of Economic Adjustment (OEA) -- the Administrations first point of contact with communities experiencing a military base closure or defense plant closing. The OCEA would coordinate the Administrations response to regions impacted by a major plant closing or trade, by working with Labor, Commerce, SBA, HUD, Treasury, and other government entities. This group would provide planning grants and expertise to help communities develop comprehensive economic adjustment strategies. Since this program will be part of the Economic Development Administration (EDA), we are investigating whether we could initiate this proposal by executive memorandum, while awaiting Congressional appropriations.

Climate Change

1. Tax Incentive and R&D Package: You already have committed to a $5 billion package over five years for tax incentives and R&D to promote low-carbon technologies. The Treasury Department is working on a possible package of tax incentives to be included in the FY 1999 budget, and DOE has a proposal on the expenditure side. We are working to develop final options.

Race

A number of the above proposals -- e.g., education opportunity zones, university-school partnerships, housing vouchers -- can be presented as part of the race initiative, because they target predominantly minority areas or provide disproportionate benefits to members of minority groups. Other proposals described above -- the Hispanic dropout plan and the race and health initiative -- have obvious and explicit race connections. In addition:

1. Civil Rights Enforcement Initiative: We are working on a coordinated package of reforms for the EEOC and the civil rights offices at DOJ, HUD, HHS, Education, and DOL. Among other things, this proposal would expand dramatically the EEOCs mediation program, substantially increasing the average speed of resolving complaints and reducing the EEOCs current backlog. Similarly, the proposal would promote the increased use of non-adversarial techniques by the agencies civil rights offices. The proposal also would provide a mechanism for better coordination among the various civil rights offices.

MEMORANDUM FOR ERSKINE BOWLES
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May 13, 1998

MEMORANDUM FOR ERSKINE BOWLES

Through:Frank Raines
From:Joshua Gotbaum
Re:Materials on Tobacco Spending

Attached are two exhibits for our meeting this afternoon.
Alternative Spending Proposals for a discussion of whether and what to propose for use of tobacco receipts. It compares the Presidents Budget with:
A Strawman that would probably satisfy all the major constituencies and many budget commitments, but would spend $14.5 billion over five years more than McCains bill would raise. (This is under OMB estimates; CBO will probably show even lower net revenues.)
A Balanced Strawman that omits spending for some health research, state funds from the initial payment, a contribution to the tort fund from the initial payment, some non-health research, and reduces payments for farmers.
Alternative Uses of the State Share for a discussion of whether to move off our Budget proposal and, if so, to what. It compares our original Budget proposal and the Harkin/Chafee/NGA broad menu with possible alternatives:
A limited menu, which adds substance abuse and a few other health, welfare and education uses to the original child care, class size and Medicaid outreach proposals.

An alternative new Child Health & Development Fund, which would move even further toward the states desire for very minimal Federal constraints on how they spend the Federally-directed share.

c:Bruce Reed
Elena Kagan

MEMORANDUM FOR BRUCE REED
ELENA KAGAN

FROM: Nancy-Ann Min

SUBJECT: Idea for Memorial Day Announcement/Event

On the day after Memorial Day last year, the President announced that he would seek precedent-setting legislation, marking the first time that children of American soldiers would receive benefits for combat-related health problems. This Memorial Day might be a good opportunity for the President to announce how the Department of Veterans Affairs (VA) has adopted an innovative approach to implementing this policy.

Background
Following the Presidents May 1996 announcement, the Administration transmitted to Congress legislation to provide medical care and rehabilitation benefits and pay compensation to those children of Vietnam veterans who were exposed to Agent Orange and who are suffering from spina bifida. Congress passed the legislation and, on September 26, 1996, the President signed P.L. 104-204. Because the VA health care system is focused on adult veterans, providing services to children nationwide for congenital defects that require long-term multi-disciplinary care has been a challenge.

VA Signs An Agreement with Shriners Hospital for Children
Since Congress delayed the effective date of these benefits until October 1, 1997, the Administration had the opportunity to develop a coordinated approach to implementing the policy. On March 28, 1997, in an extraordinary example of public-nonprofit partnership, VA signed an agreement with Shriners Hospital for Children (SHC) to provide free, high-quality medical care to children of Vietnam veterans who are suffering from spina bifida (see attached press release). Under the agreement, VA will identify the entitled children and refer them for treatment at one of the seventeen orthopedic Shriners Hospitals located in the United States (see attached).

This partnership between VA and Shriners is an innovative solution that will provide the best quality care at no cost to the government. With a mission to provide expert orthopedic care to children totally without charge, Shiners hospitals treat a greater number of children with spina bifida than any other single healthcare provider. I understand that Rep. Joe Kennedy played a role in orchestrating this arrangement.

Beginning in October, VA will cover the transportation costs for children and their parents or legal guardians to any Shriners Hospital. In addition, VA will reimburse other facilities for any necessary medical services not provided by Shriners. Estimates of the total number of children who may use VA benefits range from 600 to 2,000.

Shriners Hospitals for Children (SHC)
Orthopaedic Hospitals

*Chicago Hospital
2211 N. Oak Park Ave.
Chicago, IL 60635-3392
312-622-5400

Erie Hospital
1645 W. 8th St.
Erie, PA 16505
814-875-8700

Greenville Hospital
950 West Faris Road
Greenville, SC 29605-4277
864-271-3444

Honolulu, Hospital
1310 Punahou St.
Honolulu, HI 96826-1099
808-941-4466

Houston, Hospital
6977 Main
Houston, TX 77030-3701
713-797-1616

Intermountain Hospital
Fairfax Ave at Virginia St.
Salt Lake City, UT 84103
801-536-3500

Lexington Hospital
1900 Richmond Rd.
Lexington, KY 40502
606-266-2101

*# Northern California Hospital
2425 Stockton Blvd.
Sacramento, CA 95817
916-453-2000

Los Angeles Hospital
3160 Geneva St.
Los Angeles, CA 90020
213-388-3151

*Philadelphia Hospital
8400 Roosevelt Blvd.
Philadelphia, PA 19152
215-332-4500

Portland Hospital
3101 SW Sam Jackson Park Road

Portland, OR 97201-5090
503-241-5090

St. Louis Hospital
2001 S. Lindbergh Blvd.
St. Louis, MO 63131-3597
314-432-3600

Shreveport Hospital
3100 Samford Ave.
Shreveport, LA 71103
318-222-5704

Spokane Hospital
911 W. Fifth Ave.
Spokane, WA 99204-2901
509-455-7844

Springfield Hospital
516 Carew St.
Springfield, MA 01104
413-787-2000

Tampa Hospital
12502 North Pine Dr.
Tampa, FL 33612-9499

Twin Cities Hospital
2025 E. River Rd.
Minneapolis, MN 55414
612-335-5300

* Includes Spinal Cord Injury Rehabilitative Center
# Includes Burn Center

March 18, 1998

MEMORANDUM FOR GENE SPERLING

FROM:NEC STAFF

RE:Morning Meeting Information

Pew Charitable Trust: We have now nailed down a timeline-script for the discussion that we are, reviewing with scheduling. Susan Rook will moderate, and the President will hear very briefly (30 seconds each) from each of the sites about what they had concluded in their meetings. The entire introductory segment would take approximately 6 1/2 minutes and is scripted very tightly by a former t./v. producer. The President would then speak for about 10 to 12 minutes from the OEOB studio (Room 459.) They would like us to arrange editorial board calls from You, Raines, and Shalala into the 10 markets before the event. Let me know if you would like to do that.

IRS Reinvention: As previously noted, the Vice President is doing an event on customer service improvements at the IRS tomorrow at 2:30 p.m. in the Roosevelt Room.

Pomeroy Event: We continued to work on preparations for the Pomeroy event today. After running it by Treasury, Jake gave Pomeroys staff the following sentence on your participation to add to their press announcement: "Gene Sperling, the director of the Presidents National Economic Council, will speak at the event to voice Administration support for Rep. Pomeroys efforts to advance a shared goal of pension portability." Chuck spoke with Treasury and has prepared draft talking points for you (see attached memo).

High Hopes in Committee Today: Rep. Fattah will offer the Administration's High Hopes proposal as an amendment to the House Committee mark on Wednesday (today) . Fattah has secured support of all House Committee Democrats and four of the Republican Committee members (Souder, McIntosh, Greenwood, and Scarborogh) for High Hopes.

On the Senate side, today in the FY99 markup, Domenicis mark-up does not assume enactment of any of the Presidents initiatives, included in the resolution is a sense of the Senate which states that until IDEA is fully funded no new education programs can be fully funded.

Buy-in, HIPAA follow-up: There appears to be fairly good press coverage; Good Morning America may highlight it tomorrow morning, USA Today may be running something, as well as a fair amount of regional press. Jennings will be going to the Press Club to sit on a panel (Chip Kohn, President Elect of the Health Insurance Association of America, a Consumers Union Representative, and the author of the Report) for the formal unveiling of the Kaiser Family Foundation study (plan was unveiled Tuesday -- due to POTUS mentioning of it in his Medicare remarks) of the individual insurance market. The report shows that there is a market problem and validates what we have been saying.

There may also be lots of questions about the HIPAA / GAO study. Good news: Senate approved a supplemental of $65 million (need to check) for HCFA, with I think an earmarked $6 to 10 million for HIPAA implementation (should fund 65 FTEs). Nancy Ann is testifying on this on Thursday.

Minimum Wage: Tomorrow, Senator Kennedy and Rep. Bonior will introduce our minimum wage

proposal to increase the minimum wage by $1 in two equal steps -- the first on January 1, 1999 and the second on January 1, 2000. This increase will benefit 12 million workers. Kennedy/Bonior are holding a forum with minimum wage workers, a small business owners, and economists on Thursday afternoon. (You have been invited to participate.)

Electricity Restructuring: Sally and P. Orszag believe they have brokered a deal--reached a compromise. They will send a memo to the President tomorrow seeking his approval to move forward with the compromise.

H1-B: Sally and Elena Kagan chaired a deputies level meeting yesterday evening, in which they formulated a position that would essentially commend Kennedy and his comprehensive approach to the short term amd long term problems: training, H1-B reform, H1-B caps.

The GI Bill: Well, don't pop the champagne just yet on the GI Bill. Senator Coats has put a hold on the Senate Workforce Investment Partnership Act because of language that limits using the money in sectarian institutions (or buildings, I think). DOL is working to smooth out this new wrinkle. I think that folks are optimistic that this fire can be "put out," however it is unlikely the bill will go to the floor this week, but may go early next week.

Economic Statistics: Tomorrow, the CPI and the International Trade statistics are released. The CPI is expected to be up 0.1%, following an unchanged reading in January. The core index is expected to have increased 0.2%, the same as in January. The trade deficit is forecasted to increase to $11.3 billion in January, from $10.8 billion in December. Exports are expected to be down, while imports are expected to be up.

Budget Resolution: On Tuesday the Senate Budget Committee began marking up and Domenici put down his mark (Chuck is working on talking points with OMB). The Democrats are expected to put their budget down tomorrow morning.

A Deal on Cox-Wyden?: Cox believes that he has a deal with NGA and the industry on Cox-Wyden. Although there is nothing on paper [so do not take this as gospel] -- the outline of the deal is:

*Reduce moratorium from 6 to 3 years
* Permanent moratorium on access charges
*Expand charter of study process to look at nexus issue
*Commitment from the leadership to bring a bill dealing with the nexus/mail-order issue to the floor - presumably after the study process [This may just be a commitment from the leadership -- not clear how it could be enshrined in legislation.]

It might be worthwhile with NGA to see if they have really signed off on this -- and what the next steps are from their point of view. Preliminary reaction from Treasury staff is positive

IMF -- Supplemental: After testifying on the Hill, Secretary Albright and Secretary Cohen, joined by Secretary Rubin, will hold a press conference on the Hill to urge Congress to pass the supplemental with all four major national security priorities intact (Iraq, Bosnia, IMF and Un arrears.) The idea is to stave off GOP attempts to separate out one or more critical pieces from the supplemental. State is coordinating with Treasury and

Defense, and the event is likely to take place about 12:30 p.m. in the triangle outside the House side (aka the Swamp.)

IMF: The Senate Appropriations Committee voted out the IMF funding bill 26-2. Most of the objectionable provisions referenced in the Rubin letter stayed in, but the vote was for the full amount. Only one of the objecting votes was concerned about IMF. As I noted before, Albright, Rubin, and Cohen will hold a joint press avail on the Hill to highlight the importance to national security of moving quickly on the entire package -- IMF, Bosnia, Iraq, and UN arrears. Treasury is concerned about some of the provisions in the IMF bill, but hopes that we are lucky enough to get it to conference where we might have a chance to fix them.

National Academy of Sciences Report on Reading: The NAS will release (this morning) the results of a two-year-long study on preventing reading difficulties in young children. While we do not know the contents of the study, we expect it to offer research-based support for our overall approach to reading and early childhood (America Reads, child care and early intervention, class size reduction.) We expect that Secretary Riley will release a press statement, linking the study to the President's proposals to improve reading. The Secretary will also say that he will work to disseminate this study widely to teachers and students across the country. We will get a final draft of that statement tomorrow morning.

FYI - Secretary Rubin on Evans & Novak. Secretary Rubin will be doing Evans and Novak on Saturday. Topic is economy, IMF, social security, taxes, and other issues.
Economic events: There are two key economic releases this week (both on Thursday): the CPI is expected to be up 0.1%, and the trade deficit numbers are forecasted to show further widening.

Here is a summary of all the events for next week:
DateEventComments
Wed., Mar. 18Beige Book Expected: Focus on effects of Asia crisis and tight labor markets.

Thur., Mar. 19Consumer Price Index (Feb.)Expected: Up 0.1% in February, following an unchanged reading in January. The core index is expected to have increased 0.2%, the same as in January.

International Trade (Jan.)Expected: Up to $11.3 billion in January, from $10.8 billion in December. Exports are expected to be down, while imports are expected to be up.

Fri., Mar. 20Federal Budget (Feb.)Expected: Deficit of $39 billion in February, compared to $44 billion in Feb. 1997.

March 23, 1998

MEMORANDUM FOR GENE SPERLING

FROM:NEC STAFF

RE:Morning Meeting Information

Equal Pay:Katzen and Kagan were originally thinking of meeting with "the women" (Greenberger, Lichtman, et al) tomorrow afternoon, but they have postponed their meeting until Tuesday because Audre Haynes (she is expecting you to mention this at 7:45am, she will reiterate at 8:30am meeting) in the womens office suggested that there be a bit more processing. Sally and Elena (NEC/DPC) are putting together a memo that will be circulated to the Principals (EBB, Rubin, Sperling, Podesta, Reed etc.) tomorrow afternoon to make sure that everyone is in sync.

Kids Health: Friday, California submitted its response to HCFA, so that its deadline for approval is now Wednesday 3/25. There is still a possibility of using the NY kids health approval for a radio address--you may want to bring this up.

America Reads: Tomorrow (Tuesday) morning Larry Stein and myself will meet with Hoppe (Lotts Chief of Staff) to help get the America Reads bill moving.

Electricity Restructuring: The Department of Energy intends to unveil the Administration's electricity restructuring proposal in a ceremony on Wednesday, March 25. We expect that the proposal will produce consumer savings of roughly $20 billion per year, and reduce carbon emissions (by 25 to 40 million metric tons in 2010).

McClellan AFB: Sudden Turn of Events: On Friday, Hill Air Force Base in Utah stunned DoD and the defense industry by selecting Boeing as its partner for the "public-private" competition for the workload now performed at the closing McClellan AFB in Sacramento. Lockheed had been expecting to get the nod from Hill, and Boeing, which has had a team in Sacramento for months, had been prepared to compete as a private bidder. The expected arrangements were ideal for Sacramento: If Boeing won, all of the work would likely stay in a privatized McClellan facility. And, even if Hill-Lockheed won, Sacramento would keep half of the workload, because Lockheed had formally committed to keep the KC-135 aircraft repair work at McClellan (Hill AFB lacks the capacity to take on additional aircraft repair). With Hill's surprise decision, all that is changed, and -- at least for now -- there is no sure private sector bidder in the $200M/year (2000 jobs) competition, which began on Friday with DoD's release of the RFP. Worse still, Hill AFB officials told Sacramento reporters that, if Hill-Boeing won the competition, Boeing would move the KC-135 work to the company's new repair center in San Antonio rather than to Sacramento (although Boeing did not confirm or deny that). Dorothy, will talk to Whit Peters (Acting Air Force Secretary) and Chris Hansen (head of Boeing's Washington office) first thing Monday to get additional information. (See attached email for more information)

FTAA Trade Negotiations: On Friday, Barshefsky announced that the Fourth FTAA Trade ministers provided a solid foundation for a comprehensive and successful launch of substantive negotiations at the Santiago Summit. (See attached Press release and FTAA Negotiation Framework)

SAVER SUMMIT ANNOUNCEMENT: The event could be this Thursday or Friday (Rahm has not yet decided). The event will not only describe the Presidents goals for the Summit in early June, but will also name the 100 people he choose (in consultation with Congressional Democratic Leadership) to participate in the June summit. Participants include representatives of seniors organizations, trade associations and labor unions, as well as small business owners. I let Rep. Pomeroy know last Thursday that he would have a prominent role (POTUS and EBB asked you to do this). Participant list and draft press release attached

Senate/Coverdell Update: The Senate still has no agreement on debate on Coverdell Bill. Lott apparently threw a tantrum on the Senate floor, complaining that Dems are holding everything up. In a shift in schedule, he announced that the Senate will turn to the Supplemental on Monday at noon.

I spoke to Daschle's guy after a meeting on the Hill where Byrd's staff relayed to Bob that there are reports of continued discussions between the two Republican IMF camps but there apparently has been no resolution.

US-EU Blair Cable--President Clinton sent a cable to Blair to stress his support for the US-EU trade initiative because Blair leaves for France Monday morning and France has threatened to kill this thing.

CC/AARP Social Security Forum -- No new info since yesterday. We have been talking with Concord and AARP about the first forum on April 7; tentatively 12-4 pm at Penn Valley Community College in Kansas City. We plan to have a meeting -- with Scheduling, Communications, others -- first thing next week on the event.

Format. We now feel somewhat comfortable with the format. President and multiple members of Congress open with remarks. Then, there will be a presentation by the moderators (tentatively Matt Miller and Susan Densler) on various reform options, followed by a panel discussion (experts may include Moon, Bartless, David Walker, Fred Goldberg) and audience questioning of panel on those options. Then, a town meeting will follow with President and multiple members of Congress; we will keep this portion substantive either through brief panel member presentations or Concord/AARP presentations. [When we receive the updated format/agenda from CC/AARP in the next few days, we could circulate it.]

Congress. Stein called Lott and Gingrich's offices earlier this week, but AARP learned today that the Speaker can not attend and AARP has asked you to encourage Erskine to make a call to the Speaker. CC/AARP are following up with those and other offices.

FYI from Peter: Peter wants to make sure you know that Larry is having another Social Security meeting at Treasury on Monday, March 23. Peter has been included in the process.

Here is a summary of all the events for the week:

There arent any major economic releases next week. The only one people may be interested in is the personal income release on Friday. Expectations are that personal income will be up 0.5% in February, following a 0.6% increase in January. On Thursday, real GDP for the fourth quarter is revised for the final time.

Here is a summary of all the events for next week:

DateEventComments

Wed., Mar. 25Durable Goods Orders (Feb.)Expected: Up 0.7% in February, following 1.6% increase in January (which followed a 5.3% plunge in December). The increase in new orders suggests that the backlog of unfilled orders also rose.

Existing Home Sales (Feb.)Expected: Unchanged at 4.44 million in February. This high rate -- because of mild weather and low mortgage rates -- should lead to higher furniture, electronics, and textiles sales.

Thur., Mar. 26Real GDP (Q4)Expected: Growth in the fourth quarter is not revised from its 3.9% rate.

Fri., Mar. 27Personal Income (Feb.)Expected: Up 0.5% in February, following 0.6% gain in January. Consumer spending likely rose 0.5% in February. Real consumer spending is on track to grow at annual rate of 5% in first quarter.

*

April 10, 1998

MEMORANDUM FOR GENE SPERLING

FROM:NEC STAFF

SUBJECT:Information for Morning Meeting

Fair Housing Act 30th Anniversary. The NEC, working with the DPC and HUD, is preparing a Presidential statement, to be issued on today, commemorating the 30th anniversary of the Fair Housing Act (it was passed on April 10th and signed by LBJ on April 11). The statement will also call for Congress to provide the full $22 million funding increase requested by the Administration, in the FY 99 budget, for HUDs fair housing enforcement efforts. Ten million dollars of the increase would fund a new paired testing initiative in 20 metropolitan areas. Paired testing, in which otherwise identical white and minority testers (for example, same income, type of job, job experience) approach realtors or landlords, is perhaps the best way to detect the subtler housing discrimination prevalent today.

Update on Hashimoto Announcement: Yesterday, there was an inter-agency agreement that we (the Administration) would make some what supportive statements of the stimulus announcement while indicating that we look forward to seeing the details and underscoring that it is crucial that Japan moves forward quickly to put in place a strong program. Treasurys assessment is that the new package will not produce decisive upturn in the Japanese economy but will help to avoid precipitous down turn.

FCC Action: Today, April 10th, the FCC is scheduled to release a report to Congress that would require Internet Service Providers that provide telephone service over the Internet to pay in to the Universal Service Fund. The FCC is under pressure from Senator Stevens to make Internet Service Providers pay in to the Universal Service Fund. This would be a significant change in policy - because until now -- the FCC has not regulated Internet Service Providers. The NEC will meet with OVP and Ira to determine how the Administration should respond to these developments.

IRS Radio Address: The President will tape it later today. It will highlight the need for Congressional action on IRS reform bill, showcase important improvements in customer service at the IRS and indicates that the President is determined to route out any abuses of tax payers rights. Stories about IRS abuses will continue in the days ahead there should be one in todays (Friday) Washington

Chronicle on Higher Education Article: Today, at 10:00am Bob Shireman will attend a meeting with Sylvia Matthews (Host) and other to discuss the White Houses plan to form a diversity group to inform the public of the value of diversity and the need for affirmative action on college campuses. See attached article.

H1-B Update: Sally and Elena Kagan co-hosted a DPC/NEC deputies meeting on the H-1B visas yesterday afternoon. The discussion focused on three issues: reform, training and strategies for the increasing the cap. We're hoping to get reports back from the agencies early next week at which point we'll decide whether there should be another deputies

meeting, and/or whether this should go to the principals. Meanwhile, the VP's office has decided not to meet with the Representatives from the House who had approached him to discuss this matter. Rather, DPC/NEC staff will meet with them instead.

According to Kennedy's staff, although Lott has not mentioned bringing the Abraham bill to the floor, it is likely to reach the floor in early May. Also, Kennedy's staff and Abraham's staff are likely to begin talking about a compromise next week, although they are eager to see what will happen in the House.

Homeownership Rate: On Tuesday, April 21, the homeownership rate for the first quarter of 1998 is released. There is a possibility that it will increase again to its highest quarterly rate on record. As you may recall, in the third quarter of 1997, the homeownership rate hit an all-time high of 66.0 percent. In the fourth quarter, however, the rate fell back to 65.7 percent. But we were lucky: the annual rate for 1997 was released with the fourth quarter data and it was at its highest rate ever (65.7 percent). Since we will have to return to using the quarterly data -- instead of the annual data -- we need to homeownership rate to increase to 66.0 percent (or higher) in first quarter of 1998. Since the housing market has been very strongly lately, this is possible (though not guaranteed). On either Friday the 19th or Monday the 20th, HUD can provide us the homeownership numbers (because they are not "market sensitive").

Below is a summary of the economic events this week:

Next week is a quiet one for economic statistics. The only major economic release is the Producer Price Index (PPI) which is expected to fall by 0.1 percent. Drops in oil and import
prices will be partially offset by food price increases. The core index is expected to be flat. Over the past year, the PPI has fallen 1.7 percent, while the core index is essentially unchanged.

Here is a summary of all the events for next week:

DateEventComments

Tues., Apr. 7Installment Credit (Feb.)Expected: Consumers probably borrowed $4 billion more in new debt in February, after rising $2.9 billion in January. This will cause ratio of installment debt to disposable income to fall to 20.3% in first quarter, from 20.8% in Oct. 96.

Thurs., Apr. 8Producer Price Index (Mar.)Expected: Down 0.1 percent in March, because of oil prices and cheaper imports. This would be fifth consecutive monthly drop. The core was probably unchanged in March, after increasing 0.1 percent in Feb.

*April 24, 1998

MEMORANDUM FOR GENE SPERLING

FROM:NEC STAFF

SUBJECT:Information for Morning Meeting

Japan Stimulus Announcement: package should match Hashimotos promise of 10 trillion yen in real water and significant temporary tax cuts. (See attached memo)

Presidential Radio Address, Saturday April 25: The radio address is on track. The presidential directive on cracking down on fraud is almost finished (it does include a one-year timeline), and we are awaiting a draft from speechwriting. See attached e-mail from Jake.

NJ and CT plans approved Friday: NJ plans to cover 68,000 children through a combined Medicaid (up to 150% of poverty) and non-Medicaid (up to 185% of poverty) plan. Connecticut will also use a combined expansion: Medicaid up to 185% of poverty, non-Medicaid up to 300% of poverty (not sure how many kids they plan to cover). Missouri is on the slate for next week pending resolution of final details. The VP may be involved.

Fraud report released Today: HHS Office of the Inspector will release a report today (that got leaked to the wires yesterday) that says there are $20 billion in Medicare overpayments (down from $23 billion last year). Jennings is working on Q&As / extracting good things from the report. Nancy Ann is testifying on it Friday as well.

CBO Update: The CBO did not be announce their numbers yesterday (Thursday) instead they will likely do it today (Friday). Apparently, at this point, the CBO is prepared to say:

1) It appears that there has been no April surprise of a boost of revenue. Numbers are coming in consistent with projections.

2) Surplus could be higher than $8 billion, but CBO needs to see more information before making a new estimate.

3) They do not know enough yet to discuss beyond this year (FY98).

This is where they apparently are now, subject to additional heavy pressure from Kasich, who is pushing them to provide new large surplus numbers for this year and beyond.

IRS Hearings: You should also remind people that next week's hearings on the IRS will be painful.

NEC Deputies Meeting: Today at 11:00am, Sally will hold a Deputies Meeting to discuss privacy issues.

Ag Bill: We are hearing that Senators Lugar and Harkin are going to distribute a letter that says that at least 60 senators are in favor of the Ag Bill with the food stamp piece attached.

H-1B Visas: Yesterday Sally Katzen, Elena Kagan, Peter Jacoby, and Karen Tramontano met

with Representatives Lamar Smith, Mel Watt, and Zoe Lofgren to discuss their positions and the Administration's (general) position on H-1B visa legislation. Today, there will be a meeting with Sally, Elena, Ceci, and Julie Fernandes (of the DPC) (and undoubtedly others) with House staff. The attendees will represent the offices of: Drier, Blumenauer, Moran, Hooley, Rogan, Dunn, Hall, Campbell, and Shays.

Meanwhile, we are extremely close to have a draft of the Administration's position regarding H-1B visa legislation (particularly the reforms) that we hope to circulate more widely on Friday.

G. I. Bill: Both the Republicans and Democrats "hotlined" (sent around) the bill this evening and as of about 8:30 pm there were no holds. Therefore, the bill may be ready for scheduling. If all goes well, the bill should get to the Senate floor by sometime next week. Meanwhile, we should all be aware that there is the Ashcroft amendment which is completely unacceptable and that would potentially invoke a veto if it stands in its current form. By all accounts, the Conference will not be easy (because once the House sees the Ashcroft amendment, they may really like it and want it to stay). Therefore, should the bill get through the Senate, we will need to develop a high-level Conference strategy.

First Quarter GDP Growth: On Thursday, April 30th, the Commerce Department releases first quarter GDP growth. CEA forecasts first quarter GDP growth at about 3.5 percent; Merrill Lynch puts it at 3.2 percent; and Goldman Sachs estimates growth for the first quarter at 4.0 percent.

NEC Deputies Meeting: On Tuesday, April 28, Sally Katzen will host a Deputies Meeting to discuss privacy issues.

Social Security Trustees Report: Next Tuesday, April 28, the social security trustees report will be released. Outside experts are expecting a slight improvement relative to the 1997 report (which showed a 75-year actuarial imbalance of 2.23 percent of taxable payroll, and forecasted that the Trust Fund would be depleted by 2029).

Medicare Trustees Report, Tuesday, April 28: Although there will be no information released on the status of the Trust Fund prior to the official release, it seems clear that results from a recent analysis will hold: that the BBA reduced the 75-year actuarial deficit of Medicare by about one half. It is unclear whether the precise year of Trust Fund exhaustion will remain at 2010. We plan on holding meetings on Monday and Tuesday to ensure that there is a constructive roll out of information likely to come out of the report.

Bankruptcy: There will be an NEC principals meeting on Monday to discuss our position on Bankruptcy Reform

Informal Discussion with White House Staff
Leadership Conference for Presidential Appointees and Nominees
Saturday, April 25, 1998
12:15pm - 1:45pm

Below is a sample list of questions (not in order) that Ann Lewis will open with:

Given that Social Security has traditionally been the third rail of politics, what are the prospects for Social Security reform in the next year? (Gene Sperling)

What are the implications for both the White House and the agencies of a budget environment now characterized by a surplus? (Larry Stein)

How do you balance the viewpoints of different interest groups when some support the Administration on a given set of issues or challenges and some do not? (Maria Echaveste)

The Child Care initiative involved several agencies working successfully in partnership with the White House. What about this partnership was particularly notable? (Elena Kagan)

Would you talk briefly about how the presidential appointments process works? Do you expect to continue being able to push nominations along? (Bob Nash)

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December 7, 1997

MEETING ON UNIFIED SURPLUS AND SOCIAL SECURITY

DATE:December 8, 1997
TIME:11:20 a.m. - 12:20 p.m.
LOCATION:Cabinet Room
FROM:Gene Sperling

I.PURPOSE:

To follow-up on a meeting held last week with you on options relating to the unified surplus, Social Security and individual retirement accounts. We will be submitting a memorandum to you today that provides more information on these issues.

II.BACKGROUND:

The economic team has been meeting to discuss possible uses of the unified surplus, from financing tax reform to strengthening Social Security. As you know, there is much interest in using the surplus to bolster the Social Security system or to fund individual retirement accounts -- both to raise national saving and to pre-empt misguided tax reform ideas that are part of a larger strategy to reduce the role of government. While many of us believe that the approach is potentially very promising and dramatic, there are many difficult and complex issues that are emerging as we carefully consider the various possibilities.

III.PARTICIPANTS:

The Vice President
Erskine .Bowles
Frank Raines
Gene Sperling
Secretary Rubin
Jack Lew
Paul Begala
Larry Summers
Peter OrszagJanet Yellen

Ron Klain
Rahm Emanuel
Bruce Reed
John Hilley
Sylvia Mathews
John Podesta
Ken Apfel
Elena Kagan

IV.SEQUENCE OF EVENTS:

-- You will be meeting with your advisors.

V.PRESS COVERAGE:

None

VI.REMARKS:

None

I expect a conference call on Wednesday morning with:

Brian Coyne
Susan Daniels
Ken Nibali
Arthur Freed

Since the period for comment on the regulation closed in early April, SSA has been reviewing comments.

We have not been involved in this process at all.

In the course of the reviews, SSA staff has met with Jonathan Stein, who is one of the most vocal members of the advocate community and was driving force behind the Zebley case.

In addition, SSA staff has talked with doctors at the Kennedy Foundation in order to clarify SSA procedures and better delineate the issues of concern around mental retardation. SSA staff impression was that these doctors learned about the SSA process through these discussions and came away with a better understanding of the rationale behind SSAs positions.

It will be at least four weeks before SSA has enough information about the results of the redeterminations to be able to speak to how accurate the estimate of 135,000 children losing benefits will be.

SSAs take on Steins proposals is that they would have the effect of loosening the eligibility requirements to a standard less tough than the one in place before the law was changed.

SSA has no timetable because they dont want to lock in new rules until theyve had time to assess the effect of the applicaiton of the new guidelines.
You are meeting tomorrow (Thursday) at 11:00 in the Roosevelt Room with Eunice Shriver on SSI Childhood Disability. She is bringing Jonathan Stein (Community Legal Service in Philadelphia), Martha Ford (Consortium for Citizens with Disabilities), and Guy McKahn (a pediatric neurologist who is Director of the John Hokins Universitys Krieger Institute on the Brain and is associated with the Joseph P. Kennedy, Jr., Foundation). Attending from the White House will be Sylvia Matthews, Elena Kagan, and Diana Fortuna. This package on SSI Childhood Disability contains:

(1)Bullets on the current status of SSAs review of the new childhood disability interim final regulations.

(2)A copy of a May 20 letter from Jonathan Stein to OMB covered by a point-by-point reaction to the Stein letter.

(3)A page summarizing the legislative proposals considered during the welfare reform debate, beginning with the proposal passed by the House in March 1995 that would have transformed the program into a Block Grant to States.

(4)A page summarizing the options for implementing regulations that were considered between

August 1996 and February 1997 when the decision on regulations was announced.

(5)The White Paper prepared in October 1996 that presented a discussion of the options, which provides the best summary of this complex subject. Note that the option finally chosen was a variation of Option 2 in this paper that allows for additional consideration for children whose limitations are occasional or episodic, but severe when they do occur.

(6)SSAs Press Release from February 6, 1997, announcing the regulation.

(7)A package of material provided by Eunice Shriver this afternoon (Wednesday) for tomorrows meeting.

Also note that the Balanced Budget Agreement includes a proposal "to restore Medicaid for current disabled children losing SSI because of the new, more strict definition of childhood eligibility."

FFSSI CHILDHOOD DISABILITY
SUMMARY OF LEGISLATIVE PROPOSALS
1995-1996

INITIAL CONGRESSIONAL PROPOSAL -- 3/95$15 BILLION over 5 years

*Eligibility for Cash:
Current Recipients -- 2 marked limitations -- 190,000 children dropped
Future Recipients -- only 20% would get cash under this proposal
*Block Grants to States for Services for Additional Eligible Children

VETOED WELFARE BILL -- 12/95$12 BILLION over 5 years

*Eligibility for Cash: 2 marked limitations -- 190,000 current recipients dropped
*Two Tiers -- Most children get 25% cut
*No Block Grant

PRESIDENTS 1997 BUDGET -- 2/96$8 BILLION over 5 years

*Eligibility for Cash: 2 marked limitations -- 190,000 current recipients dropped
*Retain Full Cash Benefits
*Current Recipients Lose Benefits beginning 1-1-98

FINAL WELFARE REFORM BILL -- 8/96$8 BILLION over 5 years
*Eligibility for Cash:2 marked limitations -- 190,000 current recipients dropped
*Retain Full Cash Benefits
*Current Recipients Lose Benefits beginning 7-1-97

FFSSI CHILDHOOD DISABILITY
SUMMARY OF MAJOR REGULATORY OPTIONS
Late 1996-Early 1997

OPTION 1
Literal Reading190,000 Children Dropped$8 BILLION over 5 years

*Assumed Policy at Time of Enactment
*"Two Marked" Standard
*Drop Individualized Functional Assessment

OPTION 2 -- Chosen Option
Letter and Spirit of Law135,000 Children Dropped$5.6 BILLION over 5 years

*"Two Marked" Standard
*Drop Individualized Functional Assessment
*Make easier for children with physical impairments to be found eligible
*Make easier for children whose limitations are occasional, but severe when they occur, to be found eligible

OPTION 3
Advocates Position45,000 Children Dropped$1.6 BILLION over 5 years

*Drop Individualized Functional Assessment (IFA)
*Add new step with "One Marked and One Moderate" Standard

STANDARD PRIOR TO WELFARE REFORM BILL

*Step One: Medical Listings: Two Marked Limitations for Functional Equivalence Test
*Step Two: Individualized Functional Assessment -- Three Moderate Limitations

FFMeeting on Thursday, May 29th at 11:00 a.m.

Sylvia Matthews, Deputy Chief of Staff
FDR
Elena Kagan
Diana Fortuna?

Ken needs to give something to the Director on where we are now/where we stand

fact sheet, white paper, no E-mail, no formal memo

by COB Friday

Medicaid
grandfathering
how good is the 135,000 figure?

Where we were at time of regulatory decision -- what led up to it
The regulatory decision....
Anything thats happened since -- are they getting the work done?
PF

NLWJC – Kagan

Hard Drive – Folder 4

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*Step Two: Individualized Functional Assessment -- Three Moderate Limitations

FFCURRENT STATUS OF
SSAS REVIEW OF
THE NEW CHILDHOOD DISABILITY REGULATION

*Since the period for comment on the regulation closed in early April, SSA has been reviewing comments.

*OMB has not been involved in this review process.

*In the course of the reviews, SSA staff has met with Jonathan Stein, who is one of the most vocal members of the advocate community in the area of childhood disability and was the driving force behind the Zebley case.

*In addition, SSA staff has talked with doctors at the Kennedy Foundation in order to clarify SSA procedures and better delineate the issues of concern around mental retardation. SSA staff impression was that these doctors learned about the SSA process through these discussions and came away with a better understanding of the rationale behind SSAs positions.

*It will be at least four weeks before SSA has enough information about the results of the redeterminations to be able to speak to how accurate the estimate of 135,000 children losing benefits will be.

*SSA has not established a timetable for determining the extent to which they might want to change the new guidelines because they dont want to lock in new rules until theyve had time to assess the effect of the current application of the new guidelines.

FFPOINT-BY-POINT REACTION TO MAY 20 MEMO FROM JONATHAN STEIN

*Point: The new SSI rules eschewed a middle course.

Reaction: SSA did take a middle course that it estimated would remove 135,000 children from the rolls, compared to 180,000 if the regulations followed literal reading of the law and 45,000 if the advocates preferences had prevailed.

*Point: Great majority of the 260,000 children being reviewed are likely to be terminated.

Reaction: SSAs estimates at the time the interim final regulations were published was 135,000. Agency staff know of no basis for changing this estimate.

*Point: There are seven specific changes that SSA should adopt to avoid a disaster.

Reaction: Seven changes represent a summary of Jonathan Steins comments to SSA on the interim final regulations. SSA is in the middle of reviewing comments from a large number of sources and is reluctant to comment on that review in the middle of the process. The agency disagrees with the assessment that these changes are necessary to avoid a disaster. It believes that (a) some of the comments are worthy of consideration, (b) some involve fundamental disagreement about the process and the extent of SSAs discretion, and (c) some are issues that have been raised by Mr. Stein for several years as problems with the

process not directly related to changes made as a result of the new law.

*Point: SSA has established no timetable to consider comments and make changes.

Reaction: According to OIRA, there is no deadline or formal requirement for an agency to respond to comments on interim final regulations. In this case, SSA says it wants to see the results of redeterminations under the new guidelines before deciding whether changes are needed. SSA believes it will be at least a month before sufficient information is available to judge the results of the redeterminations.

*Point: No plans to apply "corrected" rules to children terminated under "interim" rules.

Reaction: Current guidelines are not "interim rules" but rather "interim final regulations" with the force of law. SSA does have no plans for how they would apply changed rules when they have not decided that the rules need to be changed.

*Point: Termination notices do not include phone numbers and names of local, non-profit agencies who can assist families.

Reaction: SSA is making information of this type readily available at local field offices. The difficulty of the logistics of including localized information on nationally standardized notices and of deciding which organizations should be included on the notices led SSA to decide not to use the notices for this purpose.
FFOMB Staff Summary -- This package provided by Eunice Shriver on Wednesday, May 28, includes 7 documents.

(a)The first 4 documents are the detailed official comments on the interim final regulations sent to SSA by Community Legal Services, a Kennedy Foundation Expert Panel, the Consortium for Citizens with Disabilities, and Eunice Shriver.

(b)The fifth document is a letter from ten Senators (Conrad, Chaffee, Kennedy, Harkin, Rockefeller, Jeffords, Baucus, Leahy, Dodd, and Daschle) stating that the SSA interim final regulations are not consistent with Congressional intent.

(c)The sixth document is the letter from Jonathan Stein addressed in item 2 above.

(d)The seventh document is an example of a child whose benefits will be terminated by SSA due to the new regulations, inappropriately according to this package. Informal SSA staff reaction is that this termination is indeed a mistake and does not illustrate any of the changes that Jonathan Stein suggests.

SCHEDULE PROPOSALDATE: December 30, 1997

_____ACCEPT _____REGRET _____PENDING

TO:Stephanie Streett

FROM:Gene Sperling

REQUEST:Three meetings over the next 10 days (between January 5 and January 14) to discuss further the issues relating to the unified surplus and Social Security. The first meeting should occur on January 5 or 6. Because of the political sensitivity of the issues involved, as well as their complexity, at least one meeting should be held at the end of the day or over the weekend to allow extended discussion if necessary to resolve the issues involved.

PURPOSE:A crucial part of the Presidents State of the Union address will be what (if anything) he says about our approach to the unified surplus and to Social Security reform. The purpose of the meetings is to resolve the Presidents preferred approach to these complicated and crucial issues.

BACKGROUND:The economic team has been meeting regularly to discuss possible uses of the unified surplus and the links with Social Security reform. As we have examined the possible options and further refined our thinking, the views of many advisers have evolved significantly. Given the importance and complexity of the issues involved, as well as their political sensitivity, it is essential that we have a substantial amount of time with the President at the beginning of January to decide upon the Administrations approach.

Following up on our previous meetings with the President on this issue, we have prepared and submitted (on December 29, 1997) an overall strategic memorandum and an extensive set of background memos responding to many of the Presidents questions.

DATE AND TIME:Three meetings between January 5 and January 14. At least one meeting should be held in the evening or over the weekend (to facilitate extended discussion if necessary).

DURATION:One hour per meeting

LOCATION:Cabinet Room. But it may be advisable to hold the meeting in the evening or over the weekend in the Residence.

PARTICIPANTS:

The Vice President
Erskine Bowles
Frank Raines
Gene Sperling
Secretary Rubin
Jack Lew

Paul Begala
Larry Summers
Janet Yellen
Ron Klain
Rahm Emanuel
Bruce Reed
John Hilley
Sylvia Mathews
John Podesta
Ken Apfel
Elena Kagan
Peter Orszag
David Wilcox

OUTLINE OF
EVENTS:Meeting

REMARKS
REQUIRED:None

MEDIA
COVERAGE:None

FIRST LADY'S
ATTENDANCE:Not required.

VICE PRESIDENT'S
ATTENDANCE:Requested.

SECOND LADY's
ATTENDANCE:Not required.

RECOMMENDED
BY:Gene Sperling

CONTACT:Peter Orszag, 456-5358

August 5, 1997

MEMORANDUM

TO:Melanne Verveer
Elena Kagan

FROM:Jennifer Klein
Nicole Rabner

RE:White House Conference on Child Care

As you may imagine, we have been giving much thought to the work involved in organizing and executing the White House Conference on Child Care, which is now approximately 12 weeks away. We have been giving particular thought to the lessons learned from the White House Conference on Early Childhood Development and Learning, as well as to the high expectations that the success of that event creates for this one.

We are writing to recommend that we hire, on a short term, full-time basis, someone to manage the logistics of the Conference, with responsibilities for the guest list, program, materials, and satellite site coordination for the Conference. We would obviously work hand-in-hand with this person. As you know, managing a Conference is far more labor and process intensive than is any one event at the White House. Announced far earlier than nearly any other White House event, the interest that it generates in the public and advocacy community alone requires substantial attention. And while White House staff in various departments ably picks up pieces of responsibility for the Conference, in our view it requires and deserves a person devoted managing the logistical pieces continually.

Most important, we anticipate that the child care policy development process will demand far more time and attention than we experienced with the April Conference. The issue is bigger and the stakes are higher. Our fear is that therefore we will be unable to give sufficient attention to the Conference. We also foresee a staffing shortage, with the Child Care Bureau less able than we thought to devote resources and staff to managing the Conference, with Jen working three days per work, and with our half policy slot still unfilled.

We could explore whether there might be a suitable detailee, or whether HHS could be convinced to pay for a consultant. Please let us know what you think.

g:\data\stafproCOUNSEL'S OFFICE STAFF PROJECTS February 7, 1996
Chris Cerf
striker replacement
immigration/federal contractors
tobacco

David Fein

Kumiki Gibson
affirmative action review

Elena Kagan
timber
partial birth abortion

Alan Kreczko/Jamie Baker

Marvin Krislov
DoD authorization/HIV
McCaffrey nomination
affirmative action review (w/Kumiki)

Cheryl Mills

Miriam Nemetz

Steve Neuwirth
school uniforms project
follow up on Aquilar
one strike and you're out project w HUD

Trey Schroeder
assistance to senior staff on document production
Natalie Williams

Jonathan Yarowsky

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Franklin D. Raines

FROM: Sally Katzen

SUBJECT: Heads-up on HHS Medicare Self-Referral Rule

We are about to conclude review of a proposed HHS rule revising the prohibition on Medicare reimbursement for physician self-referred services. Two years ago, HHS issued a rule (called "Stark I" after Congressman Pete Stark) that applied to clinical lab services and prohibited self referrals where the physician had an inappropriate self interest or potential for financial return, with narrow exceptions such as when independent physicians (who share a laboratory with other physicians) perform or supervise the tests themselves.

This rule (known as "Stark II") would relax requirements on clinical lab services but at the same time apply the criteria to a host of other ancillary services (e.g., radiology and home health services). Thus, Stark II would relax somewhat the doctor-in-attendance standard; it has proved to be unworkable -- independent physicians who supervise the technicians performing lab tests must be able to leave their offices for emergencies or certain unanticipated events. Stark II would allow hospital physicians to certify that a Medicare patient needs home health care provided by that hospitals home health agency. This exception is being provided even though current regulations prohibit all home health agencies (including hospital-based home health agencies and independent "mom and pops") from using their own physicians for certification because hospitals are important sources of home health services in rural areas. While mom and pops are likely to raise concerns about inherent conflicts of interest for hospitals, we concluded that the separate standard is appropriate to maintain access to health care in rural areas.

Reaction to the proposed rule is likely to be mixed, although the health care industry has been anxiously awaiting the rule and will welcome the clarification of policy in this area. HHS has shared the draft rule with Representative Starks staff who support the Administrations position.

Please let me know if you have any questions.

FF cc:Maria Echaveste
Rahm Emanuel
Ron Klain
Thurgood Marshall, Jr.
John Hilley
Ann Lewis

Sylvia Mathews
Bruce Reed
Gene Sperling
Chris Jennings
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Josh Gotbaum
Larry Haas

MEMORANDUM FOR BRUCE REED

FROM:Cynthia Rice

CC:Elena Kagan, Diana Fortuna, Lyn Hogan

DATE:March 13, 1997

SUBJECT: STATE PROFILES FROM HHS

I need your input on three issues:

Content: Does the attached description of Michigan include all the data we want HHS to track for each state? There are two things attached: 1) A matrix which now has only Michigan but will become a side-by-side comparing all states (supplying the data with which we could make U.S. maps for key issues); and 2) A list of key data and written description of welfare reform in the state. Im still not satisfied with the write-up or the look of these documents, but I think they are now providing the right facts. What do you think?

Which States: We now have Michigan, North Carolina, and Florida in hand and have been promised Virginia, South Carolina, Kentucky, Tennessee, Alabama, Mississippi, Missouri, Colorado, California, Oregon, and Washington by today or first thing Monday. Which states do you want next? Separately, John Monahan is sending you a memo proposing certain states with Republican governors -- California, Iowa, Connecticut, Ohio, Minnesota, Maine, Massachusetts, and Indiana -- that the President should visit. Are those the next states for which we should get state profiles?

Format: My intention is to have the revised profiles put in a three ring binder. The first tab will be an overview, showing the maps and the matrix comparing all states. Then there will be a tab for each state with the key data and the description of their welfare reform program. Does that sound useful?

Review of NCSL Proposal for State Excise Credit
- -State Excise Credit.doc
April 24, 1998
State Excise Credit.doc
To:Cynthia Rice, DPC
c:Bruce Reed, Elena Kagan, Jon Gruber, Karl Scholz

From:Joshua Gotbaum
Re:NCSL Proposal for State Excise Tax Credit

As you asked, we reviewed NCSLs proposal (attached) to establish a credit against the tobacco payment for state excise taxes. NCSL has proposed that, up to some limit, states be allowed to raise their own tobacco taxes, and that the increase be a credit against the assessment paid by manufacturers. In this way NCSL would ensure that a portion of the tobacco funds go directly to state treasuries, without any Federal involvement.
I discussed the proposal both internally and with Treasury. Our reactions are listed below. Wed be happy to elaborate if it becomes useful.
Allowing a credit for state excise taxes would achieve the states goal: to obtain additional revenue without Federal strings or limitations on their use.
However, the advantage to the states is a disadvantage for Federal policy: there would be no limitations whatsoever on the states use of the revenues: They could be spent on new or existing programs, and there would be no mechanism to ensure the resulting programs incorporated Federal requirements (procurement, non-discrimination, Davis-Bacon, etc.) ; alternatively, they could fund tax cuts.
Furthermore, whereas the Administrations proposal provided no additional funds if smoking

increased (because the payments are fixed), the credit would raise state revenues as smoking increased (as with excise taxes generally), in effect rewarding them for increased smoking.

The proposal would probably not reduce the indirect business tax offset (the 25%).

Implementing the proposal would be a little complicated, but feasible. There is a mismatch between the state and Federal approaches: State excise taxes are collected from distributors, whereas the Federal payment would be assessed on (usually out-of-state) manufacturers. In order for a credit to work, a certificate could be issued by the state to distributors when they pay their excise tax; distributors would then sell them to manufacturers, who would redeem them to reduce their annual Federal assessment. State certificates would be for the amount of additional per-pack excise tax above current levels. The amount of the credit would be limited to some fixed amount or percentage of the annual assessment, to prevent states from claiming more than their share.

This would also require action by all 50 state legislatures, which seems like a lot of work.

- -Document1
March 6, 1998
Document1
To:Frank Raines, Jack Lew, Bruce Reed, Elena Kagan, Emily Bromberg
c:Richard Turman, Gregg White

From:Joshua Gotbaum
Re:What portion of tobacco-related health expenditures are state funded?

The attached summarizes a 1994 study by the Centers for Disease Control (using data from the 1980s). Although nothing in this area is perfect, it does make the point that roughly 80% of government spending on tobacco related diseases is Federal, not state.
In talking with the NGA and others, we have continually said that the Administration was bending over backwards to accommodate the states (large portion goes to states, few strings attached, etc.). This study reinforces that point and may be useful in some discussions.

October 4, 1995

MEMORANDUM FOROFFICE OF COUNSEL TO THE PRESIDENT

FROM: JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

DAVID B. FEIN
ASSOCIATE COUNSEL TO THE PRESIDENT

RE:Document Request from Senate Special Committee

The Senate Special Committee to Investigate Whitewater has requested certain White House records in connection with its preparation for additional Whitewater hearings. Accordingly, please review your records ("memoranda, correspondence, notes, and records in any other medium, including drafts of any of the foregoing"), as well as your computer files, and retrieve the following:

"all records of telephone or wire communications, including, but not limited to, phone logs, copies of message pads, and electronic or written records, relating to communications between June 1, 1994, and August 5, 1994, between members of the Office of the White House Counsel and any employee of the Department of Treasury (including, but not limited to, the Department's Inspector General) or the Office of Government Ethics."

You do not need to provide any documents called for in this Memorandum that you already have produced to the Counsel's Office in response to prior requests. If you have sent records that may contain responsive material to the Office of Records Management, please let us know and we will ask ORM to search your material.

Please provide responsive material Associate Counsel David Fein (OEOB Room 128) no later than Friday, October 6, 1995. If you believe you have responsive material but are unable to retrieve it by October 6, or if you have any questions about this request, please contact Jane Sherburne (6-5116) or David Fein (6-6219).

Thank you for your cooperation.

Distribution:

Donna Alberts
Joseph Alden
Jana L. Blair

Pamela Brewington
Virginia Canter
James Castello
Chris Cerf
Dawn Chirwa
Jeffrey J. Connaughton
Jonathan Denbo
Vicki J. Divoll
Jennifer D. Dudley
Mark D. Fabiani
Edward F. Hughes
Kimberly A. Holliday
Rochester M. Johnson
Elena Kagan
Marvin Krislov
Bruce R. Lindsey
Craig D. Livingstone
Marna Madsen
Clifford J. Mauton
Abner J. Mikva
Cheryl D. Mills
Gloria T. Mitchell
Melissa M. Murray
Miriam R. Nemetz
Stephen R. Neuwirth
Victoria L. Radd
Stacy E. Reynolds
Cheri Sweitzer
Robert A. VanKirk
Odetta S. Walker
Renee A. Warren
Kathleen M. Whalen
Natalie R. Williams
Jonathan Yarowsky

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Sally Katzen

SUBJECT:Heads-up on EPAs Proposed Stormwater Rule

We are about to conclude review of a proposed EPA rule that will control stormwater discharges in small municipalities (populations less than 100,000) and small construction sites (1 to 5 acres). (Stormwater discharges from larger cities, construction sites, and industrial facilities have been regulated since 1990 under the initial phase of the program.) EPAs proposal would require each affected locality to obtain a State permit and implement "best management practices" to control stormwater discharges, but will leave considerable flexibility to states and municipalities to determine what to do on a site-specific basis.

The proposal is the product of a "consultative Federal Advisory Committee process" that was conducted over the past two years before EPA had valid numbers for the costs and benefits. Within the past month, EPA has refined its analysis and now estimates annual costs of $140 to $880 million and annual benefits of $105 to $575 million. EPA is sensitive to the small, if not negative, net benefits of the proposal and is therefore calling for comments on several options that would mitigate the economic effect on the construction (not municipal) industry.

Even though EPA developed the rule in consultation with a Federal Advisory Committee, we expect the rule to receive mixed reactions. The environmentalists will likely be critical of the cost/benefit analysis but be reasonably satisfied with the regulatory requirements. The municipalities will also likely be reasonably satisfied with the regulatory requirements though some will no doubt raise objections. The construction industry will likely oppose the requirements, arguing that they will surely increase the costs of new homes.

There is a judicial deadline of December 15 for publishing the proposed rulemaking. Please let me know if you have any questions.

FFcc:Maria Echaveste
Rahm Emanuel
Ron Klain
John Hilley
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
Katie McGinty
Bruce Reed
Gene Sperling

Micky Ibara
Elena Kagan
Victoria Radd
Barry Toiv
Kathy Wallman
T.J. Glauthier
Larry Haas

*

November 16, 1998

TOBACCO SETTLEMENT ANNOUNCEMENT

DATE:November 16, 1998
LOCATION:Roosevelt Room
BRIEFING TIME:3:00 pm - 3:30 pm
EVENT TIME:3:35 pm - 4:00 pm
FROM:Bruce Reed

I.PURPOSE

To declare that the proposed state tobacco settlement is a step in the right direction and call on Congress to finish the job.

II.BACKGROUND

You will make a statement declaring that the proposed state tobacco settlement is a step in the right direction and calling on Congress to finish the job. This is an opportunity to praise the state Attorneys General for their perseverance in this fight to hold the tobacco industry accountable for targeting children; it is also an opportunity to announce that enacting national tobacco legislation to finish the job will be one of your top priorities in the next Congress. You will also underscore the Administrations strong commitment to the FDA tobacco rule, noting that the Solicitor General has decided to seek Supreme Court review of the Fourth Circuits decision invalidating the rule. You will be joined by seven state Attorneys General following the unveiling of their package at the National Press Club.

National Tobacco Legislation will be one of your Top Priorities for Next Congress.
You will announce that enacting national tobacco legislation will be one of your top priorities for the next Congress. The new Congress has the chance to put politics aside and do what the last Congress failed to do -- act now to prevent three million children from starting smoking and save one million lives over the next five years.

The Solicitor General will Seek Supreme Court Review of the Fourth Circuit FDA Decision.
You will reiterate your support for the FDA tobacco rule which you unveiled in 1995 and which the tobacco industry has challenged in court ever since. Last week, the full Fourth Circuit Court of Appeals denied the Administrations request for a rehearing of the panel decision invalidating the FDA rule. You will make clear that the Solicitor General has authorized the filing of a petition for certiorari in the Supreme Court seeking review of the Fourth Circuits decision in this matter. Confirming the FDA's authority over tobacco products is necessary to help stop young people from smoking before they start by stopping advertising targeted at children and curbing minors' access to tobacco products. If the leadership in Congress would act responsibly, it would enact bipartisan comprehensive tobacco legislation to confirm the FDA's authority and take this matter out of the courtroom.

III. PARTICIPANTS

Briefing Participants:
Bruce Reed
Bruce Lindsey
Mickey Ibarra
Elena Kagan
Cynthia Rice

Event Participants:
YOU
Attorney General Christine O. Gregoire, Washington
Bruce Reed

Standing on Stage, but not speaking:
Attorney General Gale Norton, Colorado
Attorney General Tom Miller, Iowa
Attorney General Dennis C. Vacco, New York
Attorney General Heidi Heitkamp, North Dakota
Attorney General W.A. Drew Edmondson, Oklahoma
Attorney General Mike Fisher, Pennsylvania

IV. PRESS PLAN

Pool Press.

V. SEQUENCE OF EVENTS

- YOU will be announced into Roosevelt Room accompanied by Bruce Reed and Attorney General Christine Gregoire.
- Bruce Reed will make welcoming remarks and introduce Attorney General Christine Gregoire.
- Attorney General Christine Gregoire will make remarks and introduce YOU.
- YOU will make remarks.
- YOU will have an opportunity to answer questions from the press and then you will depart.

VI. REMARKS

Provided by Speechwriting.

g:data\travel\SUB3.REQ

DRAFT -- JANUARY 30, 1996

MEMORANDUM FOR:ALL STAFF OF THE WHITE HOUSE, THE EXECUTIVE OFFICE OF THE PRESIDENT, THE OFFICE OF MANAGEMENT AND BUDGET, THE OFFICE OF THE VICE PRESIDENT AND THE EXECUTIVE RESIDENCE

FROM:[ ]

SUBJECT:Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its investigation into the "White House Travel Office matter."11For purposes of responding to the subpoena requests, please use the definition of "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). Please review your "records,"22For purposes of responding to the subpoena requests, please use the definition of "records" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve the following White House records created on or before January 11, 1996:

1."All records related to the General Accounting Office review of the White House Travel Office."

2."All records related to the Justice Department's Office of Professional Responsibility review of the White House Travel Office."

3."Any records related to American Express obtaining the White House Travel Office business including all records related to any contact with GSA or American Express up to the time of this letter."

4."All records related to the Peat Marwick review of the White House Travel Office and any subsequent reviews such as that performed by Tichenor and Associates and any records reflecting any contacts, communications or meetings with any Peat Marwick attorneys or officials to the present."

5."Any records of any contacts or communications related to any IRS matter regarding UltrAir and/or any IRS matter regarding any other White House charter company, any IRS matter related to any of the fired seven travel office employees, or any other IRS matter related to the White House Travel Office and any records of contact or communi-cations with IRS Commissioner Peggy Richardson by Mack McLarty, Webb Hubbell, Bruce Lindsey, Vince Foster, Bill Kennedy, or any other member of the White House Counsel's office33For a list of employees serving in the White House Counsel's Office from January 20, 1993 to the present, see Attachment 2. from May 1, 1993 to the present."

6."All records related to the Treasury Inspector General's investigation of the IRS audit of UltrAir. (The investigation requested by Rep. Frank Wolf in May 1993)."

7."Any records relating to any proposal to use independent financing or unused Presidential

Inaugural Committee funds to assist anyone on the White House staff, outsource White House duties or tasks, or otherwise assist White House operations. This would include records regarding any efforts, both inside and outside the White House to explore, evaluate or implement such proposal. It would also include records of any subsequent analysis of such efforts."

8."Any records relating to or mentioning the finding of the note in Mr. Foster's briefcase or any other location following his death, any Travel Office records of Mr. Foster's and any records relating to the finding or existence of or explanations of any files of Mr. Foster's relating to the White House Travel Office matter, Special Government Employees, issues of nepotism, the use of volunteers or any efforts to obtain Office of Legal Counsel opinions on any of these matters and any records of any contacts with Mr. James Hamilton, Lisa Foster, Harry Thomason, Susan Thomases, James Lyons about Vincent Foster records."

9."Any records relating to Mr. Thomason, Mr. Martens, Ms. Penny Sample, Ms. Betta Carney and Mr. Steve Davison and any other World Wide Travel employees including, but not limited to, all records indicating what these individuals did while at the White House, any documents relating to issues arising out of any actions they took while at the White House, any personnel records, requests for passes or pass forms, requests for office space and any forms related to office space, phone or other equipment, and any records relating to any actions taken by these individuals regarding the White House Travel Office. (For Ms. Sample, this request would also include all trip files for trips she had any involvement with while at the White House.)"

10."All records about problems or allegations or wrongdoing in the Travel Office from January 20, 1993 to present."

11."All tapes or videotapes produced by Mr. Thomason or any associates of his for the White House, the Bill Clinton for President Committee or the Clinton/Gore '92 Committee and all billings and financial statements relating to such work."

12."All records relating to Travel Office funds and/or documents being placed in the White House military office and all records of any inquiries about related events."

13."All records of any contacts with David Watkins or Bill Kennedy from the time they ended their employment at the White House to the present."44Bill Kennedy's effective date of resignation was 11/21/94. David Watkins' effective date of resignation was 6/17/94.

14."All Executive Order documents located in Mr. Foster's Travel Office files and/or his briefcases."

15."All records related to Harry Thomason and/or Darnell Martens discussing pursuing contracts with GSA, all records related to ICAP, and any records of the White House Counsel's office analyzing the issues raised by Mr. Thomason and Mr. Martens action at the White House."

16."All records related to any sexual harassment complaints about Mr. David Watkins during the Clinton/Gore 1992 campaign or during his tenure at the White House and any records of meetings, actions, or communications regarding such complaints and all records related to the $3000 per month retainer provided to Mr. Watkins by the Clinton for President campaign."

17."All records of any contacts, communications or meetings regarding the `Watkins memo'

produced to the Committee on January 3, 1996 and the chain of custody of this memo."

18."All indices or catalogues of Vincent Foster's office, tapes, computer and documents and who received each document from his office."

19."All records relating to the actions of Mr. Watkins at the White House regarding the use of White House helicopters, the names of all individuals in the two helicopters used in May 1994 for Mr. Watkins golf outing and all records relating to his departure from the White House."

20."All records relating to the matter of United States of America v. Billy Ray Dale, any investigation by the Justice Department into the White House Travel Office matter (as defined in the accompanying "Definitions and Instructions"), and all records relating to Billy Ray Dale as well as any records of talking points prepared about Mr. Dale to the present."

21."All records related to the gathering of documents for any review or investigation related to the White House Travel Office matter (as defined in the accompanying "Definitions and Instructions"). This includes, but should not be limited to, the White House Management Review, the IRS internal review, the GAO Travel Office review, the OPR investigation, the Public Integrity investigation, the Treasury IG investigation, the FBI internal review, Independent Counsel Robert Fiske, and Independent Counsel Kenneth Starr."

It is extremely important that staff members conduct a thorough search for responsive documents. Each Assistant to the President or Department head should ensure that his or her staff members conduct such a search.

We recognize that, in many respects, the House subpoena is identical to the December 19, 1995 document request previously sent to you by the Counsel's Office. You do not need to provide any documents which have already been produced to the Counsel's Office in response to the December 19, 1995 request, or any other prior request. But for all other responsive records that fall within the above categories, please provide such materials to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 5, 1996.

If you have any questions regarding the House subpoena request, please call Associate Counsel Natalie R. Williams (6-5079), or Special Counsel Jane C. Sherburne (6-5116).

Thank you for your cooperation.

PF

DRAFT -- JANUARY __, 1996

MEMORANDUM FOR:OFFICE OF RECORDS MANAGEMENT

FROM:[ ]

SUBJECT:Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House

records in connection with its investigation into the "White House Travel Office matter."11For purposes of responding to the subpoena requests, please use the definition of the term "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). Please review your "records,"22For purposes of responding to the subpoena requests, please use the definition of "records" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve the following White House records created on or before January 11, 1996:

1."Any records related to the White House Travel Office matter or the White House Project33For purposes of responding to these requests, please use the following definition of "White House Project", which appears in the Committee subpoena: The White House Project "involved both improving the 'staging' of Presidential events as well as finding a way to utilize excess Presidential Inaugural Commission funds for outsourcing White House assistance or providing assistance to the White House." from the following individuals and/or offices: The White House Counsel's Office,44For a list of the employees who have served in the White House Counsel's Office from January 20, 1993 to the present, see Attachment 2. Maggie Williams, Capricia Marshall, Lisa Caputo, Neel Lattimore, Isabelle Tapia, Mary Beck, Vince Foster, Deborah Gorham, Linda Tripp, Bill Kennedy, David Watkins, Catherine Cornelius, Clarissa Cerda, Jeff Eller, Patsy Thomasson, Ricki Seidman, Mark Gearan, Dwight Holton, Andre Oliver, Todd Stern, Jean Charleton, Brian Foucart, Janet Greene, Beth Nolan, Clifford Sloan, Mack McLarty, Bill Burton, David Dreyer, Anne Edwards, Rahm Emmanuel, David Leavey, Bruce Lindsey, Darnell Martens, Matt Moore, Dee Dee Myers, Lloyd Cutler, Jane Sherburne, Abner Mikva, Mark Fabiani, Tom Hufford, Roy Neel, John Podesta, Rita Lewis, David Gergen, Craig Livingstone, Marjorie Tarmey, Ira Magaziner, Bernard Nussbaum, Jennifer O'Connor, Penny Sample, George Stephanopoulos, Frank Stidman, Harry Thomason, Lorraine Voles, Jeremy Gaines, Dale Helms, David Gergen, Joel Klein, Neil Eggleston, Steve Neuwirth, Cheryl Mills, Jurg Hochuli, Andris Kalnins, Matt Moore and Bruce Overton."

2.All calendars, phone records (including message slips, phone logs, pages or any White House record of phone calls) of the following individuals for the period May 1, 1993 through July 31, 1993: Bill Kennedy, Vince Foster, Mack McLarty, Ricki Seidman, John Podesta, Todd Stern, Dwight Holton, Andre Oliver, Brian Foucart, Bruce Lindsey, Jack Kelly, Matt Moore, Beth Nolan, Cliff Sloan, Bernard Nussbaum, David Watkins, Catherine Cornelius, Jennifer O'Connor, George Stephanopoulos, Dee Dee Myers, Clarissa Cerda, Jeff Eller, Patsy Thomasson, Mark Gearan, Leon Panetta, Harry Thomason and Maggie Williams.

3.All calendars, phone records, message slips or phone logs of the following individuals for the period May 1, 1995 through November 30, 1995: Jane Sherburne, Jon Yarowsky, Natalie Williams, Miriam Nemetz, Abner Mikva, Maggie Williams, Capricia Marshall, Patsy Thomasson, John Podesta, Catherine Cornelius, Mark Gearan, Bruce Lindsey, David Watkins, Janet Greene, Betsey Wright, Webb Hubbell, Bill Kennedy, Jeff Eller, Neil Eggleston, Cliff Sloan, Mike Berman, Harry Thomason, Darnell Martens, Beth Nolan, James Hamilton, Susan Thomases, James Lyons, Roy Neel, John Gaughn, [any employee of the Military Office], Larry Herman, John Shutkin, [any employee of KPMG Peat Marwick], Billy Ray Dale, Barney Brasseaux, John Dreylinger, Ralph Maughan, John McSweeney, Robert Van Eimeren, Gary Wright, David Bowie, Pam Bombardi, Tom Carl, Stuart Goldberg, Lee Radek, Jamie Gorelick, Adam Rossman, David Sanford.

4."All records related to the General Accounting Office review of the White House Travel Office."

5."All records related to the Justice Department's Office of Professional Responsibility review of the White House Travel Office."

6."Any records related to American Express obtaining the White House Travel Office business including all records related to any contact with GSA or American Express up to the time of this letter."

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We recognize that, in many respects, the House subpoena is identical to the December 19, 1995 document request previously sent to you by the Counsel's Office. You do not need to provide any documents which have already been produced to the Counsel's Office in response

to the December 19, 1995 request. But for all other responsive records that fall within the above categories, please provide such materials to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 5, 1996.

If you have any questions regarding the House subpoena request, please call [ ].

Thank you for your cooperation.FF
JANUARY __, 1996

MEMORANDUM FOR:ALL PERSONS ON ATTACHED DISTRIBUTION LIST

FROM:

SUBJECT:Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its ongoing investigation into the Travel Office matter. Please review your "records," as that term is defined in the attached "Definitions and Instructions," and retrieve the following White House records created as January 11, 1996:

"Any records related to the White House Travel Office matter or the White House Project from the following individuals and/or offices (which would also include all assistants and secretaries). . ."

We understand that in many instances the House subpoena is identical to the December 19, 1995 document request previously sent to you by the Counsel's Office. Any documents that already have been provided in response to the December 19 request do not have to be produced again. Please provide any other records that fall within the above categories to [ ] no later than 12:00 p.m., on Monday, January 29, 1996.

If you have any questions regarding the House subpoena, please call [ ].
FFDISTRIBUTION LIST

The White House Counsel's Office
Capricia Marshall
Lisa Caputo
Neel Lattimore
Mary Beck
Mack McLarty
David Dreyer
Rahm Emmanuel
David Leavey
Bruce Lindsey
Jane Sherburne
Mark Fabiani
Tom Hufford
Roy Neel
Craig Livingstone
Marjorie Tarmey
Ira Magaziner

Jennifer O'Connor
George Stephanopoulos
Frank Stidman
Lorraine Voles
Jeremy Gaines
Dale Helms
Steve Neuwirth
Cheryl Mills
Jurg Hochuli
Andris Kalnins
Bruce Overton FF JANUARY __, 1995

MEMORANDUM FOR:ALL PERSONS ON ATTACHED DISTRIBUTION LIST

FROM:

SUBJECT:Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its ongoing investigation into the Travel Office matter. Please review your "records," as that term is defined in the attached "Definitions and Instructions," and retrieve the following White House records created as January 11, 1996:

1."Any records related to the White House Travel Office matter or the White House Project from the following individuals and/or offices (which would also include all assistants and secretaries); and

2.All calendars, phone records (including message slips, phone logs, pages or any White House record of phone calls) of the following individuals for the period May 1, 1993 through July 31, 1993, and May 1, 1995 through November 30, 1995.

We understand that in many instances the House subpoena is identical to the December 19, 1995 document request previously sent to you by the Counsel's Office. Any documents that already have been provided in response to the December 19 request do not have to be produced again. Please provide any other records that fall within the above categories to [ ] no later than 12:00 p.m., on Monday, January 29, 1996.

If you have any questions regarding the House subpoena, please call [ ]. FF DISTRIBUTION LIST

Maggie Williams
Catherine Cornelius
Patsy Thomasson
FF JANUARY __, 1995

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Mack McLarty
Bruce Lindsey
Jennifer O'Connor
George Stephanopoulos
FF
DRAFT -- JANUARY __, 1996

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Leon Panetta
Jack Kelly
PP
DRAFT -- JANUARY __, 1996

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Jane SherburnePP
DRAFT -- JANUARY __, 1996

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1.All calendars, phone records (including message slips, phone logs, pages or any White House record of phone calls) of the following individuals for the period May 1, 1995 through November 30, 1995. FFDISTRIBUTION LIST

Military Office employees [must get names]

April , 1996

MEMORANDUM FOR [ADD NAMES]

FROM:JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

WENDY S. WHITE
SPECIAL ASSOCIATE COUNSEL TO THE PRESIDENT

RE:Document Subpoena from the Independent Counsel

The Office of Independent Counsel has served a new document subpoena on the White House in connection with its investigation of Whitewater related matters. The subpoena specifically identifies the officials whose files need to be searched in response to the subpoena. These individuals are identified above and are receiving a copy of this memorandum.

In order to respond to this subpoena, please identify and review your records, including computer files, and provide any documents responsive to the categories described below to Wendy S. White in OEOB Room 148 by _____. 11Publicly available material, unannotated new clippings, and communications with Congress or the Independent Counsel may be excluded.

In the course of this effort, please determine whether you have sent records to the Office of Records Management that may be responsive to the subpoena. We will assist you in making arrangements with ORM for the review of this material.

We recognize that much of the material sought in the subpoena has been the subject of prior subpoenas or requests for documents. First, on January 20, 1996, you were asked to search for material related to the existence of documents referring to legal representation provided by Hillary Rodham Clinton at the Rose Law Firm or representation provided to Madison Guaranty Savings & Loan. That request captures many of documents responsive to the slightly broader request related to the Rose Law Firm set forth in Part I-B and II-B below. To the extent that you provided documents to the White House Counsel's Office (Elena Kagan) in response to the Independent Counsel January 20, 1996 request, you need not provide those documents again.

Second, many of you received personal subpoenas seeking production of documents similar to those requested in Part I-A and II-A and Part III below. To the extent that you have already provided documents to the Independent Counsel, you do not need to provide the documents again.

Finally, we recognize that you have been requested to provide certain of the documents responsive to this subpoena in response to prior Congressional requests, e.g. the Senate requests of October 4, 1995 and October 23, 1995 and a House request of August 1, 1995. This material, previously identified, may nevertheless need to be produced in the Independent Counsel, to the extent that it was only produced previously to Congress.

Third, to the extent that this subpoena could be read to call for documents related to contacts by the White House with the Department of Treasury, these documents were previously covered by the subpoena of March 4, 1994, and need not be provided again.

Given the breadth of this subpoena, and the overlap with prior efforts, we will undertake to contact each of you, or your counsel, to assist you in responding to the subpoena.

If you have questions, please call Jane Sherburne (6-5116) or Wendy White (6-7361).

Thank you for your cooperation.

DOCUMENTS

I. DOCUMENTS CREATED DURING THE PERIOD
JANUARY 20, 1993 - MARCH 4, 1994

A. All documents (including calendars, phone logs, computer records, notes, memoranda, correspondence etc.) relating in any way to the persons or entities listed on Attachment A.22 In searching for responsive material, you may locate, or be aware of, documents that relate to a person or entity that are listed on Attachment A, but have nothing to do with the "Whitewater - Madison" investigation. Should you identify any such documents, call us and we will work with you and the Independent Counsel in an effort to limit production to relevant documents.

B. All documents relating in any way to the creation, distribution, location, whereabouts, movement and/or destruction of any Rose Law Firm documents and/or communications at the Rose Law Firm.

II. DOCUMENTS CREATED DURING THE PERIOD
MARCH 5, 1994 - FEBRUARY 12, 1996

A. All documents reflecting factual information, concerning any of the persons or entities identified on Attachment A, where such factual information was:

1. Communicated to you by a witness; or

2. Communicated to you by third persons who themselves communicated directly or indirectly with a witness.

B. All documents reflecting factual information, concerning the creation, distribution, location, whereabouts, movement and/or destruction of any Rose Law Firm documents and/or communications at the Rose Law Firm, where such factual information was:

1. Communicated to you by a witness; or

2. Communicated to you by third persons who themselves communicated directly or

indirectly with a witness.

III. FOR THE PERIOD JANUARY 20, 1993 - FEBRUARY 12, 1996

All calendars, datebooks, phone logs, records of telephone conversations, and similar documents, relating to conversations, meetings, or messages to, from, with, or including any of the following persons:

Neil T. Ainley, Diane Blair, Helen Brandon, Robert Brown, Gary Bunch, Paula Casey, Glenda J. Cooper, Don Denton, Kent Dollar, Charles Handley, David Henley, James Henley, William Henley, Sam Heuer, Marlin Jackson, Charles James, Alston Jennings, Larry Kuca, John Latham, Daniel Lasater, Loretta Lynch, William Lyon, James Lyons, Robert Palmer, James N. Patterson, Dean Paul, Leslie Patten, Kirby Randolph, R.D. Randolph, Yoly Redden, Martin B. Satterfield, Archie Schaffer, Maurice Smith, Stive Smith, Earl Stafford, Jeannette Stafford, J. Wesley Strange, Sue Strayhorn, Chris Wade, Rosalie Wade, William Watt, and Robert Wilson.

July 17, 1995

MEMORANDUM FOR ABNER J. MIKVA
COUNSEL TO THE PRESIDENT

ELENA KAGAN
ASSOCIATE COUNSEL TO THE PRESIDENT

FROM: TERRY W. GOOD
DIRECTOR
OFFICE OF RECORDS MANAGEMENT

RE: REQUEST FOR DOCUMENTS RELATING TO
LAWRENCE AND SHEILA LAWRENCE

Attached are documents that were found among the records in the custody of the Office of Records Management (ORM). The ORM staff performed what I consider to be a good faith effort. If, in the future, we discover other documents that appear to be relevant, we will bring them to your attention.

March 24, 1997

MEMORANDUM TO ERSKINE BOWLES
MARIA ECHAVESTE

FROM: BETSY MYERS
LISA OSBORNE ROSS

RE:WOMENS MEETING FOLLOW-UP

cc:VICKI RADD
SYLVIA MATHEWS
ELENA KAGAN

Below is a summary of issues and proposed action items raised at your March 19 meeting with women leaders.

Pay Equity -- Susan Bianchi Sands proposed a round table discussion with working women and corporate leaders with one of the four principals to discuss ways to address pay inequity among men and women, particularly women of color. (The Womens Office is working with the Department of Labor to draft a scheduling request for the Vice President.)

Take Your Daughters to Work Day -- Marie Wilson would like the White House to formally acknowledge the MS. Foundations flagship effort to increase girls self esteem. Wilson and others noted that a special effort must be made to develop girls in science and math. (Wilson would like the President to officially proclaim April 24th "Take Your Daughters to Work Day" or to send a Presidential message and to host a White House event.)

Child care/Welfare -- Wilson and others suggested creating opportunities to put women to work in the child care industry. Wilson said she would submit a proposal to Erskine outlining her ideas and Maria suggested creating a small working group to explore the concept with Elena Kagan. The group also talked about the development of national standards for child care providers, the role of the federal government and small business, and the desire to expand the "care" discussion to include elder care including the possibility of a dependent care tax credit. (We will coordinate with Maria to develop the working group.)

Welfare -- In addition to child care, meeting participants identified education as a means of facilitating a womans transition from welfare to work. Many supported Judy Lichtmans concern that these new workers are afforded the same worker protections such as FMLA, OSHA, overtime/comp pay and fair labor standards as others who have been in the workforce longer and those who are not transitioning from welfare to work.

Telecommunications -- Terri Dickerson highlighted the correlation between ownership of media outlets and biased media coverage. Noting that the FCC currently does not collect data on the gender and race of broadcasts and television licensees, she asked that the White House support a study to determine the level of female ownership of radio and television stations. Regarding digital television, Dickerson maintains that the FCC must allocate and pack digital television channels to ensure an efficient use of spectrum for digital telelvison and to provide viable opportunities for new competitors in the telecommunications market. (The Womens Office will apprise Larry Irving at NTIA of Dickersons concerns.)

Procurement -- Amy Millman asked for support of the SBAs government-wide effort to increase procurement awards to small business particularly the cabinet-level effort SBA is initiating before the annual goaling season begins. (In a follow-up memo to our office she asked for help in securing 1.the formation of a task force co-sponsored by the SBA and the OFPP that focuses on the achievement of procurement goals. 2. a presidential memorandum or Executive Order indicating the Administrations commitment to meet or exceed all prime and subcontracting goals for small, small disadvantaged and women-owned business. 3. a commitment from Erskine to address the Interagency Committee on Womens Business Enterprise on management responsibility and accountability.)

Gender Impact -- Ellie Smeal would like a gender-impact budget statement. Ann Mosle said that the Inter American Development Bank had developed one that could be used as a model. (The Womens Office is obtaining a copy of the study and will forward to Gene Sperling for review and discussion.)

Education -- Marcia Greenberger asked that the DOL/DOE School to Work initiative be elevated and aggressively used as a tool to increase economic self-sufficiency. She also expressed concern about gender equity in developing educational testing standards. Greenberger and others would like the White House to host an event celebrating the 25th anniversary of Title IX. (The Womens Office will work with Cabinet Affairs to organize a meeting between DOE and DOL.)

Choice and Family Planning -- Vicki Saporta asks that the President dually classify abortion clinic violence as a civil rights violation and domestic terrorism. She also said that the President should clarify his reference to health in the context of late-term abortions as physical and mental. Margaret Conway suggests increased resources for domestic family planning. She also urged that the President talk about family planning - not just abstinence - as a means to prevent unwanted pregnancies.

*Talking Points
H-2a Agricultural Guest Workers

Background.

*The H-2a "guest worker" program admits temporary nonimmigrant agricultural workers in order to provide farmers with an adequate supply of laborers during the growing season. Currently there are 1.6 million farm workers in the U.S. of which approximately 600,000 are illegal, 1 million are legal (citizens or authorized alien labor), and 25,000 are in the H-2a program.

*As a result of growers dissatisfaction with the current program, Senator Wyden (D/OR) and Senator Graham (D/FL) attached the Agricultural Job Opportunity Benefits and Security Act of 1998, which amends the current H-2a program, to the C/J/S appropriations bill. The Administrations overall concern with the Wyden-Graham bill is that it shifts costs and risks from employers to workers and/or the government.

*The H-2a program has been heavily criticized by the GAO, DOLs IG, and the Hill due to the difficult administrative burdens placed on growers. The Administration has acknowledged the problems and is working administratively to reengineer and streamline the H-2a program to ease grower burdens while maintaining strong worker protections. The Administration agreed to a bi-partisan process with Administration and Congressional leaders to develop overall reform.

Bi-Partisan Working Group.

*Erskine Bowles, along with other White House officials including Elena Kagan (DPC), Barbara Chow (OMB), and Maria Echaveste (COS), recently met with Senators Wyden and Graham to discuss the current bill. The Senators expressed their frustration with the lack of Administration response to their bill. They also stated that the bill had been modified to address advocate and labor concerns. The Senators appear to want to negotiate off their bill in the context of the C/J/S appropriations bill.

*The bi-partisan working group has met three times in the last two weeks. The fourth meeting is scheduled for earlier next week. The meetings have focused on the Wyden-Graham bill, the process of the bi-partisan working group, and the specific issues facing the program, such as worker recruitment. Wyden, Graham, Feinstein, Becerra, Berman, Kennedy, and Bishop staff have been attending the meetings. Administration officials have included DPC (Kagan), OMB (Chow), NEC, USDA, DOL, and INS staff.

*We believe that the recent changes made by Wyden-Graham were generally minor in nature. The bill still has serious, fundamental problems from the Administrations perspective. There also appears to be significant disagreement between House and Senate Democrats on this issue.

Administrations Position.

*The Administration strongly opposes the Wyden-Graham bill because it will:

-- reduce job opportunities for legal U.S. farm workers. Growers will no longer have an obligation to attempt to recruit legal U.S. farm workers except through a newly-created

"worker registry." The Government would create the registry and match available U.S. workers with jobs. If the government cannot find legal workers for the grower, the grower can then bring in foreign workers. Because the grower would no longer have an obligation to recruit domestically, they would be free to concentrate their worker recruitment efforts abroad.

-- depress wages and work standards for U.S. farm workers. The wage requirement would be revised to 105% of the prevailing wage or the minimum wage, whichever is higher. This generally lowers the current wage level that is set using the adverse effect wage rate (AEWR), which is equal to the average statewide agricultural wage rate. Because foreign workers can sometimes dominate a local labor market, this wage depression is often reflected in the local prevailing wage. The AEWR partially corrects for this depressive effect by measuring farm worker wages on a statewide basis -- thus dissipating the impact of foreign workers on the wage.

The bill also would modify the housing requirement to allow growers to use housing vouchers in lieu of providing housing. The bill does not require the grower to secure the housing. Thus, many workers may be unable to secure housing with the vouchers and may be forced to sleep on the streets.

(NOTE: This bill is a veto item in the C/J/S appropriations bill, although not on its own.)

*We strongly believe that this bill is not in the best interest of the worker. However, given the legitimate complaints by growers about the program, the Administration wants to work in a bi-partisan nature to reform the current program to ensure that it responds to agricultural needs while protecting U.S. farm workers.

November 9, 1997

MEMORANDUM FOR BRUCE REED AND ELENA KAGAN

FROM:CYNTHIA RICE

CC:DIANA FORTUNA

SUBJ:TANF REGULATIONS NEGOTIATION PRIORITIES

As you know, two major TANF regulation issues -- bifurcation and waivers -- remain unresolved. Attached is a basic description of the issues and the positions on both sides.

FF

Deny Relief from Penalties to States that Divert Hard-to-Employ Families from TANF to Avoid Work Participation Requirements
Work Penalty
Other Penalties (13)

1. Set penalty based on "degree of non-compliance" (option exists for two penalties: work and one other).

Agreed
No Agreement

2. Reasonable cause penalty exception

Agreed
No Agreement

3. Corrective compliance plan (penalty postponed during plan)

No Agreement
No Agreement

4. Reduce penalty (impose "some or all") after state fails to correct violation.

No Agreement
No Agreement

Deny Relief from Penalties to States that Divert Families from TANF to Avoid Federal Collection of Child Support

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Other Penalties (13)

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4. Reduce penalty (impose "some or all") after state fails to correct violation.
No Agreement
No Agreement

PDDeny Relief from Penalties to States that Divert Hard-to-Employ Families from TANF to Avoid Work Participation Requirements

Penalty
Set Based on Degree of Non-Compliance
Reasonable Cause Exception
Corrective Compliance Plan
Can be Reduced After Plan Does Not Correct Violation

If shaded, then not applicable to that penalty.

1. Misuse of TANF funds

2. Failure to Submit Report

3. Failure to Meet Participation Rates
Agreed
Agreed

4. Failure to Participate in Income and Eligibility Verification System

5. Failure to Require Individuals to Cooperate with Child Support Rules

6. Failure to Repay Federal Loan

7. Failure to meet TANF MOE Requirement

8. Substantial Noncompliance with Child Support Requirements
Not addressed in this draft regulation.

9. Failure to Comply with Time Limit

10. Failure to Maintain 100% MOE if Received Contingency Funds

11. Failure to Maintain Assistance to Parents who Can't Get Child Care for Child under Six

and Doesn't Work

12. Failure to Expend Additional State Funds to Replace Grant Reductions

13. Failure to meet TANF MOE if get DOL Welfare to Work Grant

14. Failure to Sanction Individuals who Refuse to Work.

FF

Deny Relief from Penalties to States that Divert Families from TANF
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TANF PENALTY STRUCTURE
14 Penalties in Statute
(Penalties in shaded boxes are not eligible for reasonable cause or corrective compliance plan.)
1. Misuse of TANF funds
6. Failure to Repay Federal Loan
11. Failure to Maintain Assistance to Parents who Can't Get Child Care for Child under Six and Doesn't Work

2. Failure to Submit Report
7. Failure to meet TANF MOE Requirement
12. Failure to Expend Additional State Funds to Replace Grant Reductions

3. Failure to Meet Participation Rates
8. Substantial Noncompliance with Child Support Requirements
13. Failure to meet TANF MOE if get DOL Welfare to Work Grant

4. Failure to Participate in Income and Eligibility Verification System
9. Failure to Comply with Time Limit
14. Failure to Sanction Individuals who Refuse to Work.

5. Failure to Require Individuals to Cooperate with Child Support Rules
10. Failure to Maintain 100% MOE if Received Contingency Funds

Steps to Levying Penalty
Step #1: Establish Penalty
Secretary levies penalty if she determines a violation has occurred.
For 12 of the 14 penalties, the amount is listed in the statute.
For two penalties -- for failure to meet the work participation rates and failure to maintain assistance to parents with children under age six who can't work because they can't find child care -- the statute says that the penalty shall be based on "degree of non-compliance." (In the proposed reg, we are establishing a sliding scale defining "degree of non-compliance" for purposes of the work penalty.)

Step #2: Consider Reasonable Cause
If the Secretary determines that a state had reasonable cause, she will waive the penalty. The reg establishes that having failed the work and time limits due to granting good cause domestic violence waivers is a reasonable cause. Also allowed are natural disasters; incorrect formal federal guidance; and isolated, non-recurring problems of minimal impact.

Step #3: Enter into Corrective Compliance Plan
The Secretary must allow state opportunity to enter into a corrective compliance plan and will not impose the penalty while such a plan is in effect. By statute, certain types of violations (all financial) are not eligible for a corrective compliance plan.

Step #4: Once Corrective Compliance Plan is Completed, Secretary Can Reduce Penalty
The Secretary will not impose the penalty if the state corrects the violation.
If a state does not correct the violation during its corrective compliance plan, then the Secretary shall assess "some or all" of the penalty. The regulation allows the Secretary to not impose a penalty if the state made substantial progress, defined for the work penalty as having closed half the gap between actual and required rate.
FF
Scope of Waivers

Type of Policy

1. Can continue specific waiver granted if new law is "inconsistent"
Agreed

2. Can continue prior law policy for which waiver not specifically granted (e.g., unlimited vocational education, college, more than 6 weeks a year job search)

3. Can continue to operate waiver in geographic area no larger than originally authorized.

4. Can continue to operate waiver in geographic area no larger than "in effect" or implemented on date of enactment.

Availability of TANF Bonuses and Rewards to States Continuing "Inconsistent" Waivers

Type of Policy

1. Eligible for high performance bonus

2. Eligible for caseload reduction credit.

Availability of Penalty Relief to States Continuing "Inconsistent" Waivers

Penalty
Set Based on Degree of Non-Compliance
Reasonable Cause Exception
Corrective Compliance Plan
Can be Reduced After Plan Does Not Correct Violation

If shaded, then not applicable to that penalty.

1. Misuse of TANF funds

2. Failure to Submit Report

3. Failure to Meet Participation Rates

4. Failure to Participate in Income and Eligibility Verification System

5. Failure to Require Individuals to Cooperate with Child Support Rules

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Not addressed in this draft regulation.

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14. Failure to Sanction Individuals who Refuse to Work.

ISSUE 1: PENALTY; DIVERSION TO SEPARATE STATE PROGRAM (3 subissues)

Issue 1 a): In order to enter into corrective compliance plan for any violation or to receive a reduction in penalties after failing to correct a violation, a state must prove that it did not divert families to a separate state program for the purpose of avoiding work participation rates.

Why it's important: In order to maintain the law's strong work requirements, states should not receive a break on any of the 14 penalties if it has diverted families to a separate state program to avoid the work participation rates.

Justification for change:

HHS agreed in January that states shall not receive any mitigation in penalty unless the state showed it has not used its own program to escape the force of the work participation rates
(was in memo to the President).

This proposed regulation has the opposite effect by allowing states that have diverted families to postpone penalties through the corrective compliance plan and to receive reduced penalties for states that fail to correct a violation.

It is critical that states are prevented from receiving a break on penalties for any type of violation if they have diverted families to state only programs for the purpose of avoiding the work rates. That's because a state that successfully diverted families to state only programs to avoid the work rates will not be subject to a work participation rate penalty.

What HHS has agreed to so far -- tying proof of non-diversion to granting of reasonable cause and reductions in the work penalty due to degree of non-compliance -- is not enough.

ISSUE 1 CONTINUED: PENALTY; DIVERSION TO SEPARATE STATE PROGRAM

Issue 1 b): In order for a state to be eligible to receive a reasonable cause penalty exception, to enter into a corrective compliance plan, or to receive reduced penalties or a penalty based on degree of non-compliance, a state must prove that it did not divert families to a separate state program for purposes of preventing the federal collection of child support.

Why it's important: If states move families with child support collections to separate state programs, the federal government will no longer receive its share of those collections, even though the federal government paid for 66 percent of the child support operating costs.

Justification for change:

Congress never envisioned that the new welfare law would reduce the federal collection of child support, and this regulatory provision is the best way to ensure that this does not happen.

States want to take a "wait and see" attitude -- however, in the food stamp program, we've found that the federal government is never able to collect funds after the fact that should not have gone to states.

Issue 1 c) Include in the MOE data report information on whether individuals served in the separate state program were on TANF within the last six months and other information to help the Secretary determine if diversion has occurred.

Why it's important: If we do not collect information to determine if a state has diverted families to separate state programs to avoid the federal collection of child support or to avoid the work rates, we will not be able to enforce these provisions.

Justification for change:

We must have data in order to enforce these provisions.

In particular, asking states to report how many families were moved from TANF to separate state programs within a six month period will give us direct evidence of whether diversion is occurring.

HHS should also specify other data in the regulation that will ensure compliance.

Possible Counter-Arguments:

HHS says that asking state program participants about past TANF use would violate their privacy.

We disagree -- the state MOE data report already contains questions asking about food stamp use.

In addition, we've limited the question to TANF use in the last six months to avoid collecting unnecessary data.

ISSUE 7: WAIVERS (5 subissues)

Issue 7 a): A state that continues a waiver inconsistent with PRWORAs time limits or work requirements shall not be eligible for a high performance bonus or a caseload reduction credit.

Why it's important: This will discourage states from continuing waivers that weaken the work rates and time limits of the new law.

Justification for change:

States that operate under the old, less stringent rules should not be eligible for rewards for performance or a reduction in the work rates through a caseload reduction credit.
HHS has already proposed in the reg to deny states a high performance bonus and a caseload reduction credit if they do not submit data on their state only programs -- thus, they clearly believe that the authority exists.

Possible counter-arguments:

HHS may argue that the statute says the Secretary shall encourage states to continue waivers and that this policy would run counter to that.
We believe a more accurate reading of the statute is that the Secretary shall encourage states to continue to evaluate waivers that they do continue. (The statute actually says: "The Secretary shall encourage any state operating a waiver described in subsection (a) to continue the waiver and to evaluate, using random sampling and other characteristics of accepted scientific evaluations, the result or effect of the waiver.")
The Secretary has already encouraged states to continue evaluated waivers by providing federal grants for these evaluations and has thus fulfilled the obligations in the statute.

Issue 7 b): A state that continues a waiver inconsistent with PRWORAs time limits or work requirements shall not be eligible to receive a reasonable cause penalty exception, to enter into a corrective compliance plan, or to receive reduced penalties or a penalty based on degree of non-compliance.

Why it's important: This will discourage states from continuing waivers that weaken the work rates and time limits of the new law.

Justification for change:

States that operate under the old, less stringent rules should not be eligible to receive reduced penalties if they fail to meet the work participation or other rules.
HHS has already agreed to require states to prove that they did not divert families to separate state programs in order to receive a reasonable cause penalty exception or a reduced penalty based on degree of non-compliance. Thus, they clearly believe that the authority exists.

ISSUE 7: WAIVERS CONTINUED

Issue 7 c): Prior law definitions of work activities may not be continued under waivers.

Why it's important: Without this change, states could continue waivers allowing unlimited job search and vocational education as work.

Justification for change: Because prior law treated vocational education and job search

differently, different arguments must be made for each:

Vocational education:
HHS argues that states should not be able to continue prior law exemptions from the denominators of the participation rates (e.g. should not be able to exclude all disabled from the work participation calculation) because "we have never granted a waiver of a participation rate itself" and "we have never granted a waiver that added new exemptions from the work requirements."

We think this same argument should apply to vocational education, which was unlimited in prior law and which states therefore never needed waivers to use as part of their programs.

Our argument is strengthened by the fact that the final report language stated that "program features of the state program not specifically covered by the waiver must conform to this part."

As a result, the new law's limitation of only counting vocational education for 12 months for any individual should still apply in all states.

Job Search
Prior law did have a limit on job search (no more than 4 months of job search could count as work participation in a given year).

States that received waivers specifically exempting them from that requirement can continue them.

However, states whose waivers do not specifically cite the section of prior law limiting job search should not be allowed to continue the prior law's "4 months in 12 months" job search rule in lieu of the new law's "6 weeks in 12 months" rule.

HHS argues that states should be able to continue parts of prior law that were integral parts of the demonstration embodied in the waiver "only if their inclusion were necessary to achieve the objective of the approved waiver."

The objective of states that got welfare reform waivers that did not specifically waive the job search limitations was to put more people to work, not to allow more job search.

Our argument is strengthened by the fact that the final report language stated that "program features of the state program not specifically covered by the waiver must conform to this part."
FFISSUE 7: WAIVERS CONTINUED

Issue 7 d): Waivers that are inconsistent can only be continued in the same geographic areas as they were originally approved in the waiver and were in effect on date of enactment.

Why it's important: This will help limit the influence of the waiver provision by ensuring that states cannot expand sub-state waivers -- or waivers that were implemented only substate in August 1996 -- statewide. For example, Virginia planned to take four years (from June 1995) to phase-in its time limit waiver policy -- which has many more exemptions than current law -- in different regions of the state.

Justification for change:

The final report language states that "All geographic areas of the States... not specifically covered by the waiver must conform to this part."

The statute itself refers throughout to waivers "in effect as of date of enactment" of the new law. We interpret "in effect" to mean the waiver as implemented on date of enactment.

Possible counter-arguments: The conference report also says "waivers may only apply to the geographic areas of the State and to the specific program features for which the waiver was granted." HHS could argue that the phrase "was granted" applies to "geographic areas" and thus it is the waiver "as granted" not "in effect" that matters.

MEMORANDUM FOR ERSKINE BOWLES

FROM:Sally Katzen

SUBJECT:Heads-up on Federal Register Publication of OSHA Proposed Rule on Tuberculosis

On April 14, 1997, we circulated a heads-up memo on a OSHA proposed rule setting out steps that some employers must take to protect their employees from contracting tuberculosis. The proposed rule will be published (finally) in the Federal Register next week. I have attached a copy of our April 14 heads-up memo to refresh your memory on the substance. Please give me a call if you have any questions.

cc:Franklin D. Raines
Maria Echaveste
Rahm Emanuel
John Hilley
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
Bruce Reed
Gene Sperling
Don Gips
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Ken Apfel
Larry Haas

MEMORANDUM

TO: TOM FREEDMAN
ELENA KAGAN
BRUCE REED
CYNTHIA RICE
MARY SMITH

FROM: AMY BLOCK

RE: TOBACCO COMMENTS

DATE: MARCH 14, 1998

This list includes comments on tobacco from:

1. Senator Baucus (D-MT)
2. Representative Bliley (R-VA)
3. Senator Burns (R-MT)
4. Representative Burr (R-NC)
5. Senator Cochran (R-MS)
6. Senator Collins (R-ME)
7. Senator Conrad (D-ND)
8. Representative DeLay (R-TX)
9. Representative Dingell (D-MI)
10. Representative Doggett (D-TX)
11. Senator Domenici (R-NM)
12. Senator Durbin (D-IL)
13. Senator Faircloth (R-NC)
14. Representative Fazio (D-CA)
15. Senator Ford (D-KY)
16. Speaker Gingrich (R-GA)
17. Senator Gregg (R-NH)
18. Senator Harkin (D-IA)
19. Senator Hatch (R-UT)
20. Senator Hollings (D-SC)
21. Senator Jeffords (R-VT)
22. Representative Kasich (R-OH)
23. Senator Kennedy (D-MA)
24. Senator Lautenberg (D-NJ)
25. Senator Lott (R-MS)
26. Senator Lugar (R-IN)
27. Senator Mack (R-FL)
28. Senator McCain (R-AZ)
29. Senator McConnell (R-KY)
30. Representative Meehan (D-MA)
31. Senator Nickles (R-OK)
32. Senator Robb (D-VA)
33. Representative Waxman (D-CA)
34. Senator Wellstone (D-MN)
35. Senator Wyden (D-OR)

FFFFADVERTISING
Sen. Conrad
The Washington Post
3/3/98
Those willing to concede liability limits to the industry should recognize that even if cigarette makers agree to ad restrictions, others, such as the advertising industry, could challenge them in court.

Sen. Durbin
Senate Judiciary Hearing
2/10/98
"I believe we can legislate tobacco advertising restrictions without violating the free speech rights enshrined in the Constitution."

"We should [legislate tobacco advertising restrictions] on public health grounds, independent of other issues in the legislation -- not in exchange for the grant of immunity that buys the industry support."

Sen. Hatch
Senate Commerce, Science and Transportation Hearing
2/26/98
(and at Senate Judiciary Hearing 2/10/98)

The New York Times
2/11/98

Senate Commerce, Science and Transportation Hearing
3/11/98
"If tobacco advertising restrictions are a necessary ingredient in reducing youth smoking, then a constitutional way must be found to accomplish that goal. It is for this reason that in my bill, S.1530, the advertising restrictions are placed in a binding contract -- termed a Protocol -- whereby the tobacco companies waive any First Amendment rights they possess in exchange, in part, for the civil liability limitations."

Tobacco companies would have to be given considerable protection against lawsuits if their advertising practices were to be restricted.

Congress most important goal should be reduced smoking by teenagers and strict limits on tobacco advertising are essential to attaining that goal.

If Congress tried to limit advertising without the approval of the companies, it would lead to years of costly litigation that would delay implementation of the law.

A comprehensive bill should include "broad, constitutionally-permissible mechanisms to limit advertising."

Sen. Lugar
Senate Commerce, Science and Transportation Hearing
3/11/98
"Advertising may be curtailed, but I suspect that enough will remain -- even if not targeted at young people, along with a continuous assertion of First Amendment rights, peer pressure, and rebellion against parental or adult guidance -- that creative anti-smoking programs for the young will have limited success."

Sen. McCain
National Journal
Congress Daily
3/3/90

Senate Commerce, Science and Transportation Hearing
3/3/98
McCain said it would be difficult to write ad restrictions which would require such distinctions as whether to regulate tobacco use shown on billboards or in films.

McCain called FTC Chairman Robert Pitofskys recommendation that the FTC share its regulation authority with the FDA on tobacco issues "a very interesting and attractive proposal."

"Personally, I think little will be achieved if we pass legislation that will be held up for years in the courts and then struck down. Given how many children start smoking every day, we must know we are on solid footing when we act."

DOCUMENT DISCLOSURE
Rep. Bliley
AP Online
1/29/98
and The Boston Globe 1/30/98

The Los Angeles Times and
The New York Times
2/20/98

The Washington Post
2/20/98

The Washington Times
2/20/98

The Wall Street Journal
3/13/98
"The recent disclosures in documents subpoenaed by this committee and released by (Rep.

Henry) Waxman have shaken my confidence that you companies care about the truth."

"Congress and the American people deserve to know whats in the documents so we can make informed decisions about tobacco policy."

Rep. Bliley said the documents [he subpoenaed] had been identified by Minnesota court officials as "possibly containing evidence of crime or fraud" and thus "must see the light of day."

"This should come as no surprise. Ive said all along that if more documents were identified ... as possibly containing evidence of crime or fraud that I would request them."

Tobacco companies failed to produce by the deadline [3/12/98] documents subpoenaed by Rep. Bliley. Bliley said he wouldnt act on his subpoena until a Minnesota court rules on the challenge by the industry over whether to release the same documents to Minnesota lawyers.

Sen. Durbin
The Chicago Tribune
3/12/98
"We cant believe a word they [tobacco firms] say."

Sen. Hatch
The Wall Street Journal
3/2/98
"There is no question that the tobacco companies have known their products were addictive and have deliberately marketed them as such. My focus is more on future opportunities than on past misconduct."

Rep. Meehan
The Wall Street Journal
2/27/98

The Los Angeles Times
2/26/98

The Los Angeles Times
3/10/98
"Its important not only to have internal documents that show potential criminal behavior, but to have a live witness who can corroborate events and testify before a grand jury."

"If Liggett is turning states evidence, this could break the entire investigation wide open. From a prosecutors perspective, its important not only to have documents that indicate potential criminal behavior, but it is equally, if not more, important to have a witness who can confirm the information on the documents, particularly people from upper management."

"Many of the documents in the masters report will bolster the contentions I made in a memo

to Attorney General Reno in December 1994 that the major tobacco companies were acting in concert" to hide damaging information about the hazards of their products.

Sen. Waxman
The NewsHour with
Jim Lehrer
1/15/98

The Courier-Journal
(Louisville, KY)
1/30/98

The Los Angeles Times
3/10/98
"These documents were releasing today show that at least one major tobacco company consciously and skillfully targeted our children in a campaign to get them to smoke at an age as young as 14. These documents literally bring us into the boardrooms of RJR. They show that RJRs most senior executives developed and implemented a sophisticated plan to market their cigarettes to our children."

"It seems to me weve got to get a lot more documents. And what we revealed to day is just a part of what we need to know. There are other companies involved, other documents. We ought to have it all before we start even considering giving them the special treatment."

"What we have is [sic] words said in public, but deeds done in private that are very, very different."

"The documents [the 39,000 the MN judge ordered the tobacco industry to turn over] suggest that there was a criminal conspiracy to suppress information that could have saved millions of lives."

Sen. Wyden
The New York Times
2/25/98
Wyden is skeptical that "it is actually a new day with respect to this subject [tobacco]. I think that the words are more artful than they were four years ago. But a little bit of this is like Yogi Berra -- its deja vu all over again."

FARMERS
Rep. Bliley
The Herald Sun
(Durham, NC)
1/30/98

Rep. Bliley pledged "not to forget about the thousands and thousands of hardworking men and women who toil on the farms, in union plants and on the assembly lines. Their lives and livelihoods matter. Their futures are important."

Rep. Burr
The Herald Sun
(Durham, NC)
1/30/98
"My constituents depend on tobacco for their livelihoods. We need to know what the future holds for the people whose lives depend on farming tobacco."

"Members of Congress have said if we dont take care of those affected who are not at the table, then there is no agreement. I think the farmers are the most prominent of those. Their needs are probably driving a lot of the process."

"If the tools are there, we need to look at some type of repurchase of quotas and a redesign of what the agricultural community will look like in the future."

Sen. Faircloth
The Herald-Sun
(Durham, NC)
2/7/98

The News and Observer
(Raleigh, NC)
2/12/98
Sen. Faircloth and Rep. Etheridge asked President Clinton to consider an assistance program to help "ensure a safe and stable future for farmers and their communities."

"The tobacco settlement was fat for lawyers and thin for farmers. While the Conrad bill falls short of what is needed, we have helped to shift the debate to the point where almost everyone is paying attention to the farmers."

Sen. Ford
The Courier-Journal
(Louisville, KY)
1/29/98

The Courier Journal
(Louisville, KY)
2/14/98

The Houston Chronicle
3/12/98
Sen. Ford and Rep. Baesler agreed it was good that the president recognized farmers in his speech, but both criticized his proposed $1.50 increase in cigarette taxes. "At some point, Washington has to realize that we simply cannot pay for every new initiative on the backs of hard-working tobacco farmers and their families."

Fords spokesman said Sen. Ford pledged to "fight to represent the tobacco farmers, their

families and communities even if he had not received one penny in campaign contributions."

Ford said that if the farm program ended, tobacco prices would plummet and make cigarettes more affordable for young people.

Sen. Hollings
The Washington Post
3/12/98
Lugars farm ideas drew fire from Sens. Ford and Hollings. Hollings predicted that, "You folks are gonna go nowhere."

Sen. Lugar
Senate Commerce, Science and Transportation Hearing
3/11/98

The Houston Chronicle
3/12/98

The Richmond Times Dispatch
3/12/98
"I believe that it is simply wrong for the federal government to support tobacco farming, marketing, and warehousing. So long as tobacco remains a legal cash crop, it should be governed purely by the market forces of supply and demand. I am hopeful that the federal tobacco program will be terminated in any comprehensive tobacco legislation which is enacted this year."

"It would be blatantly inconsistent to enact the public policy measures I have advocated and then to continue a federal support system for the growing, marketing, and warehousing of tobacco. Last fall, I introduced S.1313 to require a buy out of tobacco quotas, transition payments to farmers who do not own quotas, assistance for local communities, and an end to the federal tobacco subsidy."

"A bill that fails to end the tobacco price support program, while compensating farmers in a fair way, will be an imperfect bill at best. And it will not be in the long-term interest of the farmers who grow tobacco."

"Many Americans are unaware that the same government that tells you not to smoke... makes it lucrative to grow tobacco by guaranteeing a price and limiting supply."

Lugar supports doing away with the federal governments program that supports tobacco growing and marketing. He favors a free market approach and has sponsored a bill to eliminate the federal program.

Sen. McConnell
The Courier-Journal
(Louisville, KY)
2/14/98
"Like all members of Congress from Kentucky, regardless of political affiliation, I fight hard to save the livelihood of our 60,000 tobacco growers. Consequently, its not surprising that I enjoy campaign support from political action committees and individuals which represent tobacco interests."

FDA AUTHORITY
Rep. Dingell
The News and Observer
(Raleigh, NC)
1/30/98
Dingell said he would not tolerate any weakening of the FDAs authority to regulate tobacco.

Sen. Hatch
Senate Commerce, Science and Transportation Hearing
3/11/98
"Although I believe that current legal authority for FDA regulation of tobacco products is at best murky, I would not be opposed to inclusion in a comprehensive bill of a provision allowing the agency jurisdiction in this area. I believe any FDA provision should be drafted as a new section to the Federal Food, Drug and Cosmetic Act, since it is hard to argue that tobacco products are in any way safe and effective, the critical tests for current-law regulation of drugs and medical devices."

"I would urge you to include the provisions from the Jeffords-Hatch bill as the FDA section of your bill should you choose to include a food and drug title."

Sen. Jeffords
Senate Labor and Human Resources Hearing
3/11/98

The Washington Post
3/11/98
"We also should applaud the FDAs effort to develop a national tobacco policy using the tools it had available under the Federal Food Drug and Cosmetic Act. FDAs assertion of jurisdiction, a proper one, in my view, did much to encourage the tobacco settlement and

sharpen our thinking about how to bring this unique product under FDAs purview."

"Right now, FDA faces the challenge of trying to shoehorn tobacco regulation into a regulatory system designed for medical devices. It is forced to somehow reconcile the known effects of tobacco with the standard of safety and efficacy for medical products. Of course this makes no sense whatsoever... That is why I think it is essential that we create a new chapter to regulate tobacco products."

A spokesman for Jeffords said committee staff members were "still talking" with public health advocates yesterday on some issues, but FDA authority "is one he [Jeffords] is not going to yield on."

FEDERAL SHARE OF MEDICAID (CHILD CARE/CLASS SIZE)
Sen. Baucus
Senate Commerce, Science and Transportation Hearing
3/11/98
Payments from the tobacco indsutry should be dedicated toward children. "This includes programs to stop kids from smoking, child care, child health, and education. In my opinion, these goals are accomplished by the Healthy Kids Act, a bill crafted by Senator Conrad and the Senate Democratic Task Force on Tobacco."

Rep. Bliley
AP
2/3/98
"The president is putting the cart before the horse. So far hes negotiated ... and promoted it. Hes even spent the proceeds. The one thing he hasnt done is send Congress a tobacco bill."

Sen. Cochran
Gannett News Service
2/6/98
"Its very unlikely there will be anything done in this Congress because there is no agreement, no consensus, as to what should be done. Its not a realistic expectation that there will be any $65.5 billion worth of money coming to the federal treasury from the tobacco settlement. Thats the bottom line."

Sen. Conrad
AFX News
2/3/98
"I think (Clinton) is right on to tie new programs, like education, to tobacco and I am hopeful this legislation can pass before the budget resolution."

Sen. Domenici
AP Online
2/7/98 and
The New York Times
2/8/98

The National Journal
2/14/98

"We should save Medicare first. If there is tobacco money, it should go toward keeping the Medicare system solvent, not for new Washington spending" (comments in the GOP weekly radio address).

Tobacco money should go toward Medicare and Medicaid because of the tobacco-related health costs to those programs. Lott has said he favors Domenicis idea.

Sen. Hatch
The Deseret News
(Salt Lake City, UT)
2/24/98

Senate Commerce, Science and Transportation Hearing
3/11/98
Sen. Hatch is opposed to using any money from a tobacco settlement, or a separate tobacco tax, for child care.

"The scope of the bill should be limited to tobacco-related activities. Any attempt to broaden use of the funds beyond tobacco will dilute the effectiveness of the program and squander the opportunity we have to stop youth smoking."

Sen. Hollings
The Post and Courier
(Charleston, SC)
With a lucrative settlement with tobacco manufacturers now in jeopardy, Hollings is highly skeptical that money can be found to finance either the Clinton or GOP agendas.

Sen. Lott
AFX News
2/9/98

Health Line
(American Political Network)
2/24/98
"A lot of costs of Medicare are driven by health-related problems that could be associated with smoking so rather than use it as a cookie jar to spend on the lollipop list the President came up with, I thought the idea of putting it aside for Medicare is something we should think about."

Sen Lott said he opposes a tax increase on tobacco products and ruled out using tobacco settlement funds for a tax cut, saying they should be used for Medicare, medical research and a campaign to discourage teenagers from smoking. Lott said that the states should receive the majority of tobacco funds approved under any settlement.

Sen. McCain
AP Online
2/2/98

The Boston Globe

2/3/98
"The president has not exercised his leadership responsibility to propose specific tobacco legislation detailing how the money he would spend will be raised."

The President cannot truly claim his budget is in balance "because it includes $65 billion in nonexistent revenue from prospective tobacco legislation" that Congress may not adopt.

Sen. Nickles
The New York Times
2/2/98
"Im not inclined to help [the President] fund a variety of social programs out of this deal."

INTERNATIONAL
Rep. Doggettt
Press Release
2/26/98
"Around the world, U.S. tobacco companies are using the methods they perfected on our children to addict the children of other nations to nicotine."

"We should seize this unique opportunity to be a leader in promoting global public health by acting responsibly ourselves. The code of conduct we propose requires such responsible action from U.S. tobacco companies around the world. All we say to them is comply with a common, uniform standard: dont market to children anywhere; warn consumers of the deadly effects of your products anywhere."

Sen. Durbin
Press Release
2/26/98
"It will be a shameful legacy if our tobacco control efforts end up protecting Americas kids at the expense of children in other countries. Products labeled MADE IN THE USA should make us proud. Tobacco products which addict and kill fail that test."

"Tobacco use in developing countries threatens to turn back the clock on public health advances in those nations. As the worlds leading exporter of tobacco products, the United States has a moral responsibility to address the health devastation tobacco is causing in other countries. If we dont, people will equate our country with the tobacco epidemic they suffer."

Sen. Lautenberg
Press Release
2/26/98
"On the run in America, tobacco companies are aggressively seeking to peddle their poison to children overseas. Our war against teen smoking should not stop at our nations borders."

Sen. Wellstone
Press Release
2/26/98
"Comprehensive tobacco control legislation would be incomplete without strong international tobacco controls. Unless we include strong international controls as part of tobacco control legislation, this outlaw industry will continue to exploit the overseas market,

preying disproportionately on people in developing countries. Tobacco control legislation must protect children and protect public health at home and abroad while conceding no special protections to the tobacco industry."

"Children all over the world must be protected from the manipulations of this outlaw industry. It is a matter of fairness."

LIABILITY
Sen. Baucus
Senate Commerce, Science and Transportation Hearing
3/11/98
"For quite some time, tobacco companies tried to get kids to smoke. And that is why I do not support broad liability protections for the toabcco industry. Furthermore, liability protections that are crafted too broadly will bargain away future protection for the American people."

Rep. Bliley
The Washington Post
2/20/98
While Bliley has not made his position clear on legal protections, he has said that Congress needs to know if the industry engaged in "criminal or fraudulent activities" before it considers granting the industry "unprecedented immunity from future lawsuits."

Sen. Burns
Senate Commerce, Science and Transportation Hearing
2/24/98
"The media has portrayed what tobacco companies want as immunity. I personally dont believe that agreeing to pay over $350 billion dollars to settle a case is immunity. If someone rear ends a car and causes injuries to the driver of the car, and a settlement is reached for injuries, property damage, pain and suffering, the amount of money paid isnt called immunity. Its called a settlement. No one in this country has ever been awarded $50 billion in punitive damages by a jury. Ever! The fact that tobacco companies are willing to pay that amount after never losing a jury trial is incredible. But it isnt immunity."

Sen. Conrad
Healthy Kids Act
Press Conference
2/11/98

The Washington Times
2/20/98

The Chicago Tribune
3/12/98

The Washington Post
3/12/98
"I think it would be inappropriate, more important than what I think, the American people

think it is inappropriate to give special unprecedented protection to this industry, of all industries."

"There was a turning point, and it happened when those [RJR] documents were released. You look at those, which turn on its head the industrys claims that it didnt market to children, and you ask, How can we give this industry legal protections going forward?"

Conrad said if courts should later invalidate special protection from lawsuits, "We would truly have egg on our face."

Conrad warned senators that granting the industry liability protections would be "foolish."

Rep. DeLay
The New York Times
2/2/98
While admitting that the tobacco companies are "big contributors of mine," DeLay said that immunity "would be very difficult for me to support."

Sen. Durbin
National Journal Congress Daily
3/3/98
Durbin said he would consider supporting legislation [Chafee, Harkin and Grahams bill] that places annual caps on cigarette makers liability. Chafee, Harkin and Grahams bill "is an interesting approach. It gives people their day in court, while offering something to the tobacco companies. Im open to it."

Nevertheless, Durbin said the Conrad bill is his favored approach.

Speaker Gingrich
Extel Examiner
2/12/98

The New York Times
2/18/98

The New York Times
2/28/98

The Chicago Tribune
3/12/98
Gingrich said Republicans are unlikely to support public policy that would benefit the industry. "I think what we learned about the tobacco companies planning, their awareness of addiction, and their efforts to target 14 year-olds is frankly reprehensible.

"Their effort to target 14-year-olds is frankly reprehensible. I think that they are weaker than they have ever been in this city, and I think that there is virtually no sentiment for in any way listening favorably to the tobacco companies."

Gingrich has told other GOP leaders in recent weeks that he favors legislation that would force the industry to pay the cost of treating sick smokers, but refuse to grant tobacco companies immunity from lawsuits, according to three senior Republican sources.

Gingrich said he is "very skeptical if not hostile" to limiting the tobacco industrys liability to lawsuits. "I dont think we have to pay back the tobacco companies to tell them not to addict our kids."

Sen. Gregg
The Washington Post
3/12/98
Gregg criticized proposals to grant the industry protection from lawsuits and punitive damages. Gregg said it would be "a travesty of logic" to give the tobacco industry protection that has been denied other companies that cause far less harm to society."

Sen. Harkin
NPR Weekend Edition
2/28/98
Harkins bill provides tobacco companies no immunity, but they would get a cap on the amount of damages they would have to pay out in any year. "Were gonna come up with a very bitter pill for the tobacco companies to swallow. But I think in the end, theyre going to have to swallow that bitter pill."

Sen. Hatch
Senate Commerce, Science and Transportation Hearing
2/26/98

The Wall Street Journal
2/27/98

NPR Weekend Edition
2/28/98

The New York Times
3/11/98

Senate Commerce, Science and Transportation Hearing
3/11/98
"The fact of the matter is that it is the limited liability provisions which brought the tobacco industry to the bargaining table with the attorneys general. They are what made any talk of the settlement possible ... And I believe it is possible for us to craft legislation built on the framework of that settlement which does not reward the industry for past ill deeds, but rather, which provides them with limited assurances of the financial predictability that will make a new national tobacco program possible."

Testifying before the Senate Commerce, Science and Transportation Committee: "I want to work with the members of this committee to craft bipartisan, comprehensive anti-tobacco legislation which can be enacted this year."

"You cant ignore the fact that there has to be some sort of benefit both ways in order to have a voluntary agreement. If there isnt, then I think its all-too-easy for the tobacco companies to walk away from this. And if they do, then there just wont be the monies that were talking about, there wont be the cooperation, there wont be the ban on advertising that would be constitutionally sound and upheld. And I think in the end, the farmers arent gonna quit producing tobacco."

Some prominent lawmakers, including Senator McCain and Senator Hatch, believe that Congress has little alternative but to accede. "Absent liability provisions, we will be unable to change materially the way in which these products are advertised and marketed."

A comprehensive bill should include "well defined liability limitations, including settlement of the State and local suits" and "a strong mechanism to ensure continued oversight of the tobacco industry, such as the proposed "look-back" penalties."

A comprehensive program, which can be implemented now, requires some measure of liability of reform, "the shape of which I am willing to discuss."

Sen. Hollings
The Washington Times
3/12/98
Congress needs to find a "good CPA" to examine tobacco company records and determine just how much they can afford to pay to settle thousands of lawsuits filed against the industry. "I think its a money thing with them and theyre good business people and theyre legitimate business people."

Sen. Kennedy
Healthy Kids Act
Press Conference
2/11/98

The Washington Post
3/12/98
"Our proposal does not give tobacco companies immunity from private litigation. Were committed to keeping the courthouse door open to those who suffer from tobacco induced illness."

Kennedy said that Jeffords bill "falls short of the mark set by the public health community ... and President Clinton." The new scheme, he said, would create a regulatory and courtroom morass for years, and the penalties levied against the industry for failing to meet mandated reductions in youth smoking are too low."

Sen. Lautenberg
St. Petersburg Times
1/16/98
"These revelations make it almost impossible for members of Congress to give the industry

immunity and then go home to face the children in their districts."

Sen. Lugar
Senate Commerce, Science and Transportation Hearing
3/11/98

The Washington Post
3/12/98
"I oppose any limitation on the right of any individual or group to seek legal redress."

Sen Lugar testified [before the Commerce Committee] that he too opposes any lawsuit shield for the industry.

Sen. McCain
The NewsHour with
Jim Lehrer
1/15/98

The LA Times
2/18/98

The New York Times
2/25/98

The LA Times
2/25/98

Dallas Morning News
2/27/98

The New York Times
3/11/98

"In all due respect to my friend from California [Rep. Waxman], we have to have a vehicle [immunity]. We have to have a framework. The AGs deserve to have that as the vehicle. Sure its going to be changed, but thats still got to be the initial way that we approach this issue,"

McCain has not yet taken a position on whether the companies should get limited liability in future lawsuits.

McCain, a former smoker, said he knew from personal experience that tobacco was addictive and asked tobacco company executives if they agreed.

"Disappointed," was the way McCain described industry executives answers to his litmus-test question on whether they consider nicotine to be addictive. McCain said that the

executives refusal to acknowledge that cigarettes are addictive has "become symbolic of the skepticism that exists about their trustworthiness."

"The whole settlement hinges on that single issue [liability]. How much do we give away and what are we getting in exchange? This is make or break. On this issue alone, if there is a divergence of views with the president [sic], we are going to have a problem passing a comprehensive deal."

Dr. Kessler and Dr. Koops public standing is so high that after meeting with them for more than an hour last week, Senator McCain said that no tobacco legislation could move forward without their stamp of approval.

Rep. Meehan
The New York Times
2/6/98

Good Morning America
2/26/98
Protection from lawsuits "is and certainly should be dead."

"There is no question that [tobacco company executives] could be looking at potential criminal liability, which could include jail time, sure."

"I would think members of Congress would be very, very careful about granting any kind of civil immunity to an industry that may be on the verge of being implicated in the highest level of culpability, which is criminal culpability. I think it would make Congress back off and wait to see what happens and wait until the full truth comes out about what the tobacco executives knew and when they knew it."

Sen. Nickles
The New York Times
2/2/98

The New York Times
2/28/98
"I dont want to say the global settlement is dead, but its getting more difficult to see a package that would have immunity."

"Amongst the (Senate) leadership on the Republican side, theres not a lot of interest in granting immunity to tobacco. And if you dont have immunity, the tobacco boys arent going to be willing to participate."

Rep. Waxman
The News Hour with
Jim Lehrer
1/15/98

Newsday
1/16/98 and
St. Louis Post-Dispatch
1/16/98

The Herald Sun
(Durham, NC)
1/30/98

The News and Observer
(Raleigh, NC)
1/30/98

AP Newsfeed
1/31/98

The News and Observer
(Raleigh, NC)
2/12/98
"These documents today clearly illustrate one of the major tobacco companies was in a very cynical and clear way targeting and implementing a strategy to get kids as young as 14 years of age to smoke, so if were going to deal with this problem, lets look at how we stopped the companies going after our kids. That should be the focus, not how to bail out the tobacco industry, how to solve their problems, but how to protect the public health."

"It really is chutzpah for the tobacco companies to think that they can lie to the Congress, go after our children, deny that there are consequences from smoking, and then ask that they be forgiven for their actions."

"Lets pass legislation right now to stop tobacco companies from targeting children" and forget the controversial legal protections.

Liberals like Rep. Waxman want more concessions from the tobacco industry before Congress grants it what he called "virtual immunity from liability."

"We face an enormous challenge. Can we put the public interest ahead of the special interests of the tobacco industry? Our goal and our only goal should be to pass legislation that protects our children. We dont need the tobacco industrys blessing to do this. We dont even need their agreement. All we need is the political will to do whats right."

Waxman has urged Congress to scrap the immunity provision and urged legislators to focus on laws protecting children.

"Unlike the tobacco settlement announced last year, [Sen Conrads] legislation isnt a sweetheart deal for the tobacco industry."

Sen. Wellstone
Star Tribune
(Minneapolis, MN)
2/6/98
Wellstone urged fellow senators to avoid giving cigarette makers immunity from civil suits in any tobacco legislation they pass this year. "We can and must pass legislation to crack down on this industry. To do so, we dont need their permission, and we certainly dont need to grant them any concessions."

Sen Wyden
The Chicago Tribune
3/12/98

The Washington Times
3/12/98
Wyden said that with recent disclosures in tobacco company documents about doctoring cigarettes with more nicotine, "there are grounds to be cautious" about excusing the firms from liability to individual suits.

Wyden urged senators to reject any immunity, saying that some tobacco companies could face criminal indictments.

MINORITIES
Rep. Bliley
The News and Observer
(Raleigh, NC)
1/30/98
"The documents suggest that tobacco companies targeted children. These documents suggest racial stereotypes were used in part of your marketing plans. These documents suggest possible manipulation of scientific research by industry attorneys. If these things are true, you should know that this kind of behavior is unacceptable and will not be allowed."

Rep. Fazio
Healthy Kids Act
Press Conference
2/11/98
"This bill also hits big tobacco where it hurts, by taking on their shameful strategy of targeting minority communities. African-Americans, Hispanic-Americans, and Native Americans need redress and we intend to provide it in this legislation."

PAYMENTS TO STATES
Sen. Burns
Senate Commerce, Science and Transportation Hearing
2/24/98
"I dont want a handful of states to get huge settlements against big tobacco and the rest of the states to get little or nothing. I want kids in Montana to get the same deal that

kids in Florida, Texas, and Mississippi get."

PRICE PER PACK
Speaker Gingrich
The New York Times
2/12/98

The New York Times
2/16/98

The Washington Times
3/6/98
Any money raised from a higher tobacco tax should be used for a tax cut elsewhere.

Gingrich said that reducing teen-age smoking was important, that any tax increase on tobacco products should be offset by a tax cut elsewhere and that it was important not to make cigararettes so expensive that a black market developed.

Gingrich is making plans to use money raised from anti-smoking legislation to help pay for tax cuts. "I would be very surprised if we did not have tobacco money, whether its in the form of a tax increase or the form of a settlement agreement, before the end of the year."

Sen. Hatch
Senate Commerce, Science and Transportation Hearing
2/26/98
"We have thrown away a giant opportunity to do a lot of public health good if we dilute the impact of these [cigarette tax] funds by using the revenues for non-tobacco related purposes."

Rep. Kasich
Extel Examiner
2/3/98
"I dont think the American people want any more taxes, any more fees ... and if there is a settlement, why should (we) give the money from one family to another" instead of cutting taxes.

Sen. Kennedy
AFX News
2/3/98
"We can pass a tobacco tax. Its the best way to reduce" teenage smoking.

Sen. Lautenberg
AFX News
2/3/98
Any new tax money could be used to pay for President Clintons initiatives.

Sen. Lott
AFX News
2/9/98
"I do not like the idea of a tobacco tax. I have no problem with the price (of tobacco) going up, or the companies taking it from profits or however that would work. (But) a tax is a tax is a tax where I came [sic] from and I never met one I liked."

Sen. Lugar
Senate Commerce; Science and Transportation Hearing
3/11/98
"I favor increasing the price of a pack of cigarettes by at least $1.50."

"I support a dramatic increase in the price of cigarettes because I am convinced that such a price change is the most promising program for reduction of cigarette smoking at all age levels."

"Even while justice is served, Congress can make certain that a $1.50 price per pack increase provides a strong price disincentive to smoke along with a certain cash flow to reimburse appropriate government health programs."

Sen. McCain
Evans and Novak
2/21/98
"I believe that the American people want us to address the issue of children smoking and the fact that 3,000 young children everyday start smoking. And if the $1.50 a pack tax on cigarettes will help in that effort, I think the American people will support it. And I believe that they expect us to enact a lot of other measures in order to address this issue."

Novak: Some House Republican leaders would like to use the revenue from the $1.50 tax on cigarettes to fund a tax cut for general taxpayers. Whats your preference on that?
McCain: "My first priority would obviously be campaigns to stop children from smoking. Second of all, I think the states do deserve some reimbursement for their Medicaid expenses, and I then think that perhaps a tax cut would be more appropriate. But I think theres going to be a big fight about that. But the most important thing is to have us coalesce and work together to at least address the issue of kids smoking."

Sen. Nickles
AFX News
2/3/98
"I dont know how a tobacco tax could pass."

PUBLIC HEALTH SPENDING
Sen. Collins
Press Release

2/12/98
One of the guiding principles of the PAST Act is that any settlement dollars be committed exclusively to anti-tobacco efforts, including public health programs and research.

Sen. Hatch
Senate Commerce, Science and Transportation Hearing
3/11/98
A comprehensive bill should include "flexible, community-based funding for public health programs, such as tobacco use prevention and cessation and counter-advertising."

A comprehensive bill should include "substantial new funding for biomedical research."

Sen. Jeffords
Senate Labor and Human Resources Committee
3/11/98
"In my view, the critical issue of tobacco policy is not liability or lawyers fees -- it is public health. The heart of a national policy on tobacco must be its public health provisions."

Sen. Lott
AFX News
2/9/98
Lott said he believed the odds are against Congress passing the comprehensive tobacco settlement, but a smaller teenage antismoking bill is likely to pass. Lott said a teenage bill would include an education program promoting antismoking habits to teenagers, but he would not specify how such legislation would be paid for. He said a tobacco tax would not be acceptable."

Sen. Lugar
Senate Commerce, Science and Transportation Hearing
3/11/98
"There is surely a reasonable conclusion that some of these public health costs should be identified in courts of law and that appropriate federal, state, and local governments should be reimbursed."

Sen. Mack
Senate Commerce, Science and Transportation Hearing
3/3/98
"I am here to encourage my colleagues on this Committee to take this monumental opportunity to get even in the most constructive way I know -- by forcing Big Tobacco to pick up the tab for finding cures to the very diseases they have caused. For there to be comprehensive tobacco legislation without significant medical research funding would be a tragedy."

"If our emphasis is limited to simply reducing smoking, without finding cures for disease, we will have abandoned those who are still addicted and accomplished only half of our mission."

"I also believe it is essential to remain firm in our long-standing policy that scientists, not Congress, should decide how these funds should be directed. Why? Because you never know where basic scientific research will lead."

"It is the right thing to do to make Big Tobacco pay for research into the addictive nature

of tobacco, to pay for research into ways to enable smokers to end their addiction, and it is the right thing to do to provide NIH and CDC with the necessary resources to conduct research into the areas they believe will be successful."

Sen. Robb
The Richmond Times Dispatch
2/16/98
A Robb spokesperson said that Sen. Robb signed up with the Congressional Prevention Coalition because he has supported "forward-thinking, prevention-based health policy solutions, and this coalition can help advance such solutions."

*

May 2, 1997

TEEN PREGNANCY EVENT

DATE:May 1, 1997
LOCATION:Roosevelt Room
TIME:2:00 pm - 3:00 pm
FROM:Bruce Reed/Elena Kagan

I.PURPOSE

To demonstrate the Administrations commitment to reducing teen pregnancy and to highlight the one year anniversary of the National Campaign to Prevent Teen Pregnancy and their first 12 honorees. The event also recognizes the month of May as Teen Pregnancy Prevention Month.

II.BACKGROUND

The National Campaign to Prevent Teen Pregnancy is a private nonprofit organization which was formed in response to President Clintons challenge issued in his 1995 State of the Union address that "parents and leaders across the country... join together in a national campaign against teen pregnancy..." Following the State of the Union, the President held a meeting at the White House with a group of prominent teen pregnancy prevention experts and advocates to discuss what might be done to combat the problem. From that meeting came a private sector planning effort that led to the creation of the national campaign.

The campaign is chaired by former New Jersey Governor Thomas H. Kean. Governor Kean will also be speaking at this event. Its Board of Directors includes Whoopi Goldberg, Katherine Graham, the Hon. Nancy Kassebaum-Baker, the Hon. Warren B. Rudman, and William A. Galston. Isabel V. Sawhill, President of the Campaign, was an Associate Director of the Office of Management and Budget during President Clintons first term.

At the close of the program you will recognize 12 honorees chosen by the Campaign who will be seated in the front row. Each represents prevention approaches that are lowering teen pregnancy rates and strengthening communities. The honorees work embodies several key themes that are essential to preventing teen pregnancy:
*Emphasizing values and self-esteem in working with adolescents;
*Forging partnerships with the corporate sector;
*Focusing the community on a "unity of goal" to prevent teen pregnancy even when there are conflicts over program approaches;
*Encouraging adult-child communication;
*Involving youth in the discussion;
*Emphasizing the importance of male involvement in prevention;
*Recognizing the importance of program evaluation; and
*Involving the media in reducing teen pregnancy.

In your remarks, you will discuss two new teen pregnancy prevention grant programs and new findings from a study of childbearing and family planning to be released later this month by the Department of Health and Human Services.

Grants: In Los Angeles yesterday (May 1), Secretary Shalala announced the two new community grant programs to prevent teen pregnancy and promote responsible behavior. One program will be aimed at teenage girls and the other at teenage boys. Both grow out of HHS new Girl Power! Campaign which is aimed at enhancing self-esteem, promoting good health, and preventing unhealthy behaviors among girls 9 to 14 years old. Each of the grant programs will total about $1 million per year and involve public-private partnerships organized by individual communities.

HHS Study: The Secretary also discussed a new study to be released later this month that shows the percentage of teenagers who have had sex declined in the 1990s after increasing steadily for more than two decades. The decline is small -- 5 percentage points -- but is significant because it shows that the long-term increase in teenage sexual activity may finally be over. This data is part of a new study of child bearing and family planning covering all women 15-44.

III.PARTICIPANTS

The First Lady
Former New Jersey Governor Thomas H. Kean, Chair of the National Campaign to Prevent Teen Pregnancy.

*Attached is a list of the 12 Campaign honorees who will be seated in the front row. Also, please note that Alma Powell will be seated in the front row as well.

IV.PRESS PLAN

Open.

V.SEQUENCE OF EVENTS

- You will greet the 12 honorees and Isabel Sawhill in a brief photo receiving line prior to the event in the Blue Room.
- The 12 honorees and Isabel Sawhill will then be announced into the East Room and proceed to their seats in the front row.
- You and former Governor Kean will be announced into the East Room and proceed to the stage.
- You will make remarks and introduce Governor Kean.
- Governor Kean will make remarks.
- You will then individually recognize the 12 honorees and ask them to stand.
- You will then close the event by inviting the guests into the State Dining Room for tea.

VI.REMARKS

Prepared by Jen Klein.

6/16/97 4:00 pm DRAFT

June 17, 1997

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Strengthening Title IX Enforcement and Addressing Discrimination on the Basis of Sex, Race, Color and National Origin in Federally Conducted Education Programs and Activities

As we commemorate the twenty-fifth anniversary of Title IX of the Education Amendments of 1972, we should pause to recognize the significant progress our nation has made in increasing educational possibilities for girls and women and recommit ourselves to the goals of this important legislation. Title IX has broken down barriers and expanded opportunities -- opening classroom doors, playing fields, and even the frontiers of space to girls and women across this country.

My Administration is working hard to expand further opportunities for women and girls. We have stepped up enforcement of civil rights statutes in areas such as access to advanced math and science programs. We have issued policy guidance on racial and sexual harassment and on ensuring equal opportunities in intercollegiate athletics. We have aggressively litigated cases presenting significant issues of discrimination, including cases challenging the exclusion of women from VMI and the Citadel. My Administration has also sponsored an education campaign to help young girls build skills, confidence and good health. Finally, my Administration has reaped the benefits of an ever increasing pool of superbly qualified women, making it possible for me to appoint record numbers of women to my Cabinet, judicial posts, and to high levels of decision-making throughout the federal government.

Yet more needs to be done. Our nation is stronger when all of our citizens have the opportunity to reach their God-given potential and contribute fully to our society. Today, I am announcing two important next steps in our fight to reach true equality in education.

First, I am directing executive departments and agencies to develop Title IX enforcement plans. Title IX requires all federal agencies that provide financial assistance to education programs or activities to ensure that programs and institutions receiving federal money do not discriminate on the basis of sex. A number of agencies, however, have never adopted regulations or complaint procedures to enforce Title IX.

I therefore direct all heads of executive departments and agencies, following consultation with the Attorney General, to report back within 90 days on measures to ensure effective enforcement of Title IX. This should include a description of the department or agencies priorities for enforcement, methods to make recipients of federal financial assistance aware of their obligation not to discriminate, and grievance procedures to handle Title IX complaints. In accordance with Executive Order 12250, the Attorney General should coordinate implementation of these steps.

Second, I am asking executive departments and agencies to take appropriate action against discrimination in education programs or activities conducted by the federal government. Currently, Title IX generally prohibits discrimination based on sex, and Title VI of the

Civil Rights Act of 1964 generally prohibits discrimination on the basis of race, color, or national origin in education programs or activities that receive federal financial assistance. However, these laws do not apply to comparable education programs or activities that are conducted by the federal government. I believe it is essential that the federal government hold itself to the same standards of nondiscrimination in educational opportunities that we now apply to education programs and activities of state and local governments and private institutions receiving federal financial assistance. Applying these standards to appropriate federally conducted education programs and activities will complement existing laws and regulations that prohibit other forms of discrimination in federally conducted education programs -- including discrimination against people with disabilities (prohibited by the Rehabilitation Act of 1973) and discrimination based on race, color, religion, sex or national origin against federal employees (prohibited by Title VII of the Civil Rights Act of 1964).

I therefore direct all heads of executive departments and agencies to report to the Attorney General within 60 days:

(1) identifying and describing education programs or activities conducted by the executive department or agency (including the approximate budget and size of the program). An education program or activity includes any civilian academic, extracurricular, research, occupational training, or other education activity conducted by the Federal government. Examples of federally conducted education programs would include elementary and secondary schools operated by the Department of Defense for dependent children of military personnel here and overseas; federally conducted educational research; and educational fellowships awarded directly by federal agencies to students; and

(2) describing any substantive or procedural issues that might arise under these education programs or activities related to prohibiting discrimination based on sex, race, color and national origin in the program or activity, in order to aid in determining where application of remedial efforts would be appropriate.

On the basis of these reports, I intend to issue an Executive Order implementing appropriate restrictions against sex, race, color, and national origin discrimination in federally conducted education programs. I direct the Attorney General to report to me within 60 days after receiving these reports with the results of her review and a proposal for an appropriate and effective Executive Order.

EF

June 12, 1997

MEMORANDUM FOR DISTRIBUTION

FROM:Jennifer Klein, DPC

RE:Executive Memorandum on Title IX

Attached please find a new draft of the executive memorandum on Title IX incorporating all comments that we have received. Please note that we have added language asking the agencies to develop Title IX enforcement plans. We have also left the time periods as 60 days for the agencies to develop their lists of federally conducted education programs and

60 days for the Attorney General to report to the President.

Please call me with comments at 202/456-2599. Thank you.

Distribution:

Elena Kagan, DPC
Bill Marshall, WH Counsel
Judy Winston, DOE
Isabelle Pinzler, DOJ
Mac Reed, OMB
Rosemary Hart, DOJ
Kathy Stock, OMB
Leslie Mustain, OMB
George Lyon, HHS
Andy Hyman, HHS
Lisa Schultz Bressman, DOJ
Kris Balderston, WH Cabinet Affairs
Judy Miller, DOD
Carolyn Becraft, DOD
Paul Koffky, DOD
Linda Thome, DOE
FF

June 12, 1997

MEMORANDUM

TO:Phil Kaplan
FR:Nicole Rabner
RE:Executive Memorandum on Title IX

Elena Kagan asked me to forward to you for appropriate internal WH review the attached working draft of an executive memorandum on Title IX, which is planned to be signed and issued on Tuesday, June 17th in conjunction with Presidents event to commemorate the 25th anniversary of the passage of Title IX. FYI, there is some discussion about having the President sign the memorandum during the event.

Mac Reed of OMB Counsel has been involved in our process to develop the attached document, and he does not intend to do a full agency clearance. The most appropriate agencies (DOE, DOJ, DOD, and DHHS) have been involved in the development of this memorandum.

Please note that an additional, substantive paragraph may be added on Monday morning, pending further discussions.

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

06-Aug-1996 04:23pm

TO: (See Below)

FROM: Lyndell Hogan
Domestic Policy Council

SUBJECT: Title IX/Women In Sports

To:Distribution

From:Jeremy Ben-Ami
Lyn Hogan

Date:August 6, 1996

Re:Title IX/Equal Opportunities for Girls
and Women In Sports

Because the President will be making remarks tomorrow regarding title IX, I have prepared the following memo. The memo includes brief background information on title IX and four points of controversy surrounding title IX that could be raised during Q&A.
Background

Title IX prohibits sexual discrimination at educational institutions that receive federal funds. It is part of the Education Amendments of 1972 that President Nixon signed into law.

Title IX is used to provide equal opportunities for girls and women in school athletic programs. Most private colleges are subject to Title IX guidelines just as public colleges and universities are because both receive federal funds through financial aid programs such as Pell Grants.

Title IX has paved the way for female athletes and sparked a new level of excellence in women's sports. In this year's Olympics, a record-setting total of about 3,700 women competed from here and abroad.

Data show that girls who play sports in school have a reduced risk of becoming pregnant or dropping out of school, have higher levels of self-esteem, and reduced risks for osteoporosis and breast cancer.

Controversy Surrounding Title IX

1) Since the Spring of 1992, several substantial law suits charging noncompliance with title IX have been brought against universities, the most notable of which is against Brown University. Brown decided to reduce its financial support for the women's volleyball and gymnastics teams--instead asking them to raise some of their own funds. The Department of Justice filed an amicus brief in Cohen v. Brown University. The Court ruled against Brown. However Brown appealed and the suit continues.

2) More recently, members of the U.S. Congress argued that title IX does not mean better opportunities for women athletes, but rather destruction of men's athletic programs. In 1995, Rep. Dennis Hastert (R-IL) organized House members to sign and send a letter to the Department of Education calling for "common sense" revisions to title IX such as to omitting men's football from title IX regulations. The Department of Education agreed to review title IX regulations. Currently, the Office of Civil Rights of the Department of Education is working on guidelines outlining what actions are appropriate to prevent sexual harassment and discrimination in schools. The guidelines will be issued sometime over the next two months.

3) A recent Texas court case determined that educational institutions with knowledge of sexual harassment between students that do not take corrective action are not violating title IX. This decision has been very controversial and may advance to the Supreme Court. The Supreme Court is deciding this week whether or not it will hear the case.

4) For an institution to be Title IX compliant, it must show its female student-athlete ratio to be proportionate to its female student population. The NCAA conducted its own gender equity probe in 1991 and found that over 80 percent of the dollars were going to men's programs and that 75 percent of the athletes were men.

For more information on the Department of Education title IX guidelines or the Texas court case, please call Howard Kallem, Supervisory Attorney, Office of Civil Rights, Department of Education, 202-205-8535.

Distribution:

TO: Carol H. Rasco
TO: Martha Foley
TO: Elena Kagan
TO: George Stephanopoulos
TO: Deborah L. Fine
TO: Todd Stern
TO: Jennifer L. Klein
TO: Betsy Myers
TO: Peter Jacoby
TO: Nancy-Ann E. Min
TO: Marilyn Yager

TO: Elizabeth E. Drye
TO: Douglas B. Sosnik
TO: Karen L. Hancox
TO: Katharine M. Button
TO: Barbara D. Woolley
TO: Barbara C. Chow
TO: Nicole R. Rabner
TO: Kathleen D. Hendrix
TO: Evelyn S. Lieberman
TO: Kerry Moran
TO: Victoria L. Radd
TO: Michael McCurry
TO: Barry Toiv
TO: Mary Ellen Glynn

May 12, 1997
Notes from meeting re: 25th anniversary of Title IX

Before Title IX, there were separate dorm rules for women and men, limits to scholarships for women, nepotism rules in employment re: spouses, separate vocational classes (Home Ec and Shop), only 10% of classes in engineering could be female, law and med school admissions were limited, etc.

Title IX covers sex discrimination in any educational institution which receives any federal funds for any educational opportunity. It does not cover activities of the federal government. All Cabinet Agencies grant money for educational activities. The activities those monies fund must comply to the provisions of Title IX.

POTUS is away June 23. The group would like to hold an event the week of June 16. Need funds . Marsha Greenberger will try to raise them with suggestions from Lynn Cutler and Ann Stock. It should be both a celebration and a rededication to principles of Title IX.

Event will have a policy piece which should be substantive and forward looking. It is important to open up educational training areas for women for the future. This all needs to be positive. There are some possibilities which include:
1. The school system administered by the Defense Dept (largest in the US). It may be fine in complying with Title IX provisions. However, it needs to be looked at and assessed. It should be a model system in the future. It needs a formal commitment that it will officially adhere to the standards and principles of IX.
2. Every Cabinet Agency that gives grants and loans has Title IX obligations for all educational programs. Most or all agencies give grants. Many dont follow the regs or havent focused on them and some have not even issued regs. They could adopt regs and take them seriously.
3. This idea is not yet fully researched. There are federal agencies that give grants to individuals and/or programs, which do not comply with provisions of Title IX. The NSF comes to mind. Marsha will produce a list so the universe is more complete.
4. The National Womens Law Center has received many complaints about the Civil Rights Division at DOE. Those complaints are another source of ideas for policies that need to be rectified.

Event will have a face piece. Women who overcame obstacles or were helped by Title IX or mothers and daughters and the differences in their worlds. Verna Williams of the Coalition for Women and Girls Education, (a group of about 50 entities) will produce a list of possibilities.
Marsha thought perhaps MEG and her daughters, who participate so fully in sports at school, could be part of this.

Elena Kagan and Marsha Greenberger will pursue the policy piece.

There will be another meeting the end of next week.

June 16, 1997

Title IX: Celebrating 25 Years of Progress

DATE:Tuesday, June 17, 1997
LOCATION:Auditorium, Room 450
TIME:11:00 a.m.
FROM:Maria Echaveste and Elena Kagan

I.PURPOSE

You are scheduled to speak at the event celebrating the 25th Anniversary of Title IX co-sponsored by the Coalition of Women and Girls in Education representing over 50 organizations and the Jackie Joyner-Kersee Youth Center Foundation. You will receive the just-finished report on Title IX from Sec. Riley and sign a Presidential Directive entitled Strengthening Title IX Enforcement and Addressing Discrimination on the Basis of Sex, Race, Color and National Origin in Federally Conducted Education Programs. The audience of 150 will be comprised of Members of Congress, representatives from the co-sponsoring organizations, board members of your Council of Physical Fitness and Sports, and other leaders gathered from around the nation to celebrate this milestone.

II.BACKGROUND

HISTORY OF TITLE IX

Monday, June 23 marks the 25th anniversary of the signing of Title IX of the Education Amendments of 1972. Title IX, one of the nations landmark civil rights laws, was enacted by Congress to prohibit sex discrimination in all aspects of American education in the classroom, in course offerings, in the school workplace, and on athletic fields.

As the womens civil rights movement gained momentum in the late 60's and early 70's, Americans began to focus attention on inequities that harmed the progress of women and girls in education. The initial impetus behind Title IX was the 1970 class action suit filed by the Womens Equity Action League (WEAL) against colleges and universities charging them with "an industry wide pattern of sex bias against women who worked in these institutions." In response, the House held its first hearing on sex discrimination in 1970. In 1971, Congress introduced several education bills that included sex discrimination proposals and in the Spring of 1972, the Senate and House passed Title IX. President Nixon signed Title IX into law on June 23, 1973.

Title IX has broken down many of the barriers that prevented girls and women from choosing educational opportunities and careers they would have liked to pursue. Twenty five years after its passage, the implementation of Title IX has resulted in tremendous improvements in educational and related job opportunities for millions of young girls. By the year 2005, women workers will make up 47 percent of the labor force and for the first time, their educational backgrounds makes them well prepared to assume high level employment opportunities that will improve their quality of life as well as our nations economy.

Since the early 1990's, men and women have been graduating from college in equal proportions--an historic event in our nations history. Since 1970, the proportion of women who have a high school diploma rose significantly and for African American women the high school graduation rate more than doubled. Dropout rates have dropped significantly among high school females who become pregnant or have a child--the law prohibits schools from discriminating against them in educational programs due to their status as a mother.

EXECUTIVE DIRECTIVE

Background on Executive Directive Strengthening Title IX Enforcement and Addressing Discrimination on the Basis of Sex, Race, Color and National Origin in Federally Conducted Education Programs

You will issue an executive memorandum with two parts to the heads of executive agencies and departments.

First, the memorandum directs each federal agency to develop a plan to enforce Title IX. A number of agencies have never adopted regulations or complaint procedures to enforce Title IX. This memorandum will require all federal agencies to consult with the Attorney General and report back to you within 90 days on measures to ensure effective enforcement, including methods to make all recipients of federal financial assistance of their obligation not to discriminate and to put in place grievance procedures to handle Title IX complaints.

Second, the memorandum addresses discrimination on the basis of sex, race, color and national origin in federally conducted education programs and activities. Currently, Title IX generally prohibits discrimination based on sex, and Title VI of the Civil Rights Act of 1964 generally prohibits discrimination on the basis of race, color or national origin in education programs or activities that receive federal assistance. However, these laws do not apply to comparable education programs or activities that are conducted by the federal government. The executive memorandum will take action against discrimination in education programs or activities conducted by the federal government as well. It will not affect military training programs (just as Titles IX and VI do not apply to military training), but it will cover the militarys civilian programs, including the schools it operates.

We are not aware of any particular incidents of discrimination in federal agencies. This order will simply hold the federal government to the same standards of non-discrimination in educational opportunities that we now apply to education programs receiving federal assistance.

DEPARTMENT OF EDUCATION REPORT "TITLE IX: 25 YEARS OF PROGRESS"

Today, Department of Education Secretary Riley will present you with a report entitled "Title IX: 25 Years of Progress" which provides an overview of the accomplishments in the educational achievement of girls and women since Title IXs passage. The following are some of the key highlights of the report:

*The large gaps in educational attainment between males and females that were striking in 1972 are virtually nonexistent today. For example:

*In graduate and professional schools--When Title IX was first enacted , 9 percent of

medical degrees went to women. In 1994, women received 38 percent of medical degrees. Women account for 43 percent of law degrees, up from 7 percent in 1972.

*In colleges--More than 100,000 women participate in intercollegiate athletics, which is a four-fold increase since 1971.

*In high schools--Girls are slightly more likely than boys to complete high school. In 1995, 87 percent of young adult females had completed high school compared to 86 percent of young adult males. Almost equal proportions of males and females are taking vocational-technical courses, and girls are most likely to be enrolled in business programs.

*The next 25 years--Today, even with the many advances women have made in academics, employment and athletics, we still have work to do in our efforts to achieve equality. Even though women make up over half of the labor market, they are often paid less than men. In 1993, women who had majored in the natural sciences earned 15 percent less than men who majored in the same field.

III.PARTICIPANTS

150 attendees including:
25 Members of Congressmen;
57 Representatives from the Coalition of Women and Girls in Education;
20 Associates from the National Womens Law Center;
12 Board members of your Council on Physical Fitness and Sports;
4 Eighth grade girls from the Thomas Edison Center for Technologys Biotechnology Summer Focus Program: Fun With DNA, and their program sponsor;
Other leaders and supporters of Title IX; and

Program Participants:
Verelett Allen (Washington, DC) graduated from the Wider Opportunities for Women (WOW) electronics program in 1981 and is the Coordinator for the YWCA/HCCE Non-Traditional Employment for Women Program and founder and Executive Director of Women's Work, Inc., Silver Springs, MD.
Dr. Nelba Chavez (Silver Springs, MD) is one of the key leaders of HHS Girl Power campaign and the first Administrator of the Substance Abuse and Mental Health Services Administration (SAMHSA). She is also the first Hispanic to head an agency within the U.S. Department of Health and Human Services.
Captain Robin Forster (Baltimore, MD) is a firefighter at Station 10 in Parkville, MD, and a member of International Association of Firefighters.
Anne Jarvis Jefferson (Winona, MN) has distinguished herself as one of the most accomplished young scientists in our country. Ms. Jefferson is a U.S. Presidential Scholar and has also won the Pinnacle Award at the Intel International Science and Engineering Fair. Anne will be introducing you.
Jackie Joyner-Kersee (East St. Louis, IL) is one of the most accomplished female track and field athletes of all time. Competing in four Olympic Games, she won six medals (3 gold) and set numerous World and American records in the heptathlon and long jump.
Dr. Sally K. Ride (La Jolla, CA) became the first American woman to fly in space when the space shuttle Challenger took off from Cape Canaveral, Florida, on June 18, 1983. Ride served as mission specialist on two Challenger flights.
Secretary Richard W. Riley

IV.PRESS PLAN

Open.

V. SEQUENCE OF EVENTS

(10:05-10:30 a.m. -- Pre-brief in Oval with Sec. Riley, Judith Winston, Maria Echaveste, and Elena Kagan)
(10:45 a.m. -- Meet and have photos taken with program participants in Room 472)

Off-stage announcement of program participants, then the announcement of you, the First Lady and Sec. Riley;
First Lady makes remarks and introduces Sec. Riley;
Sec. Riley makes remarks and hands you the Title IX report, then introduces Jackie Joyner-Kersee;
Ms. Joyner-Kersee makes remarks and introduces Anne Jarvis Jefferson;
Ms. Jefferson makes remarks and introduces you;
You speak, and then move to table and take seat to sign the Directive with group gathered around for photo; and
Event ends.

VI. REMARKS

Yes, provided by speechwriters.

VII. ATTACHMENTS

The Directive entitled Strengthening Title IX Enforcement and Addressing Discrimination on the Basis of Sex, Race, Color and National Origin in Federally Conducted Education Programs (to be provided to Staff Secretary by DPC)
Department of Educations report entitled "Title IX: 25 Years of Progress" (to be delivered upon receipt from DoEd)
Summary of DoEds report highlights
Short biographical summaries of program participants
List of Members of Congress attending event
List of event participants

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

06-Aug-1996 04:18pm

TO: (See Below)

FROM: Lyndell Hogan
Domestic Policy Council

SUBJECT: Title IX/Women In Sports

To:Distribution

From:Jeremy Ben-Ami
Lyn Hogan

Date:August 6, 1996

Re:Title IX/Equal Opportunities for Girls
and Women In Sports

Because the President will be making remarks tomorrow regarding title IX, I have prepared the following memo. The memo includes brief background information on title IX and four points of controversy surrounding title IX that could be raised during Q&A.
Background

Title IX prohibits sexual discrimination at educational institutions that receive federal funds. It is part of the Education Amendments of 1972 that President Nixon signed into law.

Title IX is used to provide equal opportunities for girls and women in school athletic programs. Most private colleges are subject to Title IX guidelines just as public colleges and universities are because both receive federal funds through financial aid programs such as Pell Grants.

Title IX has paved the way for female athletes and sparked a new level of excellence in women's sports. In this year's Olympics, a record-setting total of about 3,700 women competed from here and abroad.

Data show that girls who play sports in school have a reduced risk of becoming pregnant or dropping out of school, have higher levels of self-esteem, and reduced risks for osteoporosis and breast cancer.

Controversy Surrounding Title IX

1) Since the Spring of 1992, several substantial law suits charging noncompliance with title IX have been brought against universities, the most notable of which is against Brown University. Brown decided to reduce its financial support for the women's volleyball and gymnastics teams--instead asking them to raise some of their own funds. The Department of Justice filed an amicus brief in Cohen v. Brown University. The Court ruled against Brown. However Brown appealed and the suit continues.

2) More recently, members of the U.S. Congress argued that title IX does not mean better opportunities for women athletes, but rather destruction of men's athletic programs. In 1995, Rep. Dennis Hastert (R-IL) organized House members to sign and send a letter to the Department of Education calling for "common sense" revisions to title IX such as to omitting men's football from title IX regulations. The Department of Education agreed to review title IX regulations. Currently, the Office of Civil Rights of the Department of Education is working on guidelines outlining what actions are appropriate to prevent sexual harassment and discrimination in schools. The guidelines will be issued sometime over the next two months.

3) A recent Texas court case determined that educational institutions with knowledge of sexual harassment between students that do not take corrective action are not violating title IX. This decision has been very controversial and may advance to the Supreme Court. The Supreme Court is deciding this week whether or not it will hear the case.

4) For an institution to be Title IX compliant, it must show its female student-athlete ratio to be proportionate to its female student population. The NCAA conducted its own gender equity probe in 1991 and found that over 80 percent of the dollars were going to men's programs and that 75 percent of the athletes were men.

For more information on the Department of Education title IX guidelines or the Texas court case, please call Howard Kallem, Supervisory Attorney, Office of Civil Rights, Department of Education, 202-205-8535.

Distribution:

TO: Carol H. Rasco
TO: Martha Foley
TO: Elena Kagan
TO: George Stephanopoulos
TO: Deborah L. Fine
TO: Todd Stern
TO: Jennifer L. Klein
TO: Betsy Myers
TO: Peter Jacoby
TO: Nancy-Ann E. Min
TO: Marilyn Yager
TO: Elizabeth E. Drye

TO: Douglas B. Sosnik
TO: Karen L. Hancox
TO: Katharine M. Button
TO: Barbara D. Woolley
TO: Barbara C. Chow
TO: Nicole R. Rabner
TO: Kathleen D. Hendrix
TO: Evelyn S. Lieberman
TO: Kerry Moran
TO: Victoria L. Radd
TO: Michael McCurry
TO: Barry Toiv
TO: Mary Ellen Glynn

*SPERLING PRIORITY ITEMS
Monday, June 30, 1997

THINGS TO DO SUNDAY/MONDAY

1.Race Initiative. You should call Kaplan re: this mornings morning. There have been some developments.

2.Urban Meeting. We plan to have our urban meeting early next week. We need to discuss the agenda that Peter and I drafted for you.

3.Susan Page/Health Care. We have the packet of health care material. We need to decide what to fax to her.

3.Paper for POTUS.

*MEDICARE MEMO TO POTUS. Talk with Jennings and Peter.

*We Made a Difference. Russell has redrafted. NSC is clearing foreign policy section.

*Kalil Memo on R&D.

4.Craig Smith Request. Craig will meet with Hill Democratic staff on Tuesday regarding the "Helping Working Families Win" document, and he is looking for feedback. You may want to raise with Rubin, others. We should discuss further.

5.NEC Principals Meeting Next Week. If we are to have one on Tuesday, you need to discuss with Elena the tobacco initiative. Possible agenda items: race (Sylvia); tobacco (Bruce/Elena); fast track (GS/Dan); climate change (GS/Dan/Katie); Craig Smith document.

6.Fed Nominees.

7.July-September Policy Announcements. Any follow up we need to do from Erskines meeting on Friday?

8.Tobacco Settlement. Discuss tobacco settlement with Reed/Kagan (and possible NEC principals meeting early next week). Lambrew, Ellen, Mazur, and Peter have been approached to work on this. These NEC staff will update you regularly on the status of their work.

9.Personnel.

*Call Bobby Rosen; ask Barbara Chow about Stan Collender; Anne Lewis has a note in to you with several suggestions.

*Sandy Berger wrote a note to you and Dan on replacement for Helen Walsh as she is a joint NEC/NSC person. He wants to discuss. NSC is checking on a time.

*Call David Ellwood 617-495-1121; Bo Cutter 212-878-6163; Jackie Parker

*Call Phil Lader and Bo Cutter re: McGinnis

10.Climate Change. Meeting early this week.

*You raised the idea of Peter and you working on trading issues.

*You should also discuss the following with Peter: Following Evs departure, Gotbaum strongly recommends that the NEC team up with CEQ to oversee the modeling of effects of climate change. Treasury could provide staff assistance.

11.SBA Procurement Issue. Dorothy may have deputies meeting to follow last weeks meeting. She will discuss with you.

12.Chaka Memo. Bob has discussed with Ed, OMB and others; you have the latest draft from last week. Raines wants to have a principals meeting before memo goes into POTUS.

13.Call to Alexis Herman. Discuss Seth Harris with Anne Lewis first. Also need to raise Anthony Carnevale re: Employment and Training.

CALLS YOU MUST MAKE

Rep. Hoyer225-4131Letter on Federal employees
Harris Wofford606-5000 Ext. 177
M. Berman728-1100
Prof. Tribe617/495-4621
Bob Katzmann797-6077
Don Fowler803/799-7550
Don Lubick622-005028% recapture
Stan Ikenberry

KEEP IN MIND

1.Product Liability. Discuss memo with Ellen.

2.Communications Plan. Jake is working on one.

3.Securities Litigation. Mozelle and Ellen will get something to you soon.

4.Responding to Other POTUS Notes

*Peter has redrafted the final response to POTUS on environmental taxes, per your conversation.

*Mark is working on the advertisement on Disney "The Loophole King"

*Chucks talking points for recommended phone call to Nunn and Rudman are in your folder

5.NEC Planning. Lets discuss Podestas note on training and WIPO, as well as our next steps overall

6.Education.

*School-to-Work. Shireman has compiled list of people for meeting. Call Paul Dimond at 639-9456 regarding J.D. Hoye and name of person for Assistant Secretary for Training position at Labor.

*Faircloth Legislation. Erskine wants to know how it differs from HOPE. Bob has drafted a memo for your review.

7.Credit Card Memo. This should go into POTUS soon from you and Janet.

8.Medal of Freedom. Are you interested in soliciting ideas from staff and others, or in discussing more privately? If you have some initial thoughts, we may want to send a short preliminary note to Todd Stern. (Youve mentioned Jackie Robinson, Walter Mondale and Dr. Seuss -- should we submit these?)

9.Superfund. Does this merit Peters involvement at this point?

10.Agency Visits. Melissa and I will continue to work with agencies to set these up.

UPCOMING EVENTS

1.E Commerce Report on July 1. Event is set for the East Room. VP, POTUS and several CEOs, including IBMs Gerstner. Kalil is working on an Internet demo.

2.Radio Address for July 4. To be taped on July 3. Looks like NOT the NASA landing on Mars. We still have an opening.

3.CDA Event in mid-July. This looks set for July 16, with industry leaders, parent groups etc. to unveil the virtual v-chip initiative.

4.Health Events. Sylvia asked that we develop some ideas for health events in July. I have spoken with Jeanne Lambrew about this, and she will draft up some of her thoughts.

OTHER ITEMS

1.Write Notes To
a.Panettah.Sally Katzen
b.Morty Bahri.Dep. Sec. Curtis
c.Tysonj.Bob Boorstin
d.McCurry/Scheark.Charlie Rangle
d.Stiglitz
e.Cuomo
f.Slater
g.Daley

2.Larry Katz Welfare Dinner. Do you want to reschedule? 617-876-2061

3.Pay Bills. See Melissas List

4.Your Brother Rick.

a.Call Ricky to see exactly what he wants to do with Mosaic in Chicago
b.Keep pushing Rahm

5.Ellen Bukstal. Her group playing at a POTUS event, preferably an AIDS event

6.Debate Posters for Orszag and Taberski. We have blank posters, just need POTUS to sign them

STATUS OF SSA PROPOSAL RELATED TO
INDIVIDUALS WHO PARTICIPATED IN NAZI PERSECUTIONS

In early March, SSA sent OMB a legislative proposal to deny benefit payments to individuals who participated in Nazi persecutions. The impetus for SSAs action appears to be a commentary in a St. Petersburg, Florida, newspaper and a request to SSA for drafting assistance by Ways and Means Social Security Subcommittee Chairman Bunning. Justice initially balked at the proposal, then agreed to have discussions with SSA to try to work out language agreeable to both agencies.

Last week (April 15), Steve Warnath of the DPC chaired a meeting with Justice, SSA, and advocates of holocaust survivors to discuss the proposed legislation. SSA and Justice said at this meeting that they had agreed on language to close what SSA characterized as a "loophole" allowing individuals who have been prosecuted and denaturalized to continue to receive benefits. Under current law, benefits are terminated upon an order of deportation. The proposed legislation would terminate benefits upon a judicial determination of denaturalization. At the meeting, it was generally accepted that this may occur years before an order of deportation. In the meantime, some denaturalized Nazi war criminals leave the country. According to SSA, 18 Nazi war criminals are currently receiving Social Security benefits outside the United States.

The advocates then spoke against the proposed legislation, saying they would oppose such a bill publicly. Their overriding concern is how the proposal will impact on the prosecution of Nazi war criminals. They said the historic responsibility to achieve justice for holocaust survivors is best served by judicial determinations of denaturalization. The theory of their opposition to the SSA proposal is that, because those being prosecuted are now often over 80 years old, if denaturalization also meant impoverishment, some judges might be sympathetic to these individuals and be reluctant to find against them.

Steve asked whether continued eligibility for benefits when there is no order of deportation served as an incentive for denaturalized individuals to leave the country. The advocates said that, if a handful of people leave the country after denaturalization and continue to receive benefits, this "problem" is outweighed by the unacceptable risk that tinkering with the current system will have on judicial decision-making.

Justice defended their position by saying that the change in law would send a signal to other countries to be tougher on pensions to Nazi war criminals. The advocates said that argument did not outweigh the danger to the key goal. The main concern about other countries is Germany, which still pays wartime pensions to some Nazis. The advocates say that nothing we do in this area is apt to influence what theyre doing. They also noted that U.S. law in relation to Nazi war criminals is already tougher than for other deportees, i.e., benefits are cut off at the time of the deportation order rather than the actual deportation.

After a meeting the next morning (April 16) led by Steve with staff from OMB, the White Counsel's office, and the Office of Public Liaison, Steve was prepared to recommend to Elena Kagan and Bruce Reed that the Administration should not submit a bill. At this point, we have not received any feedback on a decision from Steve/DPC.

December 14, 1998

MEMORANDUM FOR NEC DEPUTIES

FROM:SALLY KATZEN

SUBJECT:Deputies Meeting on Mergers/Workforce Investment Act

The NEC deputies meeting will take place this Wednesday, December 16th from 1:00-2:30 in Room 180 of the Old Executive Office Building. Please confirm attendance and provide clearance information if needed to Shannon Mason at 456-2800.

Attached is the revised draft interim report to the President on mergers, incorporating the deputies comments and edits. We will take this up as the first order of business, so please review and be prepared to provide clearance. If you have additional changes, please try to provide them in advance to Dorothy Robyn, at 456-5365.

See you there.

DISTRIBUTION LIST

Rebecca Blank - 5-6347
Janet Yellen - 5-6958
David Lane - 501-1262
Robert Shapiro - 482-0432
Andy Pincus - 482-0042
Marshall Smith - 401-3095
TJ Glauthier 586-7644
Peter Robertson - 401-3764
Kevin Thurm - 690-7755
Saul Ramerez - 708-0123
Jacquie Lawing - 708-4087
Katherine Higgins - 219-1048
Edward Montgomery - 219-7971
Sylvia Mathews - 5-1005
Elena Kagan - 6-2878
Fred Hochberg - 205-6802
Stu Eizenstat - 647-9763
Mort Downey - 366-3937
David Wilcox - 622-2633
Richard Fisher - 5-3390
Sue Esserman - 5-3639
David Beier - 6-6704
Keith Collins - 690-4915
Audrey Winters - 5-3639
Doug Melamed - 616-7320
William Baer - 326-2884
Alan Larson - 647-5713

Josh Gotbaum - 5-4995

December 2, 1998

MEMORANDUM FOR NEC DEPUTIES

FROM:SALLY KATZEN

SUBJECT: Deputies Meeting on Mergers

Yes, we will in fact hold an NEC Deputies meeting on mergers, concentration and competition this Wednesday, December 9th from 1:00-2:30 in Room 180 of the Old Executive Office Building. Please review this DRAFT and I emphasize draft, so we may send forward. Please call Shannon at 456-2800 to confirm attendance. See you there.

Distribution

Rebecca Blank - 5-6347
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David Lane- 501-1262
Robert Shapiro- 482-0432
Andy Pincus- 482-0042
Marshal Smith- 401-3095
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Mortimar Downey -366-3937
David Wilcox -622-2633
Richard Fisher -5-3390
Sue Esserman -5-3639
David Beier -6-6704

00.MEMORANDUM FOR ELENA KAGAN and SALLY KATZEN

FROM:JULIE FERNANDES
CECILIA ROUSE

RE:WYDEN-GRAHAM AGRICULTURAL GUESTWORKERS BILL

DATE:September 14, 1998

Background

Agricultural "guestworkers" are admitted on H-2A visas for temporary jobs. Under the current program, in order hire H-2A workers, an employer must demonstrate to the DOL that (a) there are not sufficient U.S. workers able, willing, qualified and available to perform the services; and (b) there will be no adverse effect on the wages and working conditions of similarly-employed U.S. workers. Employers also are required to pay workers an "adverse effect wage rate" (AEWR), determined by the average wage paid to non-managerial agricultural workers in the state; provide free housing to workers outside the commuting area; reimburse workers inbound transportation if they complete half the contract, outbound also if they complete the contract; guarantee 3/4 of the hours of the contract; and hire any qualified U.S. worker who applies during the first half of the work contract. There is no cap on the number of H-2A visas granted. Out of the 1.6 million farmworkers in the United States, approximately 600,000 are unauthorized to work, and approximately 20,000 are in the H-2A program.

In June 1995, in response to efforts in Congress to pass legislation that would create a new guestworker program (without the worker protections present in the existing program) and agreeing with the recommendation of the Commission on Immigration Reform, the President stated his opposition to a "new guestworker program." However, he also stated that if the crackdown on illegal immigration contributes to labor shortages, he would direct the Departments of Labor and Agriculture to work cooperatively to improve and enhance the existing H-2A program.

Grower advocates argue that they continue to experience difficulties in finding domestic farmworkers and that the H-2A program is slow, cumbersome, and expensive. However, a recent (December 1997) GAO study concluded that agribusiness does not now and will not soon face an agricultural labor shortage. The GAOs finding of a labor surplus echoes the conclusions of the U.S. Commission on Agricultural Workers (1992), and the U.S. Commission on Immigration Reform reports (1995 and 1997). While the GAO report suggested that there could develop localized labor shortages, it noted the widespread belief that employers should respond to the market place by increasing wages, improving recruitment and modernizing their labor practices. Further, the GAO report cited a study which concluded that substantial wage increases would have little effect on consumer produce prices or international competitiveness. Many growers blame the INSs recent crackdown on undocumented farmworkers for the shortages of domestic farmworkers and their need to rely on a dysfunctional H-2A program.

On March 12th of this year, the House Judiciary Subcommittee on Immigration approved legislation, sponsored by Rep. Robert Smith (R-OR), that provides for a new pilot guestworker program that erodes existing worker protections. In a letter to Chairman Lamar

Smith, Secretary Herman stated that if this legislation were presented to the President, she would recommend a veto. This bill was voted out of the subcommittee on a voice vote, but has not been taken to the full House Judiciary Committee.

Soon after this bill was introduced, we initiated a process with the Departments of Labor and Agriculture to determine what kinds of regulatory and/or administrative reforms we could put into place before the next growing season. We developed a set of regulatory reforms that respond to the growers concern that the program needs to be streamlined (i.e., improved processes; reduced paperwork and delay). The Department of Labor and the Justice Department (which handles the immigration aspects of the program) have developed a package of proposed rulemaking changes that we hope will go in effect by the end of January. However, though some grower advocates were pleased with the set of administrative reforms, they continue to press for a legislative package that would fundamentally alter the way the program is operated.

On July 22, 1998, Senators Ron Wyden, Bob Graham and Gordon Smith (R-OR) introduced an amendment to the CJS appropriations bill that would make significant changes to the current H-2A program. On that same day, the Secretary of Labor sent a letter to Senator Wyden stating her strong opposition to his amendment which creates a new guestworker program that erodes labor protections for migrant farmworkers. The overall concern with the Wyden-Graham bill is that it shifts costs and risks from employers to workers and/or the government.

Issues Regarding H-2A Reform

Issue #1
Use of the Adverse Effect Wage Rate
Whether we would consider eliminating the adverse effect wage rate and replacing it with an enhanced prevailing wage rate.

Current Law:

Under the current program, growers who employ H-2A workers are required to pay their workers the higher of the prevailing wage (determined by the average wage for the crop in the local area), the federal, state or local minimum wage or an "adverse effect wage rate" (AEWR) (equal to the average statewide agricultural wage rate). Because foreign workers can sometimes dominate a local labor market, this wage depression is often reflected in the local prevailing wage. The AEWR partially corrects for this depressive effect by measuring farmworker wages on a statewide basis -- thus dissipating the impact of foreign workers on the wage.

Wyden-Graham Bill:

Under the Wyden-Graham bill, the worker is required to be paid either the prevailing wage or the AEWR (capped at 105% of the prevailing wage).

Recommended Administration Position:

The Departments of Labor and Agriculture agree that our goal is to find a way to calculate the wage that both takes into account the depression of wages in areas where there is heavy reliance on illegal and H-2A workers and that isnt so high as to drive employers to hire undocumented workers. Thus, we have agreed to explore proposals to replace the AEWR with

some form of an enhanced prevailing wage, so long as the enhancement is adequate. Our preliminary assessment is that 105% of prevailing wage would be an inadequate enhancement.

Though we may conclude that a move away from the AEWR could more accurately reflect proper wages in certain sectors, we will likely face significant backlash from the Hispanic and farmworker communities if the new formula results in lower wages in any sector.

Issue #2
Employer Recruitment -- Use of Proposed Registry
Whether we support the creation of a registry system for matching growers to farmworkers that totally replaces an employers obligation to conduct positive recruitment.

Current Law:

Under current law, if the grower is seeking to employ H-2A workers, he must affirmatively recruit in the private marketplace (know as "positive recruitment") and use the federal-state Job Service to circulate job offers to areas where migrant workers may be located. Thus, the responsibility for farmworker recruitment is shared between the prospective employer and the U.S. Employment Service.

Wyden-Graham Bill:

Under the Wyden-Graham bill, growers seeking to employ H-2A workers would have no obligation to attempt to recruit legal U.S. farmworkers except through a newly-created "job registry." Thus, all responsibility for the recruitment of domestic farmworkers would shift to a new, untried, process for which the government and low-wage workers are entirely responsible. This registry would take years to create, but H-2A workers could be hired within 6 months of the enactment of the bill. Further, because growers would no longer have an obligation to recruit domestically, they would be free to concentrate their worker recruitment efforts abroad.

Recommended Administration Position:

There is general agreement between USDA and DOL that total reliance on a registry (undeveloped; untested) would be unacceptable -- growers must retain some of the responsibility for finding U.S. workers. However, despite these concerns, it may be worthwhile to develop a pilot program to test whether a registry of the kind described in the bill could be an effective tool to assist growers in locating U.S. farmworkers. We could also consider the development of a method of ensuring that those domestic workers whose names are included in the registry are authorized to work (as in the Wyden bill).

Issue #3
Housing
Whether H-2A employers should continue to have an obligation to provide housing to their workers. Also, whether this obligation is met by the issuance of housing vouchers.

Current Law:

Current law requires growers who employ H-2A workers to provide them with free housing.

Wyden-Graham Bill:

The Wyden-Graham bill allows growers to provide a payment voucher (equal to 1/4 of the Fair Market Rate in the applicable county for a two bedroom apartment) in lieu of housing, unless the State certifies that adequate housing is not available in the area. Under this approach, the grower employing H-2A workers would have no obligation to assure that housing is actually available and could be obtained with the voucher.

Recommended Administration Position:

The DOLs chief concern is that the cost of housing not be transferred from the grower to the worker. They also believe that it should remain the growers responsibility to ensure that housing is available for the workers. USDA remains of the view that the provision of a housing voucher or an increased wage (to reflect the cost of housing) should satisfy the growers obligation, even if there is no housing available for these workers.

First, there are many areas (particularly in the West) where there simply is not an adequate supply of rural housing to meet the needs of these workers. Second, even if there is some housing available in the area, it is unrealistic to expect low-wage foreign migrant farmworkers to be able to secure housing on their own using a federal voucher. Thus, reliance on a voucher system will leave many workers either without housing or overcrowding any available rental housing.

We recommend not eroding the existing requirement that growers who use the H-2A program provide their workers with housing. However, we may want to consider whether the federal government could do more to assist growers in creating housing for their farmworkers. Currently, the Department of Agriculture administers a migrant farmworker housing program that we could scale up. Also, it may be possible to find ways to encourage states to use their CDBG or HOME funds to target the creation of farmworker housing. Finally, it may be possible to waive some housing regulations if the H-2A worker were housed in established housing (i.e., a hotel, government housing, etc.). These options would be designed to assist the growers with fulfilling their obligation to provide adequate housing for their workers -- not as a shift in responsibility from the growers to the government.

Issue #4
The 3/4 Guarantee
Whether we support the continued use of the 3/4 guarantee.

Current Law:

Under current law, workers must be paid for at least 75% of the work contract period for which they were recruited, except when there is an "act of God." This "three-fourths guarantee" gives migrant workers some indication of their potential earnings and discourages employers from over-recruiting to secure a labor surplus and drive down wages. Under the MSPA (which applies to U.S. migrant farmworkers, but not H-2A workers), workers enjoy a 100% guarantee.

Wyden-Graham Bill:

The Wyden-Graham bill would eliminate this work guarantee for H-2A workers. This change will encourage growers to lure workers from hundreds or thousands of miles away with the promise of potentially high earnings without any obligation to fulfill any part of that promise. This may also encourage growers to recruit more workers than they actually need to hedge against uncertainties.

Recommended Administration Position:

There is agreement within the Administration that the H-2A program should generally track the worker protections included in the Migrant and Seasonal Worker Protection Act (MSPA). As noted, under the MSPA, migrant farmworkers are guaranteed 100% of the work contract period for which they were recruited. Thus, the 3/4 guarantee for H-2A workers is more flexible (and thus better for growers) than the 100% guarantee mandated for those who employ only U.S. workers.

It would seem inconsistent for us to endorse a standard substantially less for the H-2A program than that required under the MSPA. When asked why the growers could live with the 100% guarantee under MSPA, but not the 75% guarantee under the H-2A program, we were told by USDA that it is because the MSPA guarantee is never enforced, and the H-2A guarantee is.

Issue #5
Repatriation Incentive
Whether we support wage-withholding as an incentive for H-2A workers to repatriate.

Current Law:

Under current law, there is no mechanism for ensuring that H-2A workers return to their home country.

Wyden-Graham Bill:

Permits employers to withhold 20% of a workers wages, to be reclaimed upon the workers return to his home country.

Recommended Administration Position:

In general, there is agreement within the Administration that we should try to develop an effective way to ensure that guestworkers return to their home country after the termination of the contract. However, this wage deduction is a bad idea that would likely prove ineffective.

First, this would be the first time that the federal government authorized the withholding of worker wages as an incentive toward future behavior. Second, it is unclear whether many of these workers would be able to recover this money from the accounts in their home countries. In addition, there is no evidence that these amounts would serve as a disincentive for employees who intend to stay in the U.S.

According to Sen. Wyden, this provision is not important to the growers, but is key to the viability of his legislation in the Congress. Some members of Congress are concerned that a new guestworker program will lead to an increase in foreign workers in the U.S. and thus an increase in those that do not return to their home country. However, as noted, there is very little reason to believe that a worker who wants to overstay his visa will be deterred by this withholding. Thus, it only would serve to inconvenience (and possibly, disadvantage) those workers who want to work here and return home.

Issue #6
Transportation Reimbursement

Whether employers should continue to be required to provide reimbursement to workers for inbound transportation if they complete 50% of the contract, and for outbound transportation if they complete 100% of the contract.

Current Law:

Under current law, the employer must reimburse the H-2A worker for inbound transportation costs if the worker completes 50% of the contract and for outbound transportation costs if the worker completes 100% of the contract.

Wyden-Graham Bill:

Under the Wyden-Graham proposal, workers may receive such reimbursement from their employer, but the employer is under no obligation to pay. This change would simply shift the cost of transportation to and from the job from the grower to the worker.

Recommended Administration Position:

There is general agreement within the Administration that growers should be responsible for the transportation costs of their H-2A workers. Therefore, we strongly oppose allowing growers to have discretion in reimbursement. However, we could consider giving the grower options on how to reimburse the worker for transportation costs. For example, the grower could have a choice between providing the transportation outright, advancing the cost of transportation to the worker, reimbursing the worker for the transportation, or paying the worker a much higher wage (such as 120% of the prevailing wage) with the intent that the wage "bonus" would be sufficient to cover transportation costs. In addition, there is likely agreement that DOL could develop a pilot program to provide transportation advances for U.S. farmworkers.

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

07-Dec-1995 09:33am

TO: (See Below)

FROM: Dinah Bear
Council on Environmental Quality

SUBJECT: New Hogan rule includes Forest Plan sales

Distribution:

TO: T J Glauthier
TO: Elena Kagan
TO: Martha Foley
TO: Jennifer M. O'Connor
TO: Christine L. Nolin
TO: Ruth D. Saunders
TO: Brian J. Johnson

CC: Thomas C. Jensen

December 15, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Gene Sperling
Elena Kagan

SUBJECT: New Initiatives on Discretionary Side of Budget

OMB is working on finding an additional $6 billion for discretionary spending. Within that constraint, the NEC and DPC ahve agreed on allocations that OMB has signed off on. While you may find that Department appeals call for decreasing the funds for new initiatives, we wanted you to see how your White House budget team would allocate funds under these constraints.

We already have given you detailed memos on most of these initiatives. If you approve the initiatives, you can announce any or all of them in the State of the Union.

Because so many of the new initiatives involve education, we are attaching an appendix to this memo that shows recommended funding levels for the Department of Educations major base programs.

Education

1. Education Opportunity Zones ($225 million): This initiative will provide funding to about 25 high-poverty urban and rural school districts for agreeing to adopt a "Chicago-type" school reform agenda that includes ending social promotions, removing bad teachers, reconstituting failing schools, and adopting district-wide choice.

2. College-School Partnerships ($150 million): This initiative, which builds on Eugene Langs model of helping disadvantaged youth, will provide funding for college-school partnerships designed to provide mentoring, tutoring, and other support services to students in high-poverty schools, starting in the sixth grade and continuing through high school. The six-year funding path would provide help to nearly 2 million students. It will also include Chaka Fattahs idea of early notification to disadvantaged 6th graders telling them of their Pell Grant and loan eligibility.

3. Campaign on Access to Higher Education ($20 million): This initiative will fund an intensive publicity campaign on the affordability of higher education. The goal of the campaign will be to make every family aware that higher education is now universally accessible -- and that it is the key to higher earnings. As part of this effort -- and to complement the college-school partnership program described above -- we will provide families at high-poverty middle schools with an official notification of the $20,000 or more that is already available for their children to go to college.

4. Teacher Recruitment and Preparation ($67 million): This initiative, which you previewed

last July at the NAACP Conference, will provide scholarships to nearly 35,000 new teachers over five years for committing to work in high-poverty urban and rural schools. It also will upgrade the quality of teacher preparation programs serving these communities.

5. Technology Teacher Training ($222 million): This initiative increased the Technology Literacy Challenge from $425 million to $475 million and then dedicates 30 percent of the Technology Literacy Challenge Fund to ensure that at least one teacher in every school receives intensive training in the use of technology for education, so that they can train their colleagues. An additional $80 million will begin an effort to train every new teacher in the latest technology.

6. Hispanic Education Action Plan -- ($195 million or more): This initiative will increase funding for a number of existing programs to improve education for Hispanic Americans and other limited English proficient (LEP) children and adults. It would double our investment in training teachers to address the needs of LEP children; boost the Migrant Education Program by 16 percent; increase the TRIO college preparation program by 10 percent; and create a 5-year, $100 million effort to disseminate best practices in ESL training for adults. We would accompany these program increases with administrative actions to help Hispanic students complete high school and succeed in college.

Child Care

We recommend placing most of the child care initiative -- in particular, the proposed increase in the Child Care and Development Block Grant and the establishment of a new Early Learning Fund -- on the mandatory side of the budget. The smaller pieces of the initiative that we propose placing on the discretionary side are the following:

1. After-School Program Expansion ($150 million): This program expansion will increase funding of the 21st Century Community Learning Center Program (now funded at $40 million) for before- and after-school programs for school-age children at public schools. Depending on the exact funding level chosen, this investment will create new programs in 1,500-4,000 schools.

2. Standards Enforcement Fund ($100 million): This new fund will support state efforts to improve licensing systems and to enforce health and safety standards, particularly through unannounced inspections of child care settings. The fund also will enable states to issue report cards, for use by consumers, on the quality of the facilities inspected.

3. Provider Training ($51-60 million): A new Child Care Provider Scholarship Fund, which you proposed at the Child Care Conference to fund at $50 million annually, will support 50,000 scholarships each year to students working toward a child care credential. The students will commit to remaining in the field for one year for each year of assistance received, and will earn increased compensation or bonuses when they receive their credential. An additional $1-10 million will allow the Department of Labor to expand its Child Care Apprenticeship Training Program, which funds providers combining work toward a degree with on-the-job practice.

4. Research and Evaluation Fund ($10-30 million): This new fund will provide grants for research projects, establish a National Center on Child Care Statistics, and set up a national child care hotline.

5. Paid Leave Demonstration Fund ($10 million): This small evaluation and demonstration fund will support communities and organizations that are testing and/or studying innovative approaches to providing financial assistance to parents who wish to stay home with their newborns.

6. Head Start and Early Head Start Expansion ($334 million): This level of increased investment in the overall Head Start budget should permit doubling the set-aside for Early Head Start without reducing the resources available for children 3-5. The doubled set-aside would enable more than 35,000 additional children to receive Early Head Start services in 2002.

Welfare, Housing, Urban

1. Welfare-to-Work Housing Vouchers ($283 million): This initiative will provide 50,000 new housing vouchers to help welfare recipients in public housing who need to move in order to find employment. HUD will distribute these vouchers on a competitive basis to public housing authorities working with local TANF agencies and/or grantees of the new $3 billion welfare-to-work program.

2. Housing Portability/Choice ($20 million): In addition to the new welfare-to-work housing vouchers discussed above, our proposed package on housing portability and choice expands Regional Opportunity Counseling sites and takes administrative actions to eliminate obstacles to portability in the Section 8 housing program.

3. "Play-by-the-Rules" Homeownership Proposal ($30 million): This initiative would enable the Neighborhood Reinvestment Corporation to assist approximately 10,000 families who have a perfect track record of paying their rent on time become homeowners. This initiative will help families become homeowners through downpayment assistance, interest rate buydowns, or rehabilitation loans.

4. Homeownership Opportunity Fund ($11 million): This initiative will allow HUD to develop a loan guarantee program to allow state and local governments to leverage current HOME funds with private-sector investments to fund large scale, affordable housing developments in distressed communities.

5. Community Empowerment Fund ($400 million): This initiative establishes a public/private fund ("Eddie Mac"), which will invest in inner-city businesses and create a secondary market for economic development loans (like Fannie Mae).

Raise FHA Loan Limit (Raises $150-$200 million): The budget currently includes this proposal to raise the FHA loan limits, helping more middle-income Americans get home mortgages which have low downpayment requirements. The first $150 million of revenue raised through this proposal would be used to pay for Round II of Empowerment Zones.

Homeless Assistance The budget currently includes a substantial increase in homeless assistance of approximately $341 million (above FY98). This includes $177 million to help 32,000 homeless receive Section 8 vouchers.

Homeownership Voucher Initiative (No Cost): The budget will include our proposal to allow Section 8 vouchers to be used for homeownership. This proposal was originally included in

our Public Housing Reform bill. You should know that Freddie Mac has already agreed to purchase up to 2,000 of these Section 8 voucher mortgages from lenders -- secondary market participation is essential to reassure, and therefore, recruit lenders. The downpayment for these mortgages would be set at 3 percent, to allow low and very-low income families to participate.

Fair Lending (No Cost): As described in previous memos, we are working on a fair-lending initiative which has no budgetary impact. The proposals being developed by an interagency working group include, for example, (1) an examination of the impact of credit scoring and risk-based pricing on the availability of credit/capital to lower-income and minority individuals; (2) a Presidential call to obtain more data on reasons for home mortgage loan denials; and (3) collection of race and income data as part of the CRA small business lending report requirement.

Fair Housing: The budget provides an additional $8 million for enforcement which will help HUD meet the goal of doubling Fair Housing Enforcement actions. The budget also includes $10 million for a new system of Metropolitan Area Testing to root out the vestiges of housing discrimination.

Labor and Workforce

1. Child Labor ($89 million): This initiative is anchored by a $30 million commitment -- up from $3 million -- to the International Program on the Elimination of Child Labor (IPEC). The initiative also will include funding to improve Customs Service enforcement of U.S. law banning the import of goods made with forced or bonded child labor ($3 million) and to double the Department of Labors enforcement of child labor laws in the agricultural sector ($4 million). Finally, the initiative will provide additional funding to the Migrant Education Program so it can reach 50,000 more migrant children ($50 million). We are developing non-budget items to fill out the package.

2. Community Adjustment ($50 million): This initiative will fund the creation of the Office of Community and Economic Adjustment (OCEA), which we proposed as part of the Fast Track debate. As you know, this office will be modeled after the Defense Departments Office of Economic Adjustment -- the Administrations first point of contact with communities experiencing a military base closure or defense plant closing. We expect the Office to help 35-40 communities in its first year of operation. The initiative also will fund a variety of other efforts to assist communities that face sudden and severe economic dislocation.

Health

1. 21st Century Trust Fund ($1 billion): This initiative will provide substantial additional funding to NIH ($750 million) and NSC ($250 million), ramping up substantially over time, for research activities, including into the treatment and cure of diseases. We will provide you with a separate memo on this initiative in the next day or two. Funding for this initiative will come from comprehensive tobacco legislation.

2. AIDS Programs Expansion ($165 million): A funding increase for the Ryan White Program of about 15 percent will go principally toward ADAP, to ensure that new and effective treatments of AIDS reach those who need them. Some of the funds will support education and prevention programs operated by states, cities, and community health centers, as well as by the CDC.

3. Racial Disparities in Health Care ($80 million): This initiative will address racial disparities in six areas of health care: infant mortality, breast and cervical cancer, heart disease and stroke, diabetes, AIDS, and immunization. The proposal includes additional funding ($50 million) to established public health programs to adapt and apply their prevention and education strategies to eliminate racial disparities. It also includes funding ($30 million) for thirty local pilot projects to test innovative approaches to reach this goal.

Crime

1. Community Prosecutors ($50 million): This initiative will provide grants to prosecutors for innovative, community-based prosecution efforts, such as Eric Holder adopted in the District of Columbia. A fill 80 percent of the grants will go to pay the salaries and training costs associated with hiring or reassigning prosecutors to work directly with community residents.

Race

A number of the above proposals -- e.g., education opportunity zones, university-school partnerships, housing vouchers -- can be presented as part of the race initiative, because they target predominantly minority areas or provide disproportionate benefits to members of minority groups. Other proposals described above -- the Hispanic dropout plan and the race and health initiative -- have obvious and explicit race connections. In addition:

1. Civil Rights Enforcement ($68 million): This initiative will fund reforms to the EEOC and the civil rights offices at DOJ, HUD, HHS, Education, and DOL. Most importantly, additional funding of $37 million will allow the EEOC to expand its mediation program (allowing more than 70 percent of all complainants to choose mediation by the year 2000), increase the average speed of resolving complaints (from over 9 months to six) and reduce the EEOCs current backlog (from 64,000 cases to 28,000). The initiative also will fund a dramatic expansion of HUDs civil rights enforcement office (in the 30th anniversary year of the Fair Housing Act) and improve coordination among the governments civil rights offices. We are preparing a number of non-budgetary administrative actions, especially involving fair housing and lending, to accompany our budget proposals in this area.

FFAppendix -- Education Base Programs

December 15, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Gene Sperling
Elena Kagan

SUBJECT: New Initiatives on Discretionary Side of Budget

As you know, OMB is trying to find an additional $6 billion for discretionary spending. Assuming this money becomes available, the DPC and NEC recommend that you fund the new initiatives listed below -- in the amounts listed below -- in your FY 1999 budget. OMB has signed off on these recommendations. Some of the departments, however, may appeal for increases in base programs that would cut into the amount of money available for new initiatives.
We already have given you detailed memos on most of these initiatives. If you approve the initiatives, you can announce any or all of them in the State of the Union.

Because so many of the new initiatives involve education, we are attaching an appendix to this memo that shows recommended funding levels for the Department of Educations major base programs. In reviewing the education spending, you should note that the Department has just reestimated Pell Grant costs in a way that will free up additional monies. We had thought we would need a $434 million increase in the Pell Grant Program to raise the maximum award from $3,000 to $3,100. The new estimates show we can finance these policies with between $150 million and $220 million less. We are currently considering whether to keep these funds in the Pell Grant Program to support a larger increase in the maximum award and make other policy changes, or alternatively to invest them in the After-School and Head Start components of the child care initiative.

Education

1. Education Opportunity Zones ($225 million): This initiative will provide funding to about 25 high-poverty urban and rural school districts for agreeing to adopt a "Chicago-type" school reform agenda that includes ending social promotions, removing bad teachers, reconstituting failing schools, and adopting district-wide choice.

2. College-School Partnerships ($150 million): This initiative, which builds on Eugene Langs model of helping disadvantaged youth, will provide funding for college-school partnerships designed to provide mentoring, tutoring, and other support services to students in high-poverty schools, starting in the sixth grade and continuing through high school. The six-year funding path will provide help to nearly 2 million students. The proposal also will include Chaka Fattahs idea of early notification to disadvantaged 6th graders telling them of their Pell Grant and loan eligibility.

3. Campaign on Access to Higher Education ($20 million): This initiative will fund an intensive publicity campaign on the affordability of higher education. The goal of the campaign will be to make every family aware that higher education is now universally

accessible -- and that it is the key to higher earnings.

4. Teacher Recruitment and Preparation ($67 million): This initiative, which you previewed last July at the NAACP Conference, will provide scholarships to nearly 35,000 new teachers over five years for committing to work in high-poverty urban and rural schools. It also will upgrade the quality of teacher preparation programs serving these communities.

5. Technology Teacher Training (Approx. $230 million): This initiative will dedicate 30 percent (about $150 million) of the Technology Literacy Challenge Fund (which is being increased from $425 to $500 million) to ensure that at least one teacher in every school receives intensive training in the use of technology for education, so that those "master teachers" can train their colleagues. An additional $80 million will begin an effort to train every new teacher in the latest technology.

6. Hispanic Education Action Plan -- ($195 million or more): This initiative will increase funding for a number of existing programs to improve education for Hispanic Americans and other limited English proficient (LEP) children and adults. It would double our investment in training teachers to address the needs of LEP children; boost the Migrant Education Program by 16 percent; increase the TRIO college preparation program by 10 percent; and create a 5-year, $100 million effort to disseminate best practices in ESL training for adults. We would accompany these program increases with administrative actions to help Hispanic students complete high school and succeed in college.

7. Distance Learning -- ($50 million?): We are still in the process of developing a new initiative, related to Governor Romers Western Governors University, to promote the use of technology to give people "anytime, anywhere" access to learning opportunities.

Child Care

We recommend placing most of the child care initiative -- in particular, the proposed increase in the Child Care and Development Block Grant and the establishment of a new Early Learning Fund -- on the mandatory side of the budget. The smaller pieces of the initiative that we propose placing on the discretionary side are the following:

1. After-School Program Expansion ($100-200 million): This program expansion will increase funding of the 21st Century Community Learning Center Program (now funded at $40 million) for before- and after-school programs for school-age children at public schools. Depending on the exact funding level chosen, this investment will create new programs in 1,500-4,000 schools with slots for between 75,000 and 200,000 children; at the same time, it will enable still more students to participate in other school-site activities.

2. Standards Enforcement Fund ($100 million): This new fund will support state efforts to improve licensing and accreditation of providers, and to enforce health and safety standards -- particularly through unannounced inspections of child care settings. The fund also will enable states to issue report cards, for use by consumers, on the quality of the facilities inspected.

3. Provider Training ($51-60 million): A new Child Care Provider Scholarship Fund, which you proposed at the Child Care Conference to fund at $50 million annually, will support 50,000 scholarships each year to child care workers working toward a child care credential. The students will commit to remaining in the field for one year for each year of assistance received, and will earn increased compensation or bonuses when they receive

their credential. An additional $1-10 million will allow the Department of Labor to expand its Child Care Apprenticeship Training Program, which funds providers combining work toward a degree with on-the-job practice.

4. Research and Evaluation Fund ($10-30 million): This new fund will establish a National Center on Child Care Statistics, and provide grants for research projects and state and local child care hotlines and consumer education activities.

5. Head Start and Early Head Start Expansion ($284-334 million): This level of increased investment in the overall Head Start budget should permit doubling the set-aside for Early Head Start over five years without reducing the resources available for children 3-5. The doubled set-aside would enable more than 50,000 additional children to receive Early Head Start services in 2003.

Welfare, Housing, Urban

1. Welfare-to-Work Housing Vouchers ($283 million): This initiative will provide 50,000 new housing vouchers to help welfare recipients in public housing who need to move in order to find employment. HUD will distribute these vouchers on a competitive basis to public housing authorities working with local TANF agencies and/or grantees of the new $3 billion welfare-to-work program. (A separate proposal, for which no new funding is needed, would allow families in public or assisted housing to use vouchers to buy a home; HUD expects this proposal to assist some 25,000 people become homeowners over two years, though OMB believes this figure to be exaggerated.)

2. Housing Portability/Choice ($20 million): In addition to the new welfare-to-work housing vouchers discussed above, our proposed package on housing portability and choice expands Regional Opportunity Counseling sites and takes administrative actions to eliminate obstacles to portability in the Section 8 housing program.

3. "Play-by-the-Rules" Homeownership Proposal ($30 million): This initiative will assist families that always pay their rent on time to become homeowners. The Neighborhood Reinvestment Corporation will provide downpayment assistance, interest rate buydowns, or rehabilitation loans to approximately 10,000 families.

4. Homeownership Opportunity Fund ($11 million): This initiative will provide funds for HUD to develop a loan guarantee program to allow state and local governments to leverage current HOME funds with private-sector investments to fund large-scale, affordable housing developments in distressed communities.

5. Community Empowerment Fund ($300-400 million): This initiative establishes a public/private fund ("Eddie Mac"), which will invest in inner-city businesses and create a secondary market for economic development loans (like Fannie Mae).

6. Homeless Assistance ($250-325 million): This level of increased investment includes $177 million to help 32,000 homeless people receive Section 8 vouchers.

Labor and Workforce

1. Child Labor ($89 million): This initiative is anchored by a $30 million commitment -- up from $3 million -- to the International Program on the Elimination of Child Labor (IPEC). The initiative also will include funding to improve Customs Service enforcement of

U.S. law banning the import of goods made with forced or bonded child labor ($3 million) and to double the Department of Labors enforcement of child labor laws in the agricultural sector ($4 million). Finally, the initiative will provide additional funding to the Migrant Education Program so it can reach 50,000 more migrant children ($50 million). We are developing non-budget items to fill out the package.

2. Community Adjustment ($50 million): This initiative will fund the creation of the Office of Community and Economic Adjustment (OCEA), which we proposed as part of the Fast Track debate. As you know, this office will be modeled after the Defense Departments Office of Economic Adjustment -- the Administrations first point of contact with communities experiencing a military base closure or defense plant closing. We expect the Office to help 35-40 communities in its first year of operation. The initiative also will fund a variety of other efforts to assist communities that face sudden and severe economic dislocation.

3. Out of School Youth Opportunity Program ($250 million): Congress advance appropriated $250 million for this program last year contingent on the passage of authorization legislation. The program will fund competitive grants for efforts to increase employment among out-of-school youth between the ages of 16 and 24.

Health

1. 21st Century Trust Fund (Approx. $1 billion): This initiative will provide substantial additional funding to NIH ($750 million) and NSF ($250 million), ramping up substantially over time, for research activities -- particularly on the treatment and cure of diseases. We will provide you with a separate memo on this initiative in the next day or two. Funding for this initiative will come from comprehensive tobacco legislation.

2. AIDS Programs Expansion ($165 million): A funding increase for the Ryan White Program of almost 15 percent will go principally toward ADAP, to ensure that new and effective treatments of AIDS reach those who need them. Some of the funds will support education and prevention programs operated by states, cities, and community health centers, as well as by the CDC.

3. Racial Disparities in Health Care ($80 million): This initiative will address racial disparities in six areas of health care: infant mortality, breast and cervical cancer, heart disease and stroke, diabetes, AIDS, and immunization. The proposal includes additional funding ($50 million) to established public health programs to adapt and apply their prevention and education strategies to eliminate racial disparities. It also includes funding ($30 million) for up to thirty local pilot projects to test innovative approaches to reach this goal.

Environment
(Katie McGinty proposed and has further information about these initiatives)

1. Climate Change ($400 million): To support our broader climate change initiative (including tax incentives), this funding will go to a number of departments in accord with PCASTs recommendations.

2. Second Generation Clean Water ($450 million, including some on mandatory side): This initiative will assist in restoring 1000 watersheds that are too polluted for fishing or swimming. Funding will go to five agencies to support a variety of activities designed to

address polluted runoff and implement comprehensive watershed management strategies.

Crime

1. Community Prosecutors ($50 million): This initiative will provide grants to prosecutors for innovative, community-based prosecution efforts, such as Eric Holder adopted in the District of Columbia. A full 80 percent of the grants will go to pay the salaries and training costs associated with hiring or reassigning prosecutors to work directly with community residents.

Race

A number of the above proposals -- e.g., education opportunity zones, university-school partnerships, housing vouchers -- can be presented as part of the race initiative, because they target predominantly minority areas or provide disproportionate benefits to members of minority groups. Other proposals described above -- the Hispanic dropout plan and the race and health initiative -- have obvious and explicit race connections. In addition:

1. Civil Rights Enforcement ($72 million): This initiative will fund reforms to the EEOC and the civil rights offices at DOJ, HUD, HHS, Education, and DOL. Most important, additional funding of $37 million will allow the EEOC to expand its mediation program (allowing more than 70 percent of all complainants to choose mediation by the year 2000), increase the average speed of resolving complaints (from over nine months to six) and reduce the EEOCs current backlog (from 64,000 cases to 28,000). The initiative also will fund a dramatic expansion of HUDs civil rights enforcement office (in the 30th anniversary year of the Fair Housing Act) and improve coordination among the governments civil rights offices. We are preparing a number of non-budgetary administrative actions, especially involving fair housing and lending, to accompany our budget proposals in this area.

Appendix -- Education Budget

The recommended funding level for all of the Department of Educations discretionary programs (including new initiatives) is $30.9 billion, an increase of $1.4 billion (4 percent above FY 1998). In addition to providing for the new initiatives described above, this recommended budget maintains or increases funding for the Departments major base programs, while reducing certain lower priority spending.

Major Base Programs

Education testing: $16 million. The full amount needed to maintain progress on test development.

Pell Grants: $7,779 million. A $289 million increase would maintain higher independent student eligibility and raise the maximum award from $3,000 to $3,100. The additional $150 million previously thought necessary to effect these policies would increase the maximum award by another $50; alternatively, as noted earlier, we could use these funds to increase our investments in the After-School and Head Start components of the child care initiative.

America Reads, $260 million. We did not get our America Reads bill in FY 1998. We did obtain increases for tutoring in the Corporation for National and Community Service. Congress did, however, "advance appropriate" $210 million for FY 1999 for Education,

contingent upon enactment of new law. The increase to $260 million reflects our original first year plan.

Title I, Education for the Disadvantaged, Grants to LEAs: $ 7,725 million. A $350 million (4.5 percent) increase over FY 1998 to serve an additional 400,000 children in poor communities. Secretary Riley requested a $492 million increase.

Goals 2000: $510 million. A $10 million increase over FY 1998, to maintain momentum in the States for school reform.

Comprehensive School Reform: $175 million. A $30 million increase over FY 1998 for demonstrations of school reform models.

Adult Education: $394 million. A $33 million (9 percent) increase over FY 1998 for basic education and English language training for the disadvantaged, immigrants, and welfare recipients. This increase is part of Hispanic Education Action Plan discussed above.

Special Education: $4,811 million. Same as the FY 1998 level, which was increased by $775 million over FY 1997. States can spend the increase over 2 years. Secretary Riley has expressed concern about the lack of an FY 1999 increase. We are convinced that no increase will satisfy the advocates, and would prefer to negotiate this level in Congress, rather than use up scarce funds in your budget now.

College Work-Study, $915 million. An $85 million increase over FY 1998, make progress toward your goal of 1 million Work-Study positions by FY 2000. Given the reduction in Perkins loans (noted below), this increase keeps the campus-based aid programs at level funding from FY 1998.

Reductions in the Base

A number of programs have been reduced to make room for initiatives and major base programs, including: Impact Aid (-$92 million), the Education Block Grant (-$350 million), and Perkins Loans (-$85 million). Each of these has a vocal constituency. We believe we can make the case that our funding of initiatives and base programs are all higher priority than these programs.

December 15, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
GENE SPERLING
ELENA KAGAN

SUBJECT: New Initiatives on Discretionary Side of Budget

Assuming OMB can come up with another $5 billion for discretionary spending, the DPC, NEC, and OMB all recommend that you propose to fund the new initiatives listed below in your FY 1999 budget. We already have given you detailed memos on most of these initiatives. If you approve the initiatives, you can announce them in the State of the Union.

EDUCATION

Education Opportunity Zones ($225 million): This initiative will provide funding to about 25 high-poverty urban and rural school districts for agreeing to adopt a "Chicago-type" school reform agenda that includes ending social promotions, removing bad teachers, reconstituting failing schools, and adopting district-wide choice.

Campaign on Access to Higher Education ($20 million): We are preparing to conduct an intensive publicity campaign on the affordability of higher education. The goal of the campaign would be to make every family aware that higher education is now universally accessible, as well as to reiterate that higher education is the key to higher earnings. As a part of this effort, we would provide families at high-poverty middle schools with an official notification of the $20,000 that is already available for their children to go to college.

College-School Partnerships ($150 million): To provide children in poverty with more than the official notification of college aid (described above), this initiative will provide funding for college-school partnerships designed to provide mentoring, tutoring, and other support services to students in high-poverty schools, starting in the sixth grade and continuing until high school graduation. The six-year funding path would provide help to nearly 2 million students. This initiative builds on Eugene Langs model of helping disadvantaged youth.

Teacher Recruitment and Preparation ($67 million): This initiative, which you previewed last July, will provide scholarships to nearly 35,000 new teachers over the next five years for committing to work in high-poverty urban and rural schools. It also will upgrade the

quality of teacher preparation programs serving these communities.

Technology Teacher Training ($222 million): This initiative dedicates 30 percent of the Technology Literacy Challenge Fund to ensure that at least one teacher in every school has intensive training in the use of technology for education, so that they can train their colleagues. An additional $80 million will begin an effort to train every new teacher in the latest technology.
Hispanic Education Action Plan ($195 million or more): This initiative will increase funding for a variety of existing programs to address the Hispanic dropout rate and improve education for Hispanic Americans and limited-English proficient (LEP) children and adults. It would double our investment in training teachers to address the needs of LEP children; boost the Migrant Education Program by 16 percent; increase the TRIO college preparation programs by 10 percent; and create a 5-year, $100 million effort to disseminate the best practices in ESL training for adults. These and other program increases would be announced along with a number of administrative actions to help Hispanic students complete high school and succeed in college.

After-School Program Expansion ($150 million): This part of a much larger child care initiative (most of which is funded on the mandatory side of the budget) will provide additional funding to the 21st Century Community Learning Center Program (now funded at $40 million) for before- and after-school programs for school-age children at public schools. Depending on the exact funding level chosen, this investment will create programs in 1,500-4,000 new schools.

HOUSING

Welfare-to-Work Housing Vouchers ($283 million): The budget included $283 million for 50,000 new housing vouchers to help welfare recipients in public housing who need to move in order to find employment. We would distribute these vouchers on a competitive basis to public housing authorities working with local TANF agencies and/or grantees of the new $3 billion welfare-to-work program.

Housing Portability/Choice ($20 million): In addition to the new welfare-to-work housing vouchers discussed above, the package on housing portability and choice includes $20 million for Regional Opportunity Counseling (ROC) sites; encourages the use of exception rents (rents up to 120 percent of the "fair market rent") as a tool for opening up more expensive suburban housing markets; and eliminates obstacles to portability of Section 8 vouchers.

Community Empowerment Fund ($400 million): The budget provides $400 million for a public/private ("Eddie Mac") fund which will invest in inner-city businesses and create a secondary market for economic development loans (like Fannie Mae).

Homeownership Opportunity Fund ($11 million): HUD will develop a loan guarantee program to allow state and local governments to leverage current HOME funds with private-sector investments to fund large scale, affordable housing developments in distressed communities.

"Play-by-the-Rules" Homeownership Proposal ($30 million): The budget includes a $30-million increase in the budget of the Neighborhood Reinvestment Corporation. This increase could be used for a new "Play-by-the-Rules" homeownership initiative that would

help 10,000 families become homeowners in FY99. We are going to help families that have a perfect track record of paying their rent on time with downpayment or closing costs assistance, a second mortgage, interest-rate buydowns, or rehabilitation loans.

Raise FHA Loan Limit (Raises $150-$200 million): The budget currently includes this proposal to raise the FHA loan limits, helping more middle-income Americans get home mortgages which have low downpayment requirements. The first $150 million of revenue raised through this proposal would be used to pay for Round II of Empowerment Zones.

Homeless Assistance The budget currently includes a substantial increase in homeless assistance of approximately $341 million (above FY98). This includes 32,000 Section 8 vouchers earmarked to help the homeless move into housing.

Homeownership Voucher Initiative (No Cost): The budget will include our proposal to allow Section 8 vouchers to be used for homeownership. This proposal was originally included in our Public Housing Reform bill. You should know that Freddie Mac has already agreed to purchase up to 2,000 of these Section 8 voucher mortgages from lenders -- secondary market participation is essential to reassure, and therefore, recruit lenders. The downpayment for these mortgages would be set at 3 percent, to allow low and very-low income families to participate.

Fair Lending (No Cost): As described in previous memos, we are working on a fair-lending initiative which has no budgetary impact. The proposals being developed by an interagency working group include, for example, (1) an examination of the impact of credit scoring and risk-based pricing on the availability of credit/capital to lower-income and minority individuals; (2) a Presidential call to obtain more data on reasons for home mortgage loan denials; and (3) collection of race and income data as part of the CRA small business lending report requirement.

Fair Housing: The budget provides an additional $8 million for enforcement which will help HUD meet the goal of doubling Fair Housing Enforcement actions. The budget also includes $10 million for a new system of Metropolitan Area Testing to root out the vestiges of housing discrimination.

LABOR/WORKFORCE

Child Labor ($89 million): The budget includes $89 million (FY 99) for a comprehensive Child Labor Action Plan, anchored by a $30 million commitment each year for five years to the International Program on the Elimination of Child Labor (IPEC). The initiative will include a stepped up Customs program to enforce U.S. law banning the import of goods made with forced or bonded child labor; increased support for the Migrant Education Program to support elementary and secondary education to an additional 50,000 hardest-to-serve migrant children. The budget also includes funds for the Department of Labor to double its enforcement of child labor laws in the agricultural sector. We will continue to develop non-budget items to complement the budget items.

Community Adjustment ($50 million): As part of the Fast Track debate, we proposed the creation of the Office of Community and Economic Adjustment (OCEA). As you know, this office will be modeled after the Defense Departments Office of Economic Adjustment (OEA) -- the Administrations first point of contact with communities experiencing a military base closure or defense plant closing. We provide $10 million for the first-year of this office, helping 35-40 communities. In addition, we provide an additional $40 million to help

communities deal with sudden and severe economic dislocations, such as plant closings.

OTHER PROGRAMS

Out of School Youth Opportunity Program: Last year, you proposed an innovative approach to targeting inner city (and rural) youth joblessness. The program calls for competitive grants for efforts to substantially increase employment among out of school youth between the ages of 16 & 24. Congress advance appropriated $250 million for the program in FY 1999 contingent on the passage of authorization legislation. The Senate Workforce Investment Partnership Act includes the necessary authorization and is expected to come to the floor sometime early next year.

December 15, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Gene Sperling
Elena Kagan

SUBJECT: New Initiatives on Discretionary Side of Budget

As you know, OMB is trying to find an additional $6 billion for discretionary spending. Assuming this money becomes available, the DPC and NEC agree that we should fund the new initiatives listed below in your FY 1999 budget. OMB has signed off on these recommendations. Some of the departments, however, may call for decreasing the amount of money spent on new initiatives.

We already have given you detailed memos on most of these initiatives. If you approve the initiatives, you can announce any or all of them in the State of the Union.

Because so many of the new initiatives involve education, we are attaching an appendix to this memo that shows recommended funding levels for the Department of Educations major base programs. In reviewing the education spending, you should note that we have just discovered a calculation error whose correction will free up additional monies. We had thought we would need a $434 million increase in the Pell Grant Program to raise the maximum award from $3,000 to $3,100. New cost estimates show we can finance these policies with $224 million, leaving $210 million for other spending. We are currently considering options to keep these funds in the Pell Grant Program to support a larger increase in the maximum award level, or to invest them in the After-School and Head Start components of the child care initiative.

Education

1. Education Opportunity Zones ($225 million): This initiative will provide funding to about 25 high-poverty urban and rural school districts for agreeing to adopt a "Chicago-type" school reform agenda that includes ending social promotions, removing bad teachers, reconstituting failing schools, and adopting district-wide choice.

2. College-School Partnerships ($150 million): This initiative, which builds on Eugene Langs model of helping disadvantaged youth, will provide funding for college-school partnerships designed to provide mentoring, tutoring, and other support services to students in high-poverty schools, starting in the sixth grade and continuing through high school. The six-year funding path will provide help to nearly 2 million students. The proposal also will include Chaka Fattahs idea of early notification to disadvantaged 6th graders telling them of their Pell Grant and loan eligibility.

3. Campaign on Access to Higher Education ($20 million): This initiative will fund an intensive publicity campaign on the affordability of higher education. The goal of the campaign will be to make every family aware that higher education is now universally

accessible -- and that it is the key to higher earnings.

4. Teacher Recruitment and Preparation ($67 million): This initiative, which you previewed last July at the NAACP Conference, will provide scholarships to nearly 35,000 new teachers over five years for committing to work in high-poverty urban and rural schools. It also will upgrade the quality of teacher preparation programs serving these communities.

5. Technology Teacher Training ($222 million): This initiative will dedicate 30 percent ($142 million) of the Technology Literacy Challenge Fund (which is being increased from $425 to $475 million) to ensure that at least one teacher in every school receives intensive training in the use of technology for education, so that those "master teachers" can train their colleagues. An additional $80 million will begin an effort to train every new teacher in the latest technology.

6. Hispanic Education Action Plan -- ($195 million or more): This initiative will increase funding for a number of existing programs to improve education for Hispanic Americans and other limited English proficient (LEP) children and adults. It would double our investment in training teachers to address the needs of LEP children; boost the Migrant Education Program by 16 percent; increase the TRIO college preparation program by 10 percent; and create a 5-year, $100 million effort to disseminate best practices in ESL training for adults. We would accompany these program increases with administrative actions to help Hispanic students complete high school and succeed in college.

Child Care

We recommend placing most of the child care initiative -- in particular, the proposed increase in the Child Care and Development Block Grant and the establishment of a new Early Learning Fund -- on the mandatory side of the budget. The smaller pieces of the initiative that we propose placing on the discretionary side are the following:

1. After-School Program Expansion ($100-200 million): This program expansion will increase funding of the 21st Century Community Learning Center Program (now funded at $40 million) for before- and after-school programs for school-age children at public schools. Depending on the exact funding level chosen, this investment will create new programs in 1,500-4,000 schools, serving between 75,000 and 200.000 children.

2. Standards Enforcement Fund ($100 million): This new fund will support state efforts to improve licensing systems and to enforce health and safety standards, particularly through unannounced inspections of child care settings. The fund also will enable states to issue report cards, for use by consumers, on the quality of the facilities inspected.

3. Provider Training ($51-60 million): A new Child Care Provider Scholarship Fund, which you proposed at the Child Care Conference to fund at $50 million annually, will support 50,000 scholarships each year to students working toward a child care credential. The students will commit to remaining in the field for one year for each year of assistance received, and will earn increased compensation or bonuses when they receive their credential. An additional $1-10 million will allow the Department of Labor to expand its Child Care Apprenticeship Training Program, which funds providers combining work toward a degree with on-the-job practice.

4. Research and Evaluation Fund ($10-30 million): This new fund will provide grants for research projects, establish a National Center on Child Care Statistics, and set up a

national child care hotline.

5. Head Start and Early Head Start Expansion ($284-334 million): This level of increased investment in the overall Head Start budget should permit doubling the set-aside for Early Head Start without reducing the resources available for children 3-5. The doubled set-aside would enable more than 35,000 additional children to receive Early Head Start services in 2002.

Welfare, Housing, Urban

1. Welfare-to-Work Housing Vouchers ($283 million): This initiative will provide 50,000 new housing vouchers to help welfare recipients in public housing who need to move in order to find employment. HUD will distribute these vouchers on a competitive basis to public housing authorities working with local TANF agencies and/or grantees of the new $3 billion welfare-to-work program. (A separate proposal, for which no new funding is needed, would allow families in public or assisted housing to use vouchers to buy a home; HUD expects this proposal to assist some 25,000 people become homeowners over two years.)

2. Housing Portability/Choice ($20 million): In addition to the new welfare-to-work housing vouchers discussed above, our proposed package on housing portability and choice expands Regional Opportunity Counseling sites and takes administrative actions to eliminate obstacles to portability in the Section 8 housing program.

3. "Play-by-the-Rules" Homeownership Proposal ($30 million): This initiative will assist families that always pay their rent on time to become homeowners. The Neighborhood Reinvestment Corporation will provide downpayment assistance, interest rate buydowns, or rehabilitation loans to approximately 10,000 families.

4. Homeownership Opportunity Fund ($11 million): This initiative will provide funds for HUD to develop a loan guarantee program to allow state and local governments to leverage current HOME funds with private-sector investments to fund large-scale, affordable housing developments in distressed communities.

5. Community Empowerment Fund ($400 million): This initiative establishes a public/private fund ("Eddie Mac"), which will invest in inner-city businesses and create a secondary market for economic development loans (like Fannie Mae).

6. Homeless Assistance ($341 million): This level of increased investment includes $177 million to help 32,000 homeless people receive Section 8 vouchers.

Labor and Workforce

1. Child Labor ($89 million): This initiative is anchored by a $30 million commitment -- up from $3 million -- to the International Program on the Elimination of Child Labor (IPEC). The initiative also will include funding to improve Customs Service enforcement of U.S. law banning the import of goods made with forced or bonded child labor ($3 million) and to double the Department of Labors enforcement of child labor laws in the agricultural sector ($4 million). Finally, the initiative will provide additional funding to the Migrant Education Program so it can reach 50,000 more migrant children ($50 million). We are developing non-budget items to fill out the package.

2. Community Adjustment ($50 million): This initiative will fund the creation of the

Office of Community and Economic Adjustment (OCEA), which we proposed as part of the Fast Track debate. As you know, this office will be modeled after the Defense Departments Office of Economic Adjustment -- the Administrations first point of contact with communities experiencing a military base closure or defense plant closing. We expect the Office to help 35-40 communities in its first year of operation. The initiative also will fund a variety of other efforts to assist communities that face sudden and severe economic dislocation.

Health

1. 21st Century Trust Fund ($1 billion): This initiative will provide substantial additional funding to NIH ($750 million) and NSC ($250 million), ramping up substantially over time, for research activities -- particularly on the treatment and cure of diseases. We will provide you with a separate memo on this initiative in the next day or two. Funding for this initiative will come from comprehensive tobacco legislation.

2. AIDS Programs Expansion ($165 million): A funding increase for the Ryan White Program of about 15 percent will go principally toward ADAP, to ensure that new and effective treatments of AIDS reach those who need them. Some of the funds will support education and prevention programs operated by states, cities, and community health centers, as well as by the CDC.

3. Racial Disparities in Health Care ($80 million): This initiative will address racial disparities in six areas of health care: infant mortality, breast and cervical cancer, heart disease and stroke, diabetes, AIDS, and immunization. The proposal includes additional funding ($50 million) to established public health programs to adapt and apply their prevention and education strategies to eliminate racial disparities. It also includes funding ($30 million) for thirty local pilot projects to test innovative approaches to reach this goal.

Crime

1. Community Prosecutors ($50 million): This initiative will provide grants to prosecutors for innovative, community-based prosecution efforts, such as Eric Holder adopted in the District of Columbia. A full 80 percent of the grants will go to pay the salaries and training costs associated with hiring or reassigning prosecutors to work directly with community residents.

Race

A number of the above proposals -- e.g., education opportunity zones, university-school partnerships, housing vouchers -- can be presented as part of the race initiative, because they target predominantly minority areas or provide disproportionate benefits to members of minority groups. Other proposals described above -- the Hispanic dropout plan and the race and health initiative -- have obvious and explicit race connections. In addition:

1. Civil Rights Enforcement ($68 million): This initiative will fund reforms to the EEOC and the civil rights offices at DOJ, HUD, HHS, Education, and DOL. Most important, additional funding of $37 million will allow the EEOC to expand its mediation program (allowing more than 70 percent of all complainants to choose mediation by the year 2000), increase the average speed of resolving complaints (from over nine months to six) and reduce the EEOCs current backlog (from 64,000 cases to 28,000). The initiative also will

fund a dramatic expansion of HUDs civil rights enforcement office (in the 30th anniversary year of the Fair Housing Act) and improve coordination among the governments civil rights offices. We are preparing a number of non-budgetary administrative actions, especially involving fair housing and lending, to accompany our budget proposals in this area.

Appendix -- Education Base Programs

Education testing: $16 million. The full amount needed to maintain progress on test development.

Pell Grants: $7,779 million. A $224 million increase to maintain higher independent student eligibility and to raise the maximum award from $3,000 to $3,100.

America Reads, $260 million. We did not get our America Reads bill in FY 1998. We did obtain increases for tutoring in the Corporation for National and Community Service. Congress did, however, "advance appropriate" $210 million for FY 1999 for Education, contingent upon enactment of new law. The increase to $260 million reflects our original first year plan.

Education Technology: $659 million. A $75 million increase over FY 1998 to continue support for school investments and development of new software and teaching techniques.

Title I, Education for the Disadvantaged, Grants to LEAs: $ 7,725 million. A $350 million increase over FY 1998 to serve an additional 400,000 children in poor communities.

Goals 2000: $510 million. A $10 million increase over FY 1998, to maintain momentum in the States for school reform.

Comprehensive School Reform: $175 million. A $30 million increase over FY 1998 for demonstrations of school reform models.

Adult Education: $394 million. A $33 million increase over FY 1998 for basic education and English language training for the disadvantaged, immigrants, and welfare recipients.

Special Education: $4,811 million. Same as the FY 1998 level, which was increased by $775 million over FY 1997. States can spend the increase over 2 years. Secretary Riley has expressed concern about the lack of an FY 1999 increase. We are convinced that no increase will satisfy the advocates, and would prefer to negotiate this level in Congress, rather than use up scarce funds in your budget now.

College Work-Study, $915 million. An $85 million increase over FY 1998, make progress toward your goal of 1 million Work-Study positions by FY 2000.

Reductions in the Base

A number of programs have been reduced to make room for initiatives and major base programs, including: Impact Aid (-$92 million), the Education Block Grant (-$350 million), and Perkins Loans (-$85 million). Each of these has a vocal constituency. We believe we can make the case that our funding of initiatives and base programs are all higher priority than these programs.

MEMORANDUM

TO: Sally Katzen
Elena Kagan

FROM: Andrew Pincus

DATE: June 19, 1998

RE: Privacy Proposal

This memorandum sets forth a package of proposals for enhancing privacy protection in the information age, which follow up on the Vice Presidents speech on this topic last month.

I. Creation of Federal Privacy Entity

There are currently several different Executive Branch agencies that are responsible for developing, explaining and promoting the U.S. government position on privacy. For example, the U.S. Department of Commerce has taken the lead in representing the federal government position on privacy to private industry and the commercial sector generally. The Office of Management and Budget is responsible for giving Federal agencies guidance on implementation of the Federal Privacy Act, but has only occasionally addressed public audiences. A number of other government offices represent the U.S. position on privacy before our international trading partners, including NTIA/DOC, ITA/DOC, OPD/WH, and the State Department.

Given the complexity of privacy issues and the breadth of responsibility for privacy protection, we propose the creation of a Federal Privacy Entity located in the Executive Office of the President that could serve the following functions.

Advising - provide experts to respond to privacy policy questions raised by government agencies (i.e., when considering legislation or drafting regulations) and private sector entities (i.e., when developing personnel practices or new information products).

Advocating - monitor privacy policies that affect consumers and promote improvements through public appearances, media presence, writing to organizations about whom complaints are received, and involvement in litigation on behalf of groups and/or as amicus curiae.

Representation - explain and promote U.S. government position on privacy policy domestically and internationally, advancing the Administrations privacy message, and providing coherence to Administration testimony and public position.

Coordination - apprise appropriate government agencies of emerging privacy issues and ensure that the issues are addressed; ensure that the views of appropriate agencies are represented on privacy policy issues, both domestically and internationally.

Education - provide privacy information to citizens, industry, and government.

II. Initiatives to Protect Specific Types of Information

The Administration already has announced its support for legislation to ensure the privacy of medical information, and the Vice President discussed this issue in his speech last month.

Recently, the Acting Comptroller of the Currency announced plans to address privacy issues with respect to personal financial information. Perhaps additional details regarding this effort could be included as part of the Administrations announcement of its privacy program.

III. Initiatives to Address Specific Activities

A. Profiling

1. Background

Profilers compile information about individuals and then sell that information. Last December, fourteen such services agreed with the FTC to abide by principles governing disclosure of nonpublic information. [Note that FTC agreed not to seek legislation in order to allow time to assess this self-regulatory venture.]

2. Proposal

That the Administration seek legislation

requiring that all persons engaged in profiling participate in a self-regulatory system with standards along the lines of the FTCs look-up services agreement, and

giving FTC authority to tighten look-up service standards based upon a determination that the existing standards do not strike an appropriate balance between protection of personal privacy and other interests.

B. Marketing of Information

1. Background

Marketers purchase various lists to identify targets for mail order/telephone/Internet sales pitches. The Direct Marketing Association has adopted a number of principles governing the activities of its members, including a right to opt-out of such solicitations.

2. Proposal

That the Administration propose legislation

requiring that all persons engaged in marketing participate in a self-regulatory system with standards along the lines of the DMA principles, and

giving FTC authority to tighten standards based upon a determination that the existing standards do not strike an appropriate balance between protection of personal privacy and other interests.

C. Solicitation of Information from Children

1. Background

Solicitation of information from children raises issues different from the situation in which information is solicited from adults because children generally lack the ability to provide legally-binding consent.

2. Proposal

propose legislation authorizing the FTC to issue rules prohibiting collection of personal information from children under 13 without prior parental consent

D. Credit Reporting

1. Background

The Fair Credit Reporting Act governs activities of credit reporting agencies that furnish reports to third parties. As more databases are available directly to companies, and companies themselves share information directly, there is some concern that the Act may become outdated because companies no longer will purchase credit reports from a central bureau, but rather will obtain information directly from the individual sources. Also, the FTC is concerned that provision of the Act permitting sharing of information between "affiliates" may lead to abuses, especially as financial services companies combine.

2. Proposal

announce study to determine whether FCRA contains the protections needed in the electronic age. This study could be broadened to cover all federal laws/regulations governing private sector treatment of personal information.

E. State Government Data Releases

1. Background

Federal law prohibits the disclosure of personal information by the Federal government. States are one of the main sources of personal information entering the public domain, because most States do not have laws analogous to the federal Privacy Act. Many State FOI/public record laws were created prior to the ease of access to information in the technology era and, in addition, many States sell personal information. Federal laws in some circumstances require States to collect social security numbers and other personal information.

2. Proposal

announce plans to initiate a "privacy dialogue" with the States regarding the privacy of personal information collected by governments

analyze the State laws that require the collection of social security numbers and personal information and Federal laws that require States to collect social security numbers and personal information

Then initiate discussions leading up to a privacy summit at which one or more of the following could be discussed and/or agreed to:

States enact privacy laws similar to the Privacy Act to protect personal information gathered by States

Extend the Privacy Act to social security numbers collected by States.

Ask States to reevaluate and redefine the meaning of "public records" in light of new technology.

Propose that States develop a policy of redacting social security numbers from documents before they are put into the public domain.

Issue a memorandum to public schools reiterating obligations imposed by the Family Educational Rights and Privacy Act of 1974 ("FERPA"). (Under FERPA, public schools that accept federal funds are prohibited from disclosing a students social security number and personal information without the students consent.)

F.Social Security Numbers

1.Background

The use of the social security number by the private sector in connection with a variety of transactions allows profilers, marketers and others to combine discrete bits of information to create a portrait of an individual. These portraits have legitimate uses -- law enforcement, credit assessments, debt collection, etc. -- and we therefore must tread cautiously to avoid upsetting an information structure that is fairly well established. Also, the FTC recently has indicated to Congress that "the cat may be out of the bag" with respect to private sector use of social security numbers.

2.Proposal

announce study of private sector use of social security numbers [state governmental use will be addressed through prior initiative]. Study would assess when and why the numbers are requested, whether the purpose is legitimate, whether privacy is considered, if the information is being sold without the individuals consent, the effect of prohibiting collection of social security number, and whether there is an alternative to the collection of social security numbers. It also would assess the availability and possible use of alternative identifiers, such as biometric information.

G.PSA Program

1.Background

Our privacy policy relies in large part on choice -- an individual has the option to protect his or her privacy. It is not clear, however, that most Americans are aware of their ability to choose.

2.Proposal

Public Advertisement Campaign - identify private sector partners to develop an advertising campaign to inform individuals of this choice and how to effectuate it. Part of the campaign would be the creation of an electronic one-stop opt out service.

place op-eds in newspapers to inform individuals of the choices and how to effectuate them

H. Identity Theft

The Department of Justice, in conjunction with the Treasury Department, is working to formulate an Administration proposal for criminalizing identity theft.

III. Activities to Protect Privacy Online

This element will be addressed in the context of the Report to the President on the one year anniversary of the issuance of the Framework for Global Electronic Commerce.

MEMORANDUM FOR ELENA KAGAN

FROM:KATHLEEN WALLMAN

SUBJECT:DOCUMENTS POTENTIALLY RESPONSIVE TO CLINGER COMMITTEE SUBPOENA DESCRIBED IN MEMO FROM QUINN AND SHERBURNE DATED FEBRUARY 1, 1996

DATE:FEBRUARY 6, 1996

I have looked through the files located in my office and have located the documents transmitted with this cover note that are or may be responsive to the subpoena. I don't have any White House files at home or in archival storage (although I sent a few files down there today after my search).

March 26, 1998

MEMORANDUM FOR BRUCE LINDSEY AND CHERYL MILLS

FROM:CYNTHIA RICE, DOMESTIC POLICY COUNCIL

CC:ELENA KAGAN

RE:DEPARTMENT OF JUSTICE REVIEW OF S. 1415

As you know, we have been consulting the Department of Justice as part of our tobacco policy process. Attached for your information is the Departments review of S. 1415, Senator McCains original bill reflecting the proposed tobacco settlement.

September 17, 1997

To:Bruce Reed, Elena Kagan

From:Cynthia Rice

Subj:Draft Interim State Guidance for $3 billion Welfare to Work Program

I have reviewed the attached draft interim state guidance and believe that with the attached revisions it is ready to be shared with states on a "draft" basis. If you would like to make additional changes before this draft guidance is provided to states, please let me know by 4:00 today if possible so I can provide feedback to DOL by the end of the day or ask them to delay their schedule. We will of course also be able to make revisions in the guidance between the "draft interim" version shared selectively this week and the "interim" version to be distributed more widely next week, and will have many opportunities to weigh in on the regulations between now and the end of October.

I am sharing these draft comments with the key people in Intergovernmental Affairs, OMB, and NEC, who may have additional suggestions.

The one significant policy call made in this guidance is the issue regarding the state and local match. The draft interim guidance allows states to use in-kind contributions for up to one-third of the 33% match. If this does not create heartburn for the Ways and Means Committee (we'll hear back today) I think this is a reasonable compromise between those that want complete state flexibility and those that want to ensure states, PICs, and community organizations can participate in the program. This guidance would mean that a state would have to put up $.67 in cash match and $.33 in in-kind match for every $2 in federal funds it receives. States can pay the match themselves or require the local PICs to do so.

For your information, there is a problem with the match that we do not seem to have to authority to fix without a statutory change. The statute requires states to spend all matching funds within the fiscal year of the federal grant award. The law provides grants in FY 1998 and FY 1999 and allows states and PICs to spend the funds over a three year period. This means that although the state and local entities have up to three years to spend the federal funds, they must spend all of their match in the first of those three years. I think we should seek a legislative change to require the match to be spent at the same rate as the federal funds.

FFCYTNHIA RICE -- DRAFT 9:00 am Wednesday 9/17
Domestic Policy Council Changes to
9/15/97 Interim Planning Guidance and
Instructions for Submission of Annual State Plans
Fiscal Year 1998 Welfare to Work Formula Grants

[Places where these changes would be made are marked on attached copy of guidance.]

Introduction page 1, first paragraph: Add at the beginning of the paragraph: "President

Clinton has made welfare reform a top priority of his Administration. During his first four years in office, the President granted federal waivers to 43 states to require work, time-limit assistance, make work pay, improve child support enforcement, and encourage parental responsibility."

Introduction page 1, third paragraph: Add at the end of the paragraph: "This program is a key part of the Administration's efforts to create jobs to move people from welfare to work, which include mobilizing the business community to hire welfare recipients, working with civic, religous and non-profit groups to mentor families leaving welfare for work, and hiring our fair share of welfare recipients in the federal government."

Introduction page 2, first paragraph: After the first sentence, revise to read [some reordering; new words are underlined]:
"A State is allowed to retain 15 percent of the money for welfare-to-work projects of its choice. States are required to pass through 85 percent of the money to local Private Industry Councils (PICs) which are also known as workforce development boards in some areas. These funds must be distributed using a substate formula based on the following three factors. Between 50 and 100 percent of the funds distributed to local areas must be based on the area's share of the excess population of poor, i.e., the number of poor individuals in excess of 7.5 percent of the total population. Between 0 and 50 percent may be distributed based on one or a combination of the following factors: (1) the number of adults receiving TANF or AFDC assistance for 30 months or more and (2) the number of unemployed in the SDA. Because of the threshold established in the law, an SDA that would receive less than $100,000 under such a formula will receive no funds.

Introduction page 2, fifth paragraph, second line: delete "the" so revised text reads: "program to that group..."

And under paragraph #1, the following revision is suggested for clarity:
"1. At least 70 percent of the grant funds must be spend on individuals who:
a) i) are long term welfare recipients (with 30 or more months of receipt) or who face termination from TANF assistance within 12 months; AND ii) who face two of three specified labor market deficiencies (lack of high school diploma or GED and low reading or math skills; requiring substance abuse treatment for employment; have a poor work history); OR
b) are a noncustodial parent of minors whose custodial parent meets criteria (a) (i) and (a) (ii).

FF

Introduction page 4, third bullet point: Delete entire sentence at end of paragraph: "[The regulations which are issued for WtW will make it clear.....subsidized or unsubsized job.]" It is premature to say what the regulations "will" do.

Introduction page 4, fourth bullet point: In second sentence, add at end "to the individual participants receiving WtW services."

Planning guidance page 4, after second paragraph: Insert statutory language regarding $100,000 threshold which follows that listed here and which begins: "(II) DISTRIBUTION OF FUNDS-- (aa) IN GENERAL - If the amount allocated by the formula to a service delivery area is at least $100,000....."

*September 26, 1997

To:Bruce Reed
From:Cynthia Rice
cc:Elena Kagan, Diana Fortuna
Subj:Todays Meeting with Mayor Archer

Yesterday, the U.S. Conference of Mayors provided us with a more detailed description of their concerns (see attached memo).

This morning, I chaired an 8:00 am WH-DOL-HHS conference call to discuss how to respond to Mayor Archer at this afternoons meeting. The plan is for you and Secretary Herman and Kevin Thurm (if he attends) to assure them that we are on their side -- as we were throughout the budget fight. Ray Uhalde will be there to provide some more specific feedback on their comments along these lines:

*The vast majority of funds (85% of formula and 100% of competitive) are targeted at PICs and local governments.

*The statute provides the private industry councils with "sole authority, in coordination with the chief elected official [the mayor]....to expend the amounts described..."

*We can clearly revise the language of our guidance to better stress the role of the PICs and the importance of local flexibility.

*But because Republicans insisted that these funds be part of TANF, the formula funds flow through the states. States must submit a state plan developed in consultation and coordination with local officials which contains "assurances" by the governor that it will "coordinate" these expenditures with expenditures under TANF. Governors can rescind funds from PICs who do not do so.

*Our draft guidance does not define what it means for the state to assure coordination of expenditures, but the regulations will.

*We believe, however, that this authority to assure coordination with TANF does not give the governor the authority to tell PICs on which activities or populations to spend the funds. PICs have the freedom to choose from among the eligible activities and individuals in the statute.**

*The statute does appear to give states the authority to set other state-wide policies, monitor the expenditure of funds, and enforce the 15% cap on administrative expenses, which the mayors oppose. The extent of this authority will be defined the regulations.

** This is preliminary, pending review by DOL lawyers.

FF

September 25, 1997

To:Bruce Reed
From:Cynthia Rice
cc:Elena Kagan, Diana Fortuna
Subj:Draft Welfare to Work Guidance: Issues Raised by U.S. Conference of Mayors

As you know, the U.S. Conference of Mayors released a press release on Monday protesting "in the strongest possible terms" the "state bias" in the Administrations welfare to work draft interim guidance. Today, they provided us with the more detailed comments. (Both are attached, along with the letter they sent Secretary Herman.) As described below, many of their proposed changes are simply semantics; however, others reveal differences in understanding of the statute. One -- regarding what percentage of the match can comprised of in-kind contributions (they want a half instead of a third) -- is a straight-forward policy disagreement.

Issues of Semantics

Most of their suggested changes are changes not of substance, but of semantics. For example, when page one of the introduction gives a short description of the two kinds of grants, they want to replace "formula grants to states" with "formula pass-through grants to states, with 85 percent to be passed through to PICs." In many places they added "and PICs" where the guidance now only says "states." This linguistic "state bias" was due to the fact that it is the states under the statute who file plans and receive funds from the Dept. of Labor and the purpose of the guidance is to tell states what they have to include in those plans. However, we can obviously make these changes.

Issues of Statutory Interpretation

The mayors raise a more serious issue over what is the state role in setting overall policy and in providing oversight to the PICs. This firestorm was fueled by a letter Governor Tom Ridge sent to Mayor Rendell which said in part that the state "will provide detailed program guidelines within which the PIC will operate the program under the grant" and noting that "the law requires that as Governor I make assurances that the funds will be spent in conjunction and in coordination with TANF programs."

The dispute centers around the fact that the law requires states to file a plan developed in consultation and coordination with local officials which contains "assurances" by the governor that it will "coordinate" these expenditures with expenditures under TANF. Governors can rescind funds from PICs that do not do so. At the same time, the statute says that the "private industry council for a service delivery area in a state shall have sole authority, in coordination with the chief elected official [the mayor]....to expend the amounts described..." Governors interpret this to mean that they set statewide policy which PICs must follow; the mayors believe that this means that the state plan should be simply a compilation of the plans developed by the PICs. Our current draft guidance essentially repeats the statute, not clarifying this issue. The mayors want us to insert at all relevant points that the state plan shall be "based on the programs developed by the PICs" etc.

The Department of Labor believes that the governors authority to assure coordination with TANF does not give them the authority to tell PICs on which activities or populations to spend the funds. PICs have the freedom to choose from among the eligible activities and

individuals in the statute. However, they currently believe that the statute gives states the authority to set other state-wide policies, monitor the expenditure of funds, and enforce the 15% cap on administrative expenses, which the mayors oppose. Thus, a state cannot be forced simply to compile the PIC plans and submit them as its state plan. These matters of interpretation have not been defined in the guidance and are still under discussion at the Department in the development of the draft regulations.

Issues of Policy Disagreement

The mayors would like up to half, rather than one-third, of the match to be in-kind contributions. The Department of Labor is sympathetic; to date, we, along with OMB and HHS, have resisted allowing more than one-third.

January 26, 1996

MEMORANDUM FOR DISTRIBUTION

FROM:Debbie Fine

SUBJECT:Smith/Dole Amendment to H.R. 1833

Attached, fyi, are one-pagers from NARAL and the Women's Legal Defense Fund that you may not have seen that discuss the language of the Smith/Dole Amendment passed by the Senate (adds a life exception to H.R. 1833). They are helpful in showing how the groups are talking about the amendment and why it is not a straightforward life exception, and of course is not a health exception either.

DISTRIBUTION:
Carol Rasco
Jeremy Ben-Ami
Jennifer Klein
James Castello
Elena Kagan
George Stephanopoulos
Alexis Herman
Betsy Myers
Judy Gold
Janet Murguia
Barbara Chow
Tracey Thornton
Peter Jacoby
Martha Foley
Nancy Ann Min
John Hart

DPC Meeting with Civil Rights Agencies: HD staff attended a meeting convened by Elena Kagan with civil rights enforcement agencies in HHS, Labor and Education, to discuss: 1) how to improve and enhance civil rights enforcement; and 2) to discuss ideas agencies might have for possible initiatives for FY 1999; and 3) how the Administration can help these agencies with Congressional appropriators (a concern being that the Budget has requested more money than Congress has been appropriating for these offices in recent years). The DPC is searching for civil rights initiatives to include in the Presidents Initiative on Race and will probably ask for OMBs assistance in any initiatives they develop.

March 12, 1997

MEMORANDUM FOR CHIEFS OF STAFF AND MEMBERS OF THE INTERAGENCY WORKING GROUP ON EARLY CHILDHOOD DEVELOPMENT

FROM: Elena Kagan
Deputy Assistant to the President for Domestic Policy

SUBJECT: Interagency Working Group on Early Childhood Development and the White House Conference on Early Childhood Development and Learning: What New Research on the Brain Tells Us About Our Youngest Children

Tomorrow (Thursday) the President will announce the date and themes of the White House Conference on Early Childhood Development and Learning: What New Research on the Brain Tells Us About Our Youngest Children. You will be sent a fact sheet and Q&A on the announcement.

Because we will be sending invitations to attend and participate in the Conference shortly, any agencies that have not yet submitted information on specific people they think should be included, must do so Thursday morning. The Conference will be held in the East Room and space will be extremely limited.

Equally important, any agencies that have not yet submitted the written preview of their response to the Presidents memorandum, which I asked for a couple of weeks ago, should do so by close of business tomorrow (Thursday). This preview should focus on actions and proposals that could be announced before, during, or after the Conference. It is essential that the final agency responses are submitted by the March 24 deadline set in the Presidents memorandum to department heads.

Finally, if your agency has or will have written materials that could be distributed in conjunction with the Conference, please send us a copy and description of those materials as well.

The requested information should be faxed to Pauline Abernathy on the DPC staff at 456-2878. Please feel free to contact me or Pauline with any questions. Thank you.

June 26, 1997

BILL SIGNING CEREMONY FOR THE DRUG-FREE COMMUNITIES ACT

DATE:Friday, June 27
LOCATION:Roosevelt Room
TIME:12:00 p.m.
FROM:John Hilley
Peter Jacoby
Senior Staff Persons signature/initials.

I.PURPOSEState purpose of meeting. Paper should be written as if you were takling to the President - in 2nd persion (i.e. "you will meet with ...").

To sign the Drug-Free Communities Act of 1997 and highlight the Administrations anti-drug efforts. You will also have the opportunity to respond to the Supreme Courts decision on the constitutionality of the Brady handgun legislation. Finally, you will also announce the formation of the Presidential taskforce charged with reviewing the tobacco settlement.

II.BACKGROUNDState relevant context in which meeting arises, issues of special concern to perties, as appropriate, previous participation, etc.

The Drug-Free Communities Act represents a targeted effort by Congress to rechannel existing federal drug-control money into community-based programs focused on preventing and treating teenage substance abuse. The measure, authored by Congressman Rob Portman (R-OH) and orginally cosponsored by Congressman Sandy Levin (D-MI), Congressman Hastert (R-IL) and Congressman Rangel (R-NY,) engendered broad bipartisan support as evidenced by a 420-1 vote in the House and Senate passage by voice vote. The measure represents a significant collaboration between Congressman Portman and the Office of National Drug Control Policy which has resulted in a strong Congressional endorsement of community-based drug prevention programs.

In brief, the measure will authorize the Office of National Drug Control Policy (ONDCP) to spend up to $143.5 million over five years ($10 million in FY98 with increasing amounts in each fiscal year culminating in $43.5 million for FY 2002) to support long-term, community-based substance abuse programs that meet the following criteria:

1) programs must show a comprehensive approach and community-wide leadership and commitment for reducing and preventing drug abuse;

2) programs must develop a self-evaluation process and raise funds to match the federal grant dollar for dollar (grants are capped at $100,000);

3) programs must maintain substantial volunteer involvement from youth, parents, schools, religious leaders, police officials and others; and

4) programs must develop and demonstrate financial support that will continue after the federal grant is expended.

Finally the bill would establish an 11 member commission to advise the Director of ONDCP on the design and implementation of the grant program established by the bill. The President will appoint the members who have a demonstrated interest and expertise in substance abuse reduction programs.

By signing this bill you will underscore the importance of bipartisan cooperation to reduce adolescent drug use. This will be especially important during the coming months as the Administration works to procure funding from Congressional appropriators both for this initiative and for other Administration anti-drug efforts. This bill also demonstrates that the federal government alone cannot fully address this challenge and that local communities must be both enlisted and assisted in this effort.

During the signing event you will also be announcing that Bruce Reed and Secretary Shalala will be overseeing the Administrations tobacco settlement review process. HHS and the White House have convened four working groups -- Regulatory Issues (chaired by Elena Kagan); Program and Budget Issues (chaired by Chris Jennings); Legal Issues (chaired by Elena Kagan); and Industry Performance and Accountability (chaired by Bruce Reed). You will be announcing that you have asked a review team will focus on public health questions, outline the working groups, and announce that Secretary Shalala and Bruce Reed will host a number of White House meetings with leading health experts and Members of Congress over the next several weeks to benefit from their expertise.

Finally, you will be able to respond to the Supreme Courts decision on the constitutionality of the Brady waiting period legislation. Should the Brady legislation be struck down by the Court you will announce that you have directed Secretary Rubin and Attorney General Reno to: 1) contact law enforcement officials to inform them that they may continue to voluntarily conduct background checks and; 2) convene a meeting of law enforcement experts and officials to develop a set of recommendations to ensure that background checks will continue to be conducted.

III.PARTICIPANTSList all participants including White House Staff.

The congressional sponsors and co-sponsors of this legislation will be standing behind you. A list is attached.

The audience consists of leaders in prevention, treatment, and law enforcement. A list is attached.

IV.PRESS PLANSpecify press coverage, photo opportunity, no press coverage, etc.

Pool press.

V.SEQUENCE OF EVENTSOutline meeting agenda and Presidents role using bullet points.

The Vice President makes opening remarks and introduces General Barry McCaffrey.

General McCaffrey makes remarks and introduces you.

You make remarks.

At the conclusion of your remarks, you sign the bill and distribute the pens to the Members of Congress that are flanking you.

VI.REMARKSTo be provided by Speechwriters,
Talking points attached, or
None required

To be provided by Speechwriting.

May 28, 1998

NOTE FOR ERSKINE BOWLES
BRUCE REED
JACK LEW
LARRY STEIN
ELENA KAGAN

FROM:GENE SPERLING

RE:Gramm Amendment

As we discussed at yesterdays meeting, it would be helpful for us to take Gramms words--1 in 3 dollars-- and establish that at the outset as a restricting principle to reduce the substantial risk that the size of any tax cut grows as it goes through the process. Attached is a transcript from the Congressional Record of Gramm making this pointy repeatedly that should be shared with Daschle.

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I. (1) (a)
A.
1. a.
I. i) a)

DRAFT DRAFT DRAFT

October 9, 1997

MEMORANDUM FOR ERSKINE BOWLES

FROM: ANDREW MAYOCK AND PETER RUNDLET

SUBJECT: Meeting on Race Initiative Plan

I. PURPOSE:

This meeting is being held so that you may do the following:

1) ensure the Presidents Initiative on Race (PIR) is receiving the appropriate focus

2) encourage the attention and involvement of senior staff

3) prod and motivate White House and PIR staff

4) provide guidance on the direction of the Initiative

II. BACKGROUND:

Over the past two weeks, Sylvia and Judy have convened members of the White House and PIR staffs in an effort to both identify concrete goals for the Initiative to accomplish by the end of the year and to establish the appropriate work framework for our staff resources to accomplish these goals. The following seven concrete goals have been identified to help focus the efforts of the PIR and the Advisory Board:

(1) Identify potential policies to develop and initiate
(2) Recruit leaders from various sectors to advance the mission of the PIR
(3) Identify promising practices
(4) Identify Tough Issues for the President and Board to address
(5) Promote dialogue in communities throughout the country
(6) Assist the President in producing a living Report
(7) Encourage the participation of youth in the PIR

In order to develop these goals in detail and create a process for achieving them, a

working group was created for each of these seven goals. Working groups consist of members of both White House and PIR staffs. In addition to these seven working groups, three other working groups were convened to handle ongoing functions that need special, coordinated attention: Press/Communications, Cabinet Affairs, and Advisory Board.

Over this past week, each of these ten working groups developed a work plan for their areas. These work plans are attached, although Judy and Sylvia have not yet had the opportunity to review them. These work plans include the goals, products, process and resources that are involved for making significant accomplishments in each area.

At this meeting, you will receive presentations from each of the working groups about their goals and strategies for achieving their goals. At this point, there is a general sense that significant progress has been made in the last week. However, more progress remains to be made.

After these work plans are refined, a smaller group will meet with the President at the end of the month to discuss the goals and activities of the Race Initiative. Your meeting with this group should help them prepare and focus for the meeting with the President.

Paul and Sid have recently become involved in the race initiative effort, and Sylvia would like for you to reinforce their commitment.

III.PARTICIPANTS:

See attached list.

VII.ATTACHMENTS:

Race Initiative Plan Agenda
Meeting Participants
Summaries and Outlines by Working Groups

FF
October 10, 1997

AGENDA

Presentations and Discussion on the Following Goals and Processes:

Goals

1. Policy

2. Recruiting Leaders / Outreach

3. Promising Practices

4. Hard Questions

5. Dialogue in Communities

6. Living Report

7. Youth

Processes

1. Advisory Board - Minyon Moore / Judy Winston

2. Cabinet Affairs - Michelle Cavataio / Goody Marshall

3. Communications / Press - Claire Gonzales / Ann Lewis

FFTeam Leaders on the Goals Working Groups

1. Policy - Elena Kagan / Lin Liu / Gene Sperling

2. Recruiting Leaders / Outreach - Maria Echaveste / Mickey Ibarra / Mike Wenger

3. Promising Practices - Susan Liss / Lin Liu

4. Hard Questions - Chris Edley / Judy Winston

5. Dialogue in Communities - Claire Gonzales / Ann Lewis

6. Living Report - Chris Edley / Judy Winston

7. Youth - Minyon Moore / Michael Sorrell

Team Leaders on the Process Working Groups

1. Advisory Board - Minyon Moore / Judy Winston

2. Cabinet Affairs - Michelle Cavataio / Goody Marshall

3. Communications / Press - Claire Gonzales / Ann Lewis

FF

Race Initiative Meeting Participants

2:00 pm Room 180 OEOB

White House Staff Working on the Race Initiative and Race Initiative Staff
Michele Cavataio
Maria Echaveste
Chris Edley
Mickey Ibarra
Claire Gonzales
Elena Kagan
Ann Lewis
Susan Liss
Lin Liu

Goody Marshall
Sylvia Mathews
Andrew Mayock
Minyon Moore
Peter Rundlet
Mike Sorrell
Gene Sperling
Mike Wenger
Judith Winston

Senior Staff
Paul Begala
Sidney Blumenthal
Rahm Emanuel
John Hilley
Ron Klain
Mike McCurry / Joe Lockhart
Cheryl Mills
John Podesta
Doug Sosnik
Melanne Verveer
Michael Waldman

A. I. A.
1. 1. a. (1) (a) i) a)

I. (1) (a)
A.
1. a.
I. i) a)

October 9, 1997

MEMORANDUM FOR ERSKINE BOWLES

FROM: ANDREW MAYOCK AND PETER RUNDLET

SUBJECT: Meeting on Race Initiative Plan

I. PURPOSE:

This meeting is being held so that you may do the following:

1) ensure the race initiative is receiving the appropriate focus

2) encourage the attention and involvement of senior staff

3) prod and motivate the White House staff and race initiative staff

4) provide guidance on the direction of the initiative

II. BACKGROUND:

At this meeting, you will receive presentations on the seven main goals of the race initiative: 1) Policy; 2) Recruiting Leaders / Outreach; 3) Promising Practices; 4) Hard Questions; 5) Dialogue in Communities; 6) Living Report; and 7) Youth.

Soon after this meeting, a smaller group will meet with the President to discuss the goals and activities of the race initiative. Your meeting with this group should help them prepare and focus for the meeting with the President.

Over the past two weeks, Sylvia and Judy have convened the appropriate White House staff and the Race Initiative staff in an effort to pull together planning and implementation on concrete actions in these seven areas. In order to carry this out, a working group for each goal was established. Also, three other working groups were convened to handle ongoing functions that need special, coordinated attention: Press/Communications; Cabinet Affairs and Advisory Board. Over this past week. Each of these groups developed a work plan in their areas. (Attached, although Judy and Sylvia have not yest reviewed.) These work plans include the goals, products, process and resources that were involved for making significant accomplishments in each area.

Heading into this meeting with you, there is a general sense that progress has been made. However, there is a ways to go still.

Paul and Sid have recently become involved in the race initiative effort, and Sylvia would like for you to reinforce their commitment.

III.PARTICIPANTS:

See attached list.

VII.ATTACHMENTS:

Race Initiative Plan Agenda
Meeting Participants
Summaries and Outlines by Working Groups

FF
October 10, 1997

AGENDA

Presentations and Discussion on the Following Goals and Processes:

Goals

1. Policy

2. Recruiting Leaders / Outreach

3. Promising Practices

4. Hard Questions

5. Dialogue in Communities

6. Living Report

7. Youth

Processes

1. Advisory Board - Minyon Moore / Judy Winston

2. Cabinet Affairs - Michelle Cavataio / Goody Marshall

3. Communications / Press - Claire Gonzales / Ann Lewis

FFTeam Leaders on the Goals Working Groups

1. Policy - Elena Kagan / Lin Liu / Gene Sperling

2. Recruiting Leaders / Outreach - Maria Echaveste / Mickey Ibarra / Mike Wenger

3. Promising Practices - Susan Liss / Lin Liu

4. Hard Questions - Chris Edley / Judy Winston

5. Dialogue in Communities - Claire Gonzales / Ann Lewis

6. Living Report - Chris Edley / Judy Winston

7. Youth - Minyon Moore / Michael Sorrell

Team Leaders on the Process Working Groups

1. Advisory Board - Minyon Moore / Judy Winston

2. Cabinet Affairs - Michelle Cavataio / Goody Marshall

3. Communications / Press - Claire Gonzales / Ann Lewis

FF

Race Initiative Meeting Participants

2:00 pm Room 180 OEOB

White House Staff Working on the Race Initiative and Race Initiative Staff
Michele Cavataio
Maria Echaveste
Chris Edley
Mickey Ibarra
Claire Gonzales
Elena Kagan
Ann Lewis
Susan Liss
Lin Liu
Goody Marshall
Sylvia Mathews
Andrew Mayock
Minyon Moore
Peter Rundlet
Mike Sorrell
Gene Sperling
Mike Wenger
Judith Winston

Senior Staff
Paul Begala
Sidney Blumenthal
Rahm Emanuel
John Hilley

Ron Klain
Mike McCurry / Joe Lockhart
Cheryl Mills
John Podesta
Doug Sosnik
Melanne Verveer
Michael Waldman

October 2, 1997

MEMORANDUM FOR: ELENA KAGAN
GENE SPERLING
JUDITH WINSTON

FROM: ERSKINE BOWLES AND SYLVIA MATHEWS

SUBJECT: MEETING ON THE RACE INITIATIVE

We are calling a meeting on the Race Initiative for next Friday. The purpose of the meeting is twofold:

(1) Articulate in concrete terms the goals the Race Initiative intends to accomplish by the end of the year-long effort. (The policy councils will present in the policy areas.)

(2) Determine how our resources will be applied to achieve these concrete goals; establish a structure to strengthen the way in which PIR and White House staff work together.

The meeting will last about one hour and take place at 2:00 p.m. on Friday, October 10. Carole Parmelee will contact you about the location of the meeting.

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Jack Lew

FROM:Donald R. Arbuckle

SUBJECT:Heads-Up on Final Child Care Development Fund Rule

We are about to conclude review of an HHS/Administration for Children and Families final rule for child care. This is the first rule resulting from the 1996 welfare reform law and thus may receive significant attention. Per legislation, this rule combines four funding streams into one coordinated fund, the Child Care Development Fund (CCDF).

Two key provisions of this rule have never before been required and are central to the new child care rule. Immunizations are required of all children to prevent infectious diseases. In addition, consumer information about health and safety provider options must be provided to all families so that parents can make informed choices relating to child care.

There were limited public comments and few changes were made from the proposed rule. As a result, the rule is likely to be well received.

cc:Maria Echaveste
Rahm Emanuel
Larry Stein
Ron Klain
Thurgood Marshall, Jr.
Ann Lewis
Sally Katzen
John Podesta
Bruce Reed
Gene Sperling
Elena Kagan
Barry Toiv
Michael Waldman
Janet Yellen
Mickey Ibarra
Danny Mendelson

February 22, 1999

MEETING WITH ECONOMIC ADVISORS

DATE: February 22, 1999
TIME: 1:00-2:00pm
LOCATION:Cabinet Room
FROM:Gene Sperling

I.PURPOSE

To discuss a prototype Universal Savings Account (USA) plan, that will be included in a packet to be distributed at the meeting, that reflects the recommendations of your economic team and extensive ongoing work and policy development by the Treasury Department. The proposal compares well with the leading alternative tax cut proposals in terms of fairness, fiscal responsibility, and promoting savings and economic growth

II.BACKGROUND

As you know as part of your overall Social Security Reform framework you proposed to reserve $536 billion or 12 percent for tax credits to create New Universal Saving Accounts (USA Accounts) so that all working Americans can build wealth to meet their retirement needs. To help Americans save and to strengthen our current pension system, you would provide Americans a flat tax credit to make contributions into their USA Account. In addition, you would provide additional tax credits to match a portion of an individuals savings -- with more help for lower-income workers.

III.PARTICIPANTS

YOU
John Podesta
Jack Lew
Secretary Rubin
Sylvia Mathews
Maria Echaveste
Steve Ricchetti
Ken Apfel
Gene Sperling
Janet Yellen
Ron Klain
Larry Stein
Paul Begala
Bruce Reed
Elena Kagan
Karen Tramontano
Sally Katzen
Doug Sosnik

Jon Talisman
Len Burman
Mark Iwry
Jeff Liebman
Chuck Marr

IV. SEQUENCE OF EVENTS

-YOU will meet with your economic policy advisors in the Cabinet Room.

V. PRESS COVERAGE

Closed.

VI. REMARKS

NA.

April 28, 1999

MEETING WITH ECONOMIC ADVISORS

DATE: April 29, 1999
TIME: 10:50-11:50am
LOCATION:Cabinet Room
FROM:Gene Sperling

I.PURPOSE

To meet with your economic to discuss options for moving ahead on Social Security reform.

II.BACKGROUND

We want to use this meeting to walk through possible substantive and strategic options for moving forward on your Social Security plan, as well as discuss the details of the Archer-Shaw plan. Attached is a draft of the paper that we will use as the basis for our discussion with you tomorrow.

III.PARTICIPANTS

YOU
John Podesta
Jack Lew
Secretary Rubin
Deputy Secretary Summers
Sylvia Mathews
Maria Echaveste
Steve Ricchetti
Ken Apfel
Gene Sperling
Janet Yellen
Ron Klain
Larry Stein
Doug Sosnik
Bruce Reed
Elena Kagan

Karen Tramontano
Bill Dauster
Jeff Liebman

IV.SEQUENCE OF EVENTS

-YOU will meet with your economic policy advisors in the Cabinet Room.

V.PRESS COVERAGE

Closed.

VI.REMARKS

NA.

ATTACHMENT

Social Security Options packet

NLWJC – Kagan

Hard Drive – Folder 5

June 18, 1998

MEETING WITH ECONOMIC ADVISORS

DATE: June 18, 1998
TIME: 10:00am-11:00am
LOCATION:Cabinet Room
FROM:Gene Sperling

I.PURPOSE

Your economic advisors want to use this meeting as a way of updating you on a few key economic/financial/budgetary issues: (1) possible negative scenarios we could face in the global economy with updates on three countries: Indonesia, Russia, and Ukraine; (2) possible strategies over the next few months in dealing with potential Republican tax cuts and strategies; and (3) our strategy for the Appropriations bill and how we should stage our battle and our priorities.

You should know that senior staff will decide tomorrow morning whether this is an appropriate opportunity for you to make a tobacco statement to the pool at the top of the meeting.

II.BACKGROUND

Global Economy. Secretary Rubin, Erskine, and others remain very worried still of potential negative scenarios on the global economy that under some circumstances could be alarming. We want to walk through some of the scenarios with you and focus on a few countries that we have not spoken to you on: Indonesia, Ukraine, and Russia -- which had their IMF disbursement at least temporarily postponed yesterday.

Tax Cuts. In devising our strategy for the fall we want to make sure we walk through with you different scenarios Republicans might try to push through tax cuts -- particularly any that might put you in a veto posture before an election. We want to discuss with you four or five different scenarios looking at how to make the most of our targeted and fully paid for tax proposal.

Appropriations Strategy. In order to get a full picture for what the situation will be like in September it is important for us to understand how to engage in an appropriations process, particularly if we want to devise a strategy of which battles to engage in now and which issues to save for later in the fall when our posture may be even stronger.

III.PARTICIPANTS

The President
The Vice President
Erskine Bowles
Sylvia Mathews (on vacation)

Maria Echaveste
John Podesta
Gene Sperling
Jack Lew
Janet Yellen
Ron Klain
Larry Stein
Secretary Rubin
Larry Summers (traveling)
Rahm Emanuel
Paul Begala
Bruce Reed
Sally Katzen
Elena Kagan
Lael Brainard
David Lipton

IV.SEQUENCE OF EVENTS

You will meet with your advisors in the Cabinet Room.

V.PRESS COVERAGE

TBD

VI.REMARKS

TBD

July 21, 1998

MEETING WITH ECONOMIC ADVISORS

DATE: July 22, 1998
TIME: 12:00pm-12:45pm
LOCATION:Cabinet Room
FROM:Gene Sperling

I.PURPOSE

Erskine Bowles requested that you meet with your economic advisors again, as you did last month, to update you on key economic, financial, and budgetary issues. We will discuss (1) possible strategies to buffer our "Save Social Security First" position against Republican tax cut proposals; (2) the state of the economy with respect to second quarter GDP growth; and (3) the current financial situation in Asia and Russia and its effect on the global economy.

II.BACKGROUND

Tax Cuts/Surplus. It appears that the Republicans will try to tap the surplus to pay for their tax cuts. We will discuss with you ways to strengthen the resolve of Democrats to Save Social Security First and our efforts to work with them to fashion an alternative tax cut that advances your priorities. The IRS bill signing event (immediately following this meeting) provides an opportunity to build on the strong message you delivered last Friday on the surplus.

State of the Economy. We will review the latest economic indicators and forecasts for GDP growth in the second quarter and the rest of the year. In light of recently released data on trade flows and inventories, most forecasters have revised downward significantly their estimates of second quarter GDP growth. Many analysts now expect the advance estimate of second quarter GDP, to be released on July 31, to show near-zero and conceivably negative growth. We will highlight three factors responsible for the changed assessment: the GM strike, the impact of Asian financial crisis on U. S. trade, and the significant decline in inventory investment from its record level in the first quarter. We also want to discuss with you the prospects for growth in the second half of 1998 and the year as a whole and analyze some key risks to the forecast.

Global Economy. As part of an ongoing review on Asia Financial crisis, we will discuss the nature of the IMF program and challenges ahead for Russia; the current financial situation in Ukraine; the impact of sanctions on Pakistans financial situation; and the continued lack of direction in Japans banking and fiscal priorities.

III.PARTICIPANTS

The President
The Vice President
Erskine Bowles
Sylvia Mathews
Maria Echaveste
John Podesta
Gene Sperling
Jack Lew
Janet Yellen
Ron Klain
Larry Stein
Secretary Rubin
Larry Summers
Rahm Emanuel
Paul Begala
Bruce Reed
Elena Kagan
Lael Brainard
Tim Geithner
Sandy Berger
Jim Steinberg
Jill Blickstein
Leon Fuerth

IV.SEQUENCE OF EVENTS

You will meet with your advisors in the Cabinet Room.

V.PRESS COVERAGE

NONE

VI.REMARKS

NONE

VII.ATTACHMENTS

a.Options for Surplus/Tax Cut Strategy
b.CEA Review -- The Current Economic Status
c.Treasury Paper

December 21, 1998

MEETING WITH ECONOMIC ADVISORS

DATE: December 22, 1998
TIME: 2:30-4:00pm
LOCATION:Cabinet Room
FROM:Gene Sperling

I.PURPOSE

The purpose of this meeting is to discuss different options for how to handle Social Security in the State of the Union. In particular, we need to move toward decisions about whether you would like to put out a proposal in the State of the Union and if so, how specific you would like to be in the proposal.

II.BACKGROUND

In previous meetings, we have discussed a range of Social Security reform plans. In the aftermath of the White House Social Security Conference, members of Congress are beginning to engage on the issue. We now need to focus on different options for moving the reform process forward in the New Year. At the meeting, we will present a few options in order to help you think through the advantages and disadvantages of different approaches. Among possible criteria for evaluating proposals for the State of the Union are 1) whether the proposal would help maintain support of Democrats; 2) Whether the proposal will reach out a hand to Republicans and show them that you are serious about bipartisanship; 3) Whether the public will perceive you as showing bipartisan leadership; 4) Whether the elite media will conclude that the proposal demonstrates fiscal courage; and 5) whether the proposal will cause the reform process to move forward or whether it will cause the debate to become polarized; and 6) considering where you would like to end up, does the proposal represent an opening bid that is likely to lead there.

III.PARTICIPANTS

YOU
The Vice President
John Podesta
Steve Richetti
Maria Echaveste
Karen Tramontano
Gene Sperling
Commissioner Apfel
Jack Lew
Sylvia Mathews
Larry Stein
Deputy Secretary Summers
Janet Yellen

Ron Klain
Paul Begala
Doug Sosnik
Bruce Reed
Elena Kagan
Sally Katzen
Michael Waldman

IV. SEQUENCE OF EVENTS

-YOU will meet with your economic policy advisors in the Cabinet Room.

V. PRESS COVERAGE

Closed.

VI. REMARKS

NA.

December 21, 1998

MEETING WITH ECONOMIC ADVISORS

DATE: December 22, 1998
TIME: 2:30-4:00pm
LOCATION:Cabinet Room
FROM:Gene Sperling

I.PURPOSE

The purpose of this meeting is to discuss different options for how to handle Social Security in the State of the Union. In particular, we need to move toward decisions about whether you would like to put out a proposal in the State of the Union and if so, how specific you would like to be in the proposal.

II.BACKGROUND

In previous meetings, we have discussed a range of Social Security reform plans. In the aftermath of the White House Social Security Conference, members of Congress are beginning to engage on the issue. We now need to focus on different options for moving the reform process forward in the New Year. At the meeting, we will present a few options in order to help you think through the advantages and disadvantages of different approaches.

III.PARTICIPANTS

YOU
The Vice President
John Podesta
Steve Richetti
Maria Echaveste
Karen Tramontano
Gene Sperling
Commissioner Apfel
Jack Lew
Sylvia Mathews
Larry Stein
Deputy Secretary Summers
Janet Yellen
Ron Klain
Paul Begala
Doug Sosnik
Bruce Reed
Elena Kagan
Sally Katzen
Michael Waldman

IV. SEQUENCE OF EVENTS

-YOU will meet with your economic policy advisors in the Cabinet Room.

V. PRESS COVERAGE

Closed.

VI. REMARKS

NA.

January 5, 1998

MEETING WITH ECONOMIC ADVISORS

DATE: January 6, 1999
TIME: 5:10-6:10pm
LOCATION:Cabinet Room
FROM:Gene Sperling

I.PURPOSE

The purpose of this meeting is to continue to discuss different options for how to handle Social Security in the State of the Union. In particular, we need to move toward decisions about whether you would like to put out a proposal in the State of the Union and if so, how specific you would like to be in the proposal.

II.BACKGROUND

In previous meetings, we have discussed a range of Social Security reform plans. In the aftermath of the White House Social Security Conference, members of Congress are beginning to engage on the issue. We now need to focus on different options for moving the reform process forward in the New Year. At the meeting, we will present a few options in order to help you think through the advantages and disadvantages of different approaches.

III.PARTICIPANTS

YOU
John Podesta
Jack Lew
Sylvia Mathews
Maria Echaveste
Steve Ricchette
Gene Sperling
Janet Yellen
David Beier
Larry Stein
Larry Summers
Paul Begala
Bruce Reed
Elena Kagan
Karen Tramontano

Sally Katzen
Michael Waldman
Doug Sosnik

IV.SEQUENCE OF EVENTS

YOU will meet with your advisors in the Cabinet Room.

V. PRESS COVERAGE

NONE

VI. REMARKS

NONE

VII. ATTACHMENTS

NONE

*

January 13, 1999

MEETING WITH ECONOMIC ADVISORS

DATE: January 14, 1999
TIME: 5:15-6:15pm
LOCATION: Cabinet Room
FROM: Gene Sperling

I. PURPOSE

To make final decisions about the Social Security package being announced in the State of the Union, including the Medicare and Universal Pension components.

II. BACKGROUND

In our previous meetings, we have discussed a package that would allocate 50 percent of unified budget surpluses for the next 15 years to strengthening Social Security. Another 18 percent of the surplus would be allocated for Medicare; 10 percent (and possibly more) would be allocated for a universal pension; 13 percent would be allocated for discretionary spending, and the balance could be used for debt reduction.

We have had daily principals meetings over the past week to work out the details of this proposal. At this meeting, we will present the results of our work, so that you can make decisions about the package.

III. PARTICIPANTS

John Podesta
Jack Lew
Sylvia Mathews
Maria Echaveste
Steve Ricchetti
Ken Apfel
Gene Sperling
Janet Yellen
David Beier
Larry Stein
Larry Summers
Paul Begala
Bruce Reed
Elena Kagan
Karen Tramontano
Sally Katzen

Michael Waldman
Doug Sosnik

IV. SEQUENCE OF EVENTS

YOU will meet with your advisors in the Cabinet Room.

V. PRESS COVERAGE

NONE

VI. REMARKS

NONE

VII. ATTACHMENTS

NONE

*

January 13, 1999

MEETING WITH ECONOMIC ADVISORS

DATE: January 14, 1999
TIME: 5:15-6:15pm
LOCATION:Cabinet Room
FROM:Gene Sperling

I.PURPOSE

To make final decisions about the Social Security package being announced in the State of the Union, including the Medicare and Universal Pension components.

II.BACKGROUND

We have had daily principals meetings over the past week to work out the details of a potential proposal. At this meeting, we will present the results of our work, so that you can make decisions about a package to use the surplus to address Social Security, Medicare, and pension security.

III.PARTICIPANTS

Vice President
John Podesta
Jack Lew
Secretary Rubin
Sylvia Mathews
Maria Echaveste
Steve Ricchetti
Ken Apfel
Gene Sperling
Janet Yellen
David Beier
Larry Stein
Paul Begala
Bruce Reed
Elena Kagan
Karen Tramontano
Sally Katzen
Michael Waldman
Doug Sosnik
Chris Jennings

IV.SEQUENCE OF EVENTS

YOU will meet with your advisors in the Cabinet Room.

V. PRESS COVERAGE

NONE

VI. REMARKS

NONE

VII. ATTACHMENTS

NONE

Economic Team Meeting
Cabinet Room
10:00 - 11:00, Friday, June 19, 1998

Briefing prepared by Scott Hynes

EVENT

You are having a meeting in lieu of the weekly economic briefing to review certain economic issues. While there is no specific agenda, we have been told by Gene Sperlings office that there are three matters likely to be discussed: first, the state of the FY99 Appropriations bills; second, GOP strategy on tax cuts; and third, the Asian financial situation.

Ron recommends that if the appropriations strategy is discussed, you may want to emphasize that our strategy should include strong support for adequate funding for the environment and for science and technology. This push is necessary because the Presidents message of late has been focused so heavily on education funding.

EVENT PARTICIPANTS
The President
The Vice President
Secretary Robert Rubin
Erskine Bowles
Jack Lew
Gene Sperling
Sylvia Mathews
John Podesta
Larry Stein
Sally Katzen
Ron Klain
Maria Echaveste
Janet Yellen
Bruce Reed
Elena Kagan
Paul Begala
Rahm Emanuel

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Franklin D. Raines

FROM: Sally Katzen

SUBJECT: Heads-up on the EDs Financial Responsibility Final Rule

We have just concluded review of an Education Department (ED) final rule that revises the standards by which ED determines that colleges and universities are "financially responsible" (a necessary prerequisite for those schools to participate in EDs student aid programs). ED has developed, after extensive public comment and consultation, a detailed set of measures of an institutions performance on key financial indicators (e.g. equity, cash reserves, capital) to assess the financial health of schools.

The Department has relied on work by Peat Marwick to develop a rule which we believe has a sound analytical foundation. We further believe that schools that meet the standards set out by this rule will be better equipped to both serve the needs of students and meet the institutional responsibilities of EDs student aid programs.

Please let me know if you have any questions.

cc:Maria Echaveste
Rahm Emanuel
John Hilley
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
Bruce Reed
Gene Sperling
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Jack Lew
Larry Haas

August 26, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN

SUBJECT: National Testing Initiative

Bruce Reed, Elena Kagan and Mike Cohen have sent you a detailed memo outlining Administration strategy on your National Testing Initiative. As you know, we are likely to face a challenge in early September from Rep. Goodling in the form of an amendment to the Labor-HHS-Ed appropriations bill; the amendment would prohibit DoEd from spending any funds to develop the tests. The memo does a good job of describing the legislative, communications and outreach efforts in which the Administration is engaged -- I recommend that you read the entire memo.

Spanish-language test. As described in the memo, you should be aware that there is some dissension among your advisors over whether the Administration should develop a Spanish-language reading test for Limited English Proficient (LEP) 4th grade students. The issue is a critical one for the Hispanic Caucus and whether they will support the Administration or Goodling. You are not being asked to make a decision on this issue.

DoEd, with DPC concurrence, now intends to develop only an English-language reading test and to exclude LEP students with less than three years of American schooling from the test (unless the students parents request otherwise.) The Hispanic Caucus believes that such exclusion will stigmatize LEP students and allow schools to escape accountability. Most states/school districts already exclude LEP students with less than three years American schooling when using tests to apply for Title 1 funds, and give such excluded students a foreign-language analogue. Therefore, states/districts using our 4th grade test to qualify for Title 1 will have to give excluded LEP students a substitute test in a foreign language. But the Hispanic Caucus wants DoEd to go further by developing a uniform national Spanish-language test, requiring all states/districts -- not just Title 1 applicants -- to administer the tests, and paying for the tests administration.

DPC, Secretary Riley, John Podesta, Sylvia and Rahm all agree that the Administration should not develop a Spanish-language test and unless you object, the Administration will maintain this policy. Maria, Mickey and Janet Murguia support a compromise proposal as outlined in the memo -- LEP students would be given two tests, one in English and one in a foreign language. Their compromise proposal is supported by Rep. Becerra, who believes he can get most, but not all, Caucus members to support it. . However, as explained in the memo, Secretary Riley et al oppose the compromise proposal on substantive grounds and because it is certain to be strongly opposed by more conservative education reformers like Diane Ravitch whose support we have not yet given up on.

Record Type:Record

To:See the distribution list at the bottom of this message
cc:
Subject:Final one pager and q&a on vp's announcement today

THE CLINTON ADMINISTRATION ANNOUNCES
NEW CIVIL RIGHTS ENFORCEMENT INITIATIVE
January 19, 1998

The Vice President today announced a package of civil rights enforcement initiatives that places new emphasis on prevention and non-litigation remedies for discrimination and strengthens civil rights agencies ability to enforce anti-discrimination law. The plan promotes prevention by providing increased resources for compliance reviews and technical assistance, and offers an alternative to expensive litigation by funding a dramatic expansion of alternative dispute resolution (ADR) mechanisms. The plan also sets specific performance goals for the EEOC to speed processing of complaints and reduce case backlog, and provides for greater coordination across federal agencies and offices. The Clinton Administrations Fiscal Year 1999 balanced budget contains $602 million for civil rights enforcement agencies and offices -- an increase of $86 million, or more than 16 percent, over last years funding.

Equal Employment Opportunity Commission (EEOC)
The Administrations budget proposal expands the EEOCs ADR program over three years to allow as many as 70 percent of all complainants to choose mediation, rather than the lengthy process of investigation and litigation. In the first year of this expansion, the EEOC will provide ADR in a projected 16,000 cases -- 20 percent of all incoming cases and double the number currently sent to mediation. The Administrations budget also sets specific performance goals for the EEOC to reduce its backlog. Through a combination of the increased use of mediation, improved information technology, and an expanded investigative staff, the EEOC will reduce the average time it takes to resolve private sector complaints from over 9.4 months to 6 months, and reduce the backlog of cases from 64,000 to 28,000, by the year 2000.

In total, the budget requests $279 million for the EEOC for FY 1999 -- $37 million or 15 percent more than the enacted 1998 budget. More than one-third of the proposed increase ($13 million) goes to expansion of the agencys ADR program.

Department of Housing and Urban Development (HUD)
The Administrations budget proposes an increased emphasis on reducing discrimination and ensuring equal opportunity in housing. The highlight of the HUD budget proposal is a targeted enforcement initiative that will use paired testing -- in which otherwise identical applicants of different races approach realtors or landlords -- to detect and eliminate housing discrimination. This systematic, focused testing strategy will allow more accurate measurement and increased public awareness of housing discrimination, while facilitating enforcement actions against violators of the fair housing law.

The Administrations budget proposes $52 million for FY 1999 -- $22 million, or about 70 percent, more than last years funding -- to enable HUD to meet its goals of ensuring equal opportunity in housing. The new paired testing program is funded at $10 million.

Department of Justice Civil Rights Division
The Administrations 1999 budget proposes more than a 10 percent increase for the Civil Rights Division -- from $65 million in FY 1998 to $71.6 million in FY 1999. This funding will permit the Department to continue its efforts to enforce the laws that provide civil and criminal protections from discrimination, including the Civil Rights Act of 1964, the Fair Housing Act, and the Americans with Disabilities Act. The budget also includes funds specifically to enhance the Civil Rights Divisions role in coordinating federal civil rights enforcement across agencies. This enhanced coordinating role, which will be undertaken by Bill Lann Lee, will lead to more consistent enforcement of civil rights laws, broader dissemination of best practices, and improved data collection.

Key Aspects of the Budget

* Alternative Dispute Resolution (ADR)
The plan increases the use of ADR in the Federal government as a voluntary option available to parties that seek a non-litigation solution to their cases. The Administrations budget expands mediation programs in almost every agency, most notably in the EEOC.

* Prevention Activities
The plan emphasizes efforts throughout the governments civil rights agencies and offices to prevent discrimination from occurring -- for example, through technical assistance, outreach, and compliance reviews. Offices in which such consultative activities will assume added importance include the Civil Rights Center of the Department of Labor and the Offices of Civil Rights of the Departments of Health and Human Services and Education. The Office of Federal Contract Compliance Programs of the Department of Labor will increase compliance reviews by 10 percent, while reducing burdens on contractors (paperwork, etc.) by at least 30 percent.

* Improved Coordination
The plan recognizes the need for enhanced coordination of federal civil rights enforcement policy among agencies by highlighting the lead role of the Department of Justices Civil Rights Division, under the direction of Bill Lann Lee, and providing additional resources for coordination activities. As noted above, this emphasis will lead to more consistent enforcement of civil rights laws, broader dissemination of best practices, and improved data collection.

Message Sent To:
Barry J. Toiv/WHO/EOP
Darby E. Stott/WHO/EOP
Dag Vega/WHO/EOP
Anne M. Edwards/WHO/EOP
Brenda M. Anders/WHO/EOP
Jonathan Murchinson/WHO/EOP
Joseph P. Lockhart/WHO/EOP
Megan C. Moloney/WHO/EOP

RUBIN_E @ A1 @ CD @ LNGTWY
WOZNIAK_N @ A1 @ CD @ LNGTWY
Elizabeth R. Newman/WHO/EOP
Julia M. Payne/WHO/EOP
Julianne B. Corbett/WHO/EOP
LUZZATTO_A @ A1 @ CD @ LNGTWY
CROWLEY_P @ A1 @ CD @ LNGTWY
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Joshua Silverman/WHO/EOP
Jeremy M. Gaines/WHO/EOP
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Ann F. Lewis/WHO/EOP
Stacie Spector/WHO/EOP
Kevin S. Moran/WHO/EOP
Elena Kagan/OPD/EOP
Thomas L. Freedman/OPD/EOP
Christa Robinson/OPD/EOP
Jake Siewert/OPD/EOP
Andrew J. Mayock/WHO/EOP
Virginia M. Terzano/OVP @ OVP
Heidi Kukis/OVP @ OVP
Nathan B. Naylor/OVP @ OVP

M E M O R A N D U M

TO: BRUCE REED

CC: ELENA KAGAN

FROM: TOM FREEDMAN, MARY L. SMITH

RE: POSSIBLE DPC CONFERENCE ON ELDER CARE

DATE: JUNE 13, 1997

SUMMARY

Elder care issues are becoming prevalent in the workplace with costs of absenteeism, interruptions, and decreased productivity totalling $30 billion per year. We suggest a Domestic Policy Council conference on elder care, addressing the problems facing workers and possible solutions that can be provided by the Government and employers.

BACKGROUND

With the baby boomers beginning to reach middle age, their parents, in turn, are reaching old age. Middle age baby boomers will increasingly be responsible for taking care of their aging parents and relatives. With these increased caregiving activities by their workers, employers are experiencing lost hours, absenteeism, and emotional distress. In fact, baby boomers are called the "Sandwich Generation," juggling child care issues on the one hand and elder care issues on the other.

Companies are beginning to recognize the costs of elder care, and have begun to offer some elder care benefits to their employees. Companies offer referral services, long-term care insurance, flexible scheduling arrangement, and counseling on elder care issues.

STATISTICS

*Of the nations 78 million baby boomers born between 1946 and 1964, the largest single group was born in 1957. While those boomers turn 40 this year, their parents average age will be almost 70. Based on projections from the National Center for Health Statistics, nearly 40% of those parents will no longer be alive 10 years from now.

*A recent survey by the National Alliance for Caregiving (NAC) estimates that lost productivity, absenteeism, interruptions and replacing employees who quit to care for elderly relatives costs companies $30 billion per year.

*More than 22 million families provide informal, unpaid care for an older parent or relative, up from 7 million in 1987. Out-of-pocket expenses amount to $24 per year for items such as missed work, paying for care services, and travel expenses. [NAC survey]

*From a survey sponsored by the Womens Voices project of the Center for Policy Alternatives and conducted between August 5 and August 11, 1996, 76% of persons under the age of 30 believe that it is very or somewhat likely that they will have to care for an aging parent.

*A recent report by Hewitt Associates L.L.C. shows the greatest increase in companies offering benefits in elder care, which more than doubled in employer participation to 30% in 1996 up from 13% in 1991. Of this segment of employers, about 8 out of 10 respondents offered employees a resource and referral service that typically consisted of a telephone number and advisor who could place an elderly relative with a caregiver during an unexpected period of need.

*Of the nearly one-third of respondents offering some form of elder care benefit, 25% also reported offering long-term care insurance, and 17% offered counseling on elder care issues. [Hewitt survey]

POTENTIAL PARTICIPANTS

*National Alliance of Caregiving
*Ellen Galinsky, Families and Work Institute
*American Association of Retired Persons (AARP)
*Andrew Scharlach, director of the University of California-Berkeleys Center for Advanced Study of Aging Services
*Edward Myers, author of When Parents Die: A Guide for Adults
*Mary Brugger Murphy, acting director of National Adult Day Services Association
*Department of the Aging
*National Association of Professional Geriatric Care Managers
*Partnership for Eldercare, a nonprofit company hired by businesses to advise workers about caring for aging relatives (started by New York City Department of Aging and companies such as Philip Morris, American Express, and J.P Morgan)

RECOMMENDATION

*Hold a Domestic Policy Council event, discussing issues of elder care including possible solutions that employers and the government can provide.

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Sally Katzen

SUBJECT:Heads Up on EPAs Heavy-Duty Engines Final Rule

We are about to complete review of an EPA final rule to reduce emissions of nitrogen oxides (NOx) from diesel trucks and buses beginning in model year 2004. The rules new emissions control strategies will reduce the current level of permissible NOx emissions by approximately 50 percent; it will also produce substantial, coincidental reductions of one precursor to particulate matter (PM) -- nitrates -- in areas with high levels of nitrate-based PM.

Because the new standards are the result of a multi-year consensus-building exercise between EPA and engine manufacturers, they will be supported by industry; environmental groups are likely to be relatively content because the new standards will yield significant emissions reductions. The engine manufacturers support, however, is conditioned on EPAs decision to leave the PM standard for these engines at its current level, which may draw some criticism from environmentalists who wanted EPA to ratchet down the PM level. Please give me a call if you have any questions.

cc:Maria Echaveste
Rahm Emanuel
John Hilley
Ron Klain
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
Bruce Reed
Gene Sperling
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
T.J. Glauthier
Larry Haas

January 7, 1998

MEETING WITH CONGRESSIONAL DEMOCRATS

DATE:Thursday, January 8, 1998
LOCATION: Cabinet Room
TIME: 9:15 am-10:15 am
FROM: John Hilley

I.PURPOSE

This is an opportunity to elicit the views of Congressional Democrats on Social Security and the use of the projected budget surplus.

II.BACKGROUND

III.PARTICIPANTS

Pre-Brief (8:45 am-9:15 am-Oval Office)
The President
The Vice President
Secretary Rubin
Erskine Bowles
John Hilley
Gene Sperling
Frank Raines
Jack Lew
Larry Summers
Ken Apfel

Meeting (9:15 am-10:15 am-Cabinet Room)
The President
The Vice President
Secretary Rubin
Erskine Bowles
John Hilley
Gene Sperling
Frank Raines
Jack Lew
Larry Summers
Ken Apfel
Ron Klain
John Podesta

Sylvia Mathews
Janet Yellen
Rahm Emanuel
Paul Begala
Bruce Reed
Elena Kagan
Maria Echaveste
Martha Foley
Linda Robertson

MEMBERS INVITED

Sen. Daschle
Sen. Breaux--no
Sen. Dodd
Sen. Rockefeller--no
Sen. Graham
Sen. Moynihan--no
Sen. Lieberman--no
Sen. Bob Kerrey--no
Sen. Mosely-Braun
Sen. Dorgan
Sen. Conrad--no
Sen. Lautenberg

Rep. Gephardt--yes
Rep. Bonior
Rep. Fazio--yes
Rep. Rangel
Rep. Levin
Rep. Becerra
Rep. Cardin--no
Rep. Kennelly
Rep. Neal
Rep. Stenholm--no
Rep. Hoyer
Rep. Pomeroy--yes
Rep. Dooley--yes
Rep. Spratt--yes
Rep. Delahunt

IV. PRESS PLAN

Closed Press.

V. SEQUENCE OF EVENTS

As Usual.

VI. REMARKS

None.

VII. ATTACHMENTS

None.

MEMORANDUM TO SALLY KATZEN

FROM: Michael Fitzpatrick

SUBJECT: SBREFA Requirements re Reagan Era Executive Orders

In response to your request during our mid-June meeting regarding SBREFAs E.O. analysis reporting requirements, members of our "E.O. Task Force" have reviewed the relevant executive orders and prepared analyses on current compliance and how the Administration should respond. A summary of their reviews and my recommendations follow.

E.O. 12606 -- Family

Review (Jeremy Ben-Ami/DPC)

*DPC believes the policies embodied in this E.O. are consistent with the Administrations approach to family issues, and has no policy objections to applying these criteria to regulatory review in the short term.

*Following the events in November, minor adjustments to the policy language might be appropriate.

*Once we have determined how to handle this E.O., DPC believes we should consider whether it should present a report to the President on this subject.

Discussion & Recommendations

*Thus far, our "go slow" approach has allowed us to avoiding making a hard decision on how to proceed. The House Government and Oversight Committee (GRO) staff, however, continue to work with GAO to design their monitoring process, which will no doubt include collection of quantitative data on what percentage of the major/non-major rules have complied with this E.O.s certification requirement.

*At some point, we likely will have to decide how to proceed, either because the GAO data collection effort finally gets underway, or because we do not want to appear to be avoiding the requirements of a bill we supported, particularly on a critical issue like the family.

*Because the policies in this E.O. are consistent with the Administrations, because we are hip-deep in an election, and because family values is a central issues in this campaign, rescinding the E.O. does not seem to be an option. These factors also cut against any sort of "Hey, but the Reagan/Bush Administrations didnt comply either" response/defense.

*The best course is to have the agencies develop a process by which they can comply, with minimal burden, with the E.O.s certification requirements. Thus, these rules will register

as complying in GAOs data collection process. For the relatively few major rules that will be issued between now and November, agencies should spend additional time and effort in conducting a substantive review of the review under the E.O. SBREFA requires that GAO prepare an analysis of these major rules for Congress. OIRA staff can assist the agencies during OMB review.

After November, we can return to the issue and determine whether to rescind, modify, or continue without change the E.O.

E.O. 12612 -- Federalism

Review (Elena Kagan/WH Counsel)

*Elena found less overlap than hoped between the Reagan Federalism E.O. (12612), and the Presidents Unfunded Mandates (12875) and Civil Justice Reform (12988) E.O.s.

*The Civil Justice E.O. doesnt say much about preemption (it simply instructs agencies to be clear in their rules when they intend to preempt state and local law).

*While the Unfunded Mandates E.O. establishes a presumption against unfunded mandates and encourages regulatory waivers, the Reagan Federalism E.O. goes much further by:

-- instructing agencies to assess the justification and constitutional basis for actions impinging on states;
-- requiring in such cases a clear statement of constitutional authority and the necessity for national action;
-- establishing a presumption against uniform national standards and deference toward state standards and policies; and
-- interpreting statutes not to preempt state law unless they do so expressly.

Discussion & Recommendations

*At best, we can say that the Unfunded Mandates E.O. goes in the same general direction as the Reagan E.O., but it would be a stretch (at a minimum) to claim that it replaces the Reagan document.

*Elena and I concur that repealing the Reagan E.O. is probably not an option at this time, for many of the same reasons expressed with regard to the Family E.O. And as with the Family E.O., the GAO reporting process and/or GRO will probably force our hand; we will have to take some action. We believe that the best course of action is to explore ways in which agencies can comply with the requirements with minimal burden. Like the Family E.O., we can pay particular attention to the major rules which will be subject to GAO analysis.

E.O. 12630 -- Takings

Review (Linda Lance/OVP & Tom Jensen/CEQ)

*Linda and Tom have canvassed most of the relevant agencies (Army Corps, DOI, EPA, and DOJ) and the good news is that it appears they are making good faith efforts to comply with the E.O.s requirements. Linda has more detailed information on each of the four agencies, but the bottom line is that the Army Corps appears to be the most active, having completed 400-500 TIAs since the E.O. took effect. DOI and EPA have done the fewest, about a

half-dozen, but they have reviewed all their regulatory actions to determine if a takings analysis is appropriate.

*All of the agencies have guidelines for implementing the E.O., which were approved by the Bush Administration. The guidelines contain some differences in their assessment of when TIAs are required.

*The bad news is that CBO has requested from DOI and Army Corps copies of TIAs as well as the names and numbers of field attorneys who prepare them. The purpose of the request is not yet clear.

Discussion & Recommendations

*Tom, Linda, and I agree that rescinding the E.O. would not be appropriate at this time, both because of the campaign and because agencies appear to be complying with a minimum of burden.

*The far thornier issue is how to deal with the CBO request (which may not be so sinister), and the anticipated requests from GAO (as SBREFA appears to require that these TIAs be provided to GAO for every rule, and nary a one has probably gone up, or is likely to unless agencies are so instructed), or even McIntosh and Government Reform and Oversight (probably sinister).

*All those involved claim that the TIAs are protected by attorney-client privilege and are exempt (exception 5) from FOIA. At least one court has concurred on the privilege point. The problem, however, is that attorney-client arguments wont work (in the end) with Congress. Nor will FOIA exemption claims. And Bob Damus believes claims of executive privilege or "deliberative process" may be difficult to defend. My last conversation with Jack Quinn indicated he would agree with Bob (Elena confirms that WH Counsel would be wary of using these defenses).

*As a result, Tom, Linda, and I agree that the best course is to see if we, or the agencies independently, can work with Congress to develop a middle ground, where they could receive the data/information they require, without undermining what up to now has been a candid, and useful, takings analysis process.

cc:Kumiki Gibson
Linda Lance
Elena Kagan
Paul Weinstein
Jeremy Ben-Ami
Tom Jensen
Jeff Hill

*March 10, 1999

MEMORANDUM FOR GENE SPERLING

FROM:CARL HAACKE

RE:Meeting on comparable worth and equal pay

I. Background on meeting

On Wednesday, March 10, Elena Kagan held a meeting to review a comparable worth proposal by Sen. Tom Harkin/Rep. Eleanor Holmes Norton and a proposal for pay gap data collection by Sen. Tom Daschle. There is some time pressure to develop an Administration position for Equal Pay Day on April 8th. My understanding is that Sally Katzen and Jon Orszag have been involved in the process. Jon Orszag and I met before the meeting and attended together.

*The Harkin/Norton proposal would prohibit employers from paying lower wages for jobs dominated by employees of a particular sex, race or national origin than for jobs dominated by employees of the opposite sex, race or national origin for work on "equivalent jobs." Equivalent jobs are defined as a "composite of skills, effort, responsibility, and working conditions."

*The Daschle provision would require employers with 100 or more employees to report to the EEOC pay information by race, sex and national origin. In the past we signed on to a Daschle bill to improve enforcement of equal pay, but insisted on removing the data collection provision. Since then, Daschle faced serious attacks and appears determined to reintroduce it.

II. Highlights of the meeting

Harkin proposal
*Ida Castro and EEOC representatives spoke strongly in favor of the Harkin/Norton proposal. Most others forcefully opposed the measure, indicating that:

1) Using a 1988 survey, CEA said that the 72.4 percent pay gap in 1988 closed to 80.5 percent after controlling for education, and part-time and full-time work experience. This gap closed further to 88.2 percent after controlling for broad occupation, industry categories, and collective bargaining. None of these factors would be addressed by comparable worth. That left about 12 percent of the gap unexplained that the Harkin bill may address some part of, but data is not available to determine how much. Thus, we dont really know the benefits of the proposal.

2) The costs could be very high in the form of: administrative burdens to employers and creating damaging wage rigidities in the economy.

3) Finally, there was agreement in the room that it was too soon to sponsor a Harkin bill because there was not enough awareness or consensus in the country about pay gap issues to make it politically worthwhile. Elena suggested that the Administration begin a dialogue about comparable worth issues with the public. Jon Orszag warned that this may leave us vulnerable to criticisms that we are not doing anything about it.

Daschle proposal

*Ida Castro and EEOC said that the pay data provision proposed by Daschle would assist them in conducting outreach efforts and audits of specific firms when employees file complaints under the Equal Pay Act.

*It was never made clear exactly what the benefits would be, especially considering the administrative costs to businesses. Moreover, in their defense of the Harkin proposal EEOC indicated that comparable worth was necessary to move forward because their efforts enforcing equal pay were working fine. But then they said that data collection was necessary to improve their efforts to enforce the Equal Pay Act.

*CEA pointed out after the meeting that the amount of data that would be collectable could be worse than collecting no data at all. At best, data could be collected about broad occupation categories. It could not ask about total work history, education and other factors about each employee that affects the wage gap. With this limited data, most firms would appear to have wage differentials based on gender, race or national origin, but EEOC could not distinguish between real discrimination and pay differences due to these other factors

*Finally, CEA also said after the meeting that there are easy ways to scam the system by changing job titles and other cosmetic indicators to make their firms look like they are paying fair wages on superficial data collection forms.

III. Action

*Elena Kagan closed by saying that the Administrations maneuvering room may be very limited because Daschle seemed determined to propose the data collection provision. A smaller group will meet again this week to consider specific language and possible alternatives.

*You may want to meet with Jon Orszag and me soon on this, and then speak with Elena Kagan.

*

June 9, 1998

EQUAL PAY EVENT

DATE:June 10, 1998
LOCATION:Rose GardenEVENT TIME:2:30 pm - 3:30 pm
FROM:Bruce Reed
Gene Sperling
Audrey Tayse Haynes

I.PURPOSE

To commemorate the 35th anniversary of President Kennedys signing of the Equal Pay Act, to call on Congress to pass Senator Daschles and Congresswoman DeLauros equal pay bills, to announce a Council of Economic Advisors report on the gender wage gap, and to announce a Department of Labor report that provides a historical perspective on the wage gap.

II.BACKGROUND

You will be making remarks to approximately 150 people, including equal pay and civil rights advocates, labor leaders, business persons, legislators, and persons from Cabinet agencies. This is an opportunity to highlight womens progress since the signing of the Equal Pay Act and to call for legislative action on the remaining wage gap.

The CEA report shows that a significant gap between the wages of women and men remains today although it has narrowed substantially since the signing of the Equal Pay Act. In 1963, the year that the Equal Pay Act was signed, women earned 58 cents for every dollar men earned. Today women earn about 75 cents for every dollar men earn, a 29 percent increase over the 1963 levels. Despite these gains, there continues to be a significant gap between mens and womens wages, even after accounting for factors such as educational attainment, work experience, and occupational choice.

III.PARTICIPANTS

Briefing Participants:
Gene Sperling
Elena Kagan
Audrey Tayse-Haynes
Janet Yellen
Rebecca Blank
Cecilia Rouse

Event Participants:
The Vice President
The First Lady

Mrs. Gore
Senator Barbara Boxer
Congresswoman Eleanor Holmes Norton
Dr. Dorothy Height, President Emeritus of the National Council of Negro Women(Janet Yellen and Deputy Labor Secretary Kitty Higgins will be seated on the stage)

IV.PRESS PLAN

Open Press.

V.SEQUENCE OF EVENTS

- YOU will be announced onto the stage accompanied by the Vice President, the First Lady, Mrs. Gore, Senator Boxer, Congresswoman Norton, and Dr. Dorothy Height.
- The First Lady will make remarks and introduce Congresswoman Norton.
- Congresswoman Norton will make remarks and introduce Senator Boxer.
- Senator Boxer will make remarks and introduce Mrs. Gore.
- Mrs. Gore will make remarks and introduce the Dr. Height.
- Dr. Height will make remarks and introduce the Vice President.
- The Vice President will make remarks and introduce YOU.
- YOU will make remarks.
- YOU will then work a ropeline and depart.

VI.REMARKS

Provided by Speechwriting.

Attachments:
Background memo on Daschle Equal Pay Legislation and the CEA Report on the Wage Gap
Executive Summary of CEA Report
Photo of Signing of Equal Pay Act Legislation in Oval Office in 1963

June 26, 1997

MEMORANDUM FOR THE CHIEF OF STAFF

FROM:Bruce Reed

SUBJECT:Tobacco Settlement Review Process

This memo sets forth the process we will use to review and evaluate the proposed tobacco settlement with relevant agencies, to seek input from the public health community, Congress, and others, and to present recommendations to the President. Our goal is to prepare a memo for the President by late July that: defines our public health and public interest objectives for a global settlement; weighs the settlement's strengths and weaknesses against those objectives and proposes possible modifications; summarizes the views of the public health community, Congress, and other affected parties; and lays out positions the President could take on the settlement proposal.

Interagency Review

The review will be carried out by four major workgroups:

I.Regulatory Issues (Chaired by Elena Kagan). Subgroups will look at: (a) FDA regulation of product content; (b) FDA regulation of access, advertising and labeling; and (c) restrictions on environmental tobacco smoke in public buildings and workplace settings. Participating White House offices are DPC, OMB, OVP, NEC, OSTP. Participating agencies are HHS, DOJ, DOL, GSA, EPA, Treasury.

II. Program and Budget Issues (Chaired by Chris Jennings). This group will examine programs to reduce smoking, expand children's health care coverage, and other proposed uses of settlement funds. Subgroups will consider: (a) Medicaid funds / children's health care; (b) education efforts (including grass roots programs); (c) smoking cessation programs; and (d) investments in health research, including nicotine research. White House offices are DPC, OMB, NEC, OVP, OSTP. Participating agencies are HHS, Treasury, DOL, USDA, Interior, VA, and DOD.

III.Legal Issues (Chaired by Elena Kagan). This group will consider a number of legal issues, including liability, litigation, document disclosure, and antitrust questions. White House offices are DPC, OVP, NEC, Counsel. Participating agencies are DOJ, HHS, Treasury, Interior.

IV.Industry Performance and Accountability (chaired by Bruce Reed). This group will analyze economic and international issues. Subgroups will assess: (a) the economics of the industry and the settlement's effects on, industry performance, federal revenues, consumers, farmers, etc.; (b) the incentives and penalties industry would face if children's tobacco use exceeds targets; and (c) Administration policy on tobacco-related trade and international issues, and the settlement's international implications. White House offices are DPC, NEC, CEA, OVP, OMB, OSTP; participating agencies are: HHS, Treasury, DOL, USDA, USTR, State, DOD.

Public Outreach

We will work with OPL and HHS to run a tightly focused public outreach effort designed to demonstrate the President is conducting a thoughtful, thorough review focused on the public health. Many groups covering a wide range of interests are affected by the proposed settlement. We will narrow our task -- and reinforce the President's focus on public health -- by hosting 6-8 highly visible White House meetings with small, select groups of health experts. We will encourage others to share their views through written comments and, where appropriate, meetings with agency staff.

Donna and I will host the White House meetings over the next three weeks. We will convene leading thinkers on tobacco, including: experts from national health organizations; Koop-Kessler advisory group participants; experts on nicotine addiction; local grass-roots advocates; state and local tobacco control officials; and childrens health advocates.

The first meeting will be on Friday. We will invite in Dr. Kessler and several members of the Koop-Kessler advisory group, including the American Cancer Society, American Medical Association and the American Lung Association (Koop is not available). The committee will not have finished its report, but will be able to validate the careful, thorough review the Administration is conducting, and praise the President for expressing concern over the proposals handling of nicotine regulation.

Congressional Outreach
-- this is a placeholder based on my conversation with Rich this morning. Rich is seeing if he can put off Lautenberg meeting until week after next--

If the President chooses to promote a settlement, he will need strong and broad Congressional support. Multiple committees in both the House and Senate would have jurisdiction over legislation enacting an agreement. The goal of our Congressional outreach process will be to strengthen relationships on the issue with key members, keeping the debate bipartisan. Today and tomorrow HHS is making calls to key Republican and Democratic members to let seek their input on how best to consult with the Hill in the coming weeks. We expect to conduct meetings with members the week of July 7, and will have a more detailed Congressional outreach plan by mid-week next week.

Press Plan

This issue is certain to attract considerable press attention throughout our review. Major news organizations have assigned entire teams to cover the tobacco settlement. After devoting so much coverage to the negotiations, the networks are determined to keep this issue alive. We should take advantage of that heightened interest to advance our public health message.

On Friday, Donna and I are prepared to brief the White House press corps on how we will conduct this review, who will be involved from within the administration, and what groups and outside experts we plan to consult. As noted above, on Friday we will also invite David Kessler and other members of the Koop-Kessler advisory group to discuss their efforts to develop an expanded blueprint on tobacco control.

The week of July 7, while the President is away, Donna and I will conduct the public health and Congressional meetings described above. This will give the press something to write about, and show that we're running an open process. The week of July 14, we will continue public health and Congressional meetings and bring in two groups of attorneys general --

the enthusiasts and the skeptics. The Vice President is willing to hold a public hearing with us in mid-July [Bruce -- let's talk about this -- there are downsides].

Schedule

We have planned the following schedule. HHS does not believe the review can be completed within 30 days, as the President suggested. We will work as quickly as possible to preserve that option but ensure a decision by early August at the latest.

Week of June 23: Work groups convened; subgroups assigned analytic tasks.
June 27:First outreach meeting and press briefing on process.
Week of June 30: Subgroups provide preliminary assessments; define remaining issues.
Week of July 7:Subgroups develop options for outstanding issues and synthesize work.
Continue White House meetings with public health groups.
Begin meetings with members of Congress.
Week of July 14:Principals review workgroup assessments and meet to firm up options.
Possible public hearing with VP
Week of July 21:Initial meeting with the President
late July/early Aug:Presidential decision

March 27, 1997

MEETING WITH GERALD MCENTEE

DATE:March 27, 1997
LOCATION:Oval Office
BRIEFING TIME:12:00 pm - 12:15 pm (Oval Office)
EVENT TIME:12:15 pm - 1:00 pm
FROM:Bruce Reed

I.PURPOSE

Labor leaders want you to hear first-hand their concerns regarding two welfare reform issues: to what extent can states privatize certain administrative functions of the Food Stamp and Medicaid programs, and whether worker protection laws -- particularly the minimum wage (Fair Labor Standards Act) -- apply to work programs under the new welfare law.

II.BACKGROUND

We have had a continuing dialogue with McEntee and other union representatives on these issues over the last several months, including White House meetings on March 10th and March 14th. Bruce has given the labor leaders private assurances that we believe the law requires the minimum wage to apply in most welfare to work programs, and the Vice President dropped some strong hints to the same effect at the recent AFL meeting. However, we have not yet responded to their concerns regarding a Texas proposal to privatize certain administrative functions of the Food Stamp and Medicaid programs. Please see the attached memo for more information on these two issues.

III.PARTICIPANTS

Briefing Participants:
John Podesta
Bruce Reed
Elena Kagan
Gene Sperling

FF
Event Participants:
Gerald McEntee, President AFSCME
John Sweeney, President AFL-CIO
Morton Bahr, President CWA
Andrew Stern, International President SEInternational U
Gerry Shea, Assistant to the President, AFL-CIO

John Podesta

Bruce Reed
Elena Kagan
Gene Sperling

IV. PRESS PLAN

Closed

V. SEQUENCE OF EVENTS

Discussion. Gerald McEntee should be the first union representative to speak.

VI. REMARKS

No formal remarks required.

VII. ATTACHMENTS

Attached is a memo discussing the privatization and labor protection issues in more detail.

September 21, 1997

To:Bruce Reed, Elena Kagan

From:Cynthia Rice

cc:Diana Fortuna, Christa Robinson

Subj:Event Ideas

Here are some possible ideas for upcoming events. I think we should prepare a scheduling memo ASAP for an October 31st event in Florida (currently there's an unclaimed event slot that day with planned fundraising events in Miami and Palm Beach). Off-the-top-of-my-head possibilities include: 1) An event with American Airlines, which has pledged to hire and train 100 welfare recipients at the Miami International Airport and is the first major employer to commit to the state's wage subsidy program; 2) an event with Goodwill Industries which is expanding its welfare to work program with help of an HHS grant; or 3) an event at one of the state's Work and Gain Economic Self-Sufficiency (WAGES) sites. One downside: such an event might give Gov. Chiles an opportunity to complain about FLSA.

DATE

TOPIC

LOCATION

DESCRIPTION

Oct. 31st

Welfare to Work

TBA
(POTUS in Miami and Palm Beach)

Announce applications for welfare to work competitive grants and publish regulations for welfare to work formula grants (by law, regulations must be published 90 days from Aug. 5th enactment, i.e. by Nov. 3rd). Could announce TANF regs if not already announced.

Nov. 15th
(Eli asked for 14th, but POTUS in Calif. on 15th)

Welfare to Work

San Francisco (POTUS in Sacramento and LA on 15th)

Welfare to Work "city challenge" a la St. Louis, with hundreds of companies pledging to hire welfare recipients. Could announce TANF regs if not already announced. Could announce the high performance bonus reg.

Nov. 18-19th

Welfare to Work

White House
(POTUS in D.C.)

1) Meeting with 20 major CEOs to thank them for their welfare to work efforts; or 2) A larger event w/ CEOs

Date TBA

Teen Pregnancy Prevention

TBA

National Campaign to Prevent Teen Pregnancy is convening meeting of magazines for teenage girls to encourage them to do more to send the right messages to teens. They would like the First Lady to speak.

Late Nov. - early Dec.

Welfare to Work -- Federal Hiring

TBA

POTUS or VPOTUS could announce FY 1997 federal welfare hires (agencies will report by Nov. 15th hires through October 31st).

Dec. 2nd -- date now being held for Race Town Hall

Teen Pregnancy Prevention

D.C.

Meeting of religious leaders convened by the National Campaign to Prevent Teen Pregnancy to discuss strategies to prevent teen pregnancy.

December - January

Fathers- Child Support Enforcement

TBA

Announce with the National Football League a national "Don't Drop the Ball" campaign modeled after the one in Florida in which players from three professional football teams serve as role models and get the message out to fathers that they must support their children. Could combine with bipartisan child support computer systems announcement.

December-January

Teen Pregnancy Prevention

TBA

Announce the National Campaign to Prevent Teen Pregnancy's "Toolkit for States and Communities," on what they can do to help reduce teen pregnancy, funded by HHS.

January

Welfare to Work

White House

Quarterly meeting of the Vice President's Coalition to Sustain Success. One idea: to host with SBA a half day conference in which the POTUS and VPOTUS could speak via satellite to groups of small business, non-profit, and religious leaders across the country.

January-February

Welfare to Work

TBA

Announcement of welfare to work formula and competitive grants.
(Formula grants to states will be ready to announce in January, for states that file plans by Dec. 12th; competitive grant awards will be ready to announce in February.)

April 30, 1998

Teen Pregnancy Prevention

White House

Like last year, the National Campaign to Prevent Teen Pregnancy would like an event honoring their members.

September 22, 1997

To:Bruce Reed, Elena Kagan

From:Cynthia Rice

cc:Diana Fortuna, Christa Robinson

Subj:Event Ideas

You had suggested that we should make as many announcements as possible out of the rollout of the $3 billion grants. Here are some possible ideas for these and other possible welfare events, including the October 1st child support idea you mentioned this morning which I am starting to work on.

Christa tells me the October 31st event in Florida is planned as a return to the school the President skipped when he hurt his knee. However, she suggests we do a scheduling memo ASAP if we want to anything around that time. She is also checking into the October 1 and November 15th dates.

DATE
TOPIC
LOCATION
DESCRIPTION

Around
Oct. 1st
Child Support Enforcement
TBA
Release data showing success of Treasurys effort to collect overdue child support from federal employees and contractors; announce new rules to prevent doctors who owe child support from getting payments from Medicare; unveil the national new hire reporting system which goes on line October 1st; and call upon the Congress to enact Administrations proposal for tougher sentences for parents who cross state lines to avoid paying child support.

DATE
TOPIC
LOCATION
DESCRIPTION

Oct. 31st - Nov. 4th
Welfare to Work
TBA

Make three announcements:
1) Announce availability of applications for welfare to work competitive grants;
2) Announce the regulations outlining the uses of the welfare to work formula grants (by

law, regulations must be published 90 days from Aug. 5th); and
3) Announce the regulations for the overall welfare law holding states accountable for the laws tough work requirements.

Nov. 15th
(Eli asked for 14th, but POTUS in Calif. on 15th)
Welfare to Work
San Francisco (POTUS in Sacramento and LA on 15th)
Welfare to Work "city challenge" a la St. Louis, with hundreds of companies pledging to hire welfare recipients. Could announce TANF regs if not already announced. Could announce the high performance bonus reg.

Nov. 18-19th
(Eli request)
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(POTUS in D.C.)
1) Meeting with 20 major CEOs to thank them for their welfare to work efforts; or 2) A larger event w/ CEOs

Date TBA
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TBA
National Campaign to Prevent Teen Pregnancy is convening meeting of magazines for teenage girls to encourage them to do more to send the right messages to teens. They would like the First Lady to speak.

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TOPIC
LOCATION
DESCRIPTION

December - January
Fathers- Child Support Enforcement
TBA
Need to investigate further Announce with the National Football League a national "Don't Drop the Ball" campaign modeled after the one in Florida in which players from three professional football teams serve as role models and get the message out to fathers that they must support their children. Could combine with bipartisan child support computer systems announcement.

December-January
Teen Pregnancy Prevention
TBA
Announce the National Campaign to Prevent Teen Pregnancy's "Toolkit for States and Communities," on what they can do to help reduce teen pregnancy, funded by HHS.

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Welfare to Work
White House
Quarterly meeting of the Vice President's Coalition to Sustain Success. One idea: to host with SBA a half day conference in which the POTUS and VPOTUS could speak via satellite to groups of small business, non-profit, and religious leaders across the country.

January-February
Welfare to Work
TBA
Announcement of welfare to work formula and competitive grants.
(Formula grants to states will be ready to announce in January, for states that file plans by Dec. 12th; competitive grant awards will be ready to announce in February.)

April 30, 1998
Teen Pregnancy Prevention
White House
Like last year, the National Campaign to Prevent Teen Pregnancy would like an event honoring their members.

*

April 16, 1999

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: BRUCE REED
ELENA KAGAN

CC: LORETTA UCELLI
STEPHANIE STREETT

SUBJECT: POSSIBLE POLICY ANNOUNCEMENTS

CHILDREN AND FAMILIES

1. Introduction of Legislation to Prohibit Discrimination Against Parents (late April/early May) The President proposed new federal legislation to protect parents from discrimination in the workplace. Senator Dodd is almost ready to introduce the Presidents proposal. Building on state law in Alaska, Michigan, New Jersey, and others, this legislation would protect workers from unfair assumptions about their commitment to their job that can affect hiring, advancement and other employment decisions. While this law would clearly not prohibit employers from making hiring and promotion decision on the basis of job performance, it would ensure that workers are not unfairly discriminated against simply because they are parents.

2. Release New Child Care Report (Ready May 1) At our request, HHS is developing a report on the high cost of child care for low and moderate income working families, and their needs for child care assistance. The report would include information on the expense of child care and present data on the specific costs of child care for families at certain income levels, making the case for the need for child care assistance. The report would also include previously released data on the small numbers of low income families currently receiving subsidies. [Please note, report does not exist yet, but HHS has agreed to produce it.]

3. Announce New After-School Grants (late May) (also submitted by Education team) The President could release $100 million in 21st Century Learning Grants for after-school programs across the country, the second part of the $200 million total grant distribution for FY 1999. This is an opportunity to highlight the after-school initiative in the Presidents FY 2000 budget, which triples funding for the program from $200 million to $600 million.

4. New Adoption Numbers (date tbd) The President (and First Lady) could announce the significant increases in adoptions since 1996. We will also be able to announce the awarding of the financial bonuses to states for their adoption increases.

CRIME

The President could announce new pieces of 21st Century Crime Bill:

1. Victims/Bioterrorism (Week of April 19-24 -- Crime Victims Week and anniversary of Oklahoma City Bombing) The President could highlight provisions in his crime bill to address the threat of bioterrorism, and provide additional assistance to victims of crime. Bioterrorism: The crime bill includes new tools for law enforcement to address the emerging threat of bioterrorism and prevent future bioterrorism catastrophes. Specifically, the bill contains new criminal and civil penalties for:
- Possession of harmful dangerous biological agents not justified for peaceful purpose, in order to limit the availability of biological weapons to the general public;
-Unregistered possession of certain biological agents to ensure that appropriate authorities can track who is handling the most deadly agents;
-Reckless handling of harmful biological agents, similar to those already in place for radioactive materials and pharmaceutical products; and
-Possession of selected biological agents by restricted individuals, such as felons, fugitives, and the mentally unstable.
Victims: The crime bill contains a number of provisions to support victims, including expanded federal assistance to the victims of non-federal crimes and additional compensation and assistance to victims of terrorism and mass violence. The President could also renew his call for the Congress to pass a Constitutional Victims Rights Amendment.

2. New Firearms Proposals The week before the introduction of the crime bill, the President could unveil the new firearms proposals that will accompany that crime bill. This could be a White House ceremony with supportive Members of Congress. These new proposals include:
a. Making permanent the Brady waiting period requirements that expired last November;
b. Closing the gun show loophole and providing for background checks at all gun shows;
c. Banning the importation of all large capacity ammunition clips (including those originally grandfathered by the Assault Weapons Ban);
d. Banning violent juveniles from owning guns for life;
e. Requiring federal gun dealers to sell child safety locks with every gun sold;
f. Holding adults who allow children easy access to firearms criminally responsible for their reckless actions;
g. Limiting the purchase of handguns to one per month (We have not yet decided to include this provision);
h. Enhancing certain gun penalties, providing for the forfeiture of guns used to commit crimes, strengthening the federal firearms licensing system and procedures, providing for Brady background checks to purchase explosives, and more.
We may also be able to simultaneously release a new Justice Department report detailing how many illegal gun sales were stopped through Brady Background checks in 1998, and since the Brady Laws enactment (probably well over 300,000). [Still needs to be confirmed with Justice.]

EDUCATION

1. Release Dept. of Educations Guide to Ending Social Promotion (Ready -- pending close of ESEA discussions) To announce the release of the Education Departments Guide to Ending Social Promotion, and to make clear that 1) the Presidents call to end social promotion does not mean simply retaining students, but providing a comprehensive approach to ensure that students meet promotion standards the first time, and 2) his budget includes the resources -- smaller class size, after-school, teacher quality, reading tutors -- to help states and school districts prepare students to meet high standards.

2. Release Charter Schools Study(Ready now) This is the third year of a five year study. The study contains updates from previous years on such issues as school size, reasons parents give for sending their kids to charter schools, reasons for starting schools, etc. POTUS could visit a DC charter school and 1) release the report, 2) highlight the choice $ in the FY2000 budget, 3) perhaps announce the competition for the new funds won in the FY99 budget, and 4) reaffirm support for charter schools and refute allegations that Bill Lan Lee is using civil rights enforcement to undermine charter schools. We have a recommendation for a charter school in D.C. that the President could visit in conjunction with this announcement.

3. Release of Update on Tennessee Star Study on Class Size (April 29) Sen. Murray, NEA and other education groups are planning to release this report at the National Press Club. The Start study is a longitudinal study that is tracking the academic progress of children in Tennessee who were assigned to small classes in grades K-3 as part of an academic reform experiment. Earlier results from the study showed that children that were in these smaller classes did better in the early grades, and continued their academic performance even after being returned to larger classes.

4. Gun-Free Schools Act Data (May) The President could release data on the number of violations of the gun-free schools act. Also, the Safe and Drug-Free Schools Office will award schools that have achieved significant gains in making their schools safer.

5. 45th Anniversary of Brown v. Board of Education (May 17) To commemorate the anniversary of this 1954 Supreme Court decision outlawing segregated schools, the President could highlight a new initiative in his FY 2000 budget for interdistrict magnet schools. This budget proposal includes at $10 million increase in the existing magnet school grant program to develop high-quality special programs at schools that are open to all students from participating districts to reduce racial isolation. This expansion would be targeted toward urban districts with high concentrations of minority and poor students that partner with suburban districts. This increase would fund 5-10 grants to states for planning and implementation activities.
The President could also highlight an initiative to help prepare disadvantaged students for AP courses and tests, thereby increasing their access to college -- and helping to make entering college classes more diverse. We have requested $20 million for the Advanced Placement Incentive program, an increase of $16 million, to increase opportunities for students to enroll in and complete advanced courses and train teachers for those courses. We could also highlight the Presidents request of $240 million for Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP), and increase of $120 million, to help give an estimated 381,000 disadvantaged students the skills and encouragement they need to successfully pursue postsecondary education. This request would support early intervention services such as mentoring, tutoring, and career counseling in nearly 1,000 high-poverty middle schools.

6. America Counts (late May) America Counts is putting together a "National Commission on Mathematics and Science Teaching for the 21st Century", which Senator John Glenn has agreed to chair. This commission will review the current state of American K-12 math and science education, and produce a report focused on specific action steps that federal, state and local policymakers can take to address teacher supply and quality issues in math and science education. The announcement of the full committee should be ready sometime in late May.

7. Release Department of Education Report on School Choice (Scheduled to be ready in June, but slightly flexible) This report will describe the various options for public school choice in districts across the country. The report could be released during a visit to a worksite, charter, magnet or other innovative school. We could also highlight the public school choice section of ESEA. [If the President travels to FL, MN or CA we could highlight the new initiative on worksite schools. These are mainly K-3 schools that allow working parents to have their children attend a school at the work site. Parental participation at these schools is particularly high.]

HEALTHCARE

1. New Actions to Protect Blood Donors and Transfusion Recipients. (June) We could announce new actions by the Food and Drug Administration to safeguard the safety of our blood supply. These actions include adding new requirements for testing of blood or plasma prior to release or shipment, requiring blood banks to take measures to prevent the spread of Hepatitis C, such as quarantining prior collections from donors who subsequently test positive for Hepatitis C, taking action to identify donors at increased risk of transmitting the disease, and conducting outreach efforts to locate transfusion recipients who may have received infected blood. These actions respond to a series of recommendations made by the GAO, the Institute of Medicine, and the House Committee on Government Reform and Oversight and take critical new steps towards assuring the safety of our blood supply.

2. Patients Bill of Rights/Presidential Rank Awards for Distinguished Executives. (OPM has submitted a scheduling request for this but we could likely tie it in with our issues, particularly, PBOR): The President could announce the 52 awardees from many federal agencies. These winners are members of the Senior Executive Service (SES) whose work has improved the programs and the federal departments where they work in innovative ways. Both the President and Vice President have announced these awards in past years. There is already a scheduling request in at Cabinet Affairs for April 29. OPM proposes to tie the announcement of the winners with highlights of the Administrations policies -- e.g., OPMs winner, Ed Flynn, helped develop the federal governments Patients Bill of Rights. Mr. Flynn and OPM also helped develop the federal governments long-term care proposal. NOTE: This event could only be done in the context of a larger Patients Bill of Rights announcement.

CIVIL RIGHTS/IMMIGRATION

1. Asian American and Pacific Islander Executive Order (May) A proposed EO, entitled Increasing Participation of Asian Americans and Pacific Islanders in Federal Programs, is currently pending clearance. This EO was proposed by Asian Pacific American leaders to address the fact that Asian Americans and Pacific Islanders are underserved in certain federal programs, including health, education, housing, labor, and economic and community development. The EO is similar to EOs addressing under-representation of African-Americans and Latinos in federal education programs. This EO is more focused on health and human services. The President could participate in a signing ceremony or event during May, which is Asian Pacific American Heritage Month.

2. Public Charge Regulation Roll-Out (May) The INS is expected is to release a proposed regulation that clarifies the basis upon which a immigrant may be found a "public charge" for the purposes of exclusion, adjustment of status and deportation. Studies and anecdotal evidence have shown that legal immigrants and sometimes U.S. citizens who are eligible to receive federal public benefits such as Medicaid and participate in the Children Health Insurance Program (CHIP) are not applying for those benefits for fear that they will be penalized under immigration laws. State and local governments, immigrant

advocacy groups, health care organizations, Members of Congress and others have been pressing for guidance on this issue for nearly a year and are very anxious to get clarification as soon as possible. The President could make a public statement about the regulation and urge Congress to enact his FY 2000 budget proposals that provide states the option to provide health services to immigrant children and pregnant women and provides food stamps benefits to legal immigrants.

3. Race Book Roll-Out (May?) Discussions are currently under way regarding methods to roll-out the race book when it is completed. Under consideration are: 1) White House announcement, with simultaneous events hosted by Cabinet across the country; 2) White House event coupled with announcement of either a White House Conference on Race or a series of sectoral leadership conferences across the country; 3) roll-out at a White House Conference on Race; or 4) book announcement at an out-of-D.C. location, e.g., University of Mississippi, where they are opening the Institute for Racial Reconciliation.

TOBACCO

1. Release Report on Youth Smoking Prevention (Early May) Release new report showing how few states are investing tobacco settlement funds to prevent youth smoking (report being prepared by outside public health groups), using the event to call upon the Congress to ensure settlement money is used to prevent youth smoking.

2. Unveil new measures making the tobacco industry documents more accessible. (May) On May 23rd, the tobacco companies are supposed to make certain specified documents available on their web sites, according to the terms of the state settlement.

3. Statement on Full FDA Authority Over Tobacco Products (April-May-June) Make a strong statement in support of full FDA authority on the day the Supreme Court makes a decision on whether to review the FDA case from the Fourth Circuit. If the court takes the case, arguments will be considered in the 1999-2000 session. Whether or not the court decides to take the case, we should continue to push for legislation to confirm the FDAs authority over tobacco products. While the court refusing to take the case would be a setback, it may provide us with additional ammunition to argue for a change in statute.

4. Announce the Filing of Department of Justice Litigation Against the Tobacco Industry. (Date tbd)

WELFARE/EMPLOYMENT

1. Welfare to Work Transportation Grants (Late April-early May) The President could announce the awarding of $75 million in welfare to work transportation grants, using the opportunity to promote our welfare to work spending proposals including doubling funding for these grants in FY 2000. These will be the first grants awarded under the Administrations Access to Jobs initiative included in TEA-2. This would ideally be announced in a state or community who is receiving a grant.

2. Announce Federal Governments Model Plan for Employment of People with Disabilities (May) (currently being revised). This plan, directed by the U.S. Office of Personnel Mangament (OPM), is based on recommendations from the Presidential Task Force on Employment of Adults with Disabilities. The Model Plan will address the following areas: recruitment

and hiring; reasonable accommodation; career opportunities; and data collection.

3. Food Stamp Regulations (May-June) Announce new Food Stamp regulations to improve access for working families (in development; regulatory offsets needed).

4. Fathers Day Message (June 20 -- note that the President will be out of the country on this day) Issue guidance to states and communities on how federal programs (including TANF, WtW, child support, and others) can support responsible fatherhood, using the opportunity to plug our Welfare-to-Work reauthorization initiative. There are two related conferences occurring around this time: the National Fatherhood Institute Summit in Washington on June 14th, which will include a bipartisan group of mayors, and an International Fatherhood Conference sponsored by the National Center for Strategic Non-Profit Leadership in San Francisco 5/31 - 6/3. (Could make a good VP announcement.)

5. One-Stop Employment Center Event (June-July) The President could announce new employment numbers (due out June 4/July 2nd) at a One-Stop centers created by the new Workforce Investment Act to provide employment and training assistance.

6. Ninth Anniversary of the Americans with Disabilities Act. (July 26) Announcements to be developed.

7. Welfare to Work Partnership Convention, Chicago, IL (August 2-4) Address the Welfare to Work Partnership convention in Chicago, August 2 - 4 of several thousand businesses from dozens of cities. The President could announce the $200 million in high performance bonuses for states that have done the best job placing welfare recipients in jobs and ensuring they succeed in those jobs, and announce the first Individual Development Account grants to help low income families build assets, which should be ready July 27th. If caseload reductions continue at current pace, the President should be able to announce that the President has cut welfare rolls in half since he took office. This event could serve to mark the third anniversary of the welfare reform law (8/22/96) and the 2nd anniversary of the Welfare-to-Work program (8/5/97).

HOMELESS

1. Homeless Report. (Tentatively ready in a month, likely sooner if we pushed for it.) We could announce the results of the National Survey of Homeless Assistance Providers and Clients, which is the first-ever comprehensive survey of both clients and providers of homeless programs funded by the federal government. Representatives of 11,909 programs out of an estimated 40,000 nationwide were interviewed, and 4,207 people who use the programs were interviewed. The survey will show that 15 percent of the homeless respondents have one or more children under the age of 18 with them; that 28 percent of respondents say they sometimes or often do not get enough to eat, compared to 12 percent of poor Americans; and 38 percent report alcohol use problems, 26 percent drug use problems, and 39 percent mental health problems, and 66 percent report one or more of these problems. The report does not estimate the total number of homeless persons. The announcement of the survey could be combined with another push for our FY2000 budget for HUD which includes $1.125 billion for homeless assistance. If enacted, the $1.125 billion will be the largest ever appropriation to HUD for homeless assistance.

FOOD SAFETY/NUTRITION

1. Food Safety Event. (Timing: OMB wants time but could be pushed to get the rule out.) We can urge Congress to pass funds for our food safety initiative, support Harkins bill to give USDA recall authority for tainted food, and announce a new rule regulating eggs to prevent salmonella. The FDA rule now at OMB (and its USDA companion already completed and set to go into effect in August) will require eggs to be kept at 40 degrees and put warning labels to consumers on each carton. There are at least 800,000 cases of salmonella a year and eggs are the leading culprit. They project a median savings of $700 million in reduced health care costs (OMB analysis includes a range of $87 million to $6 billion). The cost of the rule to companies is $60 million the first year, $10 million a year afterwards. USDA also has a reinventing government rule clearing OMB to move from a regulatory approach on sanitation of meat and poultry plants to a performance setting standard method which companies will like and shows we are interested in flexible means of achieving goals.

2. Nutrition Executive Order. (Late May) USDA and consumer groups have urged us to establish an inter-agency council on nutrition. While there has been a relatively recent scientific recognition of the important connection between diet and disease prevention, (well-covered in Newsweek, Time, and elsewhere), the Administration has little coordination between our health and nutrition programs at HHS and USDA. If given a choice, the groups would prefer a WH Conference on Nutrition and have approached Chris Jennings about it. The Council would operate like our food safety council and hold public hearings, report on what we know about the topic, and recommend ways to link our programs at HHS and USDA better.

NATIVE AMERICANS

1. Native American Education Foundation. (Needs to go through OMB clearance, possibly ready by May). The Department of the Interior proposes legislation to establish a non-profit Native American Education Foundation. This legislation would create a foundation similar to the National Park Foundation and would permit the Foundation to solicit donations for the furtherance of Native American education for grades K-12. While there is an American Indian College Fund, there is no existing non-profit that focuses on this issue of K-12 education for Native American children. The Foundation would be able to give funds to support projects such as developing American Indian cultural curriculum, research on American Indian education, and initiating model programs to improve Native American education. This effort would build upon the Native American executive order that the President signed last August. Senator Inouye has indicated that he would like to sponsor this legislation, and Interior expects that they will be able to garner additional support. This proposal has received support from the Native American education community, particularly from the National Indian Education Association (NIEA) and the American Indian Higher Education Consortium (AIHEC). OMB is worried that staffing the Foundation would cost money, Interior is trying to reach an accommodation.

ENDANGERED SPECIES

1. Endangered Species Act Delistings
a. Bald eagle -A proposal to delist the bald eagle is set to be announced on July 4, 1999. Perhaps we should push to move up.
b. Peregrine falcon -Similarly, the final proposal to delisting the peregrine falcon is set to be announced in August 1999.

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April 22, 1999

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: BRUCE REED
ELENA KAGAN

CC: LORETTA UCELLI
STEPHANIE STREETT

SUBJECT: POSSIBLE POLICY ANNOUNCEMENTS

CHILDREN AND FAMILIES

1. Introduction of Legislation to Prohibit Discrimination Against Parents (Early May) The President proposed new federal legislation to protect parents from discrimination in the workplace. Senator Dodd is almost ready to introduce the Presidents proposal. Building on state law in Alaska, Michigan, New Jersey, and others, this legislation would protect workers from unfair assumptions about their commitment to their job that can affect hiring, advancement and other employment decisions. While this law would clearly not prohibit employers from making hiring and promotion decision on the basis of job performance, it would ensure that workers are not unfairly discriminated against simply because they are parents. NOTE: This could be coupled with the HHS report on child care. It is a potential topic for a Mothers Day radio address.

2. Release New Child Care Report (Early May) At our request, HHS is developing a report on the high cost of child care for low and moderate income working families, and their needs for child care assistance. The report would include information on the expense of child care and present data on the specific costs of child care for families at certain income levels, making the case for the need for child care assistance. The report would also include previously released data on the small numbers of low income families currently receiving subsidies. NOTE: This report could be coupled with the legislation to prohibit discrimination against parents. It is also a potential topic for a Mothers Day radio address.

3. Announce New After-School Grants (By First Week in May -- possibly ready last week in April) The President (or Vice President or First Lady) could release $100 million in 21st Century Learning Grants for after-school programs across the country, the second part of the $200 million total grant distribution for FY 1999. This is an opportunity to highlight the after-school initiative in the Presidents FY 2000 budget, which triples funding for the program from $200 million to $600 million.

4. New Adoption Numbers (Early Summer) The President (and First Lady) could announce the significant increases in adoptions since 1996. We will also be able to announce the awarding of the financial bonuses to states for their adoption increases.

5. Family Report (The report is still in preparation but we hope to have it ready within

three weeks.) The Council of Economic Advisors has prepared a report on changes in the labor market over the last 30 years that effect families. The report will demonstrate the increased difficulty of balancing work and family and highlight the need for policies that support parents trying to raise a family. Specifically, the report will identify a decrease in the amount of time available to parents to be with their children since 1969 and identify several related developments, including: an increase in the number of women working and the hours they work; an increase in the number of single parent families; and increases in income for most families. NOTE: This report could be released as part of the Presidents Grambling State University commencement address.

CRIME

1. Victims/Bioterrorism (Before May 12) The President could highlight provisions in his crime bill to address the threat of bioterrorism, and provide additional assistance to victims of crime.
Bioterrorism: The crime bill includes new tools for law enforcement to address the emerging threat of bioterrorism and prevent future bioterrorism catastrophes. Specifically, the bill contains new criminal and civil penalties for:
- Possession of harmful dangerous biological agents not justified for peaceful purpose, in order to limit the availability of biological weapons to the general public;
-Unregistered possession of certain biological agents to ensure that appropriate authorities can track who is handling the most deadly agents;
-Reckless handling of harmful biological agents, similar to those already in place for radioactive materials and pharmaceutical products; and
-Possession of selected biological agents by restricted individuals, such as felons, fugitives, and the mentally unstable.
Victims: The crime bill contains a number of provisions to support victims, including expanded federal assistance to the victims of non-federal crimes and additional compensation and assistance to victims of terrorism and mass violence. The President could also renew his call for the Congress to pass a Constitutional Victims Rights Amendment.

2. Release 1997 Local Police Departments Report (could be done with Crime Bill Launch on May 12) This report presents data collected from more than 13,000 general-purpose local police departments nationwide, and should confirm at broad level that the goals of our community policing efforts are being met. The report includes data on law enforcment levels, hiring, and the numbers of officers engaged in community policing.

2. Race and Crime Event (May) The President could release one or several reports on community perceptions regarding 1) crime and police and 2) police use of force.

3. Release 1998 ADAM Report (late April/May) The President could release the Arrestee Durg Abuse Monitoring (ADAM) Report, which includes data on the prevalence of drug use by arrestees. The report will include findings from several ADAM sites regarding use of cocaine, heroine, and methamphetamines among adult and juvenile arrestees.

4. Release 1998 Brady Check Report (TBD) The 1998 Presale Handgun Checks Report provides a national estimate of handgun purchase applications, the number rejected, and the reasons for rejection. The estimate includes the entire interim period provided for under the Brady Act, as well as the first months activities under the permanent provisions of the Act that took effect on November 30, 1998.

EDUCATION

1. Release Charter Schools Study(Ready now) This is the third year of a five year study. The study contains updates from previous years on such issues as school size, reasons parents give for sending their kids to charter schools, reasons for starting schools, etc. The President could visit a DC charter school and 1) release the report, 2) highlight the school choice funding in the Presidents FY2000 budget, 3) perhaps announce the competition for the new funds won in the FY99 budget, and 4) reaffirm support for charter schools and refute allegations that Bill Lan Lee is using civil rights enforcement to undermine charter schools.

2. Release of Update on Tennessee STAR Study on Class Size (April 29) Sen. Murray, NEA and other education groups are planning to release this report at the National Press Club. The STAR study is a longitudinal study that is tracking the academic progress of children in Tennessee who were assigned to small classes in grades K-3 as part of an academic reform experiment. Earlier results from the study showed that children that were in these smaller classes did better in the early grades, and continued their academic performance even after being returned to larger classes.

3. Release Department of Education Report on School Choice (Scheduled to be ready in June, but slightly flexible) This report will describe the various options for public school choice in districts across the country. The report could be released during a visit to a worksite, charter, magnet or other innovative school. We could also highlight the public school choice section of ESEA. [If the President travels to FL, MN or CA we could highlight the new initiative on worksite schools. These are mainly K-3 schools that allow working parents to have their children attend a school at the work site. Parental participation at these schools is particularly high.]

HEALTHCARE

1. New Actions to Protect Blood Donors and Transfusion Recipients. (June) We could announce new actions by the Food and Drug Administration to safeguard the safety of our blood supply. These actions include adding new requirements for testing of blood or plasma prior to release or shipment, requiring blood banks to take measures to prevent the spread of Hepatitis C, such as quarantining prior collections from donors who subsequently test positive for Hepatitis C, taking action to identify donors at increased risk of transmitting the disease, and conducting outreach efforts to locate transfusion recipients who may have received infected blood. These actions respond to a series of recommendations made by the GAO, the Institute of Medicine, and the House Committee on Government Reform and Oversight and take critical new steps towards assuring the safety of our blood supply.

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December 16, 1998

MEMORANDUM FOR BRUCE REED
ELENA KAGAN

FROM: DPC STAFF

SUBJECT: DPC ANNOUNCEMENTS

Following is a list of possible DPC announcements which you requested.

Health Care -- Unveiling new sanctions and investments in quality oversight for nursing homes: To preempt the release of a GAO report in early January by Senator Grassley that criticizes our nursing home quality enforcement record, this event could highlight our aggressive efforts and a new investment of over $90 million dollars to implement effective nursing home enforcement tools and improved nursing home quality and safety standards. These include proposing new Federal legislation imposing civil and criminal penalties on nursing homes committing repeated and egregious violations of Medicare or Medicaid regulations, increasing monitoring of facilities that are repeatedly in violation of quality standards, and establishing a new national commission to study the quality of care providing in nursing homes and assisted living facilities.

Health Care -- Announcing a new work incentives initiative for people with disabilities: The FY 2000 budget includes a historic workers incentive program that provides for continued and enhanced access to programs that empower people with disabilities to work. This package includes the Jeffords-Kennedy Work Incentives Improvement Act, which enables people with disabilities to go back to work by providing them with the option to buy into Medicaid and Medicare, a tax credit for work-related expenses for people with disabilities, a new program to integrate local employment-related and support services for adults with disabilities, and new efforts to provide assistive technologies to people with disabilities. The unemployment rate among the 30 million working-age adults with disabilities continues to be much higher than that of the general population -- close to 75 percent for people with significant disabilities, who cite their inability to retain their health coverage as their main impediment to returning to work. These announcements will reflect many of the recommendations included in the Presidents Task Force on Employment of Adults with Disabilities, and the overall initiative is strongly supported by the disability community. We may be able to coordinate the event with the bipartisan introduction of the Jeffords-Kennedy legislation.

Health Care -- Announce the Presidents multi-faceted long term care initiative: The President could release new budget initiatives designed to address the growing national need for high quality long term care services, including a new multibillion dollar long term care tax credit, proposals that provide Federal employees the option of purchasing private long term care insurance, educate Medicare beneficiaries about available long term

care options, and invest $125 million dollars (if included in budget) in a new national program to support Americans who care for chronically ill or disabled family members or friends. About 2 million Americans live in nursing homes and another 5 million Americans live in the community, but have health problems that make them dependent on others for basic activities of daily living, such as bathing or dressing. This multi-faceted initiative addresses a growing problem and represents our first significant effort to introduce new long term care policy that is extremely important to the aging community.

Health Care -- Announcing new efforts to detect and manage bioterrorist attacks and resistant bacterial strains (superbug): The President could announce a new budget initiative to protect the country from the devastation of disease outbreaks due to bioterrorist attacks or bacterial strains that are resistant to treatment. The new program provides funding for a new disease surveillance system to collect and analyze epidemiological information on disease outbreaks, training epidemic intelligence officers to identify and respond to attacks, developing a mass casualty emergency response system, maintaining a stockpile of pharmaceuticals, and developing new vaccines and antibiotics that could be used in the event of an attack.

Health Care -- Unveil new FY 2000 budget anti-asthma initiative: We could unveil a new budget initiative that includes new funding for States to develop disease management programs through Medicaid and for EPA to conduct a national asthma awareness campaign, initiate community based activities to reduce asthma triggers in homes, and establish school based asthma programs in every community. This initiative is especially critical as the number of children afflicted with asthma has doubled to total about 6 million over the past 15 years.

Health Care -- Announcing new labeling requirements for over the counter drugs: The President could announce the release of a new regulation requiring pharmaceutical companies to label over the counter drugs in easily read and understandable language, ensuring that millions of consumers understand how to take medication safely and effectively. Presently, labels for over the counter drugs are often printed too small to read and in language that is often difficult to understand. This regulation will be ready for release in sometime in January; however, since the above mentioned initiatives are all budget related and may need to be released prior to the State of the Union address, we may want to consider holding this announcement for another time, since it will be timely regardless of when it is released.

Education -- Ending Social Promotions: We can release a guidebook from Education on ending social promotions, and announce our FY 2000 budget proposal to help schools do this with after-school money.

The guide is near completion, but not yet there, and Mike Smith and I have substantive differences in the tone and approach. Given the other things we are wrestling over, I'm not sure if we will get this done by the week between Christmas and New Years, but early-mid January is a good bet.

Education -- Implementation of New Education Initiatives: The grants announcements for GEAR UP and Teacher Quality (HEA Title II) are in OMB for review. The Guidance for Class Size implementation is in its second draft. These should be ready for announcement early-mid January.

Crime and Drugs -- Children Exposed to Violence Initiative: Each year millions of children

are the victims of violent crime and child abuse, or are exposed to domestic violence -- and many of these kids grow up and victimize others themselves. To help break this cycle of violence, the President could announce the availability of $10 million for 15 cities to help launch a new Administration initiative to improve the criminal justice system's response to child victims and witnesses. Led by the Deputy Attorney General, Eric Holder, this year-long effort would focus on the following areas:

(1) Improved Law Enforcement, including specialized training to improve police and prosecutors' handling of child witnesses and victims; new "Court Schools" to facilitate children's interaction with the courts and reduce secondary victimization by the criminal justice system; more detailed reviews of child deaths; and the establishment of Crimes Against Children Units in prosecutors' offices.

(2) New Legislative Reforms, including changes to federal and state laws dealing with felony murder/pattern of abuse statutes, child neglect and endangerment, penalties for committing crimes in the presence of children, sex offender notification, and other issues related to child victims and witnesses.

(3) Targeted Violence Prevention/Intervention, including Child Development/Community Policing programs that link law enforcement with mental health professionals to focus on troubled kids; Child Advocacy Centers to promote a community-wide response to child victims and witnesses; and nurse home visitation programs designed to educate parents and reduce child abuse.

(4) Increased Awareness of Child Victimization as a National Problem, including a DOJ-sponsored National Summit on Children Exposed to Violence; four regional forums to promote the recommendations from the Summit; and the involvement of prominent child advocates (i.e., Oprah Winfrey, Rob Reiner and others).

Crime and Drugs -- Drug Offender Accountability: Following up on his directive calling for "zero tolerance" of drugs in prisons, the President could make a series of announcements reinforcing the Administration's strong commitment to using the coercive power of the criminal justice system to reduce drug use and crime. Specifically, he could make the following announcements:

(1) The availability of up to $50 million in FY 99 for prison drug testing/treatment. As part of the recent budget deal, the Administration fought for and won the flexibility for states to use their federal prison grants to drug test and treat prisoners/parolees. A state-by-state break-out of this funding could be released, as well as the official solicitation for funds. Also, MD Governor Glendening or Lt. Gov. Kennedy-Townsend -- who already plan to use these funds to test parolees -- could attend and speak in support of this initiative.
(2) $200 Million in additional funding for FY 2000. The FY 2000 budget will include $200 million to support drug testing, treatment and sanctions throughout the criminal justice system, and this information could be leaked as part of -- or just prior to -- the event.
(3) $4 Million for Drug Detection in Prisons. ONDCP is prepared to release $4 million in grants for 8 states (MD, CA, AZ, AL, FL, NJ, NY and KS) to implement drug detection technologies to help keep drugs from being smuggled into prisons.
(4) Report on Drug Testing/Treatment. Although not yet final, the Justice Department is working on several related reports that might be ready for release at this event.
Crime and Drugs -- Crime Statistics: The President could announce the release of the Justice Department's 1997 National Crime Victimization Survey (NCVS), which we expect to

show a continued decrease in crime victimization rates. The NCVS measures overall victimizations reported by households, including violent crimes and property crimes. Last year's victimization rates were the lowest recorded since the inception of the survey 23 years ago; if the rates continue to decline -- as we expect -- they should hit record lows again. Also, we may be able to combine this with the release of $16 million in COPS grants to hire over 200 officers. (NB: The timing for these announcements requires further coordination with Justice.)

Tobacco -- During Budget Rollout or State of the Union:

(1) Announce that we will seek to recover federal costs caused by tobacco, through our budget and through a federal lawsuit.

(2) Issue a directive to the Office of Personnel Management requiring enhanced coverage for federal employees of smoking cessation services, either by raising coverage limits (now only $100 for most fee for service plans) or waiving deductible and copayments. At the same time, he could unveil his plans to provide improved smoking cessation services to veterans and members of the armed forces. New cessation coverage will be part of a comprehensive anti-tobacco plan to increase military readiness.

Welfare to Work -- Before Budget Rollout

(1) Release new state work participation rate data showing that almost all states are meeting the welfare laws overall work requirement (requiring 25 percent of all welfare families with an adult to work), although some are failing to meet the laws separate two-parent requirement (requiring 75 percent of recipients in two parent households to work). These rates, for July - September 1997, are the first available under the new welfare reform law.

(2) Highlight new data showing more recipients are working now than before welfare reform (using data from the March 1998 CPS Census survey and/or state data comparing 1997 to past years).

During Budget Rollout or State of the Union

(3) Unveil new caseload data showing the welfare rolls have fallen below 8 million (down from 14 million when the President took office and 12.2 million when he signed the bill into law).

(4) Announce that the Welfare to Work Partnership has met the Presidents challenge to sign up 10,000 businesses, and (possibly) that federal agencies have met the challenge to hire 10,000 welfare recipients -- ahead of the target date of 2000 (well know by the first week of January).

(5) Announce our proposal for $1 billion more in Welfare-to-Work funds to help those welfare recipients still on the rolls and face the greatest challenges get jobs and succeed in the work force. This revised program will contain a new emphasis on increasing the employment of low income fathers so they can better meet their responsibilities to their children, with a minimum of $150 million for Responsible Fatherhood Grants.

(6) Unveil a new child support law enforcement initiative to double the number of prosecutions of egregious child support violators by providing resources to identify,

investigate, and prosecute these cases. This effort will be part of a challenge to law enforcement in every state to join our national effort to ensure America's children receive the support that they need and deserve.

(7) Unveil new national public service announcements underscoring fathers responsibility to pay child support.

(8) Possibly release new 1998 figures showing additional increases in child support collections. (We do not have these data yet but are working on getting them by early January. These data will update our current statistics showing a 68 percent increase in child support collections since the President took office, which are based on 1997 data).

Post-State of the Union Amplification

(9) Announce the availability of funds for the third round of Welfare-to-Work Competitive grants, possibly including targeted funds for long term recipients with disabilities, low literacy skills or English as a Second Language, and/or substance abuse problems, using the opportunity to highlight the importance of the Presidents proposal for $1 billion more for this program.

(10) Announce the competition for 50,000 new welfare-to-work housing vouchers, while highlighting the Presidents proposal for XX more. In October, the President signed into law funding for the 50,000 housing vouchers hed pushed for in last years budget and in late January HUD will be ready to release the request for local communities that want to compete for these vouchers.

(11) Announce the competition for $10 million in funds for Individual Development Accounts while highlighting the Presidents proposal for more funds in his new budget. The Human Services Reauthorization bill signed by the President in late October authorized a five-year, $125 million demonstration program to establish Individual Development Accounts to help low income families save for a first home, education and training, or to start a new business -- an effort the President called for in his 1992 campaign. However, the FY 1999 appropriations bill only funded $10 million for this effort. HHS is required to announce the first grant competition by January 27th.

(12) Announce the competition for $30 million in funds for targeted substance abuse treatment grants while highlighting the Presidents proposal for more funds in his new budget. These funds are available to address high priority unmet and emerging treatment needs identified by local communities and states, including women moving from welfare to work and criminal justice offenders.

Children and Families -- Title IX: Same description as before. Can be ready at any time.

Children and Families -- After-School/Social Promotion: We could preview this budget announcement in January.

Children and Families -- Child Care/Families: We could preview the entire initiative in January.

Children and Families -- Kids Aging Out of Foster Care: We had hoped the First Lady would do an event announcing the new budget initiatives on independent living/transitional living/Medicaid for children aging out of the foster care system. We could do the event

with the President in January.

Children and Families -- Mentoring Event: The First Lady is planning to do a mentoring event in which she would announce $16 million in mentoring grants, release a report on the effectiveness of mentoring, as well as promote a new PSA campaign on mentoring. We are also exploring additional mentoring announcements from the Department of Education. This announcement will be ready around mid-January, and could be made by the President and First Lady in January.

Announcement Of Empowerment Zones Round II.

Food Safety Initiative. Our joint initiative with HHS and USDA to improve federal, state, and local enforcement of food safety laws.

Equal Pay. Our $30 million project to provide women with better information about their right to equal pay and companies with the technical assistance to help companies better comply with the law.

JULY 17, 1997

MEMORANDUM TO ELENA KAGAN

FROM: CHRISTA ROBINSON

SUBJECT: PREPARATION FOR UPCOMING EVENTS

Attached are the shell versions of the briefings for upcoming events. I have e-mailed these to the lead staff person and I have designated below who is responsible for each item. My intern, Keil Green, will be attending meetings and working with the staff leads on these events. He prepared to add substantive additions to the briefing memos if the staff lead wants -- so he may be sending you documents to approve -- but the staff know they are responsible. I have also reiterated that nothing should be circulated to the Press Office or Staff Secretary without your approval (regardless of anyone else that may have approved it.) Keil will also make sure that participants are vetted for all events.

7/18/97 - Radio Address- (Youth Crime Gun Interdiction Initiative Report)
7:40 pm - 8:15 pm - Roosevelt Room.
Yesterday, it was decided that no guests will attend the taping of this address, so we "disinvited" the chiefs we had lined up to come. The ATF will organize regional press events to take place after the radio address is broadcasted on Saturday.

PAPER:
1) Briefing Paper: Megan Maloney
2) Memo from Rubin and Reno - Jose
3) Charts & Graphs - Treasury to Press Office.
4) Fact Sheet on Expansion of the Initiative - Jose
5) Q&A - Jose
6) Juvenile Justice Accomplishments - Neera

SCHEDULING CONTACT: Jen P./Rebecca Cameron PRESS CONTACT: Megan Maloney

7/22/97 - Signing of Executive Order on Tobacco
The event will probably take place around 2:30pm at HHS -- depending on when Shalala can arrive.
The Program will include: Shalala, Federal Employee, POTUS, and possibly Louis Sullivan if he can attend. Califano, Satcher will be in front row.

PAPER:
1) Briefing Paper: Elizabeth Drye
2) Executive Order - Elizabeth/Phil Caplan. The Executive Order will go directly from the Clerks Office to the Press Office.
3) Fact Sheet - Elizabeth Drye will prepare and get to Press Office.
4) Q&A - Elizabeth Drye will prepare and get to Press Office.

SCHEDULING CONTACT:Karen Finney PRESS CONTACT:Julie Green
SPEECH WRITER: Jordan Tamagni

7/23/97 - Immunization Event
1:30 p.m. - 2:30 p.m. - East Room
PAPER:
1) Briefing Paper: Jen Klein
2) Fact Sheet on event - Jen Klein
3) Background on Vaccinations - Jen Klein/HHS
4) HHS Immunization Report - Sarah Bianchi will get to Press Office.

SCHEDULING CONTACT: Setti Warren PRESS CONTACT: Megan Moloney
SPEECH WRITER: June Shih

7/25/97 - Education Standards Endorsements Event
10:45 am - Gateway Marriott in Crystal City at the National Association of Elementary School Principals Conference. The Program will be: NAESP Director (K. Balderston), Secretary Riley (K. Balderston), City Superintendent or local school board President (Mike Cohen), POTUS. Prior to the event, there will be a meet and greet with the representatives from each of the cities and states endorsing standards. My intern Keil Green will invite these people and make sure this group and the program participants are vetted.
Keil will also coordinate the press activity and working meeting in the OEOB for this group following the event.
PAPER:
1) Briefing Paper: Mike Cohen
2) Fact Sheet - Mike Cohen/Bill Kincaid will prepare and get to Press Office.
3) 2 page Standards Background - Bill Kincaid
4) Q&A - Mike/Bill will prepare and get to Press Office.
5) Letters of support from the cities and states - Mike/Bill to Press Office.

SCHEDULING CONTACT:Karen Finney PRESS CONTACT:Julia Payne
SPEECH WRITING: Carolyn Curiel

Attached is an exit memo I put together to give you some thoughts on the issues I've worked on (I'm putting a hard copy in your boxes as well). If you have any questions, I'd be glad to talk to you tomorrow (my last day).FFJanuary 21, 1997

TO:Bruce Reed
Elena Kagan
FROM:Molly Brostrom
RE:"My" Issues/Exit Memorandum

I wanted to give you general ideas on some of the issues on which I have worked while at the Domestic Policy Council and where I think it is important for DPC to remain involved. Attached are background and more specific thoughts for anyone who continues work in these areas.

Homelessness. At the request of the President, the Interagency Council on the Homeless became a working group of the Domestic Policy Council in 1993 (funded and housed at HUD). I think it is important to continue White House involvement with the ICH for a couple of reasons: 1) There is no other White House connection for advocates and providers. 2) The ICH is a useful body for interagency coordination and without White House involvement, the ICH will become another arm of HUD and will lose other agencies' involvement.

On the latter reason, there is increasing interest on the Hill and among advocates on ensuring that other agencies (HHS in particular) play a larger part in providing supportive services for the homeless (Lazio circulated a draft homeless bill last session that would turn HUD's Shelter-Plus-Care program into a rental assistance block grant to states). In addition, with increasing consolidation of homeless programs in the last couple years, it is increasingly important that "mainstream" programs (training, education, health care) reach out to and serve the homeless -- the ICH can press for and monitor this aspect.

Housing. The affordable housing needs in this country are critical -- and they play a key part in the success of moving people from welfare-to-work -- yet have received little White House attention. I think this is an area where DPC should continue and should increase its involvement: new housing policy ideas are needed and HUD is developing some that could benefit from White House backing. At the very least, a White House contact for advocates and interest groups is important.

A couple of specific items:
-The interest in providing Habitat access to surplus property should be monitored. Rep. Lazio's public housing bill contains a provision that would accomplish this -- HUD and HHS are supportive; they are working on amendments that would improve the Title V process. But GSA and OMB (the GSA side) are reluctant. The President has indicated he would like this proposal to happen.

-Nic Retsinas' Office for Housing at HUD is developing a Homeownership Tax Credit proposal that seems promising and for which they are looking for an advocate at the White House. The proposal would aim to increase homeownership among households with incomes below the national median by making investors eligible for a $9900 tax credit that potential low/moderate income homeowners could use towards the downpayment or mortgage. I passed on further information to Paul Weinstein.

Veterans. The Interagency Veterans Policy Group was created in 1994 to provide a forum for interagency work on veterans issues and for White House communication with veteran service

organizations. DPC has been the lead, but it is co-chaired with us by Cabinet Affairs and Public Liaison with OMB involvement. I don't think continued DPC involvement is critical. I do think it is important for one office to take the lead and I would suggest Cabinet Affairs with OMB providing substantive support. I believe the IVPG has played an effective role in giving access to VSOs and thus muting criticism.

Seniors. With Chris and Jen/Pauline covering Medicare and Medicaid, and NEC and OMB the primary contacts on Social Security and pensions, the other seniors issues are relatively minor (the Older Americans Act is up for reauthorization this year--these programs are very important to senior groups--Bill White of Public Liaison and Ken Apfel's shop can cover).

I do think, however, that there is potential for a DPC person to work with HHS/Administration on Aging at looking at ways the federal government can work with states and localities to prepare for an aging population. Initiatives outside Medicare and Social Security are important and can divert attention from those two sticklers.

I hope this is useful, and I wish you the very best in your work at the Domestic Policy Council.

MEMORANDUM FOR ERSKINE B. BOWLES

THROUGH: Franklin D. Raines

FROM: Sally Katzen

Steve Kelman

SUBJECT: Heads-up on Contract Negotiations Final Rule

In our memorandum of May 1, 1997 (attached), we informed you of our plans to re-propose revisions to Part 15 of the Federal Acquisition Regulation dealing with competitive selection of sources and negotiation of contracts. The reproposed rule was published for comment on May 14, 1997. We are now ready to issue the final rule revising Part 15.

These revisions will implement the first procurement recommendation of the NPR and are intended to make the Federal Governments processes more business-like, less regulated, and more pro-taxpayer. The negotiations process described in the final rule will encourage contracting officials to bargain hard to get the most value for the taxpayer, but it gives them substantially more flexibility in how they conduct negotiations. They will be authorized to allow more information to be presented orally and to provide offerors early advice as to their competitiveness for a particular acquisition. By being able to communicate more effectively with offerors earlier in the process, contracting officials will be able to focus their efforts on the most competitive proposals and make competition for government contracts much less costly, which ultimately should lower the prices paid, and increase the value received, by the government.

The final rule has the support of the GAO, to whom Congress traditionally shows great deference because of its procurement experience. A coalition of small business groups, including the Chamber of Commerce, continues to oppose the rule because they fear increased discretion will cause Federal contracting officials to discriminate against small businesses. We disagree with those concerns and do not believe that small businesses will be harmed by this rule. We have also gathered empirical evidence indicating that the problems they foresee are extremely unlikely to occur.

If you have any questions, please call either of us by COB Friday.

cc:Maria Echaveste
Rahm Emanuel
Thurgood Marshall, Jr.
John Hilley
Ann Lewis
Sylvia Mathews
Bruce Reed
Elena Kagan

Victoria Radd
Barry Toiv
Michael Waldman
Kathy Wallman
Ed DeSeve
Larry Haas

FFbcc:
OFPP Official File
WH Counsel
Ms. Kamarck
Mr. Sperling
DO Chron
DO Records
General Counsel, OMB
Mr. Lew
Mr. Crawford
DDM
Ms. Blickstein
Mr. DeSeve
Mr. Kelman
Ms. Katzen
Mr. Weiss
Mr. Brown
Mr. Schooner
Mr. Arbuckle
OFPP/Chron/Reading
Mr. Tash
OFPP:NTash:mbdc 8/25/97 Control #:53026
FILE:C:ERSKINE6.WPD EDITED 8/27/97:DDM 9/3/97:OIRA

December 3, 1998

MEMORANDUM FOR NEC PRINCIPALS

FROM:GENE SPERLING AND SALLY KATZEN

SUBJECT:Farm Safety Net

We are in the process of scheduling a principals meeting. Attached is a paper prepared by the working group for your review. Please discuss this with your staff so that you will be in a position to indicate your department or agencys views on the merits of each of the options.

Distribution List

Agriculture - Glickman
Treasury - Rubin
Treasury - Summers
OVP - Ron Klain
OMB - Jack Lew
CEA - Janet Yellen
DPC - Elena Kagan

Executive Office of the President
Office of Management & Budget
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To:
Bruce Reed, Elena Kagan

Fax:
6-2878
Pages (inc cvr):
2

From:
Joshua Gotbaum
Executive Associate Director
OEOB Room 254
Washington, DC 20503
January 12, 1999 , 11:57 AM:
(202) 395-9188 Fax (202) 395-4995

Re:
Tobacco Language

Please review the attached (re)edits. In particular, on page 1, I think were giving up a lot by not mentioning tying youth smoking in half to the $1.10. Since the states have done much of the lifting, it doesnt seem a contradiction that we can finish the job for 55 cents. We also (a) modified the language on recoupment on page 2 to fudge, but not eliminate, the notion that the states must assume national commitments (by which we mean assume what are currently Federal programs); and (b) softened the farmer language a bit (since were not doing anything in the budget to help).
Were now on deadline, so please respond within the hour.
c:Cynthia Rice

11TO:Kevin Thurm
Deputy Secretary

FROM:Bruce R. Lindsey
Assistant to the President
And Deputy Counsel

RE:Summary of Discussions on FDA-related Issues

DATE:June 4, 1997

As you know, much of the discussions with the tobacco industry have focused on FDA/public health related issues . While there is no final agreement, the following is a summary of those discussions to date. I would appreciate HHS/FDAs comments and suggestions on these issues.

1. Youth Access - The industry would agree to the full substance of the August 28 FDA youth access provisions. In addition, the industry would agree to the following:

A.A ban on all vending machines;
B.The placement of tobacco products behind the counter and out of reach of consumers;
C.The restriction of mail order sales, subject to conditions that demonstrate that an effective mechanism to restrict sales to adults. FDA would have the authority to review and revise the rules concerning mail order sales within two years, if it determines that these sales are resulting in significant sales to or access to minors;
D.While these provisions would be enacted into legislation, FDA would be given the administrative authority to augment and modify these rules after a set period of time, not to exceed 7 years, to further reduce tobacco use among minors;
E.States and local governments would have the authority to enact stronger laws.
F.A nationwide licensing system for all sellers of tobacco products with a system of graduated penalties and license suspensions for violations of the youth access and marketing provisions would be established. The licensing system would apply to all sellers of nicotine containing tobacco products, including manufacturers, distributors, wholesalers, retailers, importers;
G.FDA would have the primary authority over the enactment of regulations concerning these provisions and full enforcement authority over them. However, there would be dual enforcement authority with both the FDA and state attorneys general each, being able to enforce these provisions and, in addition, the FDA would have the power to contract with other state and local authorities to assist it min enforcing the rules;
H.Enforcement would include unannounced, random stings;
I.The tobacco industry would pay the cost of enforcement for both FDA and the state authorities with enforcement power.

2.Marketing and Advertising - The industry would agree to the full substance of the August 28 FDA advertising and marketing provisions. In addition, the industry would agree to the following:

A.The eliminations of all billboards and outdoor signs, including all signs in stadiums and arenas and signs in enclosed areas, such as stores that face outwards;

B.The elimination of all human images and cartoon characters from all advertising and from all cigarette packages;
C.Additional restrictions on point of purchase advertising regarding the placement of point of purchase ads to limit their size and number, remove them from the line of sight of children and remove them from the close proximity to candy and other goods likely to attract children. The exact details of these restrictions have yet to be resolved. There has also been discussion of restricting point of sale advertising in stores within 1000 feet of schools and playgrounds to price lists;
D.The elimination of internet advertising and the agreement on the use of whatever technology is available to make tobacco advertisements that are placed on the internet from foreign countries inaccessible in the US;
E.The prohibition on product placement in movies and on TV, the prohibition on any payments or fees to celebrities to smoke in movies or on TV or to any other person or entity to glamorize tobacco use in movies or on TV, and the prohibition of any "in-kind" actions to accomplish any of these same purposes;
F.While these provisions will be enacted into legislation, FDA would be given the administrative authority to augment and modify these rules after a set period of time, not to exceed 7 years, to further reduce tobacco use among minors;
G.An agreement to consent to the placement of all of the advertising restrictions contained in the August 28 FDA Rule plus the above noted restrictions in private binding agreements and/or in consent decrees to insulate the restrictions from the First Amendent challenges by parties outside the tobacco industry;
H.FDA would have the primary authority over the enactment of regulations concerning these provisions and full enforcement authority over them. However, there would be dual enforcement authority with both the FDA and state attorneys general, each being able to enforce these provisions and, in addition, the FDA would have the power to contact with other state and local authorities to assist it to enforce the rules;
I.The tobacco industry would pay the cost of enforcement for both FDA and the state authorities with enforcement power;
J.The portion of these advertising and marketing restrictions that relate to purely local advertising would not preempt stronger state and local laws.

3.Public Education Counter Advertising - Funds would be provided for a major nationwide public education/counter advertising program similar to those found in Massachusetts and California. The program would operate independent of the tobacco industry which would have no say over the content or placement of the advertisements. Funding for the program would be guaranteed, and to the extent possible, the program would be insulated from political pressure. The program could be administered by FDA, the CDC, or an independent entity.

4.Health Warnings - While FDA does have authority to require tobacco companies to provide health information to consumers in a variety of ways, FDA does not have authority over the current warnings on the package. The industry would agree to a revision of the warning label system, replacing the current warnings with the more specific, more detailed Canadian warnings including a warning on addictions. The warnings would be moved to the front of the cigarette package (and the most prominent side of the smokeless tobacco product package). The warnings would appear in the Canadian format (the top of the front with white lettering on a black background) and occupy at least 25% of the top of the front of the package.

5.Performance Standards - The concept of performance standards are implied in the FDA Rule, but only with regard to the modification or the supplementation of the youth access and marketing restrictions. Discussion with the industry have also focused on performance

standards tied to economic sanctions if youth smoking rate reduction targets are not met. The industry would be subject to penalties if youth tobacco use failed to drop by 30% in 5 years, 50% in 7 years and 60% in ten years. The penalty would be based on the value of a teenaged tobacco user to the industry over the lifetime of the teenager. It would be worth approximately $80 million per percentage point by which the target was not met.

6.Funding for State and Local Tobacco Control Activity - State and local tobacco control activity modeled after the successful ASSIST program would be funded out of tobacco industry funds. While the exact amount had not been agreed to, we expect the ASSIST program would be funded in every state from these funds.

7.Tobacco Cessation - Out of the funds to be provided by the industry, funding would be provided for tobacco cessation programs and devices for those who want to quit and for whom the cost is an issue. The Secretary of HHS would be authorized to set standards and procedures for the approval of cessation programs and devices.

8.Protection from Environmental Tobacco Smoke - Protection from environmental tobacco smoke would come from the enactment of the text of HR 3434 (originally introduced by Congressman Waxman) that restricts tobacco use in public places and most workplaces to locations that are separately ventilated to the outside and through which non smokers do not pass. Restaurants (excluding fast food restaurants) and bars would be exempted but state and local governments would be permitted to enact more restrictive requirements governing ETS. This would replace the need for OSHA to complete its rulemaking. Enforcement has not been discussed. It could be OSHA or FDA, but enforcement authority needs to be shared with State Attorneys General and local authorities.

9.General Authority of the FDA

A.Tobacco products would have the same definition as contained in the FDA Rule. Jurisdiction would also cover Roll Your Own, Little Cigars, Fine Cut, etc.

B.Tobacco would continue to be categorized as a "drug" and a "device" under the Food, Drug and Cosmetic Act. The agencys authority to regulate the products as "restricted medical devices" would be explicitly recognized and tobacco products would be classified as a subcategory of a Class II device pursuant to Sec 513 of the Act. The Food, Drug and Cosmetic Act would apply to these products as provided by the Act and the amendments to the Act contained herein.

C.The Class II Classification would permit the FDA to require product modification of tobacco products, including the regulation of nicotine content, and would provide that the sale of tobacco products to adults in the form that conforms to Performance Standards established for tobacco products pursuant to Sec 514 shall be permitted notwithstanding Secs. 516, 502j and 518e. Until the establishment of the Performance Standards under Sec 514, the FDA would not prohibit the sale and manufacture of traditional tobacco products now on the market to adults solely because they are inherently dangerous or because they have not previously been approved as new drugs.

D.FDA would exercise its normal authority to inspect, enter manufacturing plants, demand certain records and record keeping, and would have its normal enforcement authority. Industry information would be given the same proprietary protection as information from other industries.

E.The tobacco industry would be required to provide FDA with all research it conducts and all non-public information it receives that relates to health, toxicity, addiction, drug dependence, etcetera, and the FDA would have the power to subpoena such information.

F.FDA would have the authority to require a new system for testing and disclosure of nicotine, tar, and other product and smoke constituents that FDA determines the public should know to protect the public health. This authority would be transferred from the FTC and would include the authority to require additional package and advertising disclosures established after an APA rule making. The FDA would have the authority to require tar and nicotine disclosures on both the package and ads. The FDAs other disclosure authorities would not be circumscribed.

G.With regard to non tobacco ingredients:

*No such ingredient would be permitted unless the industry demonstrates that it is not hazardous under the proposed conditions of use as it would be used in the tobacco product. The burden would be on the industry to provide FDA with such data pursuant to a rule promulgated by the agency. As the agency does for other products, it would set up a standard of the type of testing of each ingredient based upon the "best available evidence" and information provided. Once the industry provides such information and data, the FDA would be required to review it and make a determination in a time certain as to whether it meets the agencys safety standards. The safety standard would apply to new ingredients immediately, but there would be a five year grace period for ingredients already in tobacco products on the date of enactment. However, nothing would be done to undermine the Massachusetts disclosure law and its requirements in the interim period.

*The industry would be required to provide FDA with a list of ingredients (including those in paper and filter as well as other product components) by brand and by quantity in each brand, subject to the same confidentiality protections given to other industries for similar information.

*FDA would be permiteed to requre the public disclosure of ingredients information as it does for foods in a manner that does not disclose trade secrets, (i.e., a flavoring that had been tested and approved as safe for use in a burning tobacco product could be identified in the same manner as flavorings are disclosed in foods.) This is the same standard for public disclosure provided in the Massachusetts disclosure law. During the five year grace period, the industry would not be required to publicly disclose confidential, proprietary information concerning these flavorings and spices.

H.FDA would have its typical authorty over the manufacturing of the product, including the establishment of Good Manufacturing Practice Standards, product quality criteria, pesticide residue standards, etc. Tobacco farmers would face no greater regulatory burden than the producers of other raw products regulated by the federal government.

I.Products sold that an objective, resonable consumer would believe pose less of a health risk:

*tobacco product manufacturers would be barred from making claims that could reasonably be interpreted to state or imply a reduced health risk unless the manufacturer had demonstrated to FDA that the product scientifically did in fact "significantly reduce the risk to health" from ordinary tobacco products1 An exemption will be grandfathered in for products who, for example, currently have the word "light" or other similar words in their

established product name. These brands will be able to continue to use that name, however, provided that all advertisements for the product state that the name does not imply that the product is safer than other tobacco products on the market.1 and in that case,

*FDA would have to approve all claims (direct or implied), as well as the content and placement of any such advertisements, to prevent the public from being mislead and to prevent the contraction of, the marketplace.

*For less hazardous products, FDA would be authorized to permit scientifically based specific health claims and to permit exceptions to the advertising restrictions that apply to other products if FDA determines that such advertising would reduce harm and promote the public health. The FDA would promulgate a rule to govern how these determinations would be made.

*The industry would be required to notify FDA of any technology that reduces the risk from tobacco products and, for a commercially resonable fee, to cross license all such technology, but only to those companies also covered by the same obligations. Procedural protections would be built in to resolve license fee disputes, if the private parties cant agree among themselves first. If the technology reported to the FDA is in the early develoment stages, the manufacturer would be provided confidentiality protection during the development process.

J.To further the public health, to promote the production of "reduced risk" tobacco products, and to minimize the harm to the public by insuring that the best available, feasible safety technology becomes the industry standard, the FDA would have the authority to promulgate Performance Standards to govern product modification pursuant to Sec 514 of the Act:

*For a period of no less than ten years following the effective date of the Act, the Product Performance Standard would be governed by the following principles: The agency would be permitted to adopt performance standards that require the modification of existing tobacco products, including the gradual reduction, but not the elimination of other constituents or other harmful components of the product, based upon the demonstration that the modification: a) would result in a significant reduction of the health risks associated with such products to the consumer, b) is technologically feasible, and c) given the number of dependent tobacco product users and the lack of alternatives that are available that are currently acceptable to the mass market of tobacco users, the products as modified meets with sufficient consumer acceptance so that it would not result in the creation of a significant market in contraband products that do not meet the safety standard. In determining the risk of the creation of a market in contraband products, the FDA could take into account the availability of alternative products then on the market.

The authority to require such product modification could be exercised upon a showing of "substantial evidence", based upon the administrative record developed through a formal rule making subject to the Administrative Procedures Act, with the right of judicial review, and any such modification shall be subject to the current procedures of the Regulatory Reform Act of 1996 to provide time and a process for Congress to intervene should it so choose.

*Separate from the requirements of the Sec 514 Performance Standard noted above, the agency would also have the authority to promulgate ceilings on tar and nicotine yields in tobacco products that gradually reduce but do not eliminate the presence of these constituents over

the 10 year time period pursuant to agreed upon levels, unless the agency finds that the reduction would not reduce mortality and morbidity.

*The agency would also have the authority to mandate the introduction of "less hazardous tobacco products" that are technologically feasible, after a formal rule making subject to the Administrative Procedures Act with the right of judicial review. The goal of any rule mandating the introduction into the marketplace of "less hazardous tobacco products" for which the technology exists is to guarantee that a mechanism exists to insure that products which appear to hold out the hope of reducing risk are actually tested and made available in the marketplace and not held back.

*After the initial ten year period, the agency would be permitted to set product safety standards that go beyond the standards it is authorized to set pursuant to the above noted principles and procedures and, if it does so, it shall be guided by the following expanded principles: The agency would be permitted to require the alteration of tobacco products then being marketed, including the elimination of nicotine and any other demonstrated harmful component of the product, provided: a) the safety standard would result in a significant overall reduction of the health risks to the nation associated with tobacco products, b) the modification is technologically feasible, and c) given the number of dependent tobacco users then in existence and the availability and demonstrated market acceptance of alternated products then on the market, the modification would not result in the creation of a significant market in contraband products that do not meet the safety standard. In determining the overall health benefit of a change, the agency may take into consideration factors, such as the effectiveness of smoking cessation techniques and devices then on the market.

Given the significance of such an action, the agency would be permitted to require the elimination of nicotine or take such other action that would have an effect comparable to the elimination of nicotine based upon "substantial evidence" pursuant to a Part 12 hearing, or notice and comment rule making with a right to judicial review. Any such action shall be phased in, and no such phase shall begin in less than two years, to permit time for a meaningful Congressional review pursuant to the current procedures of the Regulatory Reform Act of 1996.

K.Enforcement - FDA would have its normal enforcement authority. Such authority would be supplemented by concurrent, parallel enforcement by state attorneys general and enforcement authorities related to the licensing system noted above. In addition, competitors within the industry would be able to bring actions against others in the industry who they believe had violated their obligations under the Act or other relevant laws.

cc:Elena Kagan

9.Public Disclosure/Public Position on Tobacco and Health Issues/Corporate Behavior - There has been agreement to disclose all internal health research related documents. There has been discussion about disclosing internal memoranda which contain any reference to health, toxicity, addiction, drug dependence, and marketing to kids but no final resolution. The unresolved portion of this issue needs to be completed.

Public Position on Health Issues: The industry has said it does not intend to make a public admission as Liggett did in its settlement, but has also said that it will no longer challenge the scientific conclusions about the causal link between tobacco use and disease and nicotine and addiction. The enforcement mechanism and form of this new posture is still unclear and needs to be worked out. At a minimum, no tobacco company person speaking on behalf of, with the authorization of, or using funds from a tobacco company should publicly challenge or seek to call into doubt the scientific conclusions reflected in the Reports of the Surgeon General issued prior to the date of enactment. Protection from liability for "commonly know" hazards of tobacco use could be conditioned on the tobacco companies not challenging the scientific merit of these so-called "commonly known" hazards.

Corporate behavior: These has been talk about requiring the adoption of a corporate code of behavior with outside monitors, reports on steps the company is taking to comply with the FDA rules, financial incentives and disincentives for employees who comply or are found to encourage noncompliance. These would be modeled after agreements entered into the environmental areas with corporations charged with violations of the environmental laws. This needs to be worked out.

11TO:Kevin Thurm
Deputy Secretary

FROM:Bruce R. Lindsey
Assistant to the President
And Deputy Counsel

RE:Summary of Discussions on FDA-related Issues

DATE:June 4, 1997

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B.The placement of tobacco products behind the counter and out of reach of consumers;
C.The restriction of mail order sales, subject to conditions that demonstrate that an effective mechanism to restrict sales to adults. FDA would have the authority to review and revise the rules concerning mail order sales within two years, if it determines that these sales are resulting in significant sales to or access to minors;
D.While these provisions would be enacted into legislation, FDA would be given the administrative authority to augment and modify these rules after a set period of time, not to exceed 7 years, to further reduce tobacco use among minors;
E.States and local governments would have the authority to enact stronger laws.
F.A nationwide licensing system for all sellers of tobacco products with a system of graduated penalties and license suspensions for violations of the youth access and marketing provisions would be established. The licensing system would apply to all sellers of nicotine containing tobacco products, including manufacturers, distributors, wholesalers, retailers, importers;
G.FDA would have the primary authority over the enactment of regulations concerning these provisions and full enforcement authority over them. However, there would be dual enforcement authority with both the FDA and state attorneys general each, being able to enforce these provisions and, in addition, the FDA would have the power to contract with other state and local authorities to assist it min enforcing the rules;
H.Enforcement would include unannounced, random stings;
I.The tobacco industry would pay the cost of enforcement for both FDA and the state authorities with enforcement power.

2.Marketing and Advertising - The industry would agree to the full substance of the August 28 FDA advertising and marketing provisions. In addition, the industry would agree to the following:

A.The eliminations of all billboards and outdoor signs, including all signs in stadiums and arenas and signs in enclosed areas, such as stores that face outwards;

B.The elimination of all human images and cartoon characters from all advertising and from all cigarette packages;
C.Additional restrictions on point of purchase advertising regarding the placement of point of purchase ads to limit their size and number, remove them from the line of sight of children and remove them from the close proximity to candy and other goods likely to attract children. The exact details of these restrictions have yet to be resolved. There has also been discussion of restricting point of sale advertising in stores within 1000 feet of schools and playgrounds to price lists;
D.The elimination of internet advertising and the agreement on the use of whatever technology is available to make tobacco advertisements that are placed on the internet from foreign countries inaccessible in the US;
E.The prohibition on product placement in movies and on TV, the prohibition on any payments or fees to celebrities to smoke in movies or on TV or to any other person or entity to glamorize tobacco use in movies or on TV, and the prohibition of any "in-kind" actions to accomplish any of these same purposes;
F.While these provisions will be enacted into legislation, FDA would be given the administrative authority to augment and modify these rules after a set period of time, not to exceed 7 years, to further reduce tobacco use among minors;
G.An agreement to consent to the placement of all of the advertising restrictions contained in the August 28 FDA Rule plus the above noted restrictions in private binding agreements and/or in consent decrees to insulate the restrictions from the First Amendent challenges by parties outside the tobacco industry;
H.FDA would have the primary authority over the enactment of regulations concerning these provisions and full enforcement authority over them. However, there would be dual enforcement authority with both the FDA and state attorneys general, each being able to enforce these provisions and, in addition, the FDA would have the power to contact with other state and local authorities to assist it to enforce the rules;
I.The tobacco industry would pay the cost of enforcement for both FDA and the state authorities with enforcement power;
J.The portion of these advertising and marketing restrictions that relate to purely local advertising would not preempt stronger state and local laws.

3.Public Education Counter Advertising - Funds would be provided for a major nationwide public education/counter advertising program similar to those found in Massachusetts and California. The program would operate independent of the tobacco industry which would have no say over the content or placement of the advertisements. Funding for the program would be guaranteed, and to the extent possible, the program would be insulated from political pressure. The program could be administered by FDA, the CDC, or an independent entity.

4.Health Warnings - While FDA does have authority to require tobacco companies to provide health information to consumers in a variety of ways, FDA does not have authority over the current warnings on the package. The industry would agree to a revision of the warning label system, replacing the current warnings with the more specific, more detailed Canadian warnings including a warning on addictions. The warnings would be moved to the front of the cigarette package (and the most prominent side of the smokeless tobacco product package). The warnings would appear in the Canadian format (the top of the front with white lettering on a black background) and occupy at least 25% of the top of the front of the package.

5.Performance Standards - The concept of performance standards are implied in the FDA Rule, but only with regard to the modification or the supplementation of the youth access and marketing restrictions. Discussion with the industry have also focused on performance

standards tied to economic sanctions if youth smoking rate reduction targets are not met. The industry would be subject to penalties if youth tobacco use failed to drop by 30% in 5 years, 50% in 7 years and 60% in ten years. The penalty would be based on the value of a teenaged tobacco user to the industry over the lifetime of the teenager. It would be worth approximately $80 million per percentage point by which the target was not met.

6.Funding for State and Local Tobacco Control Activity - State and local tobacco control activity modeled after the successful ASSIST program would be funded out of tobacco industry funds. While the exact amount had not been agreed to, we expect the ASSIST program would be funded in every state from these funds.

7.Tobacco Cessation - Out of the funds to be provided by the industry, funding would be provided for tobacco cessation programs and devices for those who want to quit and for whom the cost is an issue. The Secretary of HHS would be authorized to set standards and procedures for the approval of cessation programs and devices.

8.Protection from Environmental Tobacco Smoke - Protection from environmental tobacco smoke would come from the enactment of the text of HR 3434 (originally introduced by Congressman Waxman) that restricts tobacco use in public places and most workplaces to locations that are separately ventilated to the outside and through which non smokers do not pass. Restaurants (excluding fast food restaurants) and bars would be exempted but state and local governments would be permitted to enact more restrictive requirements governing ETS. This would replace the need for OSHA to complete its rulemaking. Enforcement has not been discussed. It could be OSHA or FDA, but enforcement authority needs to be shared with State Attorneys General and local authorities.

9.General Authority of the FDA

A.Tobacco products would have the same definition as contained in the FDA Rule. Jurisdiction would also cover Roll Your Own, Little Cigars, Fine Cut, etc.

B.Tobacco would continue to be categorized as a "drug" and a "device" under the Food, Drug and Cosmetic Act. The agencys authority to regulate the products as "restricted medical devices" would be explicitly recognized and tobacco products would be classified as a subcategory of a Class II device pursuant to Sec 513 of the Act. The Food, Drug and Cosmetic Act would apply to these products as provided by the Act and the amendments to the Act contained herein.

C.The Class II Classification would permit the FDA to require product modification of tobacco products, including the regulation of nicotine content, and would provide that the sale of tobacco products to adults in the form that conforms to Performance Standards established for tobacco products pursuant to Sec 514 shall be permitted notwithstanding Secs. 516, 502j and 518e. Until the establishment of the Performance Standards under Sec 514, the FDA would not prohibit the sale and manufacture of traditional tobacco products now on the market to adults solely because they are inherently dangerous or because they have not previously been approved as new drugs.

D.FDA would exercise its normal authority to inspect, enter manufacturing plants, demand certain records and record keeping, and would have its normal enforcement authority. Industry information would be given the same proprietary protection as information from other industries.

E.The tobacco industry would be required to provide FDA with all research it conducts and all non-public information it receives that relates to health, toxicity, addiction, drug dependence, etcetera, and the FDA would have the power to subpoena such information.

F.FDA would have the authority to require a new system for testing and disclosure of nicotine, tar, and other product and smoke constituents that FDA determines the public should know to protect the public health. This authority would be transferred from the FTC and would include the authority to require additional package and advertising disclosures established after an APA rule making. The FDA would have the authority to require tar and nicotine disclosures on both the package and ads. The FDAs other disclosure authorities would not be circumscribed.

G.With regard to non tobacco ingredients:

*No such ingredient would be permitted unless the industry demonstrates that it is not hazardous under the proposed conditions of use as it would be used in the tobacco product. The burden would be on the industry to provide FDA with such data pursuant to a rule promulgated by the agency. As the agency does for other products, it would set up a standard of the type of testing of each ingredient based upon the "best available evidence" and information provided. Once the industry provides such information and data, the FDA would be required to review it and make a determination in a time certain as to whether it meets the agencys safety standards. The safety standard would apply to new ingredients immediately, but there would be a five year grace period for ingredients already in tobacco products on the date of enactment. However, nothing would be done to undermine the Massachusetts disclosure law and its requirements in the interim period.

*The industry would be required to provide FDA with a list of ingredients (including those in paper and filter as well as other product components) by brand and by quantity in each brand, subject to the same confidentiality protections given to other industries for similar information.

*FDA would be permiteed to requre the public disclosure of ingredients information as it does for foods in a manner that does not disclose trade secrets, (i.e., a flavoring that had been tested and approved as safe for use in a burning tobacco product could be identified in the same manner as flavorings are disclosed in foods.) This is the same standard for public disclosure provided in the Massachusetts disclosure law. During the five year grace period, the industry would not be required to publicly disclose confidential, proprietary information concerning these flavorings and spices.

H.FDA would have its typical authorty over the manufacturing of the product, including the establishment of Good Manufacturing Practice Standards, product quality criteria, pesticide residue standards, etc. Tobacco farmers would face no greater regulatory burden than the producers of other raw products regulated by the federal government.

I.Products sold that an objective, resonable consumer would believe pose less of a health risk:

*tobacco product manufacturers would be barred from making claims that could reasonably be interpreted to state or imply a reduced health risk unless the manufacturer had demonstrated to FDA that the product scientifically did in fact "significantly reduce the risk to health" from ordinary tobacco products1 An exemption will be grandfathered in for products who, for example, currently have the word "light" or other similar words in their

established product name. These brands will be able to continue to use that name, however, provided that all advertisements for the product state that the name does not imply that the product is safer than other tobacco products on the market.1 and in that case,

*FDA would have to approve all claims (direct or implied), as well as the content and placement of any such advertisements, to prevent the public from being mislead and to prevent the contraction of, the marketplace.

*For less hazardous products, FDA would be authorized to permit scientifically based specific health claims and to permit exceptions to the advertising restrictions that apply to other products if FDA determines that such advertising would reduce harm and promote the public health. The FDA would promulgate a rule to govern how these determinations would be made.

*The industry would be required to notify FDA of any technology that reduces the risk from tobacco products and, for a commercially resonable fee, to cross license all such technology, but only to those companies also covered by the same obligations. Procedural protections would be built in to resolve license fee disputes, if the private parties cant agree among themselves first. If the technology reported to the FDA is in the early develoment stages, the manufacturer would be provided confidentiality protection during the development process.

J.To further the public health, to promote the production of "reduced risk" tobacco products, and to minimize the harm to the public by insuring that the best available, feasible safety technology becomes the industry standard, the FDA would have the authority to promulgate Performance Standards to govern product modification pursuant to Sec 514 of the Act:

*For a period of no less than ten years following the effective date of the Act, the Product Performance Standard would be governed by the following principles: The agency would be permitted to adopt performance standards that require the modification of existing tobacco products, including the gradual reduction, but not the elimination of other constituents or other harmful components of the product, based upon the demonstration that the modification: a) would result in a significant reduction of the health risks associated with such products to the consumer, b) is technologically feasible, and c) given the number of dependent tobacco product users and the lack of alternatives that are available that are currently acceptable to the mass market of tobacco users, the products as modified meets with sufficient consumer acceptance so that it would not result in the creation of a significant market in contraband products that do not meet the safety standard. In determining the risk of the creation of a market in contraband products, the FDA could take into account the availability of alternative products then on the market.

The authority to require such product modification could be exercised upon a showing of "substantial evidence", based upon the administrative record developed through a formal rule making subject to the Administrative Procedures Act, with the right of judicial review, and any such modification shall be subject to the current procedures of the Regulatory Reform Act of 1996 to provide time and a process for Congress to intervene should it so choose.

*Separate from the requirements of the Sec 514 Performance Standard noted above, the agency would also have the authority to promulgate ceilings on tar and nicotine yields in tobacco products that gradually reduce but do not eliminate the presence of these constituents over

the 10 year time period pursuant to agreed upon levels, unless the agency finds that the reduction would not reduce mortality and morbidity.

*The agency would also have the authority to mandate the introduction of "less hazardous tobacco products" that are technologically feasible, after a formal rule making subject to the Administrative Procedures Act with the right of judicial review. The goal of any rule mandating the introduction into the marketplace of "less hazardous tobacco products" for which the technology exists is to guarantee that a mechanism exists to insure that products which appear to hold out the hope of reducing risk are actually tested and made available in the marketplace and not held back.

*After the initial ten year period, the agency would be permitted to set product safety standards that go beyond the standards it is authorized to set pursuant to the above noted principles and procedures and, if it does so, it shall be guided by the following expanded principles: The agency would be permitted to require the alteration of tobacco products then being marketed, including the elimination of nicotine and any other demonstrated harmful component of the product, provided: a) the safety standard would result in a significant overall reduction of the health risks to the nation associated with tobacco products, b) the modification is technologically feasible, and c) given the number of dependent tobacco users then in existence and the availability and demonstrated market acceptance of alternated products then on the market, the modification would not result in the creation of a significant market in contraband products that do not meet the safety standard. In determining the overall health benefit of a change, the agency may take into consideration factors, such as the effectiveness of smoking cessation techniques and devices then on the market.

Given the significance of such an action, the agency would be permitted to require the elimination of nicotine or take such other action that would have an effect comparable to the elimination of nicotine based upon "substantial evidence" pursuant to a Part 12 hearing, or notice and comment rule making with a right to judicial review. Any such action shall be phased in, and no such phase shall begin in less than two years, to permit time for a meaningful Congressional review pursuant to the current procedures of the Regulatory Reform Act of 1996.

K.Enforcement - FDA would have its normal enforcement authority. Such authority would be supplemented by concurrent, parallel enforcement by state attorneys general and enforcement authorities related to the licensing system noted above. In addition, competitors within the industry would be able to bring actions against others in the industry who they believe had violated their obligations under the Act or other relevant laws.

L.Public Health Funds - An annual grant to the

cc:Elena Kagan

9.Public Disclosure/Public Position on Tobacco and Health Issues/Corporate Behavior - There has been agreement to disclose all internal health research related documents. There has been discussion about disclosing internal memoranda which contain any reference to health, toxicity, addiction, drug dependence, and marketing to kids but no final resolution. The unresolved portion of this issue needs to be completed.

Public Position on Health Issues: The industry has said it does not intend to make a public admission as Liggett did in its settlement, but has also said that it will no longer challenge the scientific conclusions about the causal link between tobacco use and disease and nicotine and addiction. The enforcement mechanism and form of this new posture is still unclear and needs to be worked out. At a minimum, no tobacco company person speaking on behalf of, with the authorization of, or using funds from a tobacco company should publicly challenge or seek to call into doubt the scientific conclusions reflected in the Reports of the Surgeon General issued prior to the date of enactment. Protection from liability for "commonly know" hazards of tobacco use could be conditioned on the tobacco companies not challenging the scientific merit of these so-called "commonly known" hazards.

Corporate behavior: These has been talk about requiring the adoption of a corporate code of behavior with outside monitors, reports on steps the company is taking to comply with the FDA rules, financial incentives and disincentives for employees who comply or are found to encourage noncompliance. These would be modeled after agreements entered into the environmental areas with corporations charged with violations of the environmental laws. This needs to be worked out.

To:Distribution (attached)
From:Lyn Hogan
Date:Jan. 7, 1997
Re:International Family Planning
Report Distribution

I have scheduled a meeting for Monday, Jan. 13 from 2:00 p.m.-3:15 p.m. in room 211 OEOB to discuss the international family planning report due from the President to Congress Feb. 1, 1997.

We will review the final draft of the report and discuss strategy for the draft report distribution.

A copy of the final draft report from AID and State will be distributed for your review prior to the meeting. Please bring your comments and questions to the meeting.

Please call Dorothy Craft at 456-5571 with your date of birth so we can waive you in.

Thank you.

FF

Distribution:

Gordon Adams, White House, OMB
Rodney Bent, White House, OMB
Jill Buckley, USAID

To:Distribution (attached)
From:Lyn Hogan
Date:Jan. 6, 1997
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1997.

We will review the final draft of the report and discuss strategy for the draft report distribution.

A copy of the final draft report from AID and State will be distributed for your review prior to the meeting. Please bring your comments and questions to the meeting.

Please RSVP to me. I can be reached at 456-5567 or through e-mail.

Thank you.

FF

Distribution:

Gordon Adams, White House, OMB
Rodney Bent, White House, OMB
Jill Buckley, USAID
Mike Casella, White House, OMB
Bill Danvers, White House, NSC
Meg Donovan, State
Phil DuSault, White House, OMB
Debbie Fine, White House, DPC
Martha Foley, White House COF
Duff Gillespie, USAID
David Harwood, State
Robyn Leeds, Women's Office
Liz Maquire, USAID
Nancy-Ann Min, White House, OMB
Betsy Myers, White House, Women's Office
Janet Piller, White House, OMB
Margaret Pollack, State
Nicole Rabner, Office of the First Lady
Dottie Rayburn, USAID
Lisa Ross, White House, Women's Office
David Sandalow, White House, CEQ
Tom Vellenga, White House, COF

cc:Bruce Reed, White House, DPC
Elena Kagan, White House, DPC
Mike Casella, White House, OMB
Bill Danvers, White House, NSC
Meg Donovan, State
Phil DuSault, White House, OMB
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Tom Vellenga, White House, COF

cc:Bruce Reed, White House, DPC
Elena Kagan, White House, DPC

*

March 3, 1998

FOOD SAFETY EVENT

DATE:March 4, 1998
LOCATION:Roosevelt Room
BRIEFING TIME:1:30 pm - 1:20 pm
EVENT TIME:1:45 pm - 2:45 pm
FROM:Bruce Reed

I.PURPOSE

To highlight the introduction of legislation in the Senate that you proposed to ensure the safety of imported fruits and vegetables, and to receive a progress report from USDA and HHS on the development of guidance on good agricultural and manufacturing practices.

II.BACKGROUND

You will be speaking to an audience of approximately 40 consumer advocates, food industry representatives, families, and Members of Congress.

You will be making the following announcements:

Challenge to Congress to Enhance FDA Oversight for Imported Foods. You will challenge Congress to pass the food safety legislation to be introduced by Senators Mikulski and Kennedy to require the FDA to halt imports of fruits, vegetables, and other food products from any foreign country with food safety systems and standards that are not equivalent to those of the United States. The legislation also will require the FDA to halt imports from countries or facilities that do not allow FDA inspections to occur. This legislation, which you proposed last fall, was previously introduced in the U.S. House of Representatives by Reps. Eshoo and Pallone. You have committed to providing approximately $27 million in your Fiscal Year 1999 budget to enable the FDA to dramatically expand its international food inspection force.

Agency Report on Guidance on Good Agricultural and Manufacturing Practices. You will announce that you have received a report from Secretaries Shalala and Glickman on the progress they have made in providing guidance on good agricultural and manufacturing practices to domestic and international growers, harvesters, handlers, and transporters of fresh fruits and vegetables as requested in a Presidential Directive on October 2, 1997. This report outlines the progress made -- and the steps still to be taken -- to develop the voluntary guidance by October 1998. The guidance -- the first-ever specific safety standards for fruits and vegetables -- will address potential food safety problems throughout the production and distribution system and help ensure the sanitation and safety practices of all those seeking to sell produce in the U.S. market. The report also provides both short- and long-term plans for technical assistance, education, and outreach activities to support the implementation of the guidance.

III.PARTICIPANTS

Briefing Participants:
The Vice President
Secretary Shalala
Secretary Glickman
Bruce Reed or Elena Kagan

Event Participants:
The Vice President
Senator Barbara Mikulski
Gloria Doyle, Chevy Chase, MD, who became ill after eating imported raspberries.

Standing on stage, but not speaking:
Secretary Shalala
Secretary Glickman
Lead Deputy FDA Commissioner Michael Friedman
Congresswoman Eshoo and other Members of Congress

IV.PRESS PLAN

Open Press.

V.SEQUENCE OF EVENTS

- The Vice President will make welcoming remarks and introduce Senator Mikulski.
- Senator Mikulski will make remarks and introduce Gloria Doyle.
- Gloria Doyle will make remarks and introduce YOU.
- YOU will make remarks and then depart.

VI.REMARKS

Remarks Provided by Speechwriting.

*

March 3, 1998

FOOD SAFETY EVENT

DATE:March 4, 1998
LOCATION:Roosevelt Room
BRIEFING TIME:1:30 pm - 1:20 pm
EVENT TIME:1:45 pm - 2:45 pm
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- Gloria Doyle will make remarks and introduce the President.
- The President will make remarks and then depart.

VI. REMARKS

Remarks Provided by Speechwriting.

Z

MEMORANDUM

TO:BRUCE REED, ELENA KAGAN

FROM:TOM FREEDMAN, MARY L. SMITH

RE:BACKGROUND FOR MEETING WITH NEAL LANE ON FOOD SAFETY COUNCIL

DATE:SEPTEMBER 24, 1998

This memorandum provides points for discussion for your meeting with Neal Lane on the goals, both short-term and long-term, for the Presidents Council on Food Safety. We have discussed this with Cliff Gabriel, Neal Lanes deputy. In addition, the following attachments are included: (1) draft charter for Presidents Council on Food Safety; (2) draft agenda for public meeting for the strategic planning process on October 2; (3) draft remarks of Neal Lane to open October 2 public meeting; (4) draft report on the Joint Institute on Food Safety Research; (5) a USA Today article dated September 16 which describes PulseNet, a database that permits states to compare quickly the genetic fingerprints of bacteria responsible for outbreaks; and (6) the executive order establishing Presidents Council on Food Safety.

I.FOCUS OF THE COUNCIL

A.What should the Council accomplish?

*The Council should establish a seamless, science-based food safety system. In doing this, the Council should have an overarching framework that incorporates the following principles:
*the improvement of food safety
*efficiency
*cooperation and coordination with states and localities as well as within the federal government. We already are cooperating with states through the states through the PulseNet system, which tracks the genetic fingerprints of bacteria in outbreaks (see attached article).
*prevention
*measurable outcome goals

*Concurrently with developing the overarching framework in order to develop a seamless food safety system, the Council should tackle specific issues including prevention, inspections, streamlining within the federal government, and coordinating with states. For instance, there has been some discussion about consolidating responsibility for eggs in one federal food safety agency. Currently, USDA and FDA both have responsibility for different aspects of eggs.

B.Scope of Council (issues we need to focus on and have answers for October 2 meeting)
1.Does the Council deal with more than microbial --yes
2.Does it include pesticides -- need to discuss
3.What is going on with research -- Neal will give update in his opening remarks.

II.Short-Term Goals

A.Respond to the NAS study-- within 180 days from August 25 --so it will be February 21

B.FY2000 budget -- unified budget for the food safety initiative for the FY2000 budget, we will do the "coordinated budgets" for the entire food safety activities starting in FY2001

C.Joint Institute for Food Safety Research -- has to report back by October 3 (the day after the October 2 meeting) (see attachment)

III.Long-Term Goals

A.Strategic plan to be prepared by the Council (see attached charter for process)

IV.Miscellaneous Issues

A.Procedures of the Council -- How often will the Council meet, etc. See attached draft charter.

B.How the Council will obtain public input. There will be three additional public meeting to obtain input for the strategic planning process
*October 20, 1998 in Sacramento, California
*November 10, 1998 in Schaumburg, Illinois
*December 8, 1998 in Dallas, Texas

FFACTIVITIES OF THE COUNCIL (with reference to executive order)

A.Comprehensive strategic plan. This plan is referenced in two sections of the executive order.

1.Section 2 states: "The purpose of the Council shall be to develop a comprehensive strategic plan for Federal food safety activities, taking into consideration the findings and recommendations of the National Academy of Sciences report "Ensuring Safe Food from Production to Consumption" and other input from the public on how to improve the effectiveness of the current food safety system. The Council shall make recommendations to the President on how to advance Federal efforts to implement a comprehensive science-based strategy to improve the safety of the food supply and to enhance coordination among Federal agencies, State, local, and tribal governments, and the private sector. The Council shall advise Federal agencies in setting priority areas for investment in food safety."

2.Section 3(a) states in pertinent part: "The Council shall develop a comprehensive strategic Federal food safety plan that contains specific recommendations on needed changes, including measurable outcome goals. The principal goal of the plan should be the establishment of a seamless, science-based food safety system. The plan should address the steps necessary to achieve this goal, including the key public health, resource, and management issues regarding food safety. The planning process should consider both short-term and long-term issues including new and emerging threats and the special needs of vulnerable populations such as children and the elderly."

B.Budget Activities. The Council will help coordinate the budget for food safety activities in two respects: (1) coordinated food safety budgets; and (2) a unified budget for the Presidents Food Safety Initiative.

1.Section 3(b) states in pertinent part: "[T]he Council shall advise agencies of priority areas for investment in food safety and ensure that Federal agencies annually develop coordinated food safety budgets for submission to the OMB that sustain and strengthen existing capacities, eliminate duplication, and ensure the most effective use of resources for improving food safety."

2.The Council is also tasked with developing a unified budget for the Presidents Food Safety Initiative, which is a subset of all the food safety activities that are performed by the agencies.

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February 11, 1999

MEMORANDUM FOR BRUCE REED
ELENA KAGAN

FROM: THOMAS FREEDMAN
MARY SMITH

SUBJECT: RESPONSE TO NAS STUDY ON SINGLE FOOD SAFETY AGENCY

On August 25, 1998, the President issued a directive to the Presidents Council on Food Safety to provide him with an assessment of the National Academy of Sciences (NAS) study. The NAS study made several recommendations including the following:

To implement a science-based system, Congress should establish, by statute, a unified and central framework for managing federal food safety programs, one that is headed by a single official and which has the responsibility and control of resources for all federal food safety activities, including outbreak management, standard-setting, inspection, monitoring, surveillance, risk assessment, enforcement, research, and education.

The NAS also recommended some possible organizational structures to create a single federal voice for food safety, which will be discussed below.

Options for Organizational Structures to Consolidate Federal Food Safety Programs

Option 1. A Food Safety Council with representatives from the agencies with a central chair appointed by the President, reporting to Congress and having control of resources. (In NAS report)

Pros:
*Already done.
*Could foster interagency cooperation, permit appropriate allocation of resources to most urgent questions, and permit increased coordination among research, education, and regulatory functions.

Cons:

*Doesnt go far enough to improve coordination and resource allocation
*If located outside a food safety agency, could result in cumbersome, multi-layered process of developing food safety policy. Could also lead to the impediment of rapid responses to emergencies, such as foodborne illness outbreaks.

Option 2. Designating one current agency as the lead agency and having the head of that agency be the responsible individual. (In NAS report)

Pros:
*Could foster interagency cooperation, permit appropriate allocation of resources to most urgent questions, and permit increased coordination among research, education, and regulatory functions.

Cons:
*Potential for competing or conflicting interests within the department (e.g., food safety could conflict with commodity promotion interests) Note: this is in the agencys response but it does not make sense because USDA already has those two functions in one department.

Option 3. A single agency reporting to one current cabinet-level secretary. (In NAS report)

Pros:
*Improved coordination and priority setting leading to the better allocation of limited resources.
*Improved long-term customer services
*Consolidation will help in the development of a comprehensive, focused Federal food safety policy for meat, poultry, fruits, vegetables, seafood, and all other foods.
*Scarce federal food safety resources could be better allocated based on the risk that different commodities pose to public health, and could more easily respond to changing consumption patterns and emerging food safety issues.
*It would eliminate many duplicative activities, such as the duplicate inspection of establishments that produce products regulated by the different agencies (e.g., FDA inspects frozen cheese pizzas while USDA inspects frozen pepperoni pizzas), and duplicative, overlapping research.
*It would improve the coordination of federal responses to foodborne illness outbreaks by eliminating gaps in regulatory coverage, avoiding conflicting actions, and ensuring a comprehensive federal response.
*It would combine the strengths of FDA and USDA (e.g., the science and risk-based approach of FDA with the funding and staff of USDA) and thus strengthen federal regulation of all foods.

Cons:
*Requires broad legislative support as well as additional funding
*Time-consuming
*Reduced customer service and public health protection in the short-term
*Could be detrimental to research and educational activities
*Could split some comprehensive programs (e.g. pesticide program at EPA considers the environmental, worker, and non-dietary aspects of pesticide use as well as public health protection from pesticides in the diet)
*many food safety issues cut across jurisdictional lines and cannot be dealt with by a single agency, ie, bovine spongiform encephalopathy (BSE) is an animal health and a human health issue
*It could be viewed as "moving the boxes around" rather than addressing substantive food safety issues. Consolidation is only the first step toward consistency in inspection requirements for different food products; other significant statutory changes would be needed in the future (e.g., the meat and poultry acts currently require "continuous inspection" which limits USDAs ability to target its inspections, while FDA conducts periodic, random inspection of all other food processing plants.)
*The likelihood that a proposed consolidation will not be implemented is high, given the

history of consolidation efforts.
*The inspection forces of FDA and USDA differ in average salary/grade, training, and education requirements. USDAs inspectors union has actively opposed previous proposals they believed would reduce the number of inspectors.

Option 4. An independent single agency at cabinet level. (In NAS report)

Pros:
*Improved coordination and priority setting leading to the better allocation of limited resources.
*A stand-alone agency would limit interest group opposition.
*The agency could promote a public health focus with the perception that it also has industry promotion responsibilities.

Cons:
*The agency would be relatively small, with a program level of $1 billion and staff of 12,980 FTEs.
*There may be higher administrative costs associated with creating a new, independent agency because it would not be able to share the resources of an existing agency.
*Requires broad legislative support as well as additional funding
*Time-consuming
*Reduced customer service and public health protection in the short-term
*Could be detrimental to research and educational activities
*Could split some comprehensive programs (e.g. pesticide program at EPA considers the environmental, worker, and non-dietary aspects of pesticide use as well as public health protection from pesticides in the diet)
*many food safety issues cut across jurisdictional lines and cannot be dealt with by a single agency, ie, bovine spongiform encephalopathy (BSE) is an animal health and a human health issue

Option 5. Consolidate one major function in one current agency -- such as inspections in FSIS

Pros:
*Easier to do than a complete structural reorganization.
*Would provide for a better allocation of resources.

Cons:
*Doesnt solve the entire problem -- still leaves fragmentation

Option 6. Joint Chiefs of Staff model.

Pros:
*Agencies retain their core mission, but have better coordination.

Cons:
*Model not exactly on point because joint chiefs of staff will not coordinate entire agency missions

Record Type:Record

To:See the distribution list at the bottom of this message
cc:
Subject:Food Safety

Q Any kind of FDA announcement today, food safety announcement?

MR. MCCURRY: There's no food safety announcement today. I think it's been reported various places that the White House is considering a new initiative to ensure the safety of fruits and vegetables consumed by the American public, especially those that come from foreign sources. The White House is considering that, and I do expect the White House will announce something soon about steps the President wants to take to direct the FDA to issue better guidance on agricultural practices and good manufacturing practices. And the President will likely have some things to say about legislation that will improve the FDA's authority to regulate imported fruits and vegetables coming from other countries in a way similar to what the USDA already does with respect to meat products -- meat and poultry products.

Q When might that be?

MR. MCCURRY: Sometime next week perhaps.

Message Sent To:
Virginia M. Terzano/OVP @ OVP
LEAVY_D @ A1 @ CD @ LNGTWY
Elena Kagan/OPD/EOP
Russell W. Horwitz/OPD/EOP
Lael Brainard/CEA/EOP
*

September 11, 1997

MEMORANDUM FOR ERSKINE BOWLES

FROM: ELENA KAGAN

SUBJECT: MEETING WITH GIL GALLEGOS

You will be meeting on Friday with Gil Gallegos, National President of the Fraternal Order of Police (FOP), and Jim Pasco, FOP Executive Director. Last month, Gil was re-elected to his second term as National President of the FOP. It was a very tight race for him, and he received a lot of criticism for his close relationship with the White House. The day after his election, Gil requested a meeting with the President to discuss the secret service collective bargaining issue because it remains one of the FOP's highest priorities. The President, the Vice President, Leon Panetta, and Jack Quinn had met with Gil and the FOP Executive Board last September about this issue and Gil feels that the President has not followed through on his commitment to get it done. Because this is still a pending issue, we felt it would be better for you to meet with Gil instead of the President.

February 20, 1996

MEMORANDUM TORICKI SEIDMAN

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Subpoenas Issued by House Committee on Government Reform & Oversight

The House Committee on Government Reform and Oversight is conducting an investigation into the Travel Office and various other matters. In connection with its inquiry, the Committee has issued subpoenas to the White House requiring the production of certain White House records. We are in the process of providing responsive White House records, from your files and those of others, to the Committee.

Last week, the Committee issued personal subpoenas to you and other current and former White House employees. These personal subpoenas call for personal as well as White House records. The Counsel's Office will handle production of your responsive White House records, i.e., records created or obtained during the course of your official duties. Accordingly, you should forward any White House records you believe may be responsive to the Counsel's Office and we will determine whether they should be produced to the Committee. You should provide any responsive personal records directly to the Committee.

Please provide any White House records that are responsive to your personal subpoena to Elena Kagan in OEOB Room 125 by Wednesday, February 22, 1996. If you have questions, please contact Jane Sherburne (6-5116).

Thank you for your cooperation.

FFFormer Employees

Dee Dee Myers
Roy Neel
Beth Nolan
Bernard Nussbaum
Ricki Seidman
Cliff Sloan
John Podesta
Jeff Eller
Clarissa Cerda

Brian Foucart
Janet Greene (represented by Steve Braga)
Dwight Holton
Matt Moore (represented by Bill Hassler, 424-6469)
Andre Oliver (606-3904)
Neil Eggleston
Mark Gearan
Bill Kennedy

DRAFT DRAFT DRAFT DRAFT

December 29, 1997

[Dr.? Prof.?] John Hope Franklin
208 Pineview Road
Durham, NC 27707

[Note: JHF sent his letter on PIR letterhead on behalf of the whole board. Should this be addressed to the PIR office?]

Dear [Dr. Franklin?]:

Thank you for your recent letter updating me on the activities of the Advisory Board and for the important recommendations you made regarding civil rights enforcement and data collection.

As you know, the Initiative on Race is extremely important to me, and I intend to make every effort to make it a success. I am very grateful for your work in helping us overcome the obstacles we continue to face and for your guidance toward creating a nation that is truly One America.

I share your sentiment that strong enforcement of our civil rights laws is an essential element of achieving our goals, and I agree that the initiatives announced at the White House Hate Crimes Conference must be fully implemented, and I expect them to be. I am sharing your recommendations with Bruce Reed and Elena Kagan, of the Domestic Policy Council, and with Frank Raines, Director of the Office of Management and Budget. I understand that they are already pursuing ways to improve and enhance our enforcement efforts.

With regard to your suggestion on collecting data on the extent of racial discrimination, I understand that Judith Winston and Christopher Edley are working closely with the Council of Economic Advisors and experts from a variety of federal agencies to determine the best and most appropriate way to publish the facts on race. I expect them to produce at least one significant report and I will include much of this information in my final report to the American people.

Again, I thank you and all of the Advisory Board members for your important work and insightful suggestions. I am optimistic that your efforts will significantly advance our goal of creating One America.

Yours truly,

Bill Clinton

MEMORANDUM FORERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Sally Katzen

SUBJECT:Heads-up on Proposed DOI Class III Gaming Procedures Rule

We are about to conclude review of a proposed DOI rule on Class III Gaming Procedures (casinos). The law provides that States must negotiate in good faith with Tribes seeking to develop casinos on Indian land. If a State refuses to negotiate in good faith, this rule allows the Secretary to authorize Tribes to open casinos, potentially over a States specific objections. The Secretary, however, would not be allowed to exercise this authority in States that have legal prohibitions against gaming in general.

Reactions to the rule will be mixed. Significant opposition is expected from States -- NGA wrote the President in November 1996 strongly opposing the rule and wrote to OMB arguing that the Secretary does not have the legal authority to issue this rule. Indian Tribes believe the rule will provide them much needed relief in cases where the State refuses to cooperate.

Please let me know if you have any questions.

FFcc:Maria Echaveste
Rahm Emanuel
Jack Gibbons
John Hilley
Micky Ibara
Ron Klain
Thurgood Marshall, Jr.
Ann Lewis
Sylvia Mathews
John Podesta
Bruce Reed
Gene Sperling
Lynn Cutler
Fred Duvall
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
T.J. Glauthier
Larry Haas

June 29, 1998

Dear Ms. Kagan:

Wanted you to have a copy of the third edition of ONDCPs grants directory, Responding to Drug Use and Violence: A Directory and Resource Guide to Public- and Private-Sector Drug Control Grants. This directory will help individuals and organizations throughout this nation as they seek the resources needed to address the problems created by drug use and drug-related violence.

This edition of the directory features information on more than 60 federal grant programs and an expanded section on private-sector resources for anti-drug programs. The Directory lists the sponsoring organization, point of contact, amount of funding available in FY 1997 and 1998 and a program description for each grant program it lists.

If you could use additional copies of this directory, please contact my office. Look forward to working with you to address the threat of illegal drugs and their consequences.

Sincerely,

Janet Crist
Chief of Staff

Ms. Elena Kagan
Deputy Assistant to the President
for Domestic Policy
The White House
West Wing, Second Floor
Washington, DC

FEBRUARY 1, 1996

MEMORANDUM FOR:ALL STAFF OF THE WHITE HOUSE, THE EXECUTIVE OFFICE OF THE PRESIDENT, THE OFFICE OF MANAGEMENT AND BUDGET, THE OFFICE OF THE VICE PRESIDENT AND THE EXECUTIVE RESIDENCE

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its investigation into the "White House Travel Office matter."11For purposes of responding to the subpoena requests, please use the definition of "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). Please review your "records,"22For purposes of responding to the subpoena requests, please use the definition of "records" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve the following White House records created on or before January 11, 1996:

1."All records related to the General Accounting Office review of the White House Travel Office."

2."All records related to the Justice Department's Office of Professional Responsibility review of the White House Travel Office."

3."Any records related to American Express obtaining the White House Travel Office business including all records related to any contact with GSA or American Express."

4."All records related to the Peat Marwick review of the White House Travel Office and any subsequent reviews such as that performed by Tichenor and Associates and any records reflecting any contacts, communications or meetings with any Peat Marwick attorneys or officials."33We are aware that at least he following KPMG Peat Marwick employees were involved in some aspect of the White House Travel Office matter: Larry Herman, Dan Russell, Leslie Casson, Carolyn Rawdon, Nicholas DiCarla, Charles Siu and John Shutkin.

5."Any records of any contacts or communications related to any IRS matter regarding UltrAir and/or any IRS matter regarding any other White House charter company, any IRS matter related to any of the fired seven travel office employees, or any other IRS matter related to the White House Travel Office and any records of contact or communi-cations with IRS Commissioner Peggy Richardson by Mack McLarty, Webb Hubbell, Bruce Lindsey, Vince Foster, Bill Kennedy, or any other member of the White House Counsel's office44For a list of employees serving in the White House Counsel's Office from January 20, 1993 to the present, see Attachment 2. from May 1, 1993 to" January 11, 1996."

6."All records related to the Treasury Inspector General's investigation of the IRS audit of UltrAir. (The investigation requested by Rep. Frank Wolf in May 1993)."

7."Any records relating to any proposal to use independent financing or unused Presidential Inaugural Committee funds to assist anyone on the White House staff, outsource White House duties or tasks, or otherwise assist White House operations. This would include records regarding any efforts, both inside and outside the White House to explore, evaluate or implement such proposal. It would also include records of any subsequent analysis of such efforts."

8."Any records relating to or mentioning the finding of the note in Mr. Foster's briefcase or any other location following his death, any Travel Office records of Mr. Foster's and any records relating to the finding or existence of or explanations of any files of Mr. Foster's relating to the White House Travel Office matter, Special Government Employees, issues of nepotism, the use of volunteers or any efforts to obtain Office of Legal Counsel opinions on any of these matters and any records of any contacts with Mr. James Hamilton, Lisa Foster, Harry Thomason, Susan Thomases, James Lyons about Vincent Foster records."

9."Any records relating to Mr. Thomason, Mr. Martens, Ms. Penny Sample, Ms. Betta Carney and Mr. Steve Davison and any other World Wide Travel employees including, but not limited to, all records indicating what these individuals did while at the White House, any documents relating to issues arising out of any actions they took while at the White House, any personnel records, requests for passes or pass forms, requests for office space and any forms related to office space, phone or other equipment, and any records relating to any actions taken by these individuals regarding the White House Travel Office. (For Ms. Sample, this request would also include all trip files for trips she had any involvement with while at the White House.)"

10."All records about problems or allegations or wrongdoing in the Travel Office from January 20, 1993 to" January 11, 1996.

11."All tapes or videotapes produced by Mr. Thomason or any associates of his for the White House, the Bill Clinton for President Committee or the Clinton/Gore '92 Committee and all billings and financial statements relating to such work."

12."All records relating to Travel Office funds and/or documents being placed in the White House military office and all records of any inquiries about related events."

13."All records of any contacts with David Watkins or Bill Kennedy from the time they ended their employment at the White House to" January 11, 1996.55Bill Kennedy's effective date of resignation was 11/21/94. David Watkins' effective date of resignation was 6/17/94.

14."All Executive Order documents located in Mr. Foster's Travel Office files and/or his briefcases."

15."All records related to Harry Thomason and/or Darnell Martens discussing pursuing contracts with GSA, all records related to ICAP (Interagency Committee on Aviation Policy), and any records of the White House Counsel's office analyzing the issues raised by Mr. Thomason and Mr. Martens actions at the White House."

16."All records related to any sexual harassment complaints about Mr. David Watkins during

the Clinton/Gore 1992 campaign or during his tenure at the White House and any records of meetings, actions, or communications regarding such complaints and all records related to the $3000 per month retainer provided to Mr. Watkins by the Clinton for President campaign."

17."All records of any contacts, communications or meetings regarding the `Watkins memo' produced to the Committee on January 3, 1996 and the chain of custody of this memo."

18."All indices or catalogues of Vincent Foster's office, tapes, computer and documents and who received each document from his office."

19."All records relating to the actions of Mr. Watkins at the White House regarding the use of White House helicopters, the names of all individuals in the two helicopters used in May 1994 for Mr. Watkins golf outing and all records relating to his departure from the White House."

20."All records relating to the matter of United States of America v. Billy Ray Dale, any investigation by the Justice Department into the White House Travel Office matter (as defined in the accompanying "Definitions and Instructions"), and all records relating to Billy Ray Dale as well as any records of talking points prepared about Mr. Dale."

21."All records related to the gathering of documents for any review or investigation related to the White House Travel Office matter (as defined in the accompanying "Definitions and Instructions"). This includes, but should not be limited to, the White House Management Review, the IRS internal review, the GAO Travel Office review, the OPR (Office of Professional Responsibility) investigation, the Public Integrity investigation, the Treasury IG investigation, the FBI internal review, Independent Counsel Robert Fiske, and Independent Counsel Kenneth Starr."

It is extremely important that staff members conduct a thorough search for responsive documents. Each Assistant to the President or Department head should ensure that his or her staff members conduct such a search.

We recognize that, in many respects, the House subpoena is identical to the December 19, 1995 document request previously sent to you by the Counsel's Office. You do not need to provide any documents which have already been produced to the Counsel's Office in response to the December 19, 1995 request, or any other prior request. But for all other responsive records that fall within the above categories, please provide such materials to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 7, 1996.

If you have any questions regarding the House subpoena request, please call Jane C. Sherburne (6-5116) or Associate Counsel Natalie Williams (6-5079).

Thank you for your cooperation.

PP

July 15, 1998

MEMORANDUM FOR PARTICIPANTS AT BUSINESS MEETING ON H-1B

FROM:CECILIA ROUSE

SUBJECT:BACKGROUND

Purpose of Meeting

A group of companies and business groups are in the process of putting together their own proposal for a compromise on legislation to increase the number of H-1B visas. Their current proposals, which they presented to Lamar Smith today, are attached. The purpose of this meeting is to discuss their compromise. The participants from the business groups are mostly at the staff level and they are all very familiar with the H-1B program and the various alternatives that have been proposed.

Participants

Administration

NEC:Gene Sperling, Sally Katzen, Ceci Rouse
DPC:Elena Kagan, Julie Fernandes
OVP:David Beier
WH COS:Maria Echaveste
WH Leg Affairs:Peter Jacoby

Business

IBM:Paul Forlenza
NAM:Sandy Boyd
Chamber
of Commerce:Randy Johnson
Intel:Jenny Eisen
ITAA:Harris Miller, Susan Marshall

DRAFT -- FEBRUARY 2, 1996

MEMORANDUM FOR:ALL PERSONS ON ATTACHED DISTRIBUTION LIST

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

As explained in our February 1, 1996 memorandum to all staff of the Executive Office of the President, the House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its Travel Office investigation. In addition to the records identified in our February 1 memorandum, the Government Reform Committee also seeks certain other records from your files. Please review your White House "records,"11For purposes of responding to the subpoena requests, please refer to the definition of "records" found in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve any

"records related to the White House Travel Office matter22For purposes of responding to the subpoena requests, please use the definition of "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). or the "White House Project"33For purposes of responding to these requests, the term "White House Project" refers to an endeavour which "involved both improving the 'staging' of Presidential events as well as finding a way to utilize excess Presidential Inaugural Commission funds for outsourcing White House assistance or providing assistance to the White House." that were created as of January 11, 1996.

Although this request is similar to the December 19, 1995 request previously sent to some of you by the Counsel's Office, please be aware that it is broader in scope and seeks records created over a longer period of time. You do not need to provide any documents which have already been produced to the Counsel's Office in response to the December 19, 1995 request. However, it is extremely important that you conduct a thorough search of your records to determine whether you possess additional responsive material. All responsive records should be provided to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 7, 1996.

If you have any questions regarding the House subpoena, please call Special Counsel Jane C. Sherburne (6-5116).FFDISTRIBUTION LIST

Office of Counsel to the President

John M. Quinn
James Castello
Bruce Lindsey
Kathleen Wallman
Donna Alberts

Jana Blair
Pamela Brewington
Gregg Burgess
Chris Cerf
Dawn Chirwa
Jonathan Denbo
Jennifer Dudley
Mark Fabiani
David Fein
David Fielder
Kathy Gavin
Kim Holliday
Ed Hughes
Elena Kagan
Erin Kelly
Marvin Krislov
John Lane
Chris Lehane
Randall Lewis
Craig Livingstone
Marna Madsen
Cliff Mauton
Cheryl D. Mills
Cathy Moscatelli
Melissa Murray
Miriam Nemetz
Stephen R. Neuwirth
Victoria L. Radd
Stacy Reynolds
Trey Schroeder
Sheri Schweitzer
Robert (Bob) Van Kirk
Odetta Walker
Renee Warren
Kathleen Whalen
Natalie Williams
Jon Yarowsky

****
Mary Beck
Lisa Caputo
David Dreyer
Anne Edwards
Rahm Emmanuel
Jeremy Gaines
Dale Helms
Jurg Hochuli
Tom Hufford
Andris Kalnins
Neel Lattimore
David Leavey
Craig Livingstone

Ira Magaziner
Capricia Marshall
Roy Neel
Bruce Overton
Frank Stidman
Marjorie Tarmey
Lorraine Voles

FF

FEBRUARY 8, 1996

MEMORANDUM FOR:ALL PERSONS ON ATTACHED DISTRIBUTION LIST

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

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Although this request is similar to the December 19, 1995 request previously sent to some of you by the Counsel's Office, please be aware that it is broader in scope and seeks records created over a longer period of time. You do not need to provide any documents which have already been produced to the Counsel's Office in response to the December 19, 1995 request. However, it is extremely important that you conduct a thorough search of your records to determine whether you possess additional responsive material. All responsive records should be provided to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 12, 1996.

If you have any questions regarding the House subpoena, please call Special Counsel Jane C. Sherburne (6-5116).FFDISTRIBUTION LIST

WHITE HOUSE COUNSELOTHER WHITE HOUSE STAFF

John M. QuinnMary Beck

James CastelloLisa Caputo
Bruce LindseyAnne Edwards
Kathleen WallmanRahm Emanuel
Donna AlbertsJeremy Gaines
Jana BlairDale Helms
Pamela BrewingtonJurg Hochuli
Gregg BurgessAndris Kalnins
Chris CerfNeel Lattimore
Dawn ChirwaCraig Livingstone
Jonathan DenboIra Magaziner
Jennifer DudleyCapricia Marshall
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Erin Kelly

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Cheryl D. Mills

Cathy Moscatelli

Melissa Murray

Miriam Nemetz

Stephen R. Neuwirth

Victoria L. Radd

Stacy Reynolds

Trey Schroeder

Sheri Schweitzer

Jane Sherburne

Robert (Bob) Van Kirk

Odetta Walker

Renee Warren

Kathleen Whalen

Natalie Williams

Jon Yarowsky

FEBRUARY 8, 1996

MEMORANDUM FOR:CATHERINE CORNELIUS

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

As explained in our February 1, 1996 Memorandum to all staff of the Executive Office of the President, the House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its Travel Office investigation. In addition to the records identified in our February 1 Memorandum, the Government Reform Committee also seeks certain other records from your files. Please review your White House "records,"11For purposes of responding to the subpoena, please refer to the definition of "White House Travel Office matter" found in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve

1."[a]ny records related to the White House Travel Office matter22For purposes of responding to the subpoena requests, please use the definition of "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). or the White House Project33For purposes of responding to these requests, the term "White House Project" refers to an endeavour which "involved both improving the 'staging' of Presidential events as well as finding a way to utilize excess Presidential Inaugural Commission funds for outsourcing White House assistance or providing assistance to the White House."" that were created as of January 11, 1996; and

2.all calendars, "phone records (including message slips, phone logs, pages or any White House record of phone calls)" for the period May 1, 1993 through July 31, 1993 "indicating any meetings, messages or discussions" with the following individuals: Bill Kennedy, Vince Foster, Mack McLarty, Ricki Seidman, John Podesta, Todd Stern, Dwight Holton, Andre Oliver, Brian Foucart, Bruce Lindsey, Jack Kelly, Matt Moore, Beth Nolan, Cliff Sloan, Bernard Nussbaum, David Watkins, Jennifer O'Connor, George Stephanopoulos, Dee Dee Myers, Clarissa Cerda, Jeff Eller, Patsy Thomasson, Mark Gearan, Leon Panetta, Harry Thomason, Maggie Williams, Susan Thomases, Darnell Martens, Webb Hubbell, Linda Bloodworth-Thomason, Larry Herman (or any other KPMG partners or employees) and James Lyons.

3."[a]ll calendars and phone records, message slips or phone logs, of the following individuals, made to or from any of the following individuals, from May 1, 1995 through November 30, 1995 regarding the White House Travel Office matter or the case of U.S. v. Billy Ray Dale:" Jane Sherburne, Jon Yarowsky, Natalie Williams, Miriam Nemetz, Abner Mikva, Capricia Marshall, Patsy Thomasson, John Podesta, Mark Gearan, Bruce Lindsey, David Watkins, Janet Greene, Betsey Wright, Webb Hubbell Bill Kennedy, Jeff Eller, Neil Eggleston, Cliff Sloan, Mike Berman, Harry Thomason, Darnell Martens, Beth Nolan, James

Hamilton, Susan Thomases, James Lyons, Roy Neel, John Gaughan, any employee of the Military office,44See Attachment 2 for a list of Military Office employees from January 20, 1993 to the present. Larry Herman, John Shutkin, any employee of KPMG Peat Marwick,55We are aware that at least the following KPMG Peat Marwick employees were involved in some aspect of the White House Travel Office matter: Larry Herman, Dan Russell, Leslie Casson, Carolyn Rawdon, Nicholas DiCarla, Charles Siu and John Shutkin. Billy Ray Dale, Barney Brasseux, John Dreylinger, Ralph Maughan, John McSweeney, Robert VanEimeren, Gary Wright, David Bowie, Pam Bombardi, Tom Carl, Stuart Goldberg, Lee Radek, Jamie Gorelick, Adam Rossman and David Sanford

Although this request is very similar to the December 19, 1995 request previously sent to you by the Counsel's Office, please be aware that it is broader in scope and seeks records created over a longer period of time. You do not need to provide any documents which have already been produced to the Counsel's Office in response to the December 19, 1995 request. However, it
is extremely important that you conduct a thorough search of your records to determine whether you possess any additional responsive material. All such records should be provided to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 12, 1996.

If you have any questions regarding the House subpoena, please call Special Counsel Jane Sherburne (6-5116).FFAttachment 1

[TO BE INSERTED]FFAttachment 2

MILITARY OFFICE OFFICE EMPLOYEES
JANUARY 20, 1993 - PRESENT

John Gaughan
Alphonso Maldon
AlanSullivan
Captain Jay Yakeley, USN
Captain Mark Rogers, USN
Colonel Hames Hawkins, USAF
Bobby Chunn
Joni Stevens
Commander Howard "Buzz" Couch, USN
Lieutenant Colonel Larry O. Spencer, USAF
Major Russell Cancilla, USA
Lieutenant Colonel John F. Schorsch, USA
Major Michael G. Mudd, USA
Commander Joseph Walsh, USN
Commander Richard Fitzpatrick, USN
Major John Wissler, USMC
Major Leo Mercado, USMC
Major Charles Raderstorf, USMC
Major Michelle Johnson, USAF
Major Darren McDew, USAF

Lieutenant Commander Wayne Justice, USCG
Lieutenant Commander Robert Walters, USCG
Lieutenant Commander June Ryan, USCG
YN1 Carol Schrader, USN
YN1 (AW) Ronald Wright, USN
Technical Sergeant Jon Sams, USAF
Staff Sergeant Keith Williams, USAF
Staff Sergeant John Otto, USAF
Technical Sergeant Jerome McNair, USAF
Sergeant First Class Edmund Carazo, USA
Sergeant Darryl Turner, USA

NLWJC – Kagan

Hard Drive – Folder 6

FEBRUARY 8, 1996

MEMORANDUM FOR:MARGARET A. WILLIAMS

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

As explained in our February 1, 1996 Memorandum to all staff of the Executive Office of the President, the House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its Travel Office investigation. In addition to the records identified in our February 1 Memorandum, the Government Reform Committee also seeks certain other records from your files. Please review your White House "records,"11For purposes of responding to the subpoena, please refer to the definition of "White House Travel Office matter" found in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve

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2.all calendars, "phone records (including message slips, phone logs, pages or any White House record of phone calls)" for the period May 1, 1993 through July 31, 1993 "indicating any meetings, messages or discussions" with the following individuals: Bill Kennedy, Vince Foster, Mack McLarty, Ricki Seidman, John Podesta, Todd Stern, Dwight Holton, Andre Oliver, Brian Foucart, Bruce Lindsey, Jack Kelly, Matt Moore, Beth Nolan, Cliff Sloan, Bernard Nussbaum, David Watkins, Catherine Cornelius, Jennifer O'Connor, George Stephanopoulos, Dee Dee Myers, Clarissa Cerda, Jeff Eller, Patsy Thomasson, Mark Gearan, Leon Panetta, Harry Thomason, Susan Thomases, Darnell Martens, Webb Hubbell, Linda Bloodworth-Thomason, Larry Herman (or any other KPMG partners or employees) and James Lyons.

3."[a]ll calendars and phone records, message slips or phone logs, of the following individuals, made to or from any of the following individuals, from May 1, 1995 through November 30, 1995 regarding the White House Travel Office matter or the case of U.S. v. Billy Ray Dale:" Jane Sherburne, Jon Yarowsky, Natalie Williams, Miriam Nemetz, Abner Mikva, Capricia Marshall, Patsy Thomasson, John Podesta, Catherine Cornelius, Mark Gearan, Bruce Lindsey, David Watkins, Janet Greene, Betsey Wright, Webb Hubbell Bill Kennedy, Jeff Eller, Neil Eggleston, Cliff Sloan, Mike Berman, Harry Thomason, Darnell Martens, Beth

Nolan, James Hamilton, Susan Thomases, James Lyons, Roy Neel, John Gaughan, any employee of the Military office,44See Attachment 2 for a list of Military Office employees from January 20, 1993 to the present. Larry Herman, John Shutkin, any employee of KPMG Peat Marwick,55We are aware that at least the following KPMG Peat Marwick employees were involved in some aspect of the White House Travel Office matter: Larry Herman, Dan Russell, Leslie Casson, Carolyn Rawdon, Nicholas DiCarla, Charles Siu and John Shutkin. Billy Ray Dale, Barney Brasseux, John Dreylinger, Ralph Maughan, John McSweeney, Robert VanEimeren, Gary Wright, David Bowie, Pam Bombardi, Tom Carl, Stuart Goldberg, Lee Radek, Jamie Gorelick, Adam Rossman and David Sanford.

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is extremely important that you conduct a thorough search of your records to determine whether you possess any additional responsive material. All such records should be provided to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 12, 1996.

If you have any questions regarding the House subpoena, please call Special Counsel Jane Sherburne (6-5116).FFAttachment 1

[TO BE INSERTED]FFAttachment 2

MILITARY OFFICE OFFICE EMPLOYEES
JANUARY 20, 1993 - PRESENT

John Gaughan
Alphonso Maldon
AlanSullivan
Captain Jay Yakeley, USN
Captain Mark Rogers, USN
Colonel Hames Hawkins, USAF
Bobby Chunn
Joni Stevens
Commander Howard "Buzz" Couch, USN
Lieutenant Colonel Larry O. Spencer, USAF
Major Russell Cancilla, USA
Lieutenant Colonel John F. Schorsch, USA
Major Michael G. Mudd, USA
Commander Joseph Walsh, USN
Commander Richard Fitzpatrick, USN
Major John Wissler, USMC
Major Leo Mercado, USMC
Major Charles Raderstorf, USMC
Major Michelle Johnson, USAF
Major Darren McDew, USAF

Lieutenant Commander Wayne Justice, USCG
Lieutenant Commander Robert Walters, USCG
Lieutenant Commander June Ryan, USCG
YN1 Carol Schrader, USN
YN1 (AW) Ronald Wright, USN
Technical Sergeant Jon Sams, USAF
Staff Sergeant Keith Williams, USAF
Staff Sergeant John Otto, USAF
Technical Sergeant Jerome McNair, USAF
Sergeant First Class Edmund Carazo, USA
Sergeant Darryl Turner, USA

FEBRUARY 8, 1996

MEMORANDUM FOR:PATSY THOMASSON

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

As explained in our February 1, 1996 Memorandum to all staff of the Executive Office of the President, the House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its Travel Office investigation. In addition to the records identified in our February 1 Memorandum, the Government Reform Committee also seeks certain other records from your files. Please review your White House "records,"11For purposes of responding to the subpoena, please refer to the definition of "White House Travel Office matter" found in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve

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If you have any questions regarding the House subpoena, please call Special Counsel Jane Sherburne (6-5116).FFAttachment 1

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Lieutenant Colonel Larry O. Spencer, USAF
Major Russell Cancilla, USA
Lieutenant Colonel John F. Schorsch, USA
Major Michael G. Mudd, USA
Commander Joseph Walsh, USN
Commander Richard Fitzpatrick, USN
Major John Wissler, USMC
Major Leo Mercado, USMC
Major Charles Raderstorf, USMC
Major Michelle Johnson, USAF
Major Darren McDew, USAF

Lieutenant Commander Wayne Justice, USCG
Lieutenant Commander Robert Walters, USCG
Lieutenant Commander June Ryan, USCG
YN1 Carol Schrader, USN
YN1 (AW) Ronald Wright, USN
Technical Sergeant Jon Sams, USAF
Staff Sergeant Keith Williams, USAF
Staff Sergeant John Otto, USAF
Technical Sergeant Jerome McNair, USAF
Sergeant First Class Edmund Carazo, USA
Sergeant Darryl Turner, USA

DRAFT -- FEBRUARY 2, 1996

MEMORANDUM FOR:ALL PERSONS ON ATTACHED DISTRIBUTION LIST

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

As explained in our February 1, 1996 memorandum to all staff of the Executive Office of the President, the House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its Travel Office investigation. In addition to the records identified in our February 1 memorandum, the Government Reform Committee also seeks certain other records from your files. Please review your White House "records,"11For purposes of responding to the subpoena, please refer to the definition of "White House Travel Office matter" found in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve

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2.all calendars, "phone records (including message slips, phone logs, pages or any White House record of phone calls)" for the period May 1, 1993 through July 31, 1993, and May 1, 1995 through November 30, 1995.

Although this request is very similar to the December 19, 1995 request previously sent to you by the Counsel's Office, please be aware that it is broader in scope and seeks records created over a longer period of time. You do not need to provide any documents which have already been produced to the Counsel's Office in response to the December 19, 1995 request. However, it
is extremely important that you conduct a thorough search of your records to determine whether you possess any additional responsive material. All such records should be provided to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 7, 1996. If you have any questions regarding the House subpoena, please call Special Counsel Jane Sherburne (6-5116).FFDISTRIBUTION LIST

Margaret Williams
Bruce Lindsey
Patsy Thomasson
Catherine Cornelius

FEBRUARY 8, 1996

MEMORANDUM FOR:GEORGE STEPHANOPOULOS

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

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February 12, 1996.

If you have any questions regarding the House subpoena, please call Special Counsel Jane Sherburne (6-5116).

FEBRUARY 8, 1996

MEMORANDUM FOR:JENNIFER O'CONNOR

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

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February 12, 1996.

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DRAFT -- FEBRUARY 8, 1996

MEMORANDUM FOR:MACK MCLARTY

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

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FEBRUARY 8, 1996

MEMORANDUM FOR:TODD STERN

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

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February 12, 1996.

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FEBRUARY 8, 1996

MEMORANDUM FOR:JACK KELLY

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

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FEBRUARY 8, 1996

MEMORANDUM FOR:LEON PANETTA

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

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DRAFT -- FEBRUARY 2, 1996

MEMORANDUM FOR:ALL PERSONS ON ATTACHED DISTRIBUTION LIST

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

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Leon Panetta
Jack Kelly
FF

DRAFT -- FEBRUARY 2, 1996

MEMORANDUM FOR:ALL PERSONS ON ATTACHED DISTRIBUTION LIST

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

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Although this request is very similar to the December 19, 1995 request previously sent to you by the Counsel's Office, please be aware that it is broader in scope and seeks records created over a longer period of time. You do not need to provide any documents which have already been produced to the Counsel's Office in response to the December 19, 1995 request. However, it is extremely important that you conduct a thorough search of your records to determine whether you possess any additional responsive documents. Any such material should be provided to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 7, 1996.

If you have any questions regarding the House subpoena, please call Special Counsel Jane Sherburne (6-5116).FFDISTRIBUTION LIST

Mack McLarty
George Stephanopoulos
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*March 30, 1998

MEMORANDUM FOR DPC/NEC PRINCIPALS

FROM:ELENA KAGAN AND SALLY KATZEN

SUBJECT:BACKGROUND ON H-1B VISA ISSUES

There have been increasing reports of skills shortages throughout the economy. The information technology industry is the most vocal and visible industry to claim a shortage, however, shortages have also been argued for truckers, welders in shipyards, and other such occupations. A study by Virginia Tech (for the Information Technology Association of America) claims that there are 350,000 job vacancies in the information technology industry nation-wide; the Washington Post reported there are 19,000 such jobs unfilled in Virginia. While these are signs that there could be problem, several informed observers have questioned the severity of the short-term "crisis" while also acknowledging that the demand for workers with IT skills has been increasing. Indeed, some of our federal agencies are reporting difficulties hiring IT workers (for Y2K and other IT projects).

One way in which companies can alleviate such short-term "skills shortages" is through the H-1B visa program. The H-1B visa category allows foreign "specialty workers" (those with a BA or equivalent) to work temporarily in the U.S. The visas are issued for a 3-year period, and almost always renewed for an additional 3-years. More than forty percent of those who enter the U.S. through the H-1B visa program end up in one of the permanent visa programs. There is no way to determine how many overstay their visas, and thus remain to work illegally. The H-1B visa cap of 65,000 per year was reached for the first time last year. INS estimates that the cap will be reached by May or June of this year.

The top ten users of H-1B visas are job contractors who employ foreign workers and who provide personnel to the high-tech industry. Nevertheless, INS estimates that only about one-half of the applications submitted are for computer-related jobs; other occupations include physical and occupational therapists, academic researchers, and other occupations where there is not necessarily evidence of a skills shortage. Currently, there is only a nominal processing fee for each application and there is no requirement that the employer recruit U.S. workers or agree not to lay-off a U.S. worker in the same position, prior to hiring the foreign worker.

In thinking about how to address the question of raising the H-1B cap to meet the demands of the IT industry for more skilled workers, the Administration has developed three guiding principles:

*We must train American workers to meet the demands of our rapidly changing economy;
*We must reform the H-1B visa program to target its usage to genuine skill shortages, and thus better protect American workers; and
*We would consider temporarily raising the annual H-1B cap as part of a comprehensive package that includes reform of the H-1B program and a long-term solution to future employer needs for skilled workers.

Action Forcing Events

On March 6, Senator Abraham introduced a bill (S. 1723, "The American Competitiveness Act"; co-sponsored by Hatch, McCain, DeWine, and Specter) that would permanently increase the annual H-1B cap. His bill also contains a scholarship program. This bill is scheduled for mark-up on Thursday, April 2.

On Friday, March 27, Senator Kennedy (along with Senator Feinstein) introduced a bill that would temporarily increase the H-1B cap to 90,000 (phased back to 65,000 after three years). In addition, the Kennedy proposal includes (1) a loan program designed to address the need to increase high-tech skills of American workers and (2) reforms to the H-1B program that would target its use to genuine skill shortages. [Note that we were asked for a statement last Thursday (when Kennedy and Feinstein announced their intention to introduce the bill) and we provided the attached Questions & Answers.]

Current Legislation

The three major components of the Abraham and Kennedy bills relate to the size and duration of the increase in the H-1B cap; reforms in the H-1B visa program; and education and training.

Facts on the Abraham Bill (S. 1723)

Increase in the Cap

*Would increase the annual cap on H-1B visas to about 100,000 in FY 1998, to about 125,000 in FY1999 (taking into account the 10,000 visas under the new H-1C category);

*The increases would be permanent;

*Creates a new temporary visa category (H-1C) with a cap of 10,000 specifically for health care professionals;

Reforms to H-1B Program

*No reforms to the H-1B program;

Enforcement

*Increases the penalty for willful violations of the H-1B program, but eliminates penalties for less than willful violations;

*Allows DOL to conduct random inspections of willful violators (for 5 years), but does not appropriate additional money to do so;

*Weakens the current "prevailing wage determination," which requires that H-1B visa holders be paid the higher of the prevailing or actual wage to similarly employed workers. The bill stipulates that factors such as years of experience, academic degree, institution attended, grade point average, publications, and personal traits deemed essential to job performance be considered;

Education/Training

*Authorizes $50M be added to the State Student Incentive Grant (SSIG) program to create scholarships for low-income students majoring in mathematics, computer science, and engineering; the bill provides for dollar-for-dollar matching of funds by states;

*Authorizes $8M for the Secretary of Labor to create an Internet talent bank.

Facts on the Kennedy Bill

Increase in the Cap

*Increases the cap temporarily (to 90,000 for three years beginning in FY 1998; and back to 65,000 in FY 2001 and thereafter);
*Off-sets the increase in the H-1B program (over 65,000) with decreases in the H-2B visa program (for temporary unskilled, non-agricultural workers; note: it has never reached its cap);
*Caps the number of health care workers in the H-1B visa program at 5,000;

Reforms to H-1B Program

*Prior to obtaining an H-1B visa, employers must attest to having attempted to recruit U.S. workers;
*Prior to obtaining an H-1B visa, employers must attest to not having laid off a U.S. worker within 6 months of having filed, and to commit to not doing so for 90 days after filing for the visa;
*Reduces the maximum length of stay on an H-1B visa from 6 to 3 years;

Enforcement

*Includes benefits and other non-wage compensation in the determination of the prevailing wage;
*Provides additional enforcement power to the Secretary of Labor;

Education/Training

*Establishes a loan program ($10,000/person) to enable individuals to obtain training necessary for high-tech industries;
*Provides seed grants to assist in creating "Regional Skills Alliances" between employers, labor organizations, state and local government, training institutions, etc. These Alliances are designed to help industry organize the labor market to meet their needs by increasing the skills required for employment in specific industries or occupations and/or assessing and developing strategies for addressing critical skill needs at broad geographic levels;
*Levies a user fee of not more than $250 per application to administer the H-1B visa program; fund the loan program and the Regional Skills Alliances; and help fund enforcement activities associated with the program.

The differences between these two proposals are significant. First, the Kennedy proposal provides a temporary increase of the H-1B cap to 90,000 in the first year (to be phased out after three years); Abraham proposes a permanent increase to 125,000 (after two years). Also, while the Kennedy proposal includes all of the reforms to the H-1B program previously endorsed by the Administration (no lay-off provision; recruitment requirement; and

reduction in maximum length of stay from six to three years); the Abraham bill does not contain any reforms of the H-1B visa program; in fact, it weakens the existing program by eliminating penalties for less than willful violations and by essentially repealing the prevailing wage determination requirement.

Legislative Setting

According to Kennedys staff, his legislation is intended to offer a credible substitute to the Abraham bill for Senate Democrats who may be interested in temporary "relief" for the IT industry. Kennedys strategy is to try to present a united Democratic front, and thus Senator Feinsteins support is critical. While Kennedy is trying to get a few Republicans on board (Kyl and Grassley are the most obvious ones from the Senate Judiciary Committee), all of the other Republicans on the Judiciary Committee support Abraham.

According to Kennedys staff, Feinsteins primary concern is that the increase in the number of H-1B visas will result in more permanent immigrants -- both legal and illegal. As a result, she favors expanding DOLs investigative authority and very much believes that any increase in the caps should be temporary. Reflecting industry concerns, she has some doubts about the H-1B reforms.

While we do not have details, we understand that Feinstein has been talking with the two Republicans who have chosen not to sponsor Abrahams bill about a possible compromise between Abraham and Kennedy. Apparently the sticking point for Kyl, Grassley, and Feinstein is that Abrahams bill would permanently increase the number of visas, and that Kennedys bill includes the H-1B reforms (they are not as concerned about the increased enforcement).

There are two schools of thought on the position of the IT industry -- (1) that the companies really want an increase in the cap, and thus would be willing to cut a deal with Kennedy if the Abraham bill stalls; or (2) that the companies want the increase, but not at the cost of H-1B reforms. As a result, they may not want to deal with Kennedy and would rather push for the Abraham bill, even if it risks a veto.

The AFL-CIO has weakly endorsed Kennedy -- i.e, they would not oppose a small, temporary increase in the cap as long as it is accompanied by increased training and education and reform of the H-1B program. According to Kennedys staff, the AFL-CIO has made clear that they would not accept a legislative alternative that did not include H-1B reforms.

Issues for Consideration

In deciding the Administrations position with regard to the H-1B visa issue, there are essentially three pieces to consider: increasing the number of H-1B visas, training, and reforms to the H-1B visa program.

Increasing the Number of H-1B Visas

Increasing the number of visas is the primary thrust of the IT industry. In contrast, organized labor will only accept a small, temporary increase in the number of visas if it is accompanied by reforms to the H-1B visa program and education and training of American workers. If the cap on the number of visas is raised, the question is how many additional

visas and the duration of increase. A further question is whether the additional visas can, or should, be targeted to the IT industry? (Although this might be difficult because many IT positions are actually in non-IT industries, such as banking and finance.)

Training

Most everyone agrees that an increase in the number of H-1B visas should be accompanied by a substantial education and training effort. And both the Abraham and Kennedy bills include attempts to encourage more Americans to obtain such training (particularly for jobs in the IT industry). Currently, the Kennedy bill includes a $250 application fee for H-1B visas that would fund a loan program and the creation of Regional Skills Alliances. Questions to consider include: Is it appropriate to impose a fee to be used for training? Is the training component in the Kennedy bill substantial enough to "compensate" (either alone or in conjunction with the H-1B reforms) for the increase in the cap?

In addition, we might consider whether we should also be pursuing a non-legislative training strategy. The IT industry already does a considerable amount of education and training (for example, several companies have partnered with community colleges, or adopted an elementary or secondary school to upgrade their science and technology equipment). Can, or should, we use the "bully pulpit" or our willingness to sign any bill to get IT companies to invest more in developing long-term solutions to the growing demand for IT workers (such efforts might include expanding the current efforts of the IT industry; expanding the involvement of the IT industry in "school-to-work" efforts; and/or encouraging underrepresented groups to pursue careers in information technology). How can we leverage the training organized labor is doing to get results in this area?

Finally, we need to consider whether it is appropriate to impose more training obligations on firms not in the IT industry. If not, should the IT industry get an advantage in receiving H-1B visas? If we should impose more training on non-IT firms, how do we accomplish it?

Reforms to the H-1B Visa Program

The crux of the negotiations with the IT industry over the Kennedy bill will be the H-1B reforms. The Administrations position has been that these reforms are critical to our three-part strategy, for without these reforms, employers will still be able to hire foreign workers at lower wages, without recruiting U.S. workers, and even if that means laying off U.S. workers. Also, according to the INS and DOL, if these reforms were enacted, the pressure on the H-1B cap would be greatly reduced (because the visas would only be used when there is a genuine labor shortage). Organized labor also views the reforms as essential if the cap on the number of visas is to be raised.

The IT industry is very opposed to these reforms. They argue that given the broad categories of workers used by DOL, a no lay-off provision could disrupt normal, non-abusive, hiring and firing decisions. And they object to a recruit and retain requirement because they will then be subject to the Labor Departments views on what is, or is not, proper recruitment.

The three reforms currently contained in Kennedys bill were sought by the Administration in 1993. Should we continue our insistence on these reforms? Are there others that we have

not considered?

H-1B Testimony Observations/Comments

The testimony is almost identical to the draft document prepared by Seth Harris for Elena Kagan except for the recommendation. The other agencies-- INS, Commerce, and State-- recommended a different position, which DOL stated they would go along with the other agencies recommendation if it was accompanied by "increased efforts to expand access for US workers to get IT jobs.

As far as I can tell, the entire process which is used by DOL for the permanent program is contained in regulations, not statute. The statute states that DOL must determine and certify that there are not sufficient US workers available and employment of an immigrant will not adversely affect US wages and working conditions.

The H-1B program does not require this massive process determination. DOL can only look for completeness and obvious inaccuracies and must certify within 7 days of filing the application.

Given, this there should not be a backlog in H-1B applications and DOL should have no reason to charge a fee. Hence, there is no mention of program streamlining.

00*MEMORANDUM FOR ELENA KAGAN AND SALLY KATZEN

FROM:JULIE FERNANDES AND CECILIA ROUSE

SUBJECT:ASSESSMENT OF H-2A "IDEAS INVENTORY"

DATE:September 11, 1998

Attached is our assessment of the positions of USDA and DOL regarding the proposals put forth in DOLs "ideas inventory." The shaded boxes indicate important proposals for which there is agency disagreement and thus should be discussed at todays meeting. We have also attached a list of the current program requirements that includes definitions of the most important terms.

In order to better understand the agencies positions, it is useful to understand the underlying policy tensions. Growers see themselves as having a choice between three categories of workers: legal U.S. workers, illegal workers, and H-2A workers. Which category they draw from is almost exclusively determined by total cost. For example, if the total cost of hiring a U.S. worker (including wages, taxes, housing, etc.) is higher than the total cost of hiring an H-2A worker, the grower will hire the H-2A worker. Therefore, the total compensation offered by the H-2A program becomes the effective total compensation ceiling for U.S. workers. In addition, the presence of large numbers of illegal farmworkers distorts the labor market such that the growers response to an inability to find sufficient legal U.S. workers is to hire illegal workers, rather than increase wages or improve working conditions. Thus, though we may want to require fair wages and working conditions in the H-2A program, if the cost of using the program is too high, the growers will hire undocumented workers.

USDAs goal is to provide a steady, reliable source of farmworkers for U.S. growers. USDA believes that the domestic labor force can never completely satisfy the labor needs of agriculture, particularly during peak times, and therefore there will always be a need for temporary foreign agricultural workers. In a world in which the INS is increasingly cracking down on the employment of undocumented workers, the USDA (and the growers) would prefer that the foreign workers that they employ be authorized to work. Their goal is thus to set a wage (or total compensation) floor that is low enough that growers will readily use the H-2A program (rather than hire undocumented workers), but that is high enough to continue to attract existing U.S. farmworkers. However, they believe that an H-2A program that would set the wage (or total compensation) floor high enough to attract many more U.S. workers would drive growers into the illegal labor market.

DOL is concerned that a low wage (or total compensation) floor becomes a low ceiling for U.S. workers and therefore hurts these already impoverished workers. They are not as convinced that the domestic labor force could never satisfy growers needs at a reasonable wage; rather, they argue that agricultural wages have been kept artificially low because of the large presence of undocumented workers. Labor believes that if agricultural wages were allowed to rise, additional U.S. workers would be willing to work in agriculture. They also assert that we can do a better job of facilitating matches between workers and employers that would give domestic farm workers more stable employment and growers access to a steady supply of workers.

As you read through the following list of proposals, you will notice that in many areas (e.g., wages, housing, transportation) the issue is whether the proposal increases the total cost to the employer or shifts those costs to the government or the farmworker. USDA generally opposes reforms that would increase grower costs. The Labor Department generally opposes reforms that transfer costs to the government or the farmworker, and favors reforms that aim at improving labor conditions or wages for U.S. and foreign farmworkers. Because the focus is on total costs (with wages and housing being the most significant areas of concern) we cannot decide on individual reform components in isolation.

Requirements (and Definitions) under the Current H-2A Program

*Recruitment: The agricultural employer must engage in independent positive (i.e., active) recruitment of U.S. workers, including newspaper and radio advertising in areas of expected labor supply. Such recruitment must be at least equivalent to that conducted by non-H-2A agricultural employers to secure U.S. workers.

*Wages: Employers must pay H-2A workers the "adverse effect wage rate" (AEWR), the applicable prevailing wage rate, or the statutory minimum wage rate, whichever is higher. The AEWRs are the minimum wage rates which the DOL has determined must be offered and paid to U.S. and H-2A workers, and they are established for each state. The region- or state-wide AEWR for all agricultural employment for which H-2A certification is being sought, is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) for the region as published annually by the USDA.1Some 1998 AEWRs: California, $6.87; Florida, $6.77; Georgia, $6.30; Hawaii, $8.83; Kentucky, $5.92; and Ohio, $7.18.1 The AEWRs are designed to prevent the employment of these nonimmigrant alien workers from adversely affecting the wages of similarly employed U.S. agricultural workers.

*Housing: The employer must provide free and approved housing to all workers, both foreign and domestic, who are not able to return to their residences the same day.

*Meals: The employer must provide either three meals a day to each worker or furnish free and convenient cooking/kitchen facilities. If meals are provided, then the employer may charge each worker a certain amount per day for these meals.

*Transportation: The employer is responsible for the following types of transportation for workers: 1) After a worker has completed fifty percent of the work contract period, the employer must reimburse the worker for the cost of transportation and subsistence from the place of recruitment to the place of work; 2) The employer must provide free transportation between any required housing site and the work site for any worker who is eligible for such housing; 3) Upon completion of the work contract, the employer must pay return transportation to the workers prior residence or transportation to the next job.

*Workers Compensation Insurance: The employer must provide Workers Compensation or equivalent insurance for all workers, both foreign and domestic.

*Three-fourths Guarantee: The employer must guarantee to offer each worker employment for at least three-fourths of the workdays in the work contract and any extensions. In applying this guarantee and determining any additional wages due, the following facts must be established: 1) The beginning and ending dates of employment; 2) The number of workdays between the established beginning and ending dates of the guarantee period; and 3)The hours of worktime for the guarantee. The guarantee is then established by computing seventy-five percent of the established total hours of work time in the contract period. Note that the employer may not count any hours offered on such days in which the worker refused or failed

to work.

*Fifty Percent Rule: The employer must employ any qualified U.S. worker who applies for an available job until fifty percent of the contract period has elapsed.

*Tools and Supplies: The employer must furnish at no cost to the worker all necessary tools and supplies, unless it is common practice for the worker to provide certain items.

*Labor Dispute: The employer must ensure that the available job for which the employer is requesting H-2A certification is not vacant due to a strike or lockout.

*Certification Fee: A fee will be charged to an employer granted temporary alien agricultural labor certification. The fee is $100, plus $10 for each available job certified, up to a maximum fee of $1,000 for each certification granted.

*Farm Labor Contractors (Crewleaders): A farm labor contractor is an organization or entity that either supervises, recruits, transports, houses, or solicits farm labor other than the owner of the work site. Bona fide registered farm labor contractors may be eligible to apply for and receive H-2A certification, although they generally deal with domestic laborers. Farm labor contractors would be required, as employers, to provide all the minimum benefits specified by the H-2A regulations, including the three-fourths guarantee and the fifty percent rule.

FFReform Proposal
WH
USDA
DOL

Worker Recruitment

Require "positive recruitment" of U.S. farmworkers by growers only in areas where DOL finds that there are a significant number of qualified workers willing to make themselves available for employment at the time and place needed.
Y
okay
DOL implemented this administrative change.

Count as "available" for employment only those U.S. workers who are identified by name, address, and SSN
Y
okay
DOL implemented this administrative change.

Post employers H-2A job orders on Americas job bank
Y
USDA would not oppose.
DOL proposal; requires job order simplification.

Strengthen the MSPA program of registering farm labor contractors to require bonding; allow H-2A employers to require bonding as a condition of employing a farm labor contractor.
Y
DOL and USDA agree to support this.

Allow H-2A growers to include a bonding requirement for FLCs they employ.
Y
DOL and USDA agree to support this (essentially the same as the previous proposal).

Eliminate the requirement that farm labor contractors must be used by H-2A growers if the use is the prevailing practice in the area.
N
USDA generally wants more flexibility for growers, however they are unlikely to strongly oppose DOLs opposition.
DOL strongly opposes because the goal is for the H-2A program to track prevailing practices in areas of labor protection.

Provide an exception from current program requirement to use FLCs for any FLC who has a demonstrated history of employing illegal workers or other serious labor abuses.
Y
USDA agrees.
DOL regulatory initiative.

Require use of FLCs as recruitment mechanism whenever use is "common" or "normal" (not prevailing) in an area.
N
USDA will likely oppose because grower regulations should involve the highest standard.
DOL generally supports prevailing practice. This is not likely an issue about which DOL will take a strong position.

Require payment of competitive rates for FLC services.

Employment Eligibility Verification

DOL work with Congress and other affected agencies to develop a reliable means of verifying individuals authorization to work as they are hired.
Y
USDA would likely agree because of their goal to decrease growers dependence on undocumented workers as long as growers had increased access to H-2A workers.

DOL agrees.

Create a national employment eligibility verification system so that employers can check on the legal status of domestic workers who are hired during the H-2A process.
Y
INS currently has a pilot program to do just that which we support and has encouraged growers to participate in the pilot.

Require growers using the H-2A program to use INS pilot employment eligibility verification system.
Y
USDA would likely agree as part of an overall package.
DOL would likely agree.

Growers only responsible for recruiting and hiring farm workers in the U.S. through the DOL-administered Registries (and contacting former employees); Registries are responsible -- and have only 14 days -- to locate, contact, verify employment eligibility, and refer U.S. workers to growers seeking foreign farm workers; failure to refer timely or to refer sufficient workers allows direct application for workers to Secy of State.
N
USDA likely supports this provision because it reduces the burden on employers.
DOL hates this provision because it leaves the burden of recruitment entirely to the Federal government.

Secy of State authorizes additional H-2A workers if Registry-referred workers fail to report; are "not ready, willing, able, or qualified" to do the work; or, abandon or are terminated from employment.
N
USDA likely supports this provision because it provides growers with quick access to H-2A workers if they have cannot recruit U.S. workers through the registry.
DOL would likely hate this provision because, again, it centralizes all recruitment through the Registry and absolves growers of any additional recruitment before applying for H-2A workers.

Pilot test new Registry of available U.S. farm workers; growers share responsibility for positive recruitment of U.S. farm workers.
Y
USDA would likely support a pilot of a mechanism to facilitate the hiring of U.S. workers for growers.
DOL supports a pilot of such a registry (as long as growers continue to share part of the responsibility for recruitment).

Require employers "positive recruitment" to include: providing an 800 contact telephone number and accepting "collect" calls from worker job applicants; contacting other potential employers to link a series of job opportunities; and developing a long-term recruitment plan to reduce dependence on foreign guestworkers.
N
USDA would likely oppose such positive recruitment measures because it increases the costs to employers.
DOL would likely support these measures, but are unlikely to require that they be part of a final package.

H-2A workers covered by the MSPA, but disclosure only required at time of visa issuance.
N
USDA likely supports this measure.
DOL supports having H-2A workers covered by MSPA but likely believes that the workers should be informed of their rights when recruited rather than at the time of visa issuance (which could be after the worker has incurred significant costs).

DOL rulemaking regarding possible consolidation of agricultural job orders in the Interstate Clearance System.
Y
USDA agrees.
DOL agrees

Productivity Standards

H-2A employers allowed to set minimum production standards after a "3-day break-in period."
?

Employer-established productivity standards and quality requirements should be permitted only if they are the prevailing practice among non-H-2A employers, are bona fide, objective, justifiable, fully disclosed and implemented on a fair and equitable basis.

USDA generally opposes any additional regulations or restrictions on growers and would therefore likely oppose this idea.
DOL would likely support this idea as it is aimed at protecting U.S. workers.

Experience (and related) Requirements

H-2A employers should be allowed to specify "agricultural experience" as a condition for hiring U.S. farm workers.

USDA would likely support because it ultimately gives the growers more flexibility in who they hire.

DOL would likely oppose arguing that it gives growers too much discretion for jobs that generally do not require substantial experience.

Disallow job qualifications, experience and reference requirements unless they are the prevailing practice among non-H-2A employers and are otherwise job-related and bona fide.

USDA would likely oppose for the same reasons that they would support specifying "agricultural experience."
DOL would likely support for the same reasons they would oppose specifying "agricultural experience."

Allow H-2A workers to move from one certified H-2A employer to another, with the final employer responsible for return transportation costs.
Y

According to DOL, this is current law.

Prohibit H-2A job orders that consolidate seasons and different crops.

USDA would likely oppose because consolidation would potentially decrease costs to growers by allowing them to group together and reduce the number of individual applications.
DOL would likely support because it protects U.S. farm workers by requiring growers to submit individual applications.

Prohibit use of the H-2A program in designated labor surplus areas.
N
USDA may not disagree in theory but would likely be concerned that the designation of a labor surplus areas would not necessarily reflect the short-term labor needs of particular growers with particular crops.
DOL would support this in theory, however it would likely have concerns about how areas are designated.

Wages and Costs

Revise H-2A regulations regarding the 3/4 guarantee to remove incentives to growers to overestimate the contract period.
Y
Agrees.
Agrees.

Consider applying the 3/4 guarantee incrementally during the contract period.
N
Oppose.
Opposes.

Eliminate the 3/4 guarantee

N
Doesnt like the 3/4 guarantee b/c wants growers not to have to pay workers if their crop is disappointing (less work in fact than they anticipated). However, they understand that this is a more generous rule than under the MSPA (the statute that governs non-H2A farmworkers) and thus agrees that this reform is no good.
Opposes the elimination of the 3/4 guarantee (b/c protects farmworkers by ensuring that the work that they are promised in the contract is provided, thus allowing them to make fairer judgments when choosing between jobs). However, not sure that 3/4 is a magic number.

Modify the 3/4 guarantee to allow H-2A growers to limit the contract period to "duration of crop activity" and terminate the contract period offered due to changes in market conditions.
N
Agree that effectively eliminates the 3/4 guarantee.
Agree that effectively eliminates the 3/4 guarantee.

Eliminate AEWR and instead require payment of 105% of prevailing wage for crop in the area.

Yes. They are in favor of eliminating the AEWR b/c it provides a wage higher than the prevailing wage for some H2A workers. USDA does not agree that the prevailing wage is depressed by the presence of illegals in the workforce, but does not object to a small sweetener to the prevailing wage to replace the AEWR (like the 105% proposed by Wyden)
No. The AEWR is calculated to compensate for the presence of illegals that depress the prevailing wage rate. It calculates the required wage as the state-wide average of all non-managerial farmworkers, thus dispersing the impact of illegals. If the wage is calculated based on 105% of prevailing, it will still be a depressed wage in those industries or areas where the presence of illegals is large. However, DOL agrees that the AEWR is a bit of an odd way to calculate, and that there is no magic to it.

They want some way to calculate the wage that compensates both for the presence of illegals (wage depression) and for the fact that growers do not pay H2A workers FICA/FUDA (approx. 8%). AEWR may not be magic, but 105% of prevailing does not even get the wage = to that of non-H2A workers.

Eliminate AEWR and require payment of the prevailing wage for the crop in the area.

USDA likes this option. They want the H2A wages to be the same as the prevailing wage in the crop and area. They dispute that wages are depressed b/c of the presence of illegals. In addition, they maintain that if the program requires a higher wage than what is being paid locally; the growers will not use the H2A program and will access the undocumented workforce.
Labor hates this idea, for the reasons above. The wage paid to H2A workers should be a fair wage -- defined as one that compensates for the wage depression caused by the presence of illegals. Labor believes that growers should have to go to the U.S. market first, offer a fair wage and good conditions, and if not successful, access an H2A market that compels them to pay a fair wage under good conditions.

Only require payment of federal minimum wage (not AEWR) as a "training wage" for

inexperienced workers during a training period (in the K).

Another way to undercut the AEWR that USDA likes.
Another way to undercut the AEWR that Labor hates.

Require increases in piece rates to reflect increases in the AEWR.
Y
USDA would likely not like. This would raise the total wage cost.
Labor would like. Most farmworkers are paid by the piece, so a conversion of the piece rate to the AEWR is consistent with their desire to keep or strengthen the AEWR.

Prohibit H-2A employers from increasing productivity requirements to offset increases in the AEWR
Y
USDA would likely not like b/c this would raise the total wage cost and require farmers to set productivity levels early in the season and not allow conditions to change expectations.
Labor would like this. It discourages the farmers from changing productivity levels in ways designed to keep the wage low.

Change AEWR methodology to set at 90th percentile of local market wage or 80th percentile of regional market wage.

They are generally opposed to any change that would increase the overall wage cost. However, they may be open to setting the wage at some modest percentage higher than the local prevailing wage. Thus, though these numbers are high, there may be room to work here. Labor is generally in favor of calculations that result in a higher wage, though they see no magic in the AEWR. The conflict with USDA would be over how high to set the percentile.

Apply AEWR to sheepherders.
?
Opposed. Sheepherders are different.
They want more for the sheepherders.

Disallow any wage deductions by H-2A employers that reduce earnings below the highest required wage.

USDA would favor changes along these lines. They want to consider total cost of employing an H2A worker and compare that to total cost of hiring a non-H2A worker (legal or illegal).
Oppose. Though Labor is open to discussions that take into account total cost to growers to use the program, they do not want the farmworker wages to be too low.

Prohibit H-2A employers from fixing uniform wage rates across large areas -- states or regions.
?

Reforms to the 50% rule as recommended by OIG.
Y
USDA agrees.
Labor agrees.

Modify existing 50% rule to only require hiring of local workers (that reside within commuting distance) but extend this obligation to the entire period of the contract.
N
Oppose. Blocks out of state U.S. crews from work.
Oppose. same reason.

Eliminate 50% rule except for workers referred through the registries unless there are other substantially similar job opportunities in the area.
Y
Would agree to apply the 50% rule only where equivalent jobs are not available in the area. This is currently the rule where the association in the employer. Also agrees that the 50% rule is good for U.S. workers.
Agrees.

H-2A workers should be covered under the State Unemployment Insurance System
Y
This could increase grower cost, but unlikely that they would oppose this.
Likely favor, though there is a question of whether this would only apply where U.S. farmworkers are covered under state law.

H-2A employers expressly authorized to pay hourly wage, piece rate, task rate, or "other incentive payment method, including a group rate," irrespective of the prevailing payment method.
N
USDA might like this b/c it gives flexibility to growers.
Labor will hate this, b/c they have asserted that the task rate is too variable to be susceptible to a prevailing wage determination. There are also likely problems with the "group rate."

H-2A employers are in compliance with the wage requirements if "the average of the hourly earnings of the workers, taken as a group," equals the required hourly wage.
N
USDA may like this, but fairness concerns weigh against it.
Labor will not like this b/c it allow the growers to pay some workers less than the required hourly wage.

Prohibit payment by "task rate" or other variable rate method of payment.
Y
May not like b/c like grower choice.
Would likely favor. Have spoken out against the task rate.

Protect earnings level when employers convert from a piece rate to an hourly rate.
Y
USDA likely would not oppose, b/c it only holds the rate the same.
Protecting wage rates would seem a good thing to Labor.

For employers converting from hourly rate to piece rate, set piece rate to assure earnings at least 30% above AEWR.

This is another way to sweeten the wage that USDA will likely oppose.
This is another way to sweeten the wage that DOL will like, but it is -- in a way -- difficult to defend (unless you assume that growers are setting piece rates at levels well

below the AEWR conversion).

H-2A workers apply for transportation reimbursement to the government (rather than the employer).

This is a shift of cost from the grower to the government. USDA will like this.
Labor does not like, for the same reason. However, as long as the cost to the grower remains the same for a U.S. worker (working under fair wages and good conditions) and an H2A worker, DOL will not fight if some overall costs are picked up by the government (as long as the cost is not coming out of their budget!).

H-2A workers may apply to the employer for transportation reimbursement, but employer not obligated to provide such reimbursement.
N
USDA may like this, b/c lowers cost for the grower. However, growers are used to paying transportation costs in this program. This cost is just part of the overall cost, and thus would go into the overall cost calculation (which, according to USDA, determines whether a grower will participate or hire illegals).
DOL will oppose. They want H2A workers to have transportation paid for. However, as noted, they may be amenable to a system that has the government assume some of this cost.

H-2A workers not eligible for transportation reimbursement if distance traveled is less than 100 miles.
?
This is part of the cost calculation. USDA may think that this is a small step in the right direction.
Labor would likely oppose as eroding the transportation guarantee. Not likely a big issue for either side.

Pilot program for transportation advances for U.S. farmworkers.
Y
USDA would likely be open to this.
DOL would also likely be open to this (a small pilot).

Require H-2A employers to provide travel advances to U.S. farmworkers.

Charge fee = FICA/FUDA taxes to finance certain program activities (housing; admin. costs; transportation)
Y
USDA is in favor. The question is how high is the fee.
Labor is not opposed to a fee that would fund certain activities. The question is how high is the fee (more than FICA/FUDA?)

Impose user fees that reflect the cost of the H-2A program.

First, we are not sure how to calculate this cost (particularly, the cost of housing).
Even if we could, USDA would be concerned that it would be too high (and thus cost prohibitive for growers to use). They are open, though, to a modest user fee.
As noted, Labor is also open to a user fee. However, it is not clear that they would want

to push for a fee that was a total reimbursement (making it cost neutral for the government). That would surely make it too expensive for growers to use.

Allow H-2A workers to opt out of the employer-provided meal plans.

Unclear how they would react to this.
Labor would likely think this is o.k., b/c under the current system the cost of meals is deducted from the farmworker wages. However, there is some concern about making sure that workers dont opt out and then not have adequate food for the harvest.

Require first time H-2A employers to maintain wages and working conditions previously offered.

USDA would oppose this as restricting grower flexibility.
Labor would likely favor, but it could be hard to administer.

Housing

Apply local or state (rather than federal) housing standards to housing provided by H-2A growers.

USDA would likely favor (local laws could give more flexibility) , but it is just a race to the bottom. They could be convinced that federal standards should apply in a federal program.
Labor would likely oppose. Would want federal standards to apply in this federal program. Also, would assume that federal standards are stricter.

H-2A employers permitted to charge workers up to fair market value for the cost of maintenance and utilities provided.

USDA likes as a way to reduce cost.
Labor hates as a way to erode wages.

H-2A employers can charge workers reasonable amounts (up to $25 per week) for the cost of maintenance, utilities, repair and clean-up of housing provided.

Same
Same

H-2A employers can charge a security deposit (up to $50) to protect against "gross negligence or willful destruction of property."

USDA likes as a way to share some costs with farmworkers and make them responsible for taking care of grower-provided housing.

Labor in general would not like, but likely some compromise could be struck on this one.

H-2A employers may require reimbursement (wage deduction) from responsible worker of reasonable cost of repairing damage to housing provided that is "not the result of normal wear and tear."
Y
According to DOL and USDA, this is current law.

Reduced user fee to H-2A growers providing housing.

This is just another way to think about total cost to growers. If we have a user fee, we have to think about what we want it to pay for.

H-2A employers may provide a "minimum housing allowance" in lieu of housing, unless (no earlier than 8 years after enactment) a state Governor certifies that there is not adequate farm worker housing available.

USDA would like as a cheaper way to meet the housing requirement.
Labor hates this. First, there is a shortage of affordable housing generally (which is particularly acute in rural areas). Second, it is unreasonable to expect a migrant worker from another country to be able to rent any housing on his own with a federal voucher.

H-2A employers may provide a "minimum housing allowance" in lieu of housing, but must also arrange for decent housing at the allowance level.

USDA would like this as affording choice to the grower on how to comply with the housing requirement.
This is better than above, but does not address the fact of great shortages of decent, affordable housing in rural areas. Under this system, what happens if housing is not available?

Require growers to provide free housing to all U.S. farm workers (including local workers).

USDA would not like this additional cost burden on the growers.
Labor would like as an ideal, but unrealistic to add this additional burden on growers (unless heavily subsidized by the federal government).

Require H-2A growers to make their housing available for U.S. workers who arrive early.

Cant see the objection to this one.
Labor likely is in favor.

Enforcement

Extend to Wage & Hour the authority to debar violating employers who commit serious labor standards or H-2A program violations.
Y
USDA and DOL agreed to this during our earlier process. Will be part of upcoming rulemaking.

Issue final H-2A regulations.
Y
DOL has agreed to this.

Narrow DOL enforcement to only allow investigations only pursuant to a complaint.
N
USDA may like this, but not sure. It would be difficult for them to argue in favor of less enforcement, when there is so little already.
DOL would hate this. They need more not less enforcement money and tools.

Institute a 12-mo. statute of limitations on complaints

USDA likely would favor.
DOL may think this is o.k.

Provide a "reasonable cause" threshold for investigations.

USDA would likely favor.
DOL may want to reserve the right to do random inspections.

Limit penalties to certain types of violations.

Unclear what this recommendation means.

Institute a three-year and permanent debarment period for repeat violations.

USDA would likely favor.
DOL would likely favor, unless this is substantially less than current law.

Require hiring of former H-2A workers (where allowed) to offset disincentives to complain about labor violations.

USDA would oppose. This too greatly limits grower flexibility in hiring.
Not sure if DOL would see this as an effective tool to offset disincentives to complain about labor violations.

Require disclosure of terms and conditions of employment to be given to workers in their native language in plain language.

Cant imagine opposition, unless it costs a lot.

Labor would likely favor.

More timely initiation and completion of DOL enforcement actions.

We are all in favor of timeliness.

Immigration Management

H2A worker ineligible for continued participation in the program if, during the prior 5 years, the worker violates the terms of admission to the U.S.

USDA would not likely have an opposition to this in theory.
DOL would not likely have an opposition to this in theory.

H2A workers admitted to the U.S. have 14 days after termination of employment contract to search for other legal work in the U.S.
Y
USDA would not likely have an objection.
DOL would not likely have an objection.

H2A workers admitted must be issued fraud-resistant identification/work authorization documents.
Y
USDA would not likely have an objection.
DOL would not likely have an objection.

An employer may file for extension of stay to employ an H2A worker already in the country and may legally employ such a worker from the date application is made.

USDA would likely support this idea because it provides growers with easy and quick access to H-2A workers.
DOL would likely oppose this idea because it would allow growers to get around the recruitment requirement.

AG study whether H2A workers timely depart the U.S. after period of authorized employment.
Y

Legalization for H2A workers who complete at least 6 months employment in the U.S. under the H2A program for 4 consecutive years in compliance with program requirements.
N
USDA would not likely oppose this idea. However, it does not advance their goals because

they believe that growers need a ready supply of foreign workers to meet short-term labor needs. Once legalized these foreign farmer workers would likely move into other sectors of the labor market.
DOL is opposed because it a) it gives the employers additional leverage over the workers by empowering them to hold the promise of a green card out to the foreign worker and b)it undercuts our immigration policy.

Require withholding of percentage of H2A workers wages, deposited in accounts reclaimable within limited time period in home country, as incentive to repatriate.
N
USDA supports incentives to repatriate and if they believed that if this would work they would support it.
DOL would likely oppose this because 1) there is no guarantee that the workers would actually receive these wages and 2) there is no evidence that this amount of money would be an incentive to repatriate.

User fee offsetting FICA/FUDA advantage used as repatriation incentive
N
Same position as above.
Same position as above.

Require entry-exit control system for all H2A workers.
Y
If this were possible, USDA and DOL would support it. However, at this time INS is unable to operate an effective exit and entry control system on the land borders.

Other issues

Expand scope of the H2A program to include agricultural -- meat/poultry -- processing employment.

Secretary authorized to establish cap on number of H2A visas issued pursuant to application from "independent contractors, agricultural associations and such similar entities."
Y
USDA would likely support this as long as it was a high cap.
DOL supports this provision since 80% of all H-2A applications are from independent contractors or agricultural associations.

Comprehensive report by AG and Secretaries of Labor and Agriculture.
Y

All H2A employers non-wage practices and benefits should be subject to prevailing practice standards.

USDA will want more flexibility for growers.
DOL would likely favor tieing all practices and benefits to prevailing practice standards.

Assure that U.S. and H2A workers are truly allowed to choose their employer

Cap the number of visas available under the H2A program.

See above.
See above.

Administrative Processes

Consolidate DOL certification and INS petition approval into one process administered by DOL
Y

Consolidate responsibility within DOL in Wage & Hour for post-application examination and enforcement of employer compliance with H2A program requirements.
Y

Government -- not employer -- responsible for reimbursing transportation costs of eligible workers.
Y

Require employers H2A labor certification applications to be submitted 45 (rather than 60) days before the employer "date of need."
Y

Reduce lead time for employer applications to 30 (rather than 60) days before "date of need."
Y

Consistently meet 7 day deadline -- after initial receipt of employers labor certification application -- to give written notification to the employer of deficiencies precluding adjudication of the application.
Y

Consistently meet existing 20 day deadline -- prior to employers date of need -- to issue approved certifications
Y

After consolidation of certification and petition adjudication process in DOL, change the law to set deadline for DOL approval of employers application to 7 days before date of need.
Y

Reduce the deadline for employer-provided housing to be available for inspection to 15 (rather than 30) days before the date of need.
Y

Change the current labor certification to one based on employers attestations to comply with program requirements.
?
Unsure how this changes employer obligations.

0.

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Sally Katzen

SUBJECT:Heads-up on the DOL Proposed Harris Trust Rule

We are about to conclude review of a proposed DOL pension rule specifying how insurers should treat investment contracts sold to pension plans that do not guarantee a rate of return. In a 1993 Supreme Court decision between John Hancock Mutual Life Insurance Company and Harris Trust Savings and Loan (a.k.a. "Harris Trust"), the Court found that insurers that sell unguaranteed contracts must act in the best interests of the pension plan and its participants (i.e. they have fiduciary responsibilities). Congress enacted the Small Business Job Protection Act of 1996 to provide a temporary safe harbor for insurers until they can come into compliance. This rule provides that safe harbor (until 1999).

The rule is highly technical and deals with an arcane area of the law (my favorite stuff) -- ERISA, but it involves significant sums of money (at least $40 billion) and affects large numbers of people. While we believe the rule is balanced and consistent with the intent of the law, there is no way to get it right to everyones satisfaction. The insurers, led by the American Council of Life Insurance, will oppose the rule, arguing that it favors pension plans. The reaction on the Hill, which has had a tough time balancing competing interests and odd alliances, is likely to be mixed. We expect the issue to get some attention in the business trade press.

Please let me know if you have any questions.

FFcc:Maria Echaveste
Rahm Emanuel
John Hilley
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
Bruce Reed
Gene Sperling
Janet Yellen
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Kathy Wallman
Josh Gotbaum

Larry Haas

November 7, 1997

THE WHITE HOUSE CONFERENCE ON HATE CRIMES

Date:November 10, 1997
Location:Breakfast - East Room
Conference - George Washington University
Time:Breakfast - 9:30 am - 9:50 am
Conference - 11:30 am -1:30 pm
From:Bruce Reed/Maria Echaveste

I.PURPOSE

To call national attention to the problem of hate crimes, highlight effective law enforcement and educational strategies to address this problem, and announce significant new federal initiatives to prevent and punish hate crimes.

II. BACKGROUND

You will host a breakfast for conference participants at the White House, make the opening address at the conference, and chair a panel discussion in which the Attorney General, the Secretary of Education, and seven others will join.

In the afternoon, members of the Cabinet and other senior Administration officials will chair a number of concurrent working sessions to examine various aspects of the hate crimes issue. Afterward, the Attorney General will chair a closing panel to discuss ideas and themes from the working sessions. Participants will attend a closing reception at the United States Holocaust Museum.

In your opening remarks, you will make the following policy announcements:

*Support for legislation to expand the principal federal hate crimes statute to prohibit hate crimes based on gender, sexual orientation, and disability. (The law currently prohibits only hate crimes based on race, color, religion, and national origin.);

*Creation of hate crimes working groups in every U.S. Attorneys district in the nation to coordinate federal, state, local, and private efforts to respond to and prevent hate crimes;

*Assignment of more than 40 additional FBI agents and federal prosecutors to enforce hate crimes laws and creation of a Civil Rights Analytical Center to collect data and analyze trends in hate violence.

*Enhanced prosecution of civil cases, including increased penalties, against perpetrators of housing-related hate-crimes;

*Improved reporting of hate crimes statistics through the expansion of the National Crime Victimization Survey to include inquiries on hate crimes; and

*New educational materials, including a Department of Education resource manual on hate

crimes for schools and a Department of Justice website designed for children.

III. PARTICIPANTS

Briefing Participants:
Sylvia Mathews
Rahm Emanuel
Bruce Reed
Maria Echaveste
Elena Kagan
Richard Socarides
Marsha Scott
Jordan Tamagni

White House Breakfast Participants (with speaking role):
Attorney General Reno

Conference Participants (with speaking role):
Vice President Gore
Attorney General Reno
Secretary Riley
Stephen Tracktenberg, President of George Washington University
Officer William Johnson, Retired Boston Police Officer
Chuenee Sampson, Student Duke University
Peter Berendt, Principal, Mamaroneck Avenue Elementary School, NY
Hon. Sheila James Kuehl, President Pro Tempore, California State Assembly
Reverend Samuel Billy Kyles, Monumental Baptist Church, TN
Raymond Delos Reyes, Student, Franklin High School, Seattle, WA
Tammie Schnitzer, Survior of hate crime, Billings, Montana
Arturo Venegas, Jr., Chief of Police, Sacramento Police Department, CA
Hon. Grant Woods, Arizona Attorney General, AZ

Members of the audience will include approximately 350 leaders from the law enforcement, civil rights, anti-violence, youth, education, and religious communities. Hate crime victims and students from George Washington University will also be in attendance. The event will be broadcast via satellite to over 50 sites throughout the country.

IV. PRESS PLAN

Breakfast - Closed Press.
Conference - Open Press.

V. SEQUENCE OF EVENTS

White House Breakfast Sequence of Events:
- YOU will briefly meet the panel participants in the Green Room.
- YOU will be announced into the East Room accompanied by the Attorney General.
- Attorney General Reno will make welcoming remarks and introduce YOU.
- YOU will make remarks, and then depart.

Conference Sequence of Events:
- YOU will be announced onto the stage accompanied by Vice President Gore, President

Tracktenberg, Officer William Johnson, Student Chuenee Sampson.
- President Tracktenberg will make remarks and introduce Officer William Johnson.
- Officer Johnson will make remarks and introduce the Vice President.
- The Vice President will make remarks and introduce Chuenee Sampson.
- Chuenee Sampson will make remarks and introduce YOU.
- YOU will make remarks, and then take your seat with other panelists. (The Vice President and other introducers will depart the stage.)

*SEE ATTACHED SCRIPT FOR SEQUENCE OF SPEAKERS ON PANEL.

VI.REMARKS

Provided by Speechwriting

VII.ATTACHMENTS

- Sequence of panel speakers and suggested questions.
- Bios of panelists.
- Conference Agenda.
- Background material on hate crimes.

Errors in Hatch Analysis
- -Hatch Errors.doc
June 25, 1998
Hatch Errors.doc
To:Bruce Reed, Elena Kagan
c:Jack Lew, Sylvia Mathews, Jon Gruber

From:Joshua Gotbaum
Re:Problems with the Hatch/Feinstein Comparison to McCain

You asked whether Hatchs analysis comparing his bill to S. 1415 is correct. It is not. In general, it sharply overstates the differences between the McCain bill as amended and the Hatch proposal.
It overstates the gross payments that manufacturers will make:
Ignores the effects of the volume adjustment and the price cap agreed to by McCain, which would reduce the 25-year real payments from $516B (99$) to $408B.
Even before taking volume adjustments into account, they confuse real and nominal base payment levels in their comparison spreadsheet 1. The equivalent to $368 for AGs and $408 for Hatch is not $574, its $516.
With volume adjustments, we believe that CBO/JCT would estimate (if asked) 25-year real gross payments at $267 (AG), $291 (Hatch) and $408 for McCain with the managers amendment.
An effect of the volume adjustment is also to reduce the effective cost per pack. Rather than $1.10 (real 99$), we think its closer to 66 cents per pack by 2003.
On lookback surcharges, there are several problems with the analysis. The most significant is that it assumes that the companies will pay the maximum lookback surcharge and that they

will do so every year. We think this is extremely unlikely. Neither we nor Joint Tax estimates that the maximum surcharge will be imposed.

It also completely ignores the fact that net receipts available to the government will be reduced by lost income and excise taxes and other offsets. As a result, it overstates the funds that will be available under the Hatch/Feinstein proposal.

There are literally dozens of problems with the bill as drafted (as there were with the initial versions of S. 1415). Nonetheless, it still might be worth negotiating to see if you can pick up 3 more votes.

The attached table summarizes our view of an apples to apples comparison between the three bills.

M E M O R A N D U M

TO: ELENA KAGAN, BRUCE REED

FROM: TOM FREEDMAN, MARY L. SMITH

RE: SUMMARY OF HATE CRIME PROPOSALS AT DOJ/DOE

DATE: AUGUST 6, 1997

SUMMARY

There are basically four main areas in which the Department of Justice is tackling hate crimes: (1) outreach to the community; (2) statistical collection; (3) educational initiatives; and (4) possible legislation. The first three categories each provide some initiatives that could be announced at White House Hate Crimes Conference on November 10. The proposed legislation, however, is more problematic primarily because it creates a new federalized category of hate crimes based on gender bias. DOJ is concerned that the FBI and other parts of DOJ will be overwhelmed because potentially they could be required to investigate each instance of sexual assault. In addition, many of the initiatives discussed below could easily be announced as part of the race initiative.

I. OUTREACH: HATE CRIMES WORKING GROUPS

*DOJ is proposing federal-state-local partnerships that would coordinate the prosecution of hate crimes. Members of the working groups would be the U.S. Attorneys offices, the FBI, state and local law enforcement, state and local prosecutors, schools, and advocacy groups. In addition to prosecuting hate crimes, the groups would seek to increase enforcement of hate crime laws, to maximize reporting of hate crimes, and to educate the public about hate crimes.

*FBI has proposed seeking additional funding in the FY99 budget to add approximately 193 new FBI agents to investigate hate crimes.

II. STATISTICS REGARDING HATE CRIMES

*DOJ currently collects hate crimes under the Hate Crimes Statistics Act ("HCSA"). There is an annual report that comes out. DOJ is checking whether we could announce the numbers at the conference on November 10.

*DOJ is also exploring several possibilities to improve the collection of statistics regarding hate crimes.

III. EDUCATIONAL INITIATIVES

*Northeastern Universitys Center for Criminal Justice Policy Research reports that approximately 65% of violent hate crimes are committed by boys and young men under the age of 20.

*The Department of Educations Office of Civil Rights is working with the National Association of Attorneys General to develop a manual that will catalog all of the various resources that are available to assist school administrators and teachers in addressing bias crimes and racial and ethnic tensions in school settings.

*Middle-school curriculum entitled "Healing the Hate" (already developed by Educational Development Corporation and funded jointly by DOJ and Department of Education) should be disseminated to schools.

*Middle-school curriculum on hate crimes should be placed on the Department of Educations website.

*Given the statistics that suggest that a large portion of hate crimes are committed by school-age males, DOJ could work with Educations National Center for Educational Statistics to explore mechanisms for collecting information on hate-based violence in schools.

*Elevate awareness of hate-based violence in the educational community through a PSA campaign, conferences, workshops, articles, and the Internet.

IV.PROPOSED LEGISLATION

*At the behest of Senator Kennedy, DOJ is analyzing and refining proposed legislation. The legislation would expand the category of federal hate crimes. Currently, 18 U.S.C. 245(b)(2) prohibits the interference with a persons exercise of certain federally protected rights on the basis of the persons race, color, religion, or national origin.
*The proposed legislation would add a section that prohibits the intentional infliction of bodily injury on the basis of race, color, or national origin.
*The proposed legislation would also add a section that prohibits the intentional infliction of bodily injury on the basis of religion, gender, sexual orientation, or disability.

Problems with the proposed legislation

*There is a potential constitutional problem with the prohibition of hate crimes on the basis of gender, sexual orientation, disability, and, in many instances, religious identity. (There appears to be no constitutional problems with prohibiting hate crimes based on race, color, or national origin.) DOJ recommends that Congress power to regulate interstate commerce is the strongest source of authority to regulate hate crimes based on gender, sexual orientation, disability, or, in some instances, religion. This constitutional problem is not the most pressing problem, however.

*Federalization of criminal conduct typically prosecuted at state and local levels. In DOJs opinion, the main problem with the proposed legislation is that the possible expansion of 245 to include other categories of hate crimes, most particularly gender-based hate crimes, will overwhelm the resources of the FBI and DOJ. DOJs memo states: "There is a very real concern that the approximately 6,000 hate crimes currently reported to the FBI each year could be dwarfed by the number of sexual assaults and other allegedly hate-based

crimes that might be brought to the federal governments attention for investigation and possible prosecution under an expanded section 245."

*NOTE: Despite these problems, it seems that Senator Kennedy is inclined to introduce some legislation this fall, possibly before the Hate Crimes Conference on November 10. Unless some sort of solution is worked out regarding the gender-based hate crimes, DOJ has grave reservations but is struggling to come up with some sort of solution.

January 13, 1998

MEMORANDUM TO:JOHN PODESTA
SYLVIA MATHEWS
PAUL BEGALA
RAHM EMANUEL
DOUG SOSNIK
CRAIG SMITH
GENE SPERLING
BRUCE REED
ELENA KAGAN
CHRIS JENNINGS
JANET MURGUIA
RON KLAIN
MELANNE VERVEER

FROM:ANN LEWIS

SUBJECT:DRAFT TALKING POINTS FOR DEMOCRATIC UNITY EVENT

Following are draft talking points for tomorrows event. Please let me know if you have any edits [6-2640]. Attached is also a memo from The Washington Monthly on Republican opposition.

Democratic Unity Event: Talking Points

What is this event about?

The President, the Vice President and Democratic Congressional leaders, along with Democratic Members of Congress, are meeting to discuss their support for federal legislation which will enact the principles of the Health Consumer Bill of Rights into law, and to consider legislative strategies for passage. Leaders of health care groups who support the legislation have also been invited.

Why this event and why now?

*The President met with Democratic congressional leaders before Christmas to discuss a broad range of legislative issues. The Health Consumer Bill of Rights legislation was part of that list. It got some more attention because it has been targeted for defeat by lobbyists and the Republican leadership. As you can see in the enclosed memo, Trent Lott ordered corporate lobbyists to "get off their butts and off their wallets" to organize opposition to the bill.

*This event, which marks the beginning of the 1998 legislative year, will serve as an early demonstration of strong support for this bill, and as an example of united Democratic support for key legislative proposals.

Is this all for the 1998 Democratic agenda ?

*We are working on a Democratic agenda which will be rolled out as we get into the legislative year (which will include issues like education, child care, the environment, etc).

*Keep in mind, this is the very beginning of the legislative year -- Congress hasnt even reconvened yet. We are beginning with the Health Consumer Bill of Rights because it is one of the legislative priorities we will be supporting, and because it has come up against some well financed opposition. We thought it was essential to get out in front and make clear that this is a priority issue for us.

Democratic Unity? Isnt that an oxymoron?

*On issues that matter to working families -- and decent health care is very important to working families -- Democrats are united. The White House and Congressional Democrats agree that it is important to have federal legislation that protects health care consumers.

*The division is within the Republican caucus: we know that many Congressional Republicans support this principle, but their leadership is definitely on the other side.

Are you saying that you wont work with Republicans on this issue?

We invite Republican support. In fact, there is legislation in the House on this issue right now with quite a few Republican co-sponsors. Plus, a number of states with Republican Governors are considering these types of protections for their Health Care consumers. So we think there will be bipartisan support and that eventually it is going to pass.

November 6, 1997

THE WHITE HOUSE CONFERENCE ON HATE CRIMES

Date:November 10, 1997
Location:The George Washington University
Time:11:30 a.m. --1:30 p.m.
From:Maria Echaveste, Bruce Reed

I.PURPOSE

You will convene the first-ever White House Conference on Hate Crimes, a day-long event with over 350 participants to be held at The George Washington University. At the conference, you will announce significant new law enforcement and prevention initiatives to "get tough on hate crimes". The conference will also examine the positive actions that communities are taking and outline the steps we all can take to prevent hate crimes.

The White House Conference on Hate Crimes has three purposes. First, it will call national attention to the serious problem of hate crime in this country and, by highlighting positive community responses, promote unity in addressing the problem. Second, it will demonstrate the Administrations commitment to "draw the line" on hate crimes through combined law enforcement, education, and prevention strategies. Finally, this conference serves as the Race Initiative event for the month of November. Members of the your Advisory Board on Race will participate in the Conference at satellite locations.

II. BACKGROUND

You announced the convening of the conference in your radio address of June 7, 1997.

On the day of the conference, you will host a breakfast for participants in the East Room of the White House and will make an opening address at the conference. After your remarks, the you will chair a panel discussion in which the Attorney General, the Secretary of Education, and eight others will join.

In the afternoon, members of the Cabinet and other senior Administration officials will chair a number of concurrent working sessions to examine various aspects of the hate crimes issue. Afterward, the Attorney General will chair a closing panel to discuss ideas and themes from the working sessions. Participants will attend a closing reception at the United States Holocaust Museum.

FFIII.PARTICIPANTS

Briefing Participants:

Sylvia Mathews
Rahm Emanuel

Maria Echaveste
Richard Socarides

Bruce Reed
Elena Kagan
Tom Freedman
Mary Smith

Marsha Scott

Michael Waldman or designee

Event Participants

You will be joined at the conference by the Vice President, the Attorney General and the Secretary of Education. Members of Congress, selected state and local officials, and approximately 350 leaders from the law enforcement, civil rights, anti-violence, youth, education, and religious communities have been invited to attend as participants. There will also be several dozens students from George Washington University in the audience. A complete list is attached.

Hate crime victims will also attend. Participants will include representatives from all 50 states. Thousands more will participate at over 65 satellite-linked events across the country.

IV.PRESS PLAN

The morning and afternoon plenary sessions and the evening reception are open press. The breakfast and the workshops are closed press.

V.SEQUENCE OF EVENTS

Following the event briefing, YOU will proceed to the Green Room on the State Floor to meet briefly with panel participants, including the Attorney General and the Secretary of Education.
FFYOU will then proceed to the East Room with the Attorney General, who will introduce YOU, and YOU will give brief welcoming remarks. YOU will then depart.

YOU will depart the White House at 11:20 a.m. for The George Washington University.

Upon arrival, YOU will be greeted by President Trachtenberg and then be announced onto the stage with the Vice President.

President Trachtenberg will give brief welcoming remarks and introduce Officer William Johnson.

Officer Johnson will give brief remarks and introduce the Vice President.

The Vice President will give brief remarks and introduce Chuenee Sampson.

Chuenee Sampson will give brief remarks and introduce YOU.

YOU will make remarks.

YOU will lead a panel discussion with the Attorney General, the Secretary of Education, and eight panelists (note that the Vice President will depart after your remarks and will not be a part of the panel).

The Attorney General will open the panel by introducing each of the eight outside panelists and asking each of them to give brief remarks (three minutes each).

YOU will lead a discussion and ask the panelists questions based on the suggested script attached.

The Secretary of Education will suggest the end of the panel discussion.

YOU will depart.

There will be a luncheon for participants, followed by seven working group sessions, followed by another panel lead by the Attorney General and remarks by her.

There will be a reception in the evening for conference participants.

VI.REMARKS

*Provided by Speechwriting

FFVII.ATTACHMENTS

Conference Agenda

Description of your discussion panel, including suggested script and participant bios

Descriptions of the working groups led by Members of the Cabinet

List of participants

Background material on hate crimes

Suggested background reading

*December 30, 1997

Health Division
Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Route to: Jack Lew
Frank Raines

Through: Richard Turman
Barry Clendenin

Subject: Tobacco Settlement Spending: FDA & CDC Alternative Spreads

From: Jim Esquea & Marc Garufi ACTION:
Decision
Signature X
Comment
As requested Information

Phone: 202/395-4925
Fax: 202/395-3910
Room: NEOB #7025 Needed By:
Date: / /
Time: : am/pm

Copies to:

Post this Document on HD Intranet? NO

Following up on the tobacco meeting this morning, we have modified the table to address the format suggestion.

We also recommend changing the split of the additional $330 million for FDA and CDC (which favored FDA) to one that starts out with an initial bigger increase for CDC prevention and phases in the FDA total increase for tobacco over three years.

The tobacco settlement envisions a comprehensive FDA licensing program for tobacco, which the Administration has not fully evaluated. A licensing system would be expensive which is why the settlement proposes $300 million annually for FDA tobacco enforcement. Given that a comprehensive FDA tobacco/licensing system would take several years to fully implement. We recommend phasing in the FDA increase of $250 million over three years, while providing funding for HS/CDC Smoking prevention programs.

We note that Elena Kagan of the Domestic Policy Council was uncomfortable with the idea of not "fully funding" the FDA consistent with the tobacco settlement recommendations. Our recommended phased in approach would eventually increase FDA enforcement activities to levels consistent with the agreement AND also fund activities that were recommended in the

settlement but were not funded in our "Modified Settlement Uses" table of this morning.

FYI - - Elena Kagan also noted to Josh Gotbaum today that she and Bruce Reed would be very interested in including a tobacco legislation spending table in the Budget that contained proposed spending levels in both nominal and real terms.

MEMORANDUM TO ERSKINE BOWLES

FROM: Sally Katzen

SUBJECT: Heads-up on Year 2000 Computer Report

This memorandum is to let you know that OMB will send to Congress (and make publicly available) on Monday, September 15th, a quarterly report assessing the progress (or, in some cases, lack of progress) that Federal agencies are making in assuring that their computers will work when the century changes. As noted in the popular press, many computer systems use two-digit dates and will fail to work properly when faced with "00" in the year 2000. Unless these government systems are fixed or replaced, taxes could go uncollected, benefit checks could not go out, air traffic control could be jeopardized, etc. In his August speech on the Millennium, the President said, "I want to assure the American people that the federal government, in cooperation with state and local government and the private sector, is taking steps to prevent any interruption in government services that rely on the proper functioning of federal computer systems."

This is the second quarterly report (mandated by Congress) and it will mark a shift in our assessment. The first report said that agencies were making reasonable progress in fixing their computers. This report, however, states that several (named) agencies are not making sufficient progress, and that a number of other (named) agencies, while making some progress, are still cause for concern. The report states that OMB will use the FY 1999 budget process to assure that agencies are paying adequate attention to this problem.

Press and Hill response will be mixed. Some will say it is good that the Administration is taking the problem seriously, while others will criticize us for not having done more earlier (or even of deliberately painting an overly optimistic picture when we should have known better). All inquiries should to be directed to OMB.

Please give me a call if you have any questions (5-4852).

cc: Maria Echaveste
Rahm Emanuel
John Hilley
Ron Klain
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
John Podesta
Bruce Reed
Gene Sperling
Jim Steinberg
Chris Jennings

Don Gips
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Jack Lew
Ed DeSeve
Josh Gotbaum
Gordon Adams
Ken Apfel
Michael Deich
T.J. Glauthier
Larry Haas

March 5, 1998

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Franklin D. Raines

FROM: Don Arbuckle
Acting Administrator

SUBJECT: Heads-up on Proposed HHS Protection of Human Subjects Rule

On December 16,1997, we sent you a heads-up memo on an HHS proposed rule amending its regulations designed to protect women and fetuses involved in Federal research. We are now ready to clear the rule after some delay. In particular, we wanted to ensure that the rule had the concurrence of the Secretary of HHS. She has personally signed-off on the rule and the approach the Department has taken.

HHS intends to issue this rule quietly, without fanfare. I have attached a copy of our December 16 heads-up memo to refresh your memory about the rule. Please call me if you have any questions.

FF

cc: Maria Echaveste
Rahm Emanuel
Larry Stein
Ron Klain
Thurgood Marshall, Jr.
Ann Lewis
Sylvia Mathews
John Podesta
Bruce Reed
Gene Sperling
Elena Kagan
Barry Toiv
Michael Waldman
Josh Gotbaum
Linda Ricci

*1

February 9, 1998

MEMORANDUM FOR SYLVIA MATHEWS

FROM: PETER RUNDLET

SUBJECT: Proposals Related to Higher Education and the Race Initiative

What follows is a survey of the proposals that I was able to canvass from various individuals and offices that relate to higher education and race in general or the Race Initiative in particular. The only piece missing is an update from Mike Cohen of the DPC on the various proposals and projects he is pursuing in this regard. I was unable to make contact with him directly. I will update this once I speak with him.

As you know, Christopher and Maria have proposed of a four-part conceptual framework with which to approach our higher education agenda items for the Race Initiative:

(1) Campus Dialogue: Activities and events designed to foster cross-racial dialogue and reconciliation on college campuses.

(2) Validators: Identify people who can clearly articulate the value of diversity in higher education to the broader general public.

(3) Higher Education Leadership: Encourage higher education leaders to work together and develop a comprehensive strategy to enhance inclusion and diversity on their campuses.

(4) Policy Action: Vigorous Administration policy action that includes litigation, public education, race-neutral and race-conscious approaches to enhancing equal opportunity to higher education, inclusiveness, and diversity.

Although I will not attempt here to fit all of the following proposals into this framework, I believe it is helpful as a reference point, and will be useful once we sit down and determine which of the following we want to pursue, and how. The proposals identified thus far include:

Campus Week of Dialogue. Michael Wenger, in partnership with the Association of American Colleges and Universities (AAC&U), the Urban League, and the Department of Education, is leading the effort to organize a week of dialogues on campuses around the country from April 6-9.

Goals: To more fully engage the higher education community in the Race Initiative and to build bridges between college campuses and the communities in which they are located.

Process: AAC&U anticipates receiving a grant from the Ford Foundation to assist it in working with approximately 35 core campuses. In addition, PIR will reach out to hundreds of colleges and universities, including HBCUs (historically black colleges and universities), HSIs (Hispanic serving institutions), and Tribal Colleges.

Specific Events Proposed

*One day designated as National Day of Dialogue on college campuses, including Town Hall meetings on campuses, and discussions on race in classrooms.

*Meetings between campus and community leaders to institutionalize campus-community dialogue.

*Meetings on campus between student leaders from all racial and ethnic groups to discuss how students can work together to address the challenges of race.

*Film showings, cultural festivals, joint community service projects on and around campuses.

*A national Town Hall meeting with either the President or Vice President on the National Day of Dialogue (April 7 or 8), with college students and telecast by C-SPAN or provided by satellite to participating campuses.

*A national meeting of scholars on racial issues to discuss an appropriate research agenda. (Note: this idea is raised separately below; see the concerns raised there.)

*As part of or just prior to this week, a meeting between the President and higher education leaders. (Note: this idea is discussed in great detail, below.)

Next Steps: Pulling all of this off will require an enormous amount of immediate work and coordination. Mike Wenger should nail down what burdens the AAC&U and the Department of Education can bear. Then, a meeting with PIR and WH staff needs to take place to discuss priorities and allocate responsibilities. As noted below, if a meeting with the POTUS is to take place, a date needs to be set aside immediately (since he is scheduled to be out of the country for much of March).

Presidential Meeting with Higher Education Leaders. The President would convene a meeting with higher education leaders both to hear their ideas on the Race Initiative, campus diversity and inclusion, and to issue a call to action to them, as outlined below.

Goals

(1) To encourage the establishment of a formal, coordinated campaign (analogous to the formation of the Lawyers Committee for Civil Rights due to President Kennedys call to action) within the higher education community designed to promote, through words and actions, the values of inclusion and diversity in higher education and to recapture ownership of the public debate over affirmative action in higher education;

(2) To encourage leaders (and their campuses) to participate in the efforts of the PIR, especially the Week of Campus Dialogue;

(3) To solicit the leaders ideas on creative, legal approaches toward enhancing inclusion and diversity on their campuses; and

(4) To initiate strategy discussions with leaders who will be affected by moves by Congress to curb affirmative action through the education reauthorization and appropriations processes.

Process

Scott Palmer has drafted a detailed proposal on the goals and expected outcomes of such a meeting, much of which is included here. He has been working with Hector Garza at the American Council on Education (ACE), as well as other higher education leaders and associations. Mike Cohen would work with Scott to immediate create a core working group of six to ten college and university presidents that will take responsibility for the overall effort and who will help define the mission and process, as well as identify other leaders who should be a part of the larger campaign. Christopher Edley has identified some likely candidates (the presidents of Harvard, Duke, Penn, and the President of the College Board, Dan Stewart) and we have already established contacts through the creation of the High Hopes Program. The ACE and the Leadership Alliance are also likely to be very helpful. A date for the meeting with the President would have to be reserved immediately, as the meeting should take place before the Campus Week of Dialogue (April 6). Christopher Edley suggested that he would meet with Bob Shrum to coordinate a professional communications strategy for the leaders group.

Potential Outcomes

*A coordinated and ongoing campaign to clearly articulate to the American people the values of inclusion and diversity in higher education and to positively address other tough questions of race in higher education, including the proper role of affirmative action.

*A coordinated research agenda on the educational value of diversity, as well as on methods to increase minority graduation rates and strategies to enhance the "pipeline."

*Creation of short- and long-term strategies to increase minority access to higher education, including both race-neutral and permissible race-conscious strategies.

*The development and promotion of on-campus programs designed to improve minority retention, promote positive racial climates, and create positive cross-racial interactions.

*Creation of partnerships between predominately white and minority-serving institutions.

*Greater participation by the whole higher education community -- college and university presidents, deans, faculty, students, and higher education associations and organizations -- in the Presidents Initiative on Race, including the Campus Week of Dialogue.

Next Steps: Convene a meeting to determine whether this is a Presidential priority relative to other Race Initiative demands for the Presidents time. If so, secure a date on the Presidents schedule for a meeting with higher education leaders. Scott Palmer and Mike Cohen should confer with Christopher Edley and others and call a meeting as soon as possible with the core group of higher education leaders who will agree to take responsibility for coordinating the larger effort. Scott and Mike should convene a meeting with White House and PIR staff to create a strategy to carry this out -- to identify key issues for the meeting and to assign responsibilities for necessary staff work. In addition, Eddie Correia should begin to conceptualize a strategy for engaging Congressional leaders on these issues, as we prepare for battles over the DoEds reauthorization and appropriations.

More Discrete Higher Education Events and Proposals:

Release of Affirmative Action in Higher Education Guidance Piece. Individuals from the

Department of Education, Justice, the Counsels office, and I have been working to finalize the Department of Educations Guide on Postsecondary Admissions and Financial Aid Affirmative Action programs. The final internal revisions are being made this week and we expect to solicit comments from outside friends before finally releasing it. The purpose of the guidance is to reinforce the continuing vitality of the Bakke opinion and to make clear what properly-constructed affirmative action requires in order to provide a greater comfort level to those institutions that may have become unduly cautious in their approaches to creating diversity.

Next Steps: Final drafts have been distributed internally. Comments are due by COB on Friday, February 13. A meeting should be held next week that includes relevant White House staff (Sylvia Mathews, Dawn Chirwa, Rob Weiner, Eddie Correia, Elena Kagan, Maria Echaveste, Judith Winston, Christopher Edley, Minyon Moore, and me), as well as Education and Justice officials, to discuss a roll-out strategy for the Guidance. Although the guidance will not be released in time for admissions offices to restructure their policies for this year, an earlier release may assist some institutions before all of their final admissions decisions are made this spring.

Litigation Strategy. Eddie Correia will begin to meet with counsel representing colleges and universities being sued for their inclusive admissions policies. The purpose of the meetings is twofold: (1) to identify cases in which the United States would participate as amicus or intervenor, and (2) to identify creative yet permissible strategies to encourage greater diversity.

Next Steps: Eddie plans to meet with Jane Sherburne, who represents the University of Michigan, soon. Similarly, Maria Echaveste will coordinate with Political Affairs to determine the status of the various state ballot initiatives designed to end affirmative action.

Identification of Race-Neutral/Opportunity-Gap/"Pipeline" Solutions. The Domestic Policy Council, with the assistance of Eddie Correia, Christopher Edley and Scott Palmer, will take the lead on identifying programs designed to increase the percentage of students who attend and complete college. Included in this would be programs designed to prepare students for college and help them pay for it (such as the High Hopes Initiative and Head Start), as well as creative, race-neutral admissions programs (such as aggressive recruitment and outreach and programs like the Texas 10% plan) that will likely increase the number of minorities that attend college.

Next Steps: I understand that Mike Cohen has been working with the Department of Education on producing a document that surveys a variety of inclusive, but race-neutral admissions practices. Pushing this project to a conclusion, vetting the ideas, and then sharing them with the higher education community should be our short-term goal. In any case, the DPC, together with Counsel and PIR, should aim to present a list of potential solutions that the Administration can promote or share with the higher education community.

Research Conference on the Value of Diversity. Some have proposed an academic conference similar to one that the Harvard Civil Rights Project held last spring to discuss current research demonstrating the educational value of diversity. Scott Palmer and Michael Wenger have suggested that such a conference be part of the Campus Week of Dialogue. Others, however, including Christopher Edley, have noted two significant limitations to such a conference: (1) there is little serious social and behavioral science research on the question of the benefits of diversity; and (2) such an event is unlikely to generate

much attention. A less ambitious, though useful, goal would be to encourage educational leaders to support serious research in this area.

Next Step: Determine whether such a conference is desirable. Mike Wenger, Chris Edley, Elena Kagan, and Scott Palmer should make a recommendation on this question. If it is not, add to the Leadership agenda, above, the promotion of serious academic research on these issues.

California Minority Scholarship Fund. In order to counter the effects of Prop 209 in California, the Consumer Attorneys of California, together with the San Francisco Bar Association, have proposed to create a private scholarship fund to pay for outreach programs and minority scholarships. The details of the program are not completely clear (e.g., are the scholarships only for students residing in California? for UC schools only or private California schools? for law school only or for other graduate and undergraduate institutions?), but, if properly administered, would be a legal and effective means for increasing minority enrollment in higher education. Eddie Correia has determined that the program can pass Title VI muster, if the funds are completely privately administered. It has also been determined that the Vice President or a Cabinet Member could speak at a fundraising dinner, with some qualification.

Next Steps: Designate someone to work with the California organizers (Karen Skelton has been working with Ray Bourhis to date) to learn more details about the program and the timing. Then appropriate White House and PIR staff need to determine which Administration officials could attend fundraising dinners and to what extent we give White House or PIR imprimatur to the effort. There is no reason to delay with this effort. Finally, this should be recognized as a promising practice.

Meeting with the University of California President Richard Atkinson. We have received a request by Richard Atkinson for a meeting with the President this Friday, February 13. It has been determined that Maria Echaveste, Minyon Moore, Elena Kagan, Eddie Correia, and Karen Skelton should meet with him when he is here. If Chris Edley is in town, he should attend the meeting as well. Chris Edley says that even though Atkinson is in a difficult political situation with the Board of Regents decision to end affirmative action, he is very much a supporter of the Administrations view on the issue. The purpose of the meeting is to learn more from him about the aggressive outreach program undertaken by UC as well as other insights learned from the recent changes in California.

Next Steps: The above-named individuals should meet with Richard Atkinson this Friday. I understand that Maria is taking the lead in organizing the meeting and coordinating with Atkinson.

The Leadership Alliance. The Leadership Alliance is an academic consortium of 24 colleges and universities, including the nations most elite colleges and universities and historically black institutions, led by Brown University, that have come together to establish a professional development pipeline that gives minority students and professors access to advanced coursework and laboratories in order to encourage and support their efforts to become scientists, engineers and teachers. Essentially, this group is working to enhance inclusiveness and diversity in graduate school. The Alliance has indicated that it is interested in working with the Administration to jointly pursue this mission.

Next Steps: When we meet, we need to discuss ways in which we can collaborate with the Alliance and other higher education associations to make progress in enhancing

inclusiveness and diversity in higher education. Mike Wenger and Scott Palmer should consider the Alliances offer of help in fashioning outreach and leadership efforts.

Conclusion

We should convene a meeting with relevant White House and PIR staff to sort through the various proposals so that we may quickly act on the priorities. In particular, we will have to act quickly on the Campus Week of Dialogue and the Presidential meeting proposals, as they will require the most work.

August 3, 1998

MEETING WITH THE CONGRESSIONAL HISPANIC CAUCUS

DATE:Tuesday, August 4, 1998
LOCATION: Cabinet Room
TIME:12:30 p.m. - 1:30 p.m.
FROM:Larry Stein
Janet Murguia

I. PURPOSE

To meet with the Congressional Hispanic Caucus in order to touch base and discuss issues of concern.

II. BACKGROUND

The Hispanic Caucus wants to discuss several issues, but will focus attention on three issues which they deem as urgent items to address on their agenda for the meeting with you (See Attachment # 1): (1) Accurate 2000 Census, including census appropriations funding and census education and outreach; (2) Education, including bilingual education and the Riggs (R-CA) bill scheduled for House floor consideration later this week. Also in this category is follow-up on the Hispanic Education Agenda which you proposed in your budget and the possibility of hosting a White House Summit on Staying in School in order to address the issue of high Hispanic drop out rates; and (3) Immigration and Citizenship, including the naturalization backlog, fee increase, and Immigration & Naturalization Service (INS) reorganization. In this area they will also request Administration support for "parity" for Salvadoreans and Guatemalans and other efforts to provide amnesty relief to various groups of refugees.

In addition, the Caucus will raise the issue of Latino Presidential appointments including: Latino judges and U.S. Attorneys; the Special Envoy to the Americas vacancy and State Department appointments; and Federal career workforce issues (See Attachment #2). Other Hispanic Caucus priorities that may be raised if time permits are: telecommunications and the E-rate; development funding for Latin America; Health and minority tobacco issues; Welfare-to-Work rates and Hispanics; the Race Initiative; and issues related to the territories of Puerto Rico and Guam.

1. Census

The Caucus wants the White House to take a strong stand in support of Census appropriations funding. This is an important issue in the Hispanic community, where an estimated 5% were undercounted in the 1990 Census. On Wednesday (7/15), the House Appropriations Committee ignored a Presidential veto threat and voted to approve the Commerce-Justice-State Appropriations bill that provides just six months of funding for Census 2000. This measure would provide $952 million for preparations for the 2000 Census for FY99. But only half the money would be immediately available. The rest would be withheld until April and could only be released if Congress votes to do so. The House is scheduled to consider the CJS bill on Tuesday. The Caucus as well as other Democrats will be attempting to pass the Mollohan (D-WV) Amendment which will provide full funding and which the Administration supports. The Senate provided the Administrations request for the decennial census.

2. Education
The English Fluency Act, introduced by Rep. Riggs, may come to the House floor this week. This bill would eliminate the existing Bilingual Education and Emergency Immigrant Education programs and replace it with a block grant requiring students to be placed in regular English-language classes after two years, and deny funds to districts for any children remaining in bilingual classes after three years. The bill would also eliminate funding for professional development programs, and would curtail the enforcement powers of the Education Departments Office of Civil Rights.

Members of the Hispanic Caucus have been concerned that you would couple opposition to the Riggs bill with a proposal of your own to reform bilingual education. They feel strongly that Congress should address the program during its scheduled reauthorization next year. Reps. Becerra, Hinojosa and Martinez were each told last week that the Administration did not intend to transmit an alternative to the Riggs bill, unless there was broad sentiment within the Democratic Caucus that one is needed. At present, there is no push from the Democratic Caucus for an alternative bill. We are preparing a SAP that will indicate strong opposition to Riggs, but will stop short of a veto threat. We do not believe we should issue a veto threat without an alternative bill to support. Further, since it is extremely unlikely that the Senate will take up the bill this session even if it passes the House, Senior advisers believe a veto threat is unnecessary as a practical matter.

3. Immigration and Citizenship
Many Hispanic advocates have expressed serious concerns over the naturalization backlog and INSs naturalization fee increases. The dramatic increase in naturalization applications (from 540,000 in FY 1994 to almost 1.6 million in FY 1997), along with the dedication of substantial resources over the past nine months to implement quality procedures, has resulted in an increase in the number of pending applications to nearly 1.9 million as of the end of May 1998. Currently, most applicants are experiencing a wait time of 12 to 15 months, if not longer.

The Hispanic Caucus is very concerned about the backlog and the Administrations plan to increase the naturalization fee, which funds the naturalization program. We have developed the following proposed plan to address the INS backlog and delay the naturalization fee increase (we will go forward with the other fee increases on schedule). The plan has been discussed with Congressman Becerra and he agrees that we should not announce the plan at this time. The House is currently considering the Commerce, Justice, State appropriations bill, and announcement of this plan may jeopardize the funding for this initiative.

The proposed plan would

*provide an additional $171 million in FY1999 dedicated to reduce the backlog;

*implement management improvements by establishing a new Deputy Executive Associate Commissioner for Immigration Services who will focus exclusively on benefits service delivery with a mandate to reduce the naturalization backlog, continue reengineering of adjudications processes, and improve customer service;

*establish backlog reduction teams comprised of adjudicators dedicated to naturalization

application processing. The teams will be concentrated in the five cities that represent 65% of the backlog -- Los Angeles, San Francisco, New York, Miami, and Chicago.

*implement reenginering improvements (recommended by Price Waterhouse Coopers) including implementing a comprehensive national phone center, consolidating medical waiver and complete file review at service centers, and implementing the Guide to Naturalization ensuring standard procedures across the agency.

*implement the naturalization fee increase, including a fee waiver policy, effective January 1, 1999. All other immigration services fee increases will be effective in October, 1998. These fee increases are necessary to reflect the true cost of immigration services.

Congressman Becerra and we believe that we must delay announcement of this plan to protect funding and prevent Republican (Chairman Rogers) opposition. Therefore, you should not go into any of the specifics of this plan at tomorrows meeting.

4. Other Issues
The Office of Legislative Affairs has coordinated with other White House offices including DPC, NEC, OMB, OPL, and IGA to provide background and talking points on other Caucus priorities which we believe may be highlighted.
(See Attachment III)

III.PARTICIPANTS

Pre-Brief
President
Erskine Bowles
John Podesta
Maria Echaveste
Jack Lew
Gene Sperling
Mickey Ibarra
Bob Nash
Janet Murguia
Elena Kagan
Jeff Farrow
Mike Cohen

Event

President
Erskine Bowles
John Podesta
Maria Echaveste
Jack Lew
Mickey Ibarra
Bob Nash
Janet Murguia
Elena Kagan
Jeffrey Farrow

Members of Congress

Rep. Xavier Becerra (D-CA), Chairman
Rep. Nydia Velazquez (D-NY), Vice Chair
Rep. Loretta Sanchez (D-CA), Vice Chair
Rep. Henry B. Gonzalez (D-TX)
Rep. Luis Gutierrez (D-IL)
Rep. Ruben Hinojosa (D-TX)
Rep. Matthew G. Martinez (D-CA)
Rep. Robert Menendez (D-NJ)
Rep. Solomon P. Ortiz (D-TX)
Rep. Ed Pastor (D-AZ)
Rep. Silvestre Reyes (D-TX)
Rep. Ciro Rodriguez (D-TX)
Rep. Carlos Romero-Barcelo (D-PR)
Rep. Lucille Roybal-Allard (D-CA)
Rep. Jose Serrano (D-NY)
Rep. Esteban E. Torres (D-CA)
Rep. Robert Underwood (D-Guam)

IV. PRESS PLAN

Closed Press.

V. SEQUENCE OF EVENTS

As usual.

VI.REMARKS

None.

VII.ATTACHMENTS

I.Congressional Hispanic Caucus Agenda.
II.Latino Appointees Background from Presidential Personnel.
III. Background and Talking Points on relevant issues and other Caucus priorities.

*August 1, 1997

MEMORANDUM FOR: BRUCE REED
ELENA KAGAN

FROM: MIKE COHEN

SUBJECT:PROCESS FOR RESOLVING HISPANIC CAUCUS CONCERNS ON NATIONAL TESTING INITIATIVE

It is critical that we have a final Administration position on the concerns raised by the Hispanic Caucus by the beginning of September, when Congress returns. Earlier would be preferable, though difficult. Below are my recommendations for how to proceed:

1. Education Department produces options memo
I have asked Secretary Riley to develop an options memo which can form the basis of a decision memo to the President.
*preliminary draft by August 8
*feedback from DPC, OPL, Leg affairs by August 11
*final by August 13

2. Internal White House review
I think we should plan on two internal meetings, including DPC, NEC, OPL, Leg. Affairs, Political Affairs, Intergovernmental, Communications, etc.
August 18:review and discussion of ED options, and assignments for external consultations
August 22:review feedback from outside groups, determine views of key offices, and agree on basic themes for decision memo

3. Consultations during week of 18th
-- Hispanic Caucus
-- Hispanic groups
-- urban districts
-- other supporters (e.g., business groups, AFT, NEA,)
-- states that have signed up or are likely to
-- key governors (e.g., Romer)

4. DPC Decision Memo to POTUS
By August 25, we should send a decision memo to POTUS that presents all options for which there is significant support, and which lays out pros and cons , including education impact, likely impact on overall testing initiative, likely impact on race initiative, and other political considerations.

STATEMENT OF ADMINISTRATION POLICY

TO:RAHM EMANUEL
LARRY STEIN
ANN LEWIS
ELENA KAGAN
PAUL BEGALA
CHUCK BRAIN
PETER JACOBY
BILL MARSHALL
PAUL WEINSTEIN

CC:ACTING DIRECTOR LEW
CHARLES KIEFFER
CHUCK KONIGSBERG
BOB DAMUS
MICHAEL DEICH

DATE:6/2/98
FROM:Kate Donovan, OMB Legislative Affairs
RE:FOR YOUR CLEARANCE -- Draft SAP on H.J.Res. 78 - Joint Resolution Proposing an Amendment to the Constitution of the United States Restoring Religious Freedom

Attached is a draft SAP on H.J.Res. 78 - Joint Resolution Proposing an Amendment to the Constitution of the United States Restoring Religious Freedom

Position:Administration Strongly Opposes

Timing:Rules Committee is expected to markup H.J.Res. 78 tomorrow, Wednesday, at 3pm. Therefore, we aim to send the SAP tomorrow morning.

Please contact Kate Donovan at 5-4790 by Wednesday (6/3), 10am with your comments or clearance. Thank you.
DRAFT -- NOT FOR RELEASE
June 2, 1998
(House Rules)

H.J.Res. 78 -Joint Resolution Proposing an Amendment to the Constitution of the United States Restoring Religious Freedom
(Istook (R) Oklahoma and 153 cosponsors)

The Administration strongly opposes House passage of H.J.Res. 78. The Nation currently has a constitutional amendment that protects religious liberty. It is the First Amendment. Public school students are free to voluntarily pray privately and individually at school. Students already have a right to say grace at lunchtime. They have the right to meet in

religious groups on school grounds and use school facilities like any other school club. They have the right to read the Bible, or any religious text during study hall or other free class time. Similarly, people who wish to engage in religious expression on public property have the same rights as people who wish to engage in comparable nonreligious expression. For over 200 years, the First Amendment has protected our rights to be as religious as we choose. Congress should not tamper with this most precious liberty. The First Amendment should not be rewritten.

* * * * * * *

PF

(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy was developed by the Legislative Reference Division (Schroeder) in consultation with the Departments of Justice (Taylor) and Education (Riddle), WHLA (Jacoby), WH Counsel (Marshall), DPC (Fernandes), TCJS (Boden) and HRD (Mustain).

OMB/LA clearance:

The House Judiciary Committee reported H.J.Res. 78 with an amendment in the nature of a substitute on May 19, 1998.

Administration Position to Date

The Administration has not previously taken a position on H.J.Res. 78.

On May 30, 1998, the President stated in his weekly radio address that amending the Constitution is the wrong way to protect religious freedom. The address further stated that "[f]or more than 200 years, the First Amendment has protected our religious freedom and allowed many faiths to flourish in our homes, in our workplaces and in our schools. Clearly understood and sensibly applied, it works. It does not need to be rewritten."

Background

According to the House Judiciary Committee's report on H.J.Res. 78, the legislation was introduced in response to concerns that "the Supreme Court and lower courts have misinterpreted the Constitution by issuing rulings that severely restrict religious expression when other forms of free speech are not so restricted, and which result in discrimination against a religious viewpoint in public affairs."

Summary of H.J.Res. 78

H.J.Res. 78 would amend the Constitution to explicitly provide for an individual's religious rights to worship on public property, including schools, and prohibit the Government from requiring any person to: (1) join religious activities; (2) initiate or designate school prayers; (3) discriminate against religion; or (4) deny equal access to a benefit on account of religion.

Pay-As-You-Go Scoring

According to BASD (Balis), H.J.Res. 78 does not affect direct spending or receipts and, therefore, is not subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act. CBO concurs.

LEGISLATIVE REFERENCE DIVISION

06/02/98

October 5, 1998

MEMORANDUM FOR ERSKINE BOWLES

FROM:Chris Jennings

SUBJECT:HMO disenrollment from Medicare and Response by Administration

cc:John Podesta, Rahm Emmanuel, Jack Lew, Bruce Reed, Gene Sperling, Ron Klaine, Larry Stein, Sylvia Matthews, Elena Kagan, David Beier, Janet Murguia, Dan Mendelson

Later today, we are attempting to schedule a meeting with Secretary Shalala and her staff at HHS to go over a range of options for the President to consider to respond to those Health Maintenance Organizations (HMOs) that chose to selectively terminate some of their plans from participation in the Medicare program. Because of the growing news coverage of this issue, Rahm and Bruce believe it is advisable for us to move quickly to determine our strategy and public positioning on this issue. They asked if I would provide you this memo in preparation for such a meeting.

Background

As of late last night, HHS had not completed its analysis of the impact of the roughly 25 (mostly large) HMOs that chose to selectively terminate some of their plans from participation in the Medicare program. On a preliminary basis, however, it appears that the decisions by these HMOs will affect between 325,000 to 400,000 beneficiaries in about 375 counties. Because the Medicare program has about 6.5 million of its over 38 million beneficiaries in HMOs, about 5 percent of Medicare HMO enrollees and about 1 percent of the entire Medicare population seem likely to be impacted in any way at all. Having said this, because most of the beneficiaries affected will have another Medicare HMO option in their county, there appears to be a much smaller number of beneficiaries (between 30,000 and 80,000 -- about 1 percent of the Medicare HMO population) who will no longer have the option of enrolling in an HMO. (They will, however, always have access to their traditional fee-for-service plan, as well as to at least some supplementary "Medigap" coverage.)

FF

The Congress, so far on a bipartisan basis, has been critical of the decision by some within the HMO industry to selectively withdraw from Medicare. On Friday, the Republican Leadership left the Commerce Committee in the hands of the Democrats and some of their party's most vociferous critics of HMOs (such as Mr. Ganske) to excoriate the industry's representative. Mr. Thomas, the Chair of the Ways and Means Subcommittee on Health, has

also indicated at least his initial support of our decision not to allow plans to charge more and/or reduce benefits. Having said this, members of states that will be disproportionately affected can be counted on to pressure us to take more actions. Senator Dodd has already weighed in, and we can be sure others will follow.

The American Association of Retired Persons (AARP) support last week's decision by the Administration to reject the industry's request for changes in their coverage and cost sharing. They have indicated that they want to work with us to make sure that beneficiaries know all of their options and rights (discussed below) relating to the plan terminations from the program. Although they acknowledged that their sentiments may change as more beneficiaries complain, AARP indicated that they now see no reason to move quickly to respond to initial "scare" articles by taking any position that appears to reward "bad apple" HMOs. Having said this, they also do not believe we need to take a strong and public position that appears we have drawn lines in the sand on against doing something on this issue. They are of the mind that we should wait to see how big the problem is and how the public responds to it before taking any formal, final position. They think a quick tough position may unconstructively unify the HMO industry against us.

Options to Respond to HMO Industry's Actions.

Before briefly outlining some options, it is important that you are aware of actions we can and should take regardless of our broader strategy on the Medicare HMO issue. Clearly, we must be quick to ensure that HCFA collaborates with the aging advocates (like AARP), the aging network (like the Area Agencies on Aging), the state-based insurance counselors, and others in and outside the Administration to ensure that beneficiaries in impacted areas know that they can always return to the program's fee-for-service plan. Beneficiaries also need to know that the law requires Medicare supplemental insurers to offer beneficiaries access to certain "Medigap" coverage without being underwritten. As a result, insurance that fills in the voids that Medicare does not cover is truly accessible. Finally, to illustrate our commitment to find ways to assure this never happens again, we may also want to indicate our intention to introduce legislation that would help ensure that this never happens again. (For example, we might want to contemplate provisions that penalize plans for "cherry-picking" the high reimbursement areas or disallow HMOs to enter any new market if they have withdrawn in others.) Being proactive could help immunize us against charges we do not care about beneficiaries.

Options for responding to last week's decision by many HMOs to pull out of Medicare:

1.Explicitly announce a "do nothing" position. In short, draw a line in the sand quite publicly and blame any subsequent mess on HMOs who signed a contract in May and are reneging on their commitment. Highlight all the "selfish" reasons why some HMOs are dropping out and underscore our commitment to never be "black-mailed" into changing the contracts we signed in good faith on behalf of the beneficiaries.

Pros: Strong and decisive action; Puts industry on the defensive and initiates a much more public war with one of the nation's most unpopular industries -- HMOs.

Cons: Republicans, some Democrats, and AARP may feel we are acting too politically and too abruptly; Charges of callousness to harmed beneficiaries may ensue; If we don't stay tough throughout inevitable "horror" stories, we will look much weaker.

2.Tacit "do nothing" position, but leave door (quietly open) option. Under this scenario, we would continue to say we are looking into impact to determine severity, but would say we continue to be skeptical that there is a valid argument to do anything. We would background the press on the weaknesses of the HMOs' arguments, but would hint that we might not reject out of hand any future intervention if our review turns up major problems for beneficiaries.

Pros: Would appear that we are not backing down to industry, but also gives flexibility in case we want to alter our current course; would likely be supported by the Republicans and AARP for now, might be safest -- but certainly not boldest --option for the moment.

Cons: Could come across that we do not care about beneficiaries' woes; Could appear weak and indecisive; Opens door to HMOs to come in to cut a deal that may viewed by the validators as setting very bad precedent for the Medicare program.

3.Expedite approval of new plans coming into counties now not served. This option would highlight our commitment to work with and give expedited approval to HMOs that were not in a service area when another HMO dropped its coverage. These so-called "good-guy" plans could give a less comprehensive benefit or cost-sharing protection package than the one that it would replace.

Pros: Would not reward "bad apple" HMOs; Supports our contention that we are taking reasonable actions to help beneficiaries keep access to an HMO option; in combination with base administrative and legislative package (outlined above), would illustrate that our "first and foremost" commitment is to beneficiaries -- not HMOs.

Cons: Very few new plans can be expected to come into these marginal markets; Will not significantly reduce the number of "victim" stories that will be reported;
Makes us potentially more vulnerable to criticism that we did not do everything we could to help beneficiaries; If we pursue this option but eventually cave to HMOs' desires for other plans to get a similar offering, we would be perceived as very weak.

4.Expedite approval of new plans, but allow selected old plans to apply to come back in if no other option is available. This approach would allow a plan that withdrew from a service area, which now has no HMO option, to downgrade its benefits package to a level the HMO believes is financially viable.

Pros: Would help more beneficiaries at least retain some of their current HMO coverage; Would be more responsive to the inevitable pressure from the Congress to do more; and if -- as is likely -- the old HMOs do not come back, it is easier to lay the blame on them. (In other words, we did everything the HMOs asked for and they still did not come back.)

Cons: Rewards bad actors; Makes us look somewhat weak -- as though we backed down from pressure of the HMOs, Sets bad precedence for Medicare for future similar disputes with the industry (unless our administrative/legislative package makes it appear certain that we cannot or would not be able to do this again.)

5."Third way" option: try to split the difference between option 3 and 4 to attempt to get the best and avoid the worst of both options. It might be possible (although we are still trying to develop a way to rationally apply this option) to allow only new plans in, but to give the HHS Secretary emergency authority to approve -- in selected cases -- applications

from HMOs from the old service area to come back into the county. Under this approach, no such plan could even be considered unless it was clear that no new plan would likely come into a particular service area. There would have to be additional criteria as well to ensure that there is no substantive difference between option 4 and 5.

Pros: Could argue that we showed how we could respond to beneficiaries' concerns without backing down to the "bad apple" HMOs; See #4 above for similar pros.

Cons: Could be vulnerable to charges that it is "too cute by half;" Might not be able to develop criteria that was realistic and useable enough to differentiate amongst similar plans.

Conclusion. There may be other options, but the above outlines what is most likely to be discussed later today. The White House staff (DPC, NEC, OMB, OVP, Rahm, etc.) has not had the opportunity to think through all of these options. In general, however, the White House tends to want to be a bit more aggressive than HHS. Consistent with this, HHS had indicated an interest in option 4 on Friday. However, some of Donna's staff seemed to be cooling to the idea over the weekend. Regardless, it is clear that all views on this issue will be influenced by the degree to which we receive troubling reports about beneficiaries.

HHS' staff will be meeting early this morning to go over their preliminary analysis and options. We will advise you if anything unusual comes back to us prior to your meeting.

MEMORANDUM

TO:BRUCE REED, ELENA KAGAN

FROM:TOM FREEDMAN, MARY L. SMITH

RE:HOMELESSNESS

DATE:MAY 5, 1998

I.BACKGROUND

*Fred Karnas is the head of the Interagency Council (708-1506).

*George Ferguson (708-1418 or 708-0614 x4517) to get draft of surveys.

II.STATISTICS

*There are about 250,000 to 350,000 homeless persons on a given night. (OMB).

*The Federal Plan states that on any given night there are as many as 600,000 homeless persons. (Burt and Cohen, 1989).

*OMB states that 4 out of 5 single homeless men are veterans. The Federal Plan states that approximately 30 to 45 percent of the entire adult male homeless population are veterans. Fred Karnas estimates that one-third of all homeless persons are veterans.

*The National Coalition of Homeless Veterans estimates that there are 275,000 homeless veterans on any given night. They estimate that there would be double that number over the course of a year.

*The National Coalition of Homeless Veterans estimates that the VA served 30,000 homeless veterans in 1997. VA says they serve 40,000 per year.

*50 percent of the homeless population have substance abuse problems (Fred Karnas).

*One-fourth to one-third have a mental health problem (Fred Karnas).

*Dennis Culhane has the best studies.
-- 80% cycle through pretty quickly
--10% have a longer cycling
--10% substance abuse and are chronically on the street

*The LA Vets program (which is a community-based organization) saved the local VA $12- $14 million.

*The Maryland Homeless Veterans program in Baltimore is also a good program.

III.GOVERNMENT

*The McKinney Act is the major legislation addressing homelessness. There is $700 million for competitions.

*HUD spends $1 billion on homelessness per year (OMB).

*Total VA budget for Homeless is $90 million per year (Peter Dougherty).

*There are three major VA programs that work with homeless.
Grant per diam. This program gives grants to community-based organizations to acquire transitional beds. In FY 94 through FY 97, 101 grants were awarded to 84 non-profit or state or local government agencies in 36 states. There is $5 million per year for new grants. Pays up to $16/day for ongoing operational costs.
Homeless Chronically Mentally Ill Veterans Program. The HCMI program places homeless veterans needing more intensive treatment into one of its roughly 125 contracted community-based facilities. The program serves over 19,000 homeless veterans per year, with over 3,000 receiving residential treatment. The average cost per day is $38.
Domiciliary Care. Treatment takes place in approximately 1500 dedicated beds at VA medical center domiciliaries.

*Homeless Veteran Reintegration Program at the Department of Labor. $10 million per year. This program gives money for employment programs.

*There are 56 VA facilities that serve homeless veterans (National Coalition).

*VA says there are 172 VA Medical Centers, and that 71 sites provide health care for homeless. At least 70 sites dont have domiciliary program (geographical that would be one-half of the country). Peter Dougherty estimates that they would need about $45 million to cover most of country.

*Rep. Lazios bill, which passed in the House, would revamp the McKinney Act. HUD has dropped support for this bill (OMB).

*Rep. Marcia Kaptur (D-OH) is looking at the mental health aspects of homelessness (Fred Karnas).

*H.R. 3039. Sponsored by Stump and Lane Evans. This bill is a $100 million loan guarantee program. It would only fund 15 sites.See Bruce Long at OMB.

IV.UPCOMING DATES

*May 1998. Draft of the national survey of clients. Marty Burke at Urban Institute will write it.

*Fall 1998. Provider survey, to be released later in summer.

*Fall 1998. The Interagency Council is going to lay out research and prepare a best practices report.

*November 1998. The Interagency Council is planning on putting on a conference (Fred Karnas).

V. RECOMMENDATIONS

*Tracking: we need to track the homeless population. There is an ANCHOR database system being developed by University of Pennsylvanias Dennis Culhane (sp). Recommended by OMB. The National Coalition suggests that providers ask whether someone is a veteran on their intake forms.

*Better coordination -- make mainstream programs more available.

*Link housing vouchers to case management. Recommended by OMB.

*The VA is not held accountable on outcome. The National Coalition believes that the VA only counts numbers served, not the number who no longer are homeless. Peter Doughtery from the VA disputes this -- he says they have great tracking statistics.

*Put more money in VA programs. In this order (1) grants per diem (because it is only a subsidy so you get more bang for your buck (2) health care and (3) domiciliaries.

*HUD grants should put veterans as a consideration in issuing grant. (Peter Dougherty from VA).

July 29, 1998

MEMORANDUM TO: Cheri Carter

FROM:Frank Hall

RE:Budget Briefing for Homeless Groups

Yesterday I spoke with Bob Reeg of the National Coalition for the Homeless about organizing a budget briefing for Homeless organizations. Mr. Reeg had spoken with you and Minyon at the last budget briefing, and Minyon said she would help to organize a briefing for homeless organizations.

Mr. Reeg is interested in a meeting with members of the DPC as well as OMB staff. He said their groups would be primarily interested in a meeting with Special Assistant level staffers and above. He suggested Elena Kagan and Christopher Jennings as two possibilities. He said they would not be as interested in meeting with Bruce Reed because they are looking for a substantive dialogue instead of a "happy, feel-good talk." He indicated that any of the higher-level policy staff would be appropriate. As far as substance is concerned, Mr. Reeg and his colleagues are interested in the FY 2000 budget more so than the FY 99. There have been serious cuts to funding of Homeless efforts and they would like to discuss the refunding of certain projects. The issues to discuss would call for policy specialists in each area to attend the proposed briefing. These issues are:

1.Health Care
2.Housing
3. Human Services
4.Income Security
5. Education / Training

Mr. Reeg also proposed a potential listed of groups to be represented at such a briefing. They include:

1.National Coalition for the Homeless
2.National Alliance to End Homelessness
3.National Law Center on Homelessness and Poverty
4.National Network for Youth
5.National Coalition for Homeless Veterans
6.National Health Care for the Homeless Council

On a separate note, Tom Freedman of the DPC has given an independent invitation to the National Coalition for the Homeless to meet at the White House concerning similar issues. Mr. Reeg suggested coordinating such an invitation with the proposed budget brief.

HPS WAR Items for Week of Oct 13-17, 1997

DPC Meeting with Civil Rights Agencies: HD staff attended a meeting convened by Elena Kagan with civil rights enforcement agencies in HHS, Labor and Education, to discuss: 1) how to improve and enhance civil rights enforcement; and 2) to discuss ideas agencies might have for possible initiatives for FY 1999; and 3) how the Administration can help these agencies with Congressional appropriators (a concern being that the Budget has requested more money than Congress has been appropriating for these office). The DPC is searching for civil rights initiatives to include in the Presidents Initiative on Race and will probably ask for OMBs assistance in any initiatives they develop.

Presidential Initiative on Racial Disparities in Health -- HD staff attended a meeting on 10/17 with Chris Jennings and Elena Kagan of DPC and Bill Corr, John Callahan and other HHS policy officials regarding potential Presidential initiatives on reducing racial disparities in health status. Per the guidance of DPC, HHS has prepared draft FY 1998 and FY 1999 funding initiatives to address six health areas where there are notable racial disparities: infant mortality, breast and cervical cancer, heart disease and stroke, diabetes, AIDS and childhood immunizations. HHS advised that the FY 1999 initiative, which would provide grants to 30 communities to address one of the six health areas, would cost $360 million over 5 years; $30 million of which would be for FY 1999. This proposal was not included in HHS' FY 1999 submission to OMB in September.

DPC and HHS discussed the possibility of having the President announce these FY 1998 and FY 1999 funding initiatives on November 11th, 1997 at a meeting of the American Public Health Association (APHA). HHS was uncertain they could prepare all of the press materials for an announcement on this date, but was going to get back with DPC during the week of 10/20 to let them know when they could be ready. It was noted that any Presidential funding commitments for FY 1999 would have to be cleared through OMB. DPC staff also noted that the President and Chief of Staff Bowles have a strong interest in this potential initiative.

ONDCP "De-Certification" Meeting with HHS -- ONDCP and HHS staff met to discuss ONDCP's possible "de-certification" of HHS' FY99 request to OMB for drug programs; HD and TCJS staff attended. ONDCP staff believes that HHS' request for the Substance Abuse and Mental Health Service Administration does not adequately reflect the high priority General McCaffrey places on investing in substance abuse treatment. In July, ONDCP had asked that HHS seek a $400 million increase in SAMHSA's $1.3 billion Substance Abuse Block Grant in FY99, but HHS' FY99 Budget includes "only" an $85 million increase. If ONDCP "de-certifies" HHS' request, HHS will be required to submit a revised request to OMB. De-certifications are rare, but once they happen, they are likely to become public, which is why HHS is trying to work this out with ONDCP. The next step is for HHS to decide if they would rather modify their FY99 request and re-submit it to OMB or risk being forced to do so by ONDCP if they were to formally "de-certify" HHS' request.

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April 9, 1996

MEMORANDUM TO GEORGE STEPHANOPOLOUS
MELANNE VERVEER
BETSY MYERS
VICKI RADD
ELENA KAGAN
JENNIFER KLEIN
TERRY EDMONDS
JOHN HART
DEBBIE FINE
JUDY GOLD

From:Jeremy Ben-Ami

Subject:Additional Stories for Press Packet

Attached are articles I would propose putting in a press packet for the veto of HR1833.

Please review and let me know ASAP if you see a problem distributing any of them. We do have others we could substitute. All of these women have had personal contact either with White House staff, congressional staff, or one of the women's groups. Their stories have been subject to at least some public scrutiny.

STATEMENT OF ADMINISTRATION POLICY

TO:RAHM EMANUEL
LARRY STEIN
JOHN PODESTA
SYLVIA MATHEWS
GENE SPERLING
SALLY KATZEN
BRUCE REED
ELENA KAGAN
JANET MURGUIA
CHUCK BRAIN
TRACY THORNTON
RON KLAIN
BILL MARSHALL
JASON GOLDBERG

CC:DIRECTOR RAINES
DEPUTY DIRECTOR LEW
BOB DAMUS
CHARLES KIEFFER
JOE MINARIK
MICHAEL DEICH
CHUCK KONIGSBERG

DATE:5/4/98
FROM:Kate Donovan, OMB Legislative Affairs
RE:FOR YOUR CLEARANCE -- Draft SAP for HR 2676 -- IRS Restructuring and Reform Act

Attached is a draft SAP on H.R. 2676 -- IRS Restructuring and Reform Act. Please note that the first paragraph has been revised since previous drafts were circulated.

Position:Administration supports passage with certain modifications.

Timing:The Senate is currently considering HR 2676 with votes expected throughout the week. Therefore, we aim to send it early Tuesday morning.

Please contact Kate Donovan at 5-4790 by Tuesday, 10am with your comments or clearance. Thank you.

STATEMENT OF ADMINISTRATION POLICY

TO:RAHM EMANUEL
LARRY STEIN
JOHN PODESTA
SYLVIA MATHEWS
GENE SPERLING
SALLY KATZEN
BRUCE REED
ELENA KAGAN
JANET MURGUIA
CHUCK BRAIN
RON KLAIN
BILL MARSHALL
KEVIN MORAN

CC:ACTING DIRECTOR LEW
CHARLES KIEFFER
ELIZABETH GORE

DATE:6/15/98
FROM:Kate Donovan, OMB Legislative Affairs
RE:FOR YOUR CLEARANCE -- Draft SAP & Treasury Letter on
H.R. 3097 - Tax Code Termination Act

Attached is a draft SAP and Treasury Letter on H.R. 3097 - Tax Code Termination Act.

Position:Senior Advisers Veto Recommendation

Timing:Scheduled for House Floor action Wednesday, June 17. We aim to send tomorrow, Tuesday, afternoon. Please provide comments/clearance by noon tomorrow (5-4790).

STATEMENT OF ADMINISTRATION POLICY

TO:RAHM EMANUEL
LARRY STEIN
JANET MURGUIA
TRACY THORNTON
CHUCK BRAIN
JOHN PODESTA
SYLVIA MATHEWS
GENE SPERLING
PETER ORSZAG
BRUCE REED
ELENA KAGAN
RON KLAIN
PAUL WEINSTEIN
JASON GOLDBERG

CC:DEPUTY DIRECTOR LEW
CHARLES KIEFFER

DATE:April 27, 1998
FROM:Kate Donovan, OMB Legislative Affairs
RE:FOR YOUR CLEARANCE --
Draft SAP on H.R. 3546 - National Dialogue on Social Security Act of 1998

Attached is a draft SAP on H.R. 3546 - National Dialogue on Social Security Act of 1998. On 4/24, Speaker Gingrich stated that the POTUS will sign the Republican bill creating a bipartisan commission (statement attached).

Position:The Administration supports the goal of H.R. 3546; however, the bill is unnecessary.

Timing:House floor consideration expected Wednesday (4/29). Gene Sperling has requested that the SAP be sent to the Hill just prior to consideration.

Please contact Kate Donovan at 5-9136 with your comments/clearance by 4pm Tuesday, 4/28.

January 9, 1997

NOTE TO: BARRY WHITE/ BOB SHIREMAN/ NAOMI TINKLEPAUGH

CC: JIM MURR
JANET FORSGREN

SUBJECT: REQUEST FOR ADMINISTRATION COMMENTS ON REP WOOLSEY "BEST" BILL

FROM: ROGER MCCLUNG

Tom Kalil at the NEC received a request from Rep Lynn Woolseys staff for changes that would enable the Administration to support the "Business and Education Sharing Technology Act (BEST)" introduced as HR 3921 in the last Congress. (See attached note from Alice Shuffield)

When this bill was in review last September one issue of concern was the requirement in Sec 5 that a WH recognition ceremony be held. Give me your views on whether this section would have to be deleted or how it could be changed to be acceptable. Please give me these changes as well as any other comments or suggested changes to the bill by 2PM Monday, Jan 13th.

I am also sending the bill to Education and Commerce for their comments and changes, if any, and will get consolidated agency/OMB comments to Alice Shuffield. Alice will get comments/clearance directly from Greg Simon and Elena Kagan.

Thank you.

STATEMENT OF ADMINISTRATION POLICY

TO:JACK LEW
SYLVIA MATHEWS
JOHN PODESTA
MARIA ECHAVESTE
LARRY STEIN
ELENA KAGAN
BRODERICK JOHNSON
GENE SPERLING
SARAH ROSEN
CHUCK KIEFFER
ELIZABETH GORE
CHUCK KONIGSBERG

DATE:8/6/98
FROM:Kate Donovan, OMB Legislative Affairs

RE:FOR YOUR CLEARANCE -- Draft Treasury Letter on HR 4364 - Depository Institution Regulatory Streamlining Act of 1998

POSITION:SECRETARY OF TREASURY VETO RECOMMENDATION ON THE BILL IN ITS CURRENT FORM.

BACKGROUND:HR 4363 was marked up by a House Banking subcommittee on 8/4/98. The subcommittee amended the bill to include a provision that would exempt small banks from the Community Reinvestment Act.

On 7/22/98, a SAP was released on HR 1151, Credit Union Membership Access Act with the position: "The full Senate should reject amendments ... such as the amendment that would substantially weaken the CRA by exempting certain banks from the Acts requirements. If HR 1151 were presented to the President with such an amendment, the Secretary of the Treasury would recommend that the President veto the bill."

TIMING:Treasury aims to release before the House recesses for the month. Please review & provide comments/clearance as soon as possible to Kate Donovan at 5-4790. Thanks.

Childrens Health Outreach Campaign -- We now believe that we need to go ahead and launch the outreach campaign in September. Governors and others are anxious to begin outreach activities, and we want to ensure that the Administration maintains control of these efforts (so that, across the country, families hear one message and see one phone number). At the September event, we will be prepared to launch a radio campaign and announce activities by corporations (e.g., Nike, AT&T, etc.), foundations, grassroots advocacy groups (e.g., health, religious, child care, and education) and others. In addition, we hope to announce that the networks will begin airing public service announcements during prime time hours in January.

Cincinnati Childrens Health Outreach Article -- You had seen a July 27 article titled "Free Insurance Promoted" in The Cincinnati Enquirer. The article stated that the President recently made $500 million available to local communities to publicize the Childrens Health Insurance Program (CHIP). The reporter received his information from a county official who thought that the President had announced the availability of this funding in February. In fact, the President announced only a legislative proposal to allow states to use $500 million of welfare reform dollars for CHIP outreach. It does appear that Ohio is making welfare reform funds available to community groups for outreach, though this is not actually permitted without the change proposed by the President.

Single Sex Education -- Elena Kagan and Mike Cohen are drafting a memo to update you on the continuing negotiations between the Department of Educations Office of Civil Rights and the Young Womens Leadership School in East Harlem. We also thought that you might be interested in knowing that Kay Bailey Hutchison plans to offer an amendment to Labor-HHS Appropriations to make certain that federal education funds can be used to support same-gender public schools as long as comparable educational opportunities are offered for students of both sexes.

August 7, 1998

MEMORANDUM FOR HILLARY RODHAM CLINTON

FROM:JENNIFER KLEIN
NICOLE RABNER
NEERA TANDEN

CC:MELANNE VERVEER

SUBJECT:Issues Update

Below please find brief updates on various issues. Next week, Nicole will forward separate memos on child welfare/adoption and Packard Foundation discussions, and Neera will forward follow-up memos on D.C. Charter Schools and on the amended version of the Senates juvenile crime bill.

Childrens Health Outreach Campaign. We now believe that we need to go ahead and launch the outreach campaign in September. Governors and others are anxious to begin outreach activities, and we want to ensure that the Administration maintains control of these efforts (so that, across the country, families hear one message and see one phone number). At the September event, we will be prepared to launch a radio campaign and announce activities by corporations (e.g., Nike, AT&T, etc.), foundations, grassroots advocacy groups (e.g., health, religious, child care, and education), and others. In addition, we hope to announce that the networks will begin airing public service announcements during prime time hours in January.

Head Start. Head Start, as you know, is up for reauthorization this year, and the Senate completed its bipartisan bill many weeks ago, with our close involvement. The bill authorizes the Head Start program at amounts proposed by the President and, you will be interested to note, adds "school readiness" as a specific outcome goal for the Head Start. This will open the way for discussions about a standardized curriculum which will begin exploring with HHS and others in the fall. The House, on the other hand, has turned Head Start reauthorization into a partisan fight -- the full House Committee added provisions such as vouchers for parents to choose alternate child care arrangements, a repeal of the Davis-Bacon prevailing wage law, and burdensome requirements for Head Start grantees to verify TANF compliance -- all of which we strongly oppose. Congressman Goodling, the Chair of the full Committee who has urged bipartisanship on this issue, and Congressman Riggs, the sub-Committee Chair and main proponent of the partisan amendments, have been arguing about this bill for some time. We now understand that Goodling may in September bring to the floor a Head Start bill stripped of the objectionable provisions.

Another important controversy surrounding Head Start reauthorization is the issue of program quality. The Administration has always maintained that there needs to be a careful balance between investments in Head Start expansion and quality -- that while we must sustain our commitment to improving program quality, we must also seek to serve more of the eligible population with Head Start services. Current law states that 25 percent of expansion dollars (i.e., funds above the prior years funding mark) must be spent on

improving quality (salary enhancements, facility upgrades, etc.). We have long supported this provision, even though the trade-off is that we can serve less additional children with any increased funding level. House Republicans want to increase substantially this quality set-aside in reauthorization, to nearly 75 percent. While it is difficult for us to oppose quality investments, we plan to press for a more balanced approach to investing in quality and expansion, particularly since we want to reach the Presidents goal of serving one million children with Head Start services (which would be nearly impossible to do if 75 percent of any additional dollars were targeted to quality activities). Since the Senate left the 25 percent quality set-aside intact, we imagine that some compromise (but still a net increase of quality dollars) will be worked out in Conference in the fall.

Social Security Reform and Women. A broad group of women Members of Congress sent a letter to the President on Thursday, urging him to pay careful attention to the implications of Social Security reform for women (attached). We will continue to monitor this important issue in the fall.

D.C. Appropriations Bill. On Thursday night, the House passed its D.C. Appropriations bill. We were pleased that the bill fully funds both D.C. public schools and D.C. charter schools (therefore not pitting them against one another). However, three strongly objectionable amendments were attached to the bill -- including measures to establish private school vouchers, to prohibit adoptions in the District by unmarried or unrelated couples, and to prohibit the use of Federal and local funds for needle exchange programs. In addition, the bill would bar the use of local District funds for abortions, and fails to fund the Presidents economic revitalization plan for D.C. We have particularly followed the adoption restriction in the bill, which clearly targets the gay and lesbian communitys ability to adopt and become foster parents jointly. In our objections to this measure, we have stressed that the D.C. Appropriations bill is an inappropriate forum for a policy debate on child welfare, which has a strong history of bipartisanship. In addition, it is unnecessary interference in foster care casework, where the best interests of the child should govern decision-making.

Senate Labor-HHS Appropriations Bill. The Senate is just beginning to consider its Labor-HHS Appropriations bill, and plans to begin its subcommittee markup in September. We have heard unconfirmed reports that Senate Republicans are considering fully funding our FY 1999 child care Appropriations request, which includes the $180 million of initiatives that require discretionary funding (the standards enforcement fund, the scholarship program, and the research fund). It is unclear, however, if the Senate plans to fund our specific initiatives or if they plan to target the $180 million of our request to block grant discretionary funds for subsidies. In addition, we have heard that the Senate is likely to fund our after-school initiative, the 21st Century Community Learning Center program, at $80 million for FY 1999, but they may well fund it at a higher level ($80 million would double the programs current funding level, but is considerably less than the Presidents $200 million request).

Bankruptcy Reform. There are still no prospects of movement on the Hill before this Congress adjourns. However, because the bill could come up by surprise in the fall and in order to be prepared in the long-term, we are working with the NEC to develop proposals that address creditor abuse and that promote consumer protection and education.

Single Sex Education. Elena Kagan and Mike Cohen are drafting a memo to update you on the continuing negotiations between the Department of Educations Office of Civil Rights and the Young Womens Leadership School in East Harlem. We also thought that you might be interested

in knowing that Kay Bailey Hutchinson plans to offer an amendment to Labor-HHS Appropriations to make certain that federal education funds can be used to support same-gender public schools as long as comparable educational opportunities are offered for students of both sexes.

Youth Violence Dinner Follow-Up. We are in the process of gathering follow-up ideas from a number of the dinners participants. As appropriate, we will distribute their ideas to staff, and will ensure that those working on the White House Conference on School Safety receive relevant input. In addition, we will forward a memo to you next week outlines the recommendations of the Departments of Justice and Education and White House staff for themes of the conference.

Working Families Shadowing Idea. Ellen Galinsky of the Families and Work Institute has teamed up with Lifetime Television for Women to implement your idea of organizing a shadowing effort in which elected officials are paired with a low-income working family in their district to learn first-hand, over the course of a day, about the many challenges families face. They are now working to identify and target Members of Congress for this effort, and are very eager for your participation in a follow-up meeting or event in the fall, in which the officials involved would discuss what they learned from their shadowing experience. In particular, the group would like to urge Members of Congress to participate by signaling your willingness to join this follow-up discussion.

Asthma. You asked us to evaluate Michael Fumentos recent op-ed in the New York Times (attached), which argued that EPAs efforts to ban two kinds of pesticides are counter-productive because these pesticides are used to kill cockroaches, which, in turn, can cause asthma. While there are several misrepresentations in this article, two in particular stand out. First, Mr. Fumento argues that EPAs efforts to regulate air pollution based on asthma are misguided because, he contends, asthma rates are highest in countries that have lowest pollution rates. However, ozone is a powerful cellular irritant that does cause respiratory inflammation and spasms in the lungs air passages, and it is consistently associated with aggravating the disease in study after study. In fact, the American Lung Association determined that children with asthma are 40 percent more likely to suffer asthma attacks on high-pollution days compared to days with average pollution. Therefore, while it is the case that we do not know exactly why asthma rates have increased at the same time that overall air quality has improved, we do know that increased levels of ozone in the air exacerbates asthma, particularly in children.

In addition, Mr. Fumentos central argument is that EPAs consideration of a ban on organophosphates and carbamates, two types of pesticides that are potent cockroach killers, is wrong headed because these pesticides could help reduce asthma levels by killing cockroaches. However, he fails to mention that these two pesticides are toxic to the central and peripheral nervous systems, and that they are members of the same chemical class as the war gases, sarin and soman. The EPA is regulating these pesticides under the Food Quality Protection Act, which requires that pesticides standards be set at levels that protect childrens health. EPAs preliminary findings indicate that American children are still exposed to some organophosphate and carbamate pesticides at levels of tens to hundreds of times above safe thresholds. Finally, it should be noted that Mr. Fumento is a frequent contributor to "The Washington Times" and "The Weekly Standard," and regularly criticizes environmental regulations. His books include Science Under Siege: Balancing Technology and the Environment and The Myth of Heterosexual AIDS.

Cincinnati Childrens Health Outreach Article. You had seen a July 27 article titled "Free

Insurance Promoted" in The Cincinnati Enquirer. The article stated that the President recently made $500 million available to local communities to publicize the Childrens Health Insurance Program (CHIP). The reporter received his information from a county official who thought that the President had announced the availability of this funding in February. In fact, the President announced only a legislative proposal to allow states to use $500 million of welfare reform dollars for CHIP outreach. It does appear that Ohio is making welfare reform funds available to community groups for outreach, though this is not actually permitted without the change proposed by the President.

Ryan Moore. Nicole has kept in touch with Ryan and his family, who convey their love to you and the President. The Moores also wanted you to know that a Christian publisher is interested in commissioning a book about Ryan (to be written in his voice with help from writer), to teach children about disabilities and tell his inspirational story of faith and hope. They asked if they could include photos and stories representing how important you and the President have been in Ryans recovery, if this moves forward. We will stay in touch with the Moores as the project develops.

Lisa Pritzger. Jen spoke with Lisa Pritzger to follow up with your conversation with her on at risk youth at the Pritzger dinner. She is interested in working with us as we develop policy and plan events in this area, but had no specific ideas yet. Unfortunately, she will be away at the time of the White House Conference on School Safety.

September 23, 1997

MEMORANDUM

TO:Hillary Rodham Clinton
CC:Melanne Verveer
FROM:Jennifer Klein, Nicole Rabner
RE:Tomorrows Meeting on Child Care

As you know, tomorrow we are meeting with Bruce Reed and Elena Kagan to discuss child care policy, specifically in the areas of school-age care, quality promotion, and affordability. As you know from our last meeting, many policy options are now on the table -- many of which we discussed, and some of which you rightly added. We are now at a stage (approximately one month before the Conference), where we need to make decisions about priorities, specifically in preparation for the decision memo for the President and you to review.

Elena has been involved in many, but not all, of our policy meetings; Bruce has been periodically briefed but has not been as intimately involved. This meeting presents a good opportunity to review the options that have emerged from our policy process, to raise tough questions, and explore a strategy for follow-up.

You might consider offering to convene a larger meeting with NEC, OMB, HHS, Treasury, etc., to bring the relevant players together to discuss budget priorities. We need Bruce to take a leadership role to narrow options and prepare us for such a meeting.

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Jack Lew

FROM: Don Arbuckle

SUBJECT: Heads-up on SBAs Final HUBZone Empowerment Contracting Rule

We are reviewing the Small Business Administrations (SBA) final rule implementing the HUBZone Empowerment Contracting program. We received the rule on May 15th and are working to clear it in time for SBA to meet its May 29th statutory deadline for publication.

This program implements the Historically Underutilized Business Zone (HUBZone) Act of 1997, as championed by Senator Bond, and builds on the Presidents Empowerment Contracting Executive Order of May 21, 1996. The HUBZone program is designed to provide Federal contracting opportunities for small businesses located in distressed communities - - primarily rural areas - - in order to increase employment opportunities and investment in those areas.

In this proposal SBA sets out the broad goals and procedures of the HUBZone program. This includes the definition of HUBZone areas as detailed in the law; the establishment of the certification criteria and process for HUBZone firms; and, the list of federal agencies required to participate in the program. SBA is also responsible for maintaining a list of qualified HUBZone firms for Federal contracting officers.

The main concern for SBA in this rule was how to implement the HUBZone program without harming its other programs, particularly the 8(a) program. We believe they have successfully written a final rule that is a supplement, not a replacement, to their existing programs. We do not expect any particular controversy to accompany publication of this rule.

Please call me if you have any questions.

FF

cc:Maria Echaveste
Rahm Emanuel
Larry Stein
Ron Klain
Thurgood Marshall, Jr.
Ann Lewis
Sally Katzen
Sylvia Mathews
John Podesta

Bruce Reed
Gene Sperling
Elena Kagan
Barry Toiv
Michael Waldman
Janet Yellen
Mickey Ibarra
Michael Deich

March 31, 1998

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Don Arbuckle
Acting Administrator

SUBJECT:Heads-up on SBAs proposed HUBZone Empowerment Contracting rule

In the next few day we will complete review of the Small Business Administrations (SBA) proposed rule implementing the new HUBZone Empowerment Contracting program. This program implements the Historically Underutilized Business Zone (HUBZone) Act of 1997, and builds upon the Presidents Empowerment Contracting Executive Order of May 21, 1996. The HUBZone program is designed to provide federal contracting opportunities for qualified small businesses located in distressed communities in order to increase employment opportunities and investment in those areas.

In this proposal SBA sets out the broad goals and procedures of the HUBZone program. This includes the definition of HUBZone areas as detailed in the law; the establishment of the certification criteria and process for HUBZone firms; and, the list of federal agencies required to participate in the program. SBA is also responsible for maintaining a list of qualified HUBZone firms for Federal contracting officers.

The main concern for SBA in this proposal was how to implement the HUBZone program without harming their other programs, particularly the 8(a) program. We believe they have successfully written a proposal that is a supplement, not a replacement, to their existing programs. The Vice President plans on announcing this proposed rule on Thursday, April 2nd in an interview with Black Entertainment Television.

Please call me if you have any questions.

cc:Maria Echaveste
Rahm Emanuel
Larry Stein
Ron Klain
Thurgood Marshall, Jr.
Ann Lewis
Sally Katzen
Sylvia Mathews
John Podesta
Bruce Reed
Gene Sperling
Elena Kagan
Barry Toiv
Michael Waldman

Michael Deich
Linda Ricci

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Franklin D. Raines

FROM: Sally Katzen

SUBJECT: Heads-up on Proposed HHS Protection of Human Subjects Rule

We are about to conclude review of a proposed HHS rule amending its regulations designed to protect women and fetuses involved in Federal research.

This is a relatively pedestrian rule. However, there is one aspect of the rule that may attract attention from the press or Hill. HHS proposes to remove a requirement that Federal researchers obtain consent from the father of a fetus before conducting research on a pregnant woman. HHS believes that accepting the consent of only one parent (in this case, the mother or her legal guardian) effectively protects the interests of the fetus and eliminates barriers to experimental treatments that may benefit the fetus.

Please let me know if you have any questions.

cc:Maria Echaveste
Rahm Emanuel
Jack Gibbons
John Hilley
Ron Klain
Thurgood Marshall, Jr.
Ann Lewis
Sylvia Mathews
Bruce Reed
Gene Sperling
Chris Jennings
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Josh Gotbaum
Larry Haas

September 8, 1998

MEMORANDUM FOR BRUCE REED
ELENA KAGAN

FROM: Domestic Policy Council Staff

SUBJECT: Compilation of Preliminary New Ideas

CHILDREN AND FAMILIES

1. Child Care. Reintroduce the Presidents child care proposal. This includes: increased funding for the Child Care and Development Block Grant; increased tax credits for working families to help them pay for child care; a fund to invest in programs that support early childhood learning and development; after-school care through the 21st Century Learning Center program; and programs to improve child care safety and quality through a fund to states to enforce standards better, scholarships for child care providers, and additional funding for evaluation and research.

2. Paid Parental Leave. Many workers, including those covered by the Family and Medical Leave Act, cannot afford to take leave at the birth or adoption of a child. This proposal would provide paid parental leave for a limited period of time to working parents with family incomes below a set amount. For example, a new proposal could provide 6 weeks of paid leave to all new parents who have been in the workforce either part-time or full-time for one year and whose family income is below $50,000, at a cost of $1 billion per year. This proposal could use the unemployment insurance system to provide the leave payments, but would be paid for by the federal government.

3. Home Visitation. Home visiting programs, in which a trained professional (such as a nurse) pays routine and intensive visits to pregnant mothers and new parents, have proven successful in strengthening families and improving child outcomes, particularly reducing child abuse. We propose to create a grant program to fund the development or expansion of home visitation programs, with priority given to areas with high rates of child maltreatment.

4. Child Welfare. Each year, thousands of foster children "age out" of the child welfare system; at age 18, children lose their foster care maintenance assistance funding, and many have neither been reunified with their family nor adopted. In the next 3 years, approximately 65,000 children will "age out." We propose increasing by 50% the Federal Independent Living Program (ILP), which assists adolescents aged 16-18 in the foster care system as they prepare for independence. The ILP provides services to help foster care children earn a high school diploma, receive vocational training, and learn daily living skills such as budgeting, locating housing, planning a career, and finding a job. The program was begun in 1984, and has been funded at $70 million annually since 1992. Funds are awarded directly to the States, which receive a base amount by formula and additional funds at a 1:1 match ratio.

5. Child Tax Credit. The 1997 Balanced Budget Agreement created a Child Tax Credit of $500 per child for families. We would propose an expansion of the credit to families with children under three, in order to better support working families. This tax credit may allow some parents to spend more time with children by enabling them to forego some

income. The proposal would benefit both families in which both parents work, as well as families in which one parent stays at home. This proposal would roughly cost $5 billion over five years.

6. Home Office Tax Deduction. We propose an expansion of the Home Office Tax Deduction in order to create incentives for parents to work from home so that they may spend more time with their children. This proposal would allow the taxpayer to claim additional expenses of the costs of working from home, such as Internet hook-up costs. It would cut down on commuting time, thereby allowing parents to spend more time with their children. In addition, the tax deduction would help reduce pollution costs associated with commuting.

7. Flex-Time: We propose offering tax credits to all companies that offer a variety of family-friendly benefits, including flexible work hours for their employees, compressed work weeks, part-time work with benefits, job sharing, career sequencing, and extended parental leave. Such a tax credit would enable parents to spend more time with their children by providing companies, both small and large, to respond to the time crunch families are facing. In addition, it builds on our flex-time proposal (which allows workers to take their over-time compensation as vacation time) and family-leave proposal.

8. After-school programs: In order to meet the growing concerns parents have over how their children are occupied in the hours between the end of the school day and the time parents arrive at home, we propose an expansion of our after-school initiative. A poll recently conducted by the Mott Foundation found that 92% of Americans believe there should be organized activity for children after school; 78% strongly share this view. In order to address this growing consensus, we propose first expanding our 21st Century Learning Centers Initiative, which supports school-based after-school programs. In addition, we propose creating a set-aside within the Child Care and Development Block Grant targeted to after-school programs run by community-based organizations.

CIVIL RIGHTS

1. Enhance the CRS program at Justice. The Community Relations Service at Justice has been a significant force in cooling racial tensions in communities all over the country. Since the 1980s, their budget has been decimated. This initiative could (1) enhance CRS's ability to provide mediation services to resolve community civil rights concerns as an alternative to litigation; and (2) provide CRS conflict resolution training and technical assistance to communities. The CRS is very popular with the AG and she often talks of wanting it strengthened.

2. Inter-Agency Task force on Discrimination. This initiative would create an inter-agency task force (headed by the Civil Rights Division at Justice) to expand research on the extent of racial discrimination in the country. The research would focus on developing uniform testing protocols in housing, employment, and access to capital and then using these tools to asses the nature and extent of discrimination in these areas. This effort could be linked to agency compliance and/or enforcement work.

3. Improve Civil Rights Information Sharing. This proposal would provide funds to establish and maintain a system that links the data bases of agencies with civil rights enforcement responsibilities -- thus allowing, for example, OCR at Education to have better access to work being done by the Education Section at Civil Rights.

4. Becoming an American. A national effort to focus on easing the transition to the U.S. for new immigrants. We could provide grants to community-based organizations that fund English and civics classes for new immigrants. Also, we could encourage the development of programs that provide practical transition-type help to new immigrants -- such as understanding the public education system; understanding the housing system, etc. According to the INS, there is a bit of this being done on the community level, but they do not fund any of it. Also, some of the education bits are done by the Dept. of Ed. (adult education and/or literacy), but not in a coordinated way. HHS funds some transition work for refugees. This general idea was first talked about by the Jordan Commission.

5. Sweat-Shop Initiative. Expand enforcement against labor abuses in "sweatshops" and on farms that employ migrant farm laborers. Many of the wage & hour laws in place to protect low-wage workers are not adequately enforced by the Department of Labor, in part because of dramatic reduction in funding for these efforts during the 1980s. These workplaces often serve as places of gateway employment for new immigrants, and thus the abuses disproportionally affect Latinos and Asians.

6. Equal Pay. A program that could be run by the EEOC and DOL to increase outreach to businesses to educate them about the legal requirements for paying equal wages, provide technical assistance, improve training for EEOC employees and resources for increases in enforcement capabilities.

COMMUNITY EMPOWERMENT

1. Access To Capital For All Americans.

*CDFI Tax Credit. In 1996, we proposed a tax credit for investors in CDFIs. We could re-propose this $100 million non-refundable tax credit. The maximum amount of credit allocable to a particular investment would be 25 percent of the amount invested.

*Voluntary CRA. Launch a bully pulpit effort to encourage non-bank financial institutions to develop and implement principles for community investment.

*Micro-Enterprise. Provide authorization and funding for CDFI Fund to provide technical assistance to micro enterprise organizations and micro-entrepreneurs (PRIME Act, Kennedy-Domenici).
*Secondary Market. Develop coordinated administration initiative to take first steps towards secondary market for community development loans, including data collection, education, standardization, regulatory review, and the creation of a loan loss reserve fund to back pools of community development loans pooled and sold by the private sector.

*Fair Lending. Continue to push the Fed to permit collection of data on race and income of small business borrowers; consider legislation if this fails.

*Capital Access Programs. Push to give the CDFI Fund authorization to launch small business capital enhancement program to back state-run loan loss reserve funds that permit banks to make more difficult small business loans.

2. Sustainable Development.

*Environmental Activity Bonds. In response to the growing needs of urban areas, an environmental bond would help cities meet the environmental goals set by the Clinton Administration. EPA has identified three areas which would be candidates eligible to receive funding: brownfields, drinking water, urban river/waterfront cleanup, and the creation of parks and other public spaces. Drinking water (as cities need to improve infrastructure to meet the requirements of the Safe Drinking Water Act) and brownfields are two areas that cities continue to seek assistance for financing. Our preference is to be more inclusive and allow municipalities increased flexibility to identify their priorities. However, there should be attention paid to how this financing would intersect with other Administration initiatives like the Clean Water Action Plan, Drinking Water Revolving Loan Fund, and TEA-21.

*Urban River Corridors and Wetlands Restoration Projects. EPA proposes urban river corridor and wetlands restoration efforts tailored to improve the human health and economic opportunities in urban communities. To date, EPA has made small grants to a number of cities and municipalities for these types of projects. With additional grants to local communities, the Agency could provide the necessary funding for projects to improve community water resources. These projects would provide employment opportunities for residents, benefit the economic welfare and technical competence of local residents, and empower the community to build for a better future. Restored areas can serve to attract and sustain business as well as provide outlets for recreation.

*Community Preference and Visualization Tools. Building the social capital necessary to change transportation and land-use policies to create more livable communities also requires tools that the average citizen can use to understand the implications of major policy choices. EPA proposed to act as a catalyst in the development and use of such innovative decision making tools. The types of tools would include: 1) Community Preference Surveys, which show communities pictures of different neighborhood types, and help the community reach a consensus about the types of development that are desirable; 2) simulation tools, which would get a community "development ready" or help a community experiment with alternatives that have been proposed; and 3) new software, accessible to the public as well as urban planners, to view and evaluate alternative urban designs for any community.

*Asthma Initiatives. Through better implementation and new investments, EPA believes the Federal government can take action that will show immediate and long term results to reduce asthma rates among children.

*Air Quality Credits. EPA proposes to provide incentives to transportation planning by developing protocols for potential air quality credits toward state attainment plans for locally-initiated strategies and projects that create less auto-dependent communities. Similarly, the Agency proposes to create the next generation of the Clean Air Brownfields Partnership Pilot by continuing and expanding its ongoing efforts to link air quality goals and brownfields/infill redevelopment. After 2000, EPA proposes to partner with cities that have a significant brownfield site in the decision-making phase of redevelopment, work with the city, state, and developer to come up with a project design that maximizes air quality benefits, and allow credit for these activities under the State Implementation Plan.

3. Job Creation in Distressed Communities.

*Local Infra structural Improvement and Economic Revitalization Fund. Emil forwarded this idea to establish a Federal grant program to fund local Infra structural improvements. This would spark revitalization of declining or stagnant low-income areas by providing funds to upgrade local infrastructure. These Federal dollars could leverage State, local, and private funds for such Infra structural efforts.

*Community Revitalization Tax Credit. LISC proposes a Community Revitalization Tax Credit (CRTC) --similar to the Low-Income Housing Tax Credit --to help stimulate private-sector investment in commercial property in under served neighborhoods.

*Community Development Corporation Tax Credit. In 1993, we put in place a demonstration tax credit for investors in 20 CDCs. According to this report for Bruce Katz shop at Brookings, this program has been effective. We could propose expanding this CDC tax credit to more areas. The author of this report also proposes some changes to make the tax credit more effective.

*Expand and Rationalize Employer-Side Tax Incentives. This includes EZs, Welfare to Work, WOTC, DC Jobs Credit.

*Working Ventures Fund. Fund one or more national non-profits to fund, evaluate, share best practices, develop networks, and link non-profits to their business community, in the job training and placement field, as LISC and Enterprise do in the housing

*Community Empowerment Fund. a) Include targeting for welfare to work projects; b) allow links to venture capital focused on minority-owned or small business in distressed areas; c) eliminate mandatory pledge of CDBG dollars for CEF loans.

*Metro Jobs/Community Development Corporation (CDC) Links. Would target job-poor but CDC-served central-city neighborhoods to create or strengthen a welfare-to-work infrastructure that is place-based but people-focused and regional in orientation (where the jobs are). Would build on HUDs Bridges to Work and complement DOL and HHS efforts, focusing on concentrations of assisted housing run by CBOs.

4. Low Income Savings.

*Asset Development for Section 8 Voucher Recipients. Currently, an individual still sees the size of their subsidy reduced for each extra dollar he/she earns. This new idea from Liebman and Orszag would roll-over any savings --or a part of the savings --from an individual earning more money into an Individual Development Account (IDA). That is, if the size of a persons Section 8 voucher is reduced by about 30 cents for each extra dollar he/she earns, we could put this savings --up to 30 cents --in an IDA. We could also the capabilities created by EFT 99 to electronically transfer money to efficiently establish IDAs for more Americans.

*Brownfields Meets Community Development. Under this proposal, we would push banks to invest in brownfields as part of their CRA commitments.

5. Affordable Housing.

*Elderly Housing Initiative. 1) Housing modernization grants to existing elderly housing

projects for modernization, physical redesign, and/or conversion to assisted living; 2) Expanded and more flexible service coordinator grants to meet needs of increasingly frail population in public and assisted housing; 3) authority for PHAs to use vouchers for the housing component of assisted living costs.

*Regional Affordable Housing Initiative. Targeting regions with severe jobs-housing imbalance and established partnerships for regional collaboration, HUD would provide grants and loan guarantees to support planning, regulatory streamlining across jurisdictions, and development.

*Vouchers. An expanded request will focus on incrementals, welfare to work, and homeless.

6. Promoting Homeownership In Distressed Communities.

*Low-Income Homeownership Tax Credit. Self-Help --a community group in North Carolina --proposes a tax credit for investors who provide second mortgages to low-income families. This could significantly reduce the barriers to homeownership among low-income families, who do not really benefit from the home mortgage interest deduction.

*Increase Allocation of Mortgage Revenue Bonds. Each state receives a supply of tax-exempt mortgage revenue bonds. These bonds help low-income families become homeowners and help develop affordable rental housing. There are currently 53 co-sponsors of legislation in the Senate and 316 co-sponsors of legislation in the House to increase the allocation of mortgage revenue bonds by slightly more than 50 percent and then index it to the rate of inflation.

*Expand Use of Mortgage Credit Certificates. Mortgage Credit Certificates (MCCs) are credits against federal income tax equal to between 10 and 50 percent of mortgage interest (to a limit of $2,000 per homeowner) issued by state governments. MCCs count against states ability to issue mortgage revenue bonds. We could propose to expand the MCC program to allow the limit to be $4,000 for homeowners in EZs or ECs. We could also propose allowing states to not have to count MCCs against their mortgage revenue bond base.

*First-Time Homebuyer Tax Credit. The 1997 tax law put in place a $5,000 tax credit for first-time homebuyers in the District of Columbia. To boost homeownership in Empowerment Zones, we could propose allowing any first-time homebuyer in an EZ to take advantage of this tax provision.

*Historic Homeownership Assistance Tax Credit. The National Trust for Historic Preservation proposes a 20-percent tax credit to homeowners who rehabilitate or purchase a newly rehabilitated historic home and occupy it as a principal residence.

*Homeownership Vouchers. Already authorized, would apply rental subsidies to mortgage-related expenses for first-time homebuyers who were Section 8 tenants.

EDUCATION

1. Class Size Reduction. Reintroduce Presidents proposal to reduce class size in grades 1-3 to an average of 18. Needs to be funded on the mandatory side. If necessary, we could combine this with a teacher quality/recruitment initiative, so that funds in the early years of the program are devoted to (1) incentives for people to enter teaching and/or (2)

teacher training and professional development.

2. School Modernization. Weve tried this on the mandatory side and weve tried this on the tax side. Assuming we dont get it this year, weve got to try again next year.

3. School Discipline/Safety. We are working on an overhaul of the Safe and Drug Free Schools Program, that will: (1) focus the program on comprehensive, proven approaches to improve school discipline and safety; (2) better target the funds to schools/communities with the greatest needs; and, (3) improve data collection and reporting, including school report cards on safety/discipline issues. Because the program currently spreads (small amounts of) funds around to almost all school, and because of its initial emphasis on keeping schools drug-free, the politics of this program will probably require that any shift in emphasis on greater targeting will require additional resources.

4. Teacher Supply and Quality. Here are three initial ideas for improving teacher quality. The first two came out of our initial discussions on the Presidents race report. We can decide down the road whether to keep them focused on high poverty schools, or make them more universal. We can also break out particular pieces of them into separate initiatives if we want to:

Make sure there are qualified teachers in high poverty schools. First, encourage and support state and local efforts to improve the preparation, certification, recruitment, selection, induction, retention, evaluation, reward and dismissal of teachers overall. Support necessary R&D on critical components of an upgraded system, such assessing teacher competence in the classroom. Second, work to end the practice of disproportionately placing and keeping unqualified teachers in high poverty schools. Require states to require prospective teacher to pass basic skills/subject matter tests (and help them develop more demanding assessments) in order to be licensed Prohibit school districts receiving Title 1 funds from staffing Title 1 funded classes (what about schoolwides???) with unqualified teachers, and bar those without an effective system for teacher evaluation (including removal of incompetent teachers) from receiving Federal (or just Title 1) funds. Require K-4 teachers in Title 1 schools to successfully complete training in teaching reading, and fund the training. Third, help attract and retain the best teachers for high poverty schools. Fund induction and continuing professional development programs in high poverty schools. Provide incentives for Board-certified teachers to teach in high poverty schools.

Recruit More Minority Teachers. Many believe that a major factor influencing childrens success in education is role models. Enhance current recruitment programs with effective incentives to attract more minorities to the teaching profession. Minority teachers, administrators, and school personnel serve as role models for minority students and can provide an important link between schools and parents.

*Establish subject-specific teacher/administrator training institutes/academies/centers in every state. There are crying needs to train existing teachers in key subject areas, such as reading, technology use, math/science and other academic subject. We should establish subject specific training centers in each state (or perhaps in geographic regions within states). The idea is to create a place, probably at a university, that has the subject-matter capacity and can work with school systems to develop and implement a strategy for ensuring that every teacher who needs it gets high quality, intensive and ongoing training in the subject and how to teach it. This could either substitute for or complement the current teacher training program (Eisenhower Professional Development

Program), which provides funds to states and school districts on a formula basis, with broad discretion on how the funds can be used for professional development. We could also establish training centers for principals and other school leaders.

Continuing the Troops to Teachers (TTT) program (due to phase out in Oct 1999). TTT provides stipends to encourage retired military personnel to teach and school districts to hire and train them. TTT attracts more minorities and men into the teaching profession than are traditionally represented, they have background in understaffed subjects such as math and science, and are more willing to teach in inner-city classrooms.

5. Recruiting and Training Principals. Most states and communities lack good strategies for recruiting and preparing individuals with the knowledge and skills to provide the kind of leadership and management schools need right now. We could propose a competitive demonstration program to provide focus, leadership and effective models for the field. This would not be a big-ticket item.

6. Urban/Rural Initiative. This could take two forms. One would be some version of Education Opportunity Zones--a competitive grants program that rewards performance and requires accountability. A second would be to create local performance partnerships, in which local communities agree to create schools that are safe, have high standards and qualified teachers, after-school programs, tutors and other forms of extra help for kids, technology, etc. The districts would be responsible for creating schools with these opportunities, and would be accountable for improving achievement across the board (perhaps as measured against national standards). In return, the districts would (1) be able to combine funds from relevant ED and other programs, so they can figure out the best way to provide the learning opportunities; (2) get extra funding over and above the funding from the existing categorical programs; and (3) gain or lose additional funding based on performance (with some floor established to minimize the risk for districts).

7. Choice Demonstration Program. Establish a demonstration program to challenge states and school districts/cities to expand the range of high quality schools students and families can choose among, thereby enabling students in low performing schools to move to better ones. A variety of approaches should be encouraged, including:

Community College Enrollment. High school students should be permitted to enroll in community colleges, for high school level or college level courses. This step could provide inner city students with access to more qualified teachers, because most community colleges have faculty with subject matter expertise (whereas urban high schools often have teachers teaching out of field). It could also help boost minority enrollment in college. [see if this can build on existing tech-prep programs, or other articulation agreements.]

Contract School System. Transform urban school systems from bureaucracies which operate large numbers of schools into systems in which the local governing body contracts out the operation of each school--to teachers, nonprofits, school management firms, etc. In effect every school becomes a charter school, with a distinct mission, control over its own staffing and budget, and accountable for results. The local school board is responsible for selecting the schools, identifying new types of schools that might be needed and soliciting proposals to operate the school, monitoring the performance of each school and holding it accountable. Under this approach, all schools would eventually be schools of choice.[see Paul Hills work for background on this]

Schools located at large employers. Encourage large employers to provide facilities on

site for schools for children of their own employees, while the school district provides the teachers, curriculum, instructional materials, etc. Dade County's Satellite Learning Centers provide the model for this approach. Dade's experience shows that these schools can (1) be more diverse than other schools, because work sites are more diverse than residential neighborhoods (2) save the school districts the cost of new facilities (3) save employers costs associated with employee turnover and (4) increase parental involvement in the schools.

Expanding choice through smaller, schools-within-schools. Transform large, impersonal schools into smaller schools-within-schools that would dramatically expand choices within public education for families without requiring students to leave their neighborhoods. Many parents want more choice in education but don't want to send their children to school far from home. This proposal would address that need and enable many more students to get the personalized learning attention that so many families want; it also may reduce discipline and violence problems. A grants program could support networks of schools or school districts to plan and implement this concept and provide information and counseling to help students and their families make good choices. This proposal could be linked or combined with the "contract" schools concept by creating a competitive process to award contracts to manage each school-within-a-school to teachers, non-profits, charter schools, etc.

8. English Language Acquisition. As part of the planned overhaul of the Bilingual Education Program, we should consider a number of initiatives:

Make every LEP child competent in English within 3 years of obtaining services. English language competency is the key to success in schooling and the economy. ESL and similar services should be made universally available to all students who need them. Federal funding can provide matching grants to States to do this. The requirement--including funding and accountability--for serving LEP kids and helping them become competent in English within 3 years should be built into the Title 1 program. Other programs, such as after-school and technology, should also be designed so that in schools with significant numbers of LEP kids, they are also focused on helping kids learn English within 3 years.

* Support English Plus. In addition to ensuring that all LEP students learn English, we should promote foreign language learning, starting in the early grades, for students whose native language is English. The objective is to dramatically increase the number of students who leave school fluent in two or more languages, regardless of their native language.

Support demonstrations of, and if effective greatly expand "Newcomer High Schools" for recently arrived immigrant students. Many school districts are facing an increasing number of secondary immigrant students who have low level English or native language skills, and in many cases, have had limited formal education in their native countries. In order to prevent these students from dropping out (and these children are a significant factor in the 40% Hispanic drop-out rate), these students must learn English, take the required content courses and catch up to their U.S. peers. Some district have developed Newcomer programs --either a separate school or a school-within-a-school. These programs typically educate students for a limited period of time (most for less than two years) before enrolling them in their home schools. Three such schools are 4-year high schools. The programs reach beyond the students themselves, providing classes to orient parents to the U.S. and 63% offer adult ESL classes. There are currently 75 such programs in 18 States and the Center for Applied Linguistics has sponsored an evaluation of their effectiveness.

9. Quality pre-school education. We can propose an initiative to make quality pre-school universally available, or at least universally available for poor kids. There should be two key components to this. One is to provide a number of funding streams to pay for it. Head Start should be the base, though we should also look at ways in which Title 1 could play a larger role. Second, we should provide incentives to both preschools and school districts that receive federal funds, to work together to help ensure that the preschools programs are focused on helping kids get ready for school, by requiring the schools to reach out to preschools and let them know what they expect kids to know and be able to do when they come to kindergarten, and by giving the preschools the help they need to provide an appropriate curriculum.

10. Federal Matching Funds for AP courses and for AP and SAT/ACT Preparation. The President has made universal access to two years of higher education a priority, and has created ways to alleviate the financial hurdles. A logical next step in improving the quality of access is to make all students more competitive by closing the gaps in advanced course availability as well as SAT and ACT test scores. The Federal government could establish funding matching mechanisms to encourage states to improve access to AP courses and preparation for AP tests in low-income schools; in areas where AP courses are not available, funds could be used for partnerships with community colleges that offer similar courses. Similarly, matched funds could be used to do one of a number of things for SAT/ACT preparation: pay for low-income youth to attend prep courses (e.g., Kaplan; Princeton Review); fund poor school districts to set up their own test prep programs; as in America Reads, waive the federal match for Work Study students who help prepare disadvantaged students for the tests.

11. "High Hopes" for Adults. While the President has made enormous progress in making available resources for higher education for people of all ages, the primary focus of Administration informational campaigns and initiatives like High Hopes have been to encourage young people to go to college. A new initiative could combine two efforts. First, the Administration could launch an informational campaign encouraging adults to go back to school and inform them of new resources available to help, including Lifetime Learning and Hope Scholarship Tax Credits, Individual Training Accounts under the new Workforce Investment Act, and Pell Grants (which apparently few realize can be used for part-time students). Second, a new "High Hopes" grants program targeted at adults, partly focused on encouraging minorities and women to go back to school, could support local partnerships of business, community colleges, labor unions, one-stop centers and others to provide the information and counseling needed to encourage and assist adults to enroll in courses and programs that will help them succeed in their local job market.

12. Encourage High Schools to Offer/Require Service Learning. We should consider expanding the service learning initiative (Learn and Serve) to encourage more school districts to incorporate service into their education programs. The service learning program could be expanded to provide a stronger infrastructure, e.g., service coordinators for high schools, in order to make the service experience both more rewarding and educational for students.

HEALTH

1. Long-Term Care and Medicare Reforms for Elderly, Disabled and Their Families.

Long-term care tax credit. Along with the lack of coverage of prescription drugs, the poor coverage of long-term care represents a major cost burden for the elderly and their families. Long-term care costs account for nearly half of all out-of-pocket health expenditures for Medicare beneficiaries. This proposal would give people with two or more limitations in activities of daily living (ADL) or their care givers a tax credit of $500 (or more, if affordable) to help pay for formal or informal long-term care. This initiative would be coupled with other long-term care policies (e.g., offering private long-term care insurance offering to Federal employees). (Cost: About $4 billion over 5 years, offset by closing some tax loopholes, and would help about 3.4 million people).

Offering private long-term care insurance to Federal employees. Since expanding Federal programs alone cannot address the next centurys long-term care needs, the Federal government --as the nations largest employer --could illustrate that a model employer should promote high-quality private long-term care insurance policies to its employees. Under this proposal, OPM would offer its employees the choice of buying differing types of high quality policies and use its market leverage to extract better prices for these policies. There would be no Federal contribution for this coverage. (Cost: Small administrative costs; OPM estimates about 300,000 participants).

Tax credit for work-related impairment expenses for people with disabilities. Almost 75 percent of people with significant disabilities are unemployed; many of those within the population cite the cost of employment support services/devices, as well as the potential to lose Medicaid or Medicare coverage, as the primary barriers to seeking and keeping employment. This proposal, strongly advocated by your Task Force on Employment of Adults with Disabilities, would give a 50 percent tax credit, up to $5,000, for impairment-related work expenses. It could be a stand alone proposal in the budget or packaged as a long-term care initiative if we decide to defer announcing the long-term care tax credit. (Cost: About $500 million over 5 years, offset by closing tax loopholes, and would help about 300,000 people).

New Family Care giver "One-Stop-Shop" Support Program. About 50 million people provide some type of long-term care to family and friends. Families who have a relative who develops long-term care needs often do not know how to provide such care and where to turn for help. This proposal would give grants from the Administration on Aging to states to provide for a "one-stop-shop" access point to assist families who care for elderly relatives with 2 or more ADL limitations and/or severe cognitive impairment. This assistance would include providing information, counseling, training and arranging for respite services for caregivers. (Cost: About $500 -750 million over 5 years).

Adding prescription drug coverage to Medicare (new policy). The lack of coverage for prescription drugs in Medicare is widely believed to be its most glaring shortcoming. Recognizing the medical communitys reliance on prescriptions for the provision of much of the care provided to Americans, virtually every private health plan for the under-65 population has a drug benefit. Medicares lack of coverage is largely responsible for the fact that drug costs are the highest out-of-pocket cost for three out of four elderly. This burden will only become more acute in the next century as the vast majority of advances in health care interventions will be pharmacologically-based. Responding to this fact, Republicans and Democrats on the Medicare Commission, as well as almost every health care policy expert, are consistently stating that reforming Medicare without addressing the prescription drug coverage issue would be a mistake. We are developing a wide variety of options, including a means-tested option, a managed care benefit only approach, and a traditional benefit for all beneficiaries. If desirable, a proposal could be included in

the budget or coordinated with the March release of the Medicare Commissions recommendations. (Cost: Varies significantly depending on proposal, but could be $1 -20 billion a year; assumed offset would be Medicare savings, which might more easily be achieved in context of a broader reform proposal).

* Cancer clinical trials demonstration (FY 1999 budget; not passed). Less than three percent of cancer patients participate in clinical trials. Moreover, Americans over the age of 65 make up half of all cancer patients, and are 10 times more likely to get cancer than younger Americans. This proposed three-year demonstration, extremely popular with the cancer patient advocacy community, would cover the patient care costs associated with certain high-quality clinical trials. (Cost: $750 million over 3 years).

* Redesigning and increasing enrollment in Medicares premium assistance program (extension of July executive action and new policy). Over 3 million low-income Medicare beneficiaries are eligible but do not receive Medicaid coverage of their Medicare premiums and cost sharing. Many more may not get enough assistance through the new, BBA provision that is supposed to help higher income beneficiaries. We are developing a range of proposals that build on the Presidents actions in this area to better utilize Social Security Offices to educate beneficiaries about this program, to reduce administrative complexity for states and to give them incentives to engage in more aggressive outreach efforts. (Costs vary depending on policies; probably about $500 million to $2 billion over 5 years).

2. Health Insurance Coverage Expansions.

* Providing new coverage options for people ages 55 to 65 (FY 1999 budget; not passed). Americans ages 55 to 65 have a greater risk of becoming sick; have a weakened connection to work-based health insurance, and face high premiums in the individual insurance market. This three-part initiative would: (1) allow Americans ages 62 to 65 to buy into Medicare, through a premium designed so that this policy is self-financed; (2) offer a similar Medicare buy-in to displaced workers ages 55 and over who have involuntarily lost their jobs and health care coverage; and (3) give retirees 55 and over whose retiree health benefits have been ended access to their former employers health insurance. A proposal such as this would be minimally necessary for any serious consideration of proposals to raise Medicares eligibility age. (Cost: About $1.5 billion over 5 years, which would assist about 300,000 people).

*Health coverage for the temporarily unemployed (FY 1997 and 1998 budgets; not passed). Because most health insurance is employment based, job changes put families at risk of losing their health care coverage. Many families do not have access to affordable health insurance when they are between jobs because they work for firms that do not offer continuation coverage or cannot afford individual insurance. The proposal would provide temporary premium assistance for up to six months for workers between jobs who previously had health insurance through their employer, are in between jobs, and may not be able to pay the full cost of coverage on their own. (Costs depend on whether it is done as a demo (about $2.5 billion over 5 years, which would help about 600,000 people) or nationwide (about $10 billion over 5 years, which would cover about 1.4 million persons)).

* Childrens health insurance outreach (FY 1999 budget; not passed and new policy). By the first anniversary of CHIP, we expect about 45 states to have CHIP plans approved. These new expansions have great potential to help uninsured children, but not if families do not know or understand the need for insurance. Moreover, over 4 million uninsured children are eligible for Medicaid today. Last years budget included several policies to promote

outreach, including allowing states to temporarily enrolling uninsured children in Medicaid through child care referral centers, schools, etc; and allowing States to access extra Federal funds for childrens outreach campaigns. An additional proposal is to pay for a nationwide toll-free number that connects families with state eligibility workers. NGA is sponsoring this line for one year only; such a line is essential for the nationwide media campaign that we are planning to launch in January with the NGA and Americas Promise (Colin Powells group). (Cost: Between $400 and $1 billion over 5 years.)

* Parents of children on CHIP (new policy). Since children who are uninsured usually have parents who are uninsured, an easy way to target uninsured adults is to extend eligibility for Medicaid or CHIP to parents of children covered by these programs. This has been done successfully in some states, through Medicaid 1115 waivers, and would be a logical next step to covering low-income adults. (Cost: Depends on the proposal and assumed take-up rates by the states).

* Optional state coverage expansion through eligibility simplification (new policy). In the wake of welfare reform, Medicaid eligibility rules have become even more complex since states must cover people who would have been eligible for AFDC under the old rules. Additionally, Medicaid law allows states to cover parents but not adults without children --even if they are very poor. This proposal would allow states to opt for a pure poverty standard for Medicaid eligibility for all people (like we do for children) rather than the old categorical eligibility categories. Not only would such an approach simplify the Medicaid program for families and states; it would provide an opportunity for significant coverage expansion. While any change in Medicaid almost always raises concerns amongst some advocates, this proposal would be strongly supported by the Governors and advocates such as the Center for Budget and Policy Priorities. (Cost: Depends on the proposal and projected coverage expansion take-up rates).

*Voluntary purchasing cooperatives (FY 1997, 1998, and 1999 budgets; not passed). Workers in small firms are most likely to be uninsured; over a quarter of workers in firms with fewer than 10 employees lack health insurance almost twice the nationwide average. This results in large part because administrative costs are higher and that small businesses pay more for the same benefits as larger firms. This proposal would provide seed money for states to establish voluntary purchasing cooperatives. These cooperatives would allow small employers to pool their purchasing power to try to negotiate better rates for their employees. (Cost: about $100 million over 5 years).

3. Increase the Indian Health Service budget. In order to reach more of the targeted population, we should provide a significant increase to the IHS budget in order to address areas such as substance abuse, elder health care, injury prevention, domestic violence and child abuse, and sanitation facilities.

HOMELESS

1. Homeless Veterans. The National Coalition of Homeless Veterans estimates that there are as many as 275,000 homeless veterans on any given night. According to the Department of Veterans Affairs, an approximately $60 million increase in funding would constitute the single largest investment into breaking the cycle of homelessness among veterans. This proposal would seek to increase residential alternatives, community-based contracted care, job preparation activities, stand down activities (community-sponsored events that conduct one-stop service delivery programs for homeless veterans), the distribution of clothing,

and long-term housing. The VA estimates that this proposal would positively impact approximately 100,000 to 150,000 veterans annually.

2. Allow VA to sell surplus property with 10 percent of proceeds going to homeless veterans. OMB proposes to amend the Property Act of 1949 to create a 5-year pilot project for the VA to sell off property with 10 percent of the proceeds going to local homelessness projects under the McKinney Act (with this 10 percent being earmarked for homeless veterans) and the other 90 percent going to the VA for capital funds (buildings, equipment, infrastructure, but not staff). Currently, the way the law works is that all the proceeds from surplus property goes to homelessness, but this has not provided an incentive to the agencies to sell property because they do not get to keep any of the proceeds. OMB states that since 1989, only one piece of property has been sold under this provision. OMB will be circulating their proposal within a couple of weeks. OMB would propose to permit VA to sell 25 pieces of property, but does not have a cost estimate yet.

3. Homelessness Demonstration Project Modeled after TANF. Funds could be set aside in the FY2000 budget to create a demonstration project so that one state, region, or locality could try to move persons from homelessness to self-sufficiency. The demonstration project should set up performance goals similar to TANF so that there is a measure of how many persons have been made self-sufficient. There could be a performance bonus for the demonstration project if the goal of the project is met.

4. Medicaid Outreach Project for Homelessness. A Medicaid outreach project could be set up, similar to the CHIP outreach project, that would reach out and cover homeless persons. We should develop a cost estimate to determine that, over time, dollars would be saved if persons are treated under Medicaid rather than on an as-needed basis in emergency rooms and clinics. This idea could be expanded to reach out to more than simply the homeless population to include all groups who are Medicaid-eligible.

TOBACCO

1. Tobacco Counteradvertising. Fund a $200 million per year tobacco counteradvertising and education Campaign, as proposed in the Presidents 1999 budget and McCain legislation. This campaign would develop counteradvertising and purchase enough media time to reach teens at least four times a week. The campaign would also fund an extensive school-and community-based anti-tobacco education campaign.

2. Industry Documents. As the result of the Presidents directive, we expect to receive a plan from HHS in October outlining how to make tobacco industry documents more accessible to the public. Follow up work will be needed to implement this plan. While we can probably secure some private funding for this purpose, it is likely that federal funding will also be needed.

3. Tobacco Cessation. Each year, 20 million smokers attempt to quit, but only 1 million, or 5 percent, succeed. More than 90 percent smokers who attempt to quit do so on their own, and the vast majority fail within 2 to 3 days. However, research shows that effective cessation methods could raise success rates to 10-20 percent (over 2 million people annually). The Agency for Health Care Policy and Research (AHCPR) endorsed 5 smoking cessation methods that have been proven to be effective in helping people to quit: gum, patch, nasal spray, inhaler, and pill (Zyban). A full course of these treatments costs

around $200-300 (for a three months supply, without counseling). However, less than half of managed care organizations provide coverage of any AHCPR-approved therapies, and those that provide coverage may impose cost-sharing requirements that hinder access to treatment. In fact, a study of managed care in Washington State found that eliminating copayments for smoking cessation services significantly increased participation rates.

These proposals to help current smokers quit could be coupled with our continued call for comprehensive legislation to stop children from smoking before they start. Total combined cost of all these initiatives: $855 million over 5 years. We could make a series of proposals, some part of the budget and some not: (1) Fall --announce new DOD anti-tobacco plan, and new DOL and OPM tobacco-free workplace programs; (2) Winter --propose Medicaid and Veterans coverage of cessation benefits through FY2000 Budget; and (3) Spring --tax coverage of cessation as a medical expense and expanded coverage of cessation benefits in FEHBP.

* New Department of Defense anti-tobacco plan. This plan is still being vetted at the agency but will likely include covering over-the-counter nicotine replacement therapies under military health care coverage as part of a comprehensive military-wide anti-tobacco plan. Cost: $60 million per year.

* Anti-tobacco workplace initiatives by DOL and OPM. DOL could expand its drug-free workplace initiative to provide information to employers on steps they can take to reduce tobacco use among employees (cost: $63,000 per year). OPM could disseminate a model workplace cessation program for all federal agencies (agencies would use existing appropriated funds).

* Medicaid coverage. Currently, smoking cessation prescription and non-prescription drugs are optional state benefits under the Medicaid statute. We could propose to require states to cover cessation, as the McCain bill did (CBO estimated cost: $120 million over 5 years, HCFA estimated $114 million). Alternatively, we could propose an enhanced federal matching rate for smoking cessation treatments, in order to offer the states an incentive to cover these services. The Hansen-Meehan bill establishes a 90 percent match rate for state costs of smoking cessation services at an estimated cost of about $110 million over 5 years. Currently, 23 states cover Zyban, 6 states cover non-prescription treatments, and 5 states cover cessation counseling. A study by the Center on Addiction and Substance Abuse at Columbia University found that over 42 percent of Medicaid recipients smoke, as compared to 25 percent of the general population and that nearly 10 percent of all Medicaid hospital days are attributable to smoking.

* Veterans. We should re-propose the plan from the Presidents 1999 budget which created a new discretionary program open to all veterans who began using tobacco products while in the service, regardless of their eligibility for other VA health care services (currently less than 15 percent of veterans receive their health care through the VA system because of statutory limits --veterans must be low income or have a service-related injury.) The VA would contract with private sector entities to furnish AHCPR-approved services to interested veterans. OMB estimates that this proposal would cost $87 million for the first year, and $435 million over 5 years. Thirty-six percent of the 25 million veterans in this country smoke.

*Tax Treatment. Currently, the cost of cessation treatment cannot be claimed as a deductible medical expense because the IRS does not recognize smoking or tobacco addiction as a "disease." The IRS has indicated in written opinions that an official medical

authority classification of smoking as a disease would allow cessation to deduct these expenses. Treasury is interested in pursuing this in 1999. This would be done outside of the budget.

* Federal Employees Health Benefit Program. We could require enhanced coverage of smoking cessation services. One option is to raise coverage limits to more accurately reflect the cost of AHCPR-approved treatments, and to raise the number of treatments allowed per lifetime to account for the fact that the average smoker requires three to five cessation attempts before they successfully quit (i.e., require coverage of $300-400 per treatment, with three maximum treatments covered per lifetime). Another option is to waive the deductible and copayment requirement for cessation benefits. Currently FEHBP fee for service plans, which cover 70 percent of beneficiaries, are required to provide only $100 in smoking cessation benefits. Generally, this coverage does not kick in until after the calendar-year deductible has been met, and most plans restrict benefits to once per lifetime. Many plans only cover prescription drugs. HMO coverage of smoking cessation benefits varies greatly. This would be done outside of the budget, but would have to occur in the spring as part of OPMs annual letter to contracting plans, establishing the terms for the following year of coverage.

In addition to these efforts, any Medicare prescription proposal (see above) should include coverage of prescription cessation agents.

4. Expanded SAMHSA Survey. As the result of the Presidents directive, HHS will be including questions in their National Household Survey on Drug Abuse regarding brand-specific use of tobacco. This will allow us to determine which brands are most popular among youth, and help us identify which companies may be marketing to this population. Some federal funding will be necessary to support this expanded effort.

WELFARE

1. Helping the Hardest-to-Employ Get and Keep Jobs.

Extend Welfare-to-Work Grants and Strengthen Focus on Fathers. Funding for the $3 billion grant program that the President fought for in the Balanced Budget Act ends in FY 1999. These funds are targeted at the hardest-to-place welfare recipients, and non-custodial parents of children on welfare, and at concentrated areas of poverty. 75% of the funds are allocated to states, who in turn pass them to local Private Industry Councils and 25% of the funds are available on a competitive basis. We expect DOL to propose extension of the grant program in their FY 2000 budget proposal. We should consider revising the statutory language to increase the focus on increasing employment of fathers. While there is a significant level of interest in serving this population, there is likely more we could do to increase the quantity and quality of services. This should also increase support from the Ways & Means committee as Shaw is very interested in fatherhood issues. Possible approaches include requiring states and communities to designate a minimum portion of WTW formula funds for fathers, setting aside a portion of competitive grant funds for this purpose, or earmarking funds for needed technical assistance and capacity building on this relatively new area. Other changes worth considering: shifting more funds toward competitive grants, increasing tribal set aside (currently 1%), and streamlining data collection requirements. Assuming level funding, this would cost $1.5 billion annually.

* Request Additional Welfare-to-Work Housing Vouchers. We are unlikely to get the full 50,000 housing vouchers requested for FY 99. This approach continues to have merit, both

in helping families move from welfare to work and as a catalyst for changing the way local housing authorities, and HUD, do business. Cost to fully fund 50,000 vouchers is $283 million. Some, including Deich and Edley, have also suggested allowing housing authorities to convert Section 8 vouchers that are turning over to the more flexible approach of the WTW vouchers.

* Invest in Increasing English Language and other Literacy Skills. There is evidence that those with low education levels have a harder time leaving welfare. There is also emerging evidence that English language may be a barrier for some minority welfare recipients, including immigrants. We may want to explore whether there is more the federal government could do to increase access to ESL and other basic education that is combined with work, though this does not necessarily have to be done with TANF funds. We need to first explore what is available, whether there are successful models that can be replicated, and what the demand is.

2. Helping New Workers Succeed in the Workforce/Achieve Self-Sufficiency.
There are several ways to ensure people moving from welfare to work can get to their jobs:

Request full $150 million authorized for Access to Jobs for FY 2000 (TEA-21 set guaranteed funding from the Highway Trust Fund at $60 million for FY 2000). This would allow DOT to fund more competitive grants. Note these funds can be spent on current and former welfare recipients, as well as families up to 150% of poverty so they help the working poor as well.

Donate surplus federal vehicles to welfare to work programs. These could be given, leased, or sold to current and former welfare recipients for whom public transit it not a viable option, including those living in rural areas. Cars could be allocated through community-based organizations or intermediaries. This could be modeled after the initiative to donate federal computers to schools.

* Help former welfare recipients access funds to purchase cars. In some areas, public transit is not a viable option for a family moving from welfare to work. In addition, owning a car is something many poor families aspire to, and something that helps them become part of the economic mainstream. Family Services of America, and other organizations, currently offer revolving loans for low income families to purchase cars. FSA's model currently operates in 20 sites and is scheduled to expand to 60 sites later this Fall, with partial funding from foundations and private financial institutions. They are also seeking federal funding to help with this expansion. Possible sources include: HUD, Treasury, DOL WTW grants, as well as existing federal and state TANF funds. Another option is to expand allowable uses of IDAs to include purchasing a car needed to go to work.

* Connection between TANF and Unemployment Insurance. There is growing interest in exploring the relationship between these two systems. Historically, few welfare recipients have qualified for UI, and some have essentially used AFDC as a form of unemployment insurance. As more welfare recipients joining the labor force, we need to consider the most appropriate way to provide income support to them between jobs. Various approaches include: (a) changing rules of the UI system that make it hard for former welfare recipients to qualify for UI once they go to work and in the event they lose a job and (b) creative uses of federal TANF or state MOE funds to provide income support to people in between jobs. Either approach should be accompanied by a strong effort to promote job retention and rapid re-employment. This could be considered as part of a more comprehensive UI reform initiative that NEC has been considering, but it would not depend

on that. NOTE: NGA has a grant to explore this issue and several states are trying innovative approaches. While we do not have to frame the issue in terms of planning for economic downturns, it seems prudent to address this issue earlier rather than later.

* Optional State Coverage Expansion Through Eligibility Simplification (see Health section).

*Transitional Medicaid. Families can currently receive Transitional Medicaid for up to 12 months after leaving welfare, but only about 20 to 30 percent of eligible families are enrolled. The program has many procedural hurdles that make it more difficult to access than regular Medicaid coverage and the 12 months transitional period is too short for many families. The budget could eliminate some of the current prescriptive reporting requirements now in the law (that, for example, requires families to report earnings in the fourth, seventh, and tenth months of coverage and divides the 12 months of coverage into two 6 month segments with different co-pay and benefit rules) and allow states to provide a full 12 months of coverage without regard to changes in family circumstances, similar to the 12-month option for children that was adopted in the Balanced Budget Act. In addition, the budget could provide states the option of extending transitional Medicaid to 24 or 36. These ideas need to be fully discussed, vetted, and costed out. The current program reauthorization sunsets in 2001.

*Extend the Work Opportunity Tax Credit and Welfare-to-Work Tax Credits (WOTC has already expired and WTW will expire in 1999).

DISABILITY POLICY

1. Expanding the Defense Departments "CAP" program. The Defense Departments Computer Accommodations Program ("CAP") purchases equipment for DOD employees with disabilities to allows them to keep working if they become disabled, or for new employees just joining the workforce. By using a central $2 million fund for such purchases, individual offices do not have to bear the cost within their own budgets, and are less likely to be deterred from hiring a person with a disability. CAP is also able to get better prices on equipment through its bulk purchases and expertise. It has a showroom to help employees try out appropriate adaptive devices (CAP makes the decision on what equipment is purchased, not the employee). It has provided over 9,000 accommodations since its inception in 1990. This program is a good example of how employers and employees are taking advantage of new (and increasingly cheap) technology, such as computers for the blind that talk and listen, and alternative computer keyboards for people with dexterity problems, that allow people with disabilities to work. Expanding the program has the strong support of the Administrations appointees with disabilities, in particular for Tony Coelho, chair of the President's Committee on Employment of People with Disabilities.

Defense has estimated that it would cost $8 million a year to expand CAP government-wide, but this is likely overstated since CAP now serves the entire Defense Department for $2 million a year. A more realistic range is $2 -5 million a year. While having DOD perform this service for all federal employees is a bit unusual, they have a great deal of expertise at this task and they are ready to take on the added responsibility.

2. Tax Credit for Disability Related Expenses. [See "Health" section, above.]

3. New BRIDGE grant program. This program would provide incentives for state and local

agencies and private organizations to form interdisciplinary consortiums of service providers (employment, health, transportation, etc.) to better assist people with disabilities in going to work. NEC and DPC will receive revised proposal shortly from the Presidents Task Force on Employment of People with Disabilities and will evaluate and vet. Estimated cost for this three-year grant program is $150 million a year.

4. Information and Communication Technologies for People with Disabilities. NEC has developed draft proposals now being vetted to ensure that new technologies will be designed from the beginning to be accessible to people with disabilities. Ideas include leveraging federal government procurement, investing in R&D, funding industry consortia, training the next generation of engineers, etc. (Tom Kalil is working on this, coordinating with DPC and OMB).

NATIVE AMERICANS

1. Create Native American Program at the Army Corps of Engineers. The Army Corps has a modest $2 million proposal that would institutionalize Native American outreach within the Army Corps. Here is the proposal:

* Outreach ($1.5 million). Market engineering, environmental, economic, project management, real estate, and resource management services to Tribes.Using existing workforce of 150 cultural-historical-Tribal specialists for support, establish Tribal Coordinators (1 per Corps of Engineers Division, 8 Divisions).Establish an Indian Desk in Corps Headquarters to work with Tribes, BIA, Corps districts (37) and divisions (8), and other federal agencies to leverage resources/programs.

*Training ($250,000). Complete consultation guidelines.Complete Commander and senior leader video on Tribal matters. Develop a strategy for empowering Tribes nthe areas of regulatory and natural and cultural resource management.

*Partnerships ($250,000). Explore watershed planning opportunities with Tribes.Link to Clean Water Action Plan Activities.Develop model MOUs that can be used with Tribal Governments on strategies, protocols, and processes for addressing issues.

CRIME AND DRUGS

1. Crime Bill II. While the 1994 Crime Act is set to expire at the end of FY 2000, we should get ahead of the crime debate by including an outline of Crime Bill II in next years budget that emphasizes and builds on key Clinton crime initiatives. This includes: extending COPS; establishing community-based prosecutors, courts, and corrections; promoting targeted deterrence for guns, gangs, etc.; funding drug testing and treatment for all persons under criminal justice supervision; reauthorizing VAWA; creating police youth academies; and other new crime programs.

OMB has already built $4.8 billion into the base for continued crime funding over the next 5 years, but this only includes $400 million of the $1.4 billion we have been spending on COPS and continued funding for other popular crime bill programs (i.e., VAWA, prisons, federal law enforcement, etc.). Thus, to keep crime bill funding at its current level --and to allow us more flexibility in proposing new programs --we will need $1 billion more in the FY 2000 budget.

2. Expansions of Youth Crime Gun Interdiction Initiative (YCGII). This year it looks as though we will succeed in getting $28 million in funding for Presidents YCGII initiative to trace all crime guns and hire more ATF agents to crackdown on gun traffickers in 27 cities. We should follow-up in the FY 2000 budget by expanding the YCGII to all cities with populations of more than 250,000. This would cost about another $35 million. NB: Currently, treasury is only planning to propose adding another 10 cities in next years budget..

3. Expand Values-Based Initiative. At a minimum, we should seek funds in FY 2000 to continue the Administrations values-based crime prevention initiative in 16 cities --as well as to expand it to another 20 to 30 cities. This would only take about $5 to $10 million annually and could come from Crime Bill II funds if necessary. More importantly, however, we should propose changes to existing crime prevention and drug treatment programs to ensure that faith-based organizations are allowed to participate --and that common sense values are included.

4. Drug Treatment Parity. A long overdue policy change that we should consider embracing in this years budget is to require health insurers to guarantee some type of meaningful substance abuse coverage --much akin to what the Administration supported for mental health benefits.

5. School Shooting Response Fund. In our recent meeting with the communities impacted by multiple school shootings, one of the key recommendations made by all of the local leaders was that the federal government should establish an emergency fund that would allow communities that are overwhelmed by multiple victimizations to have the resources they need to facilitate the short-and long-term response. This includes year-long support for increased security and enforcement, investigations, media response, additional counselors, and other such costs.

CONSUMERS

1. Consumer Bill of Rights. A consumer bill of rights could address a number of areas such as enforcement, notice to consumers, and dissemination of information. We could announce this bill of rights as a package, but then pull out separate pieces for separate events like we do in the Patients Bill of Rights area. We could include a number of different areas such as the following:

* Auto Insurance Fraud. Auto insurance fraud is a $13 billion-a-year problem in America. We could propose significant funding for a Justice Department anti-auto insurance fraud. Since an estimated 13 percent of auto-insurance premiums go to pay for fraud, we could claim that this effort will help drive down auto-insurance premiums.

* Slamming/Cramming. Cramming, in which con artists add bogus charges to consumers telephone bills, and slamming, the unwanted switching of long-distance telephone service from one carrier to another, and are the top two respective complaints reported to the National Fraud Information Center in 1998. In 1997, the FCC received more than 20,000 complaints from customers who were slammed. So far, the FCC has fined slammers, announcing a $5.7 million fine this year, and announced voluntary guidelines for cramming that local telephone companies say they will follow. We could add money for enforcement to the FCC and/or DOJ. In May, the Senate overwhelming passed legislation that would impose new penalties on slammers and would eliminate common slamming methods, such as contest entry

forms that, when signed by unsuspecting customers, authorize a switch of their long-distance carriers.

*Telemarketing Fraud. Telemarketing fraud is among Americas worst white-collar crimes, robbing unsuspecting victims of an estimated $40 billion per year. We could increase the FBI budget to increase investigations of this type of fraud. Recently, the Washington Post reported that volunteers from the American Association of Retired Persons (AARP) work undercover for the FBI, posing as potential victims to catch telemarketers on the prowl. Because telemarketing fraud often is targeted against the elderly, we could combine this piece with the elder abuse in a separate event.

*ATM Proposal. Weinstein proposes that Treasury publish an annual report on consumer financial issues, including ATM fees. In each report, Treasury would provide a list of insured financial institutions based on geographic divisions and by size. Treasury would report on the following categories: (1) Fees charged to depositors at ATMs at their home branches; (2) Fees charged by institutions to depositors using other banks ATMs; (3) Fees charged by ATM networks; (4) ATM fees charged to non-member depositors by institutions; (5) Minimum deposit requirements for checking and savings accounts; (6) Fees for overdrafts; and (7) Checking account fees. We will need to develop categories which underscore the differences in types of accounts. If we just list checking account fees, the fees that aren't reported would increase.

NLWJC – Kagan
Hard Drive – Folder 7

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Sally Katzen

SUBJECT:Heads Up on EDs IDEA Proposed Rule

We have just concluded review of EDs rule proposing guidelines from States and local school districts designed to improve the educational outcomes of disabled children and ensure they receive a free and appropriate public education (FAPE). The rule, which implements the Individuals with Disabilities Education Act (IDEA) Amendments of 1997, addresses many issues, the most significant being disciplinary procedures (e.g., suspending disabled children from school), due process procedures for parents and students, the use of public and private insurance, the provision of services beyond the normal school year, and the provision of services to disabled students incarcerated in adult prisons.

Criticism of the rule is likely to come from both sides -- disability advocacy groups will argue for more stringent requirements on local school districts, while the States and local schools will want additional flexibility in how they educate disabled children. We believe that EDs approach is reasonable and effectively balances the two interests as intended by Congress.

Please call me if you have any questions.

cc:Maria Echaveste
Rahm Emanuel
Thurgood Marshall, Jr.
John Hilley
Ann Lewis
Sylvia Mathews
Bruce Reed
Gene Sperling
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Kathy Wallman
Josh Gotbaum
Larry Haas

September 16, 1998

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC October Event Ideas

Health Care

Long-Term Care: If Democrats decide to introduce an alternative tax bill, we could do an event (either before or concurrent with the Democratic unveiling) that highlights the Presidents long-term care initiative. The Presidents proposal would provide for a $500-$1,000 tax credit to people with long-term care needs or their caregivers. It would cost about $5 billion over 5 years and help about 2.2 million people. At the same time, the President could call for the Federal Employees Health Benefit plan to offer long-term care insurance to federal employees. OPM estimates that 300,000 people would buy these policies.

Work Incentives and Health Care for People with Disabilities: Within a week, we will know whether the Senate will vote on the Jeffords-Kennedy Work Incentives Improvement Act -- the disability communitys top health priority -- this year. If the bill does come to a vote, we could do a strong event with the disability and AIDS communities emphasizing our involvement in developing the bill and calling on the Senate to pass it. We also could announce the approval of four states for the new "date certain" grant program. This initiative (long sought by the disability community) gives states the ability to use Medicaid funds to offer a time-limited opportunity for institutionalized disabled persons to return to their communities to receive the long-term care services they need. The disabilities community views the program as an important step in moving Medicaid away from its historic bias toward institutionalizing the chronically ill.

Childrens Health: October is the first anniversary of the effective date of the Childrens Health Insurance Program (CHIP), and October 5 is Child Health Day. We could release the first annual report on states' progress in implementing CHIP, which is expected to coincide with a sufficient number of state approvals to cover 2.5 million kids. At this event, we would launch phase one of our childrens health outreach campaign with NGA, which includes new radio ads in 10 states (set to begin October 1) targeted to parents of uninsured children eligible for CHIP or Medicaid. We also are trying to get a commitment from Americorps to participate in signing families up for Medicaid and CHIP on the local level.

Patients Bill of Rights: We would like to do at least one more patients bill of rights event, preferably on the road, prior to the election. We might want to do a kind of wrap-up event, now that we have just about finished applying the bill of rights to federal health plans, toting up everything we have done by executive action (i.e., how many people covered) and comparing it to what Congress has accomplished (i.e., nothing). The AFL-CIO (per Jerry Shea) strongly favors this event.

Cancer Event(s): In addition to the September 26 Cancer March (and the Presidents possible involvement through a radio address), October is National Breast Cancer Awareness month. It is also the fifth anniversary of the Presidents launching of the National Action Plan on Breast Cancer. We have tentatively scheduled October 21 for an event with the First Lady to (1) release a new report on the progress the Administration has made in the fight against breast cancer, and (2) highlight a new information outreach and screening campaign focused on underserved minorities. Because of the Presidents strong cancer record, as well as his desire to underscore our commitment to ending health disparities among races, the President might want to participate in this event.

Elder Abuse: See Crime section of this memo.

Education

September Grants: The Education Department will announce prior to September 30: (1) technology grants ($30 million to 17 states); (2) charter school grants ($60 million to 20 states); (3) safe and drug free school grants ($5 million for model school partnerships and universities); and (4) school-to-work grants ($40 million to urban and rural communities, which must be given on September 30). We can try to combine as many of these grants as possible into a single event, perhaps in Chicago.

Potential Bill Signings: (1) The Higher Education Act is virtually certain to pass this session, though the timing is uncertain. It is likely to contain provisions to reduce student loan interest rates, as well as programs based on our High Hopes and Teacher Recruitment and Preparation proposals. (2) Prospects for passing the charter schools legislation are decent, though hardly guaranteed. (3) Ditto the prospects for passing an early literacy bill.

Safe Schools Conference: On October 15, the President will host a White House Conference on School Safety and take the following actions: (1) release the first annual report on school safety, including school crime data, information on model safe schools, and recommended action steps for parents and teachers; (2) unveil a proposal to reform the Safe and Drug Free Schools program and call for additional funds in the FY 2000 budget; (3) announce a new FEMA-like program of assistance for communities that have experienced school-related violence; (4) launch new comprehensive school safety grants that will bring together disparate streams of funding from the Departments of Justice, Education, and Health and Human Services; and (5) start a partnership with MTV on school safety, which includes a year of PSAs.

Crime

September COPS Grants: The President could announce in late September $370 million in grants to hire or redeploy 11,500 more police officers. This announcement would include $100 million for Los Angeles to hire 700 new police officers, $70 million for the rest of California to hire 800 new officers, and $200 million for COPS MORE grants to allow police departments in communities across the nation to redeploy more than 10,000 officers.

Elder Abuse and Fraud: The President could take several actions to combat elder abuse and fraud, including: (1) releasing the preliminary findings of an HHS study on elder abuse; (2) creating a new national center on elder abuse; (3) calling on Congress to reauthorize the Older Americans Act, which includes services to help older Americans at risk for abuse; (4) launching a new partnership between the Justice Department and AARP to create Elder

Fraud Prevention Teams (EFPTs) in four cities (Miami, Phoenix, San Diego, and Seattle); (5) releasing roughly $3 million in Justice Department grants to combat fraud against the elderly (by September 30); and (6) posting new information on telemarketing fraud on the Department of Justice Web site.

TOP COPS Legislation: The President could sign legislation to expand educational benefits for the children of slain local law enforcement officers at the NAPO TOP COPS event on October 9, assuming the legislation is passed in time. The President endorsed this proposal at last years TOP COPS event. The bill has passed the Senate and is waiting for a floor vote in the House.

1997 FBI Crime Statistics: Coinciding with the October 18 release of the final 1997 FBI Uniform Report -- which will continue to show large decreases in crime -- the President could give a major policy speech on how this Administrations efforts have helped to fuel the longest sustained drop in violent crime in nearly 40 years. The speech would commemorate the fourth anniversary of the landmark 1994 Crime Act; highlight the crime policies, including signature initiatives such as COPS, that have helped to change the nations approach to crime; and begin to make the case for new crime proposals that will be included in the State of the Union and FY 2000 budget.

Youth Crime Gun Interdiction Initiative: Anytime after October 23, the President could: (1) release the second annual report on the Youth Crime Gun Interdiction Initiative (YCGII), which will provide new ATF data on guns used in crimes in 27 cities; (2) announce the availability of new funds to hire new ATF agents to investigate gun trafficking in these 27 cities; and (3) propose a dramatic expansion of this initiative in the FY 2000 budget to all major cities (i.e., the 65-70 cities with populations of 250,000 or more), which would cost about $30 million (pending OMBs approval). Additionally, because we expect the YCGII report to make a strong case for cracking down on "straw purchasers" and gun shows, we are considering whether the President should announce his support for legislation requiring background checks for all secondary market gun purchases.

PPChildren and Families

Head Start Reauthorization Bill: The President should have the opportunity to sign a Head Start Reauthorization bill this year. A bill signing could highlight the how the Administration has (1) significantly increased Head Start participation; (2) dramatically improved program quality; and (3) created Early Head Start for infants and toddlers.

Quality Child Care for Federal Employees Act: The President may get an opportunity to sign the Quality Child Care for Federal Employees Act, which makes important improvements to federally-sponsored child care by building on an executive memorandum that the President issued in March 1998. (Congress, however, might add this measure to an appropriations bill.) We could announce new CCDBG data (see just below) at this signing.

New Child Care Data. The President could announce new data of the number of children served with child care assistance through the Child Care and Development Block Grant (CCDBG). This data will point to the need for increased investment in the block grant; we expect the data to indicate that we are serving approximately 1.8 million children of the 10 million eligible for assistance. This is the first data to examine the CCDBG created by welfare reform in 1996 (when four child care assistance programs were consolidated).

CEO Roundtable Discussion on Work/Family Issues: The President could host a meeting of CEOs to discuss "family-friendly" workplace practices that meet the needs of the nations changing workforce. The President could release a new CEA report, if it is ready, on Families and the Changing Labor Market. Additionally, the President could signal support for the design of a paid parental leave program (policy development process required). This meeting would build on the work of the Treasury Child Care Working Group, run by Secretary Rubin.

Welfare

National Child Support Case Registry: HHS is almost ready to put in place a new national database of child support cases, called a Federal Case Registry. This database will make it easier to locate deadbeat parents, especially if they have moved to a different state; HHS will check the Registry daily against an existing database of new employees; when it finds a match, it will report the information to the state, which then will arrange to garnish the wages of the delinquent parent. The registry was proposed by the President in 1994 and enacted as part of the 1996 welfare reform law. States will begin to submit their case 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. We could unveil the new registry anytime in October.

Work Participation Rates and Other Statistics: In late October, the President could visit a welfare-to-work program and announce (1) new state work participation rates, showing that almost all states are meeting the welfare laws single-parent requirements, but some are failing to meet the laws separate two-parent requirement; (2) new caseload data showing continuing declines; and (3) new data on the number of people who were on welfare in 1997 and working in March 1998.

Tobacco

OSHA Rule: The President could sign an Executive Order directing OSHA to issue within one year a standard establishing a smoke-free workplace for all private sector employees. OSHA has been working since 1991 on a standard regulating all indoor air pollutants (including but not limited to environmental tobacco smoke), but is years away from completing the standard, principally because there is scanty scientific evidence to justify the regulation of certain non-ETS pollutants. If the President ordered a separate standard only on ETS, OSHA believes it could complete the work within a year. The resulting standard would be similar to the August 1997 Executive Order banning smoking in federal buildings.

Counteradvertising: In an event focusing on counteradvertising, the President could direct HHS to: (1) designate the CDCs Media Campaign Resource Center as a National Clearinghouse on Tobacco Counteradvertising; (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; and (3) make effective anti-tobacco curriculum available to every school. Supermodel Christy Turlington and the musical group "Boyz II Men" have made PSAs that would be among the top-10 package, and we could invite them to participate in the event.

Department of Defense Anti-Tobacco Plan: The President could help unveil the DODs new comprehensive anti-tobacco plan. This plan includes: health plan coverage of over-the-counter nicotine replacement therapies; an extensive counteradvertising campaign; and the incorporation of anti-tobacco messages into military education and training

programs. The total cost is about $60 million. The Secretary of Defense and/or Chairman of the Joint Chiefs of Staff could join the President.

Food Safety

Salmonella and Research: The President could announce a preliminary USDA study showing that salmonella risks have declined by almost 50 percent in chicken and almost 40 percent in swine, largely because of the HACCP program. At the same time, he could participate in a kind of "show and tell" event demonstrating the importance of research to food safety, showing for example how federal research has led to technologies dramatically reducing salmonella in chicken and e-coli in cows.

Service

Americorps 100,000th Member Event: CNS is planning national service events in Washington and around the country on October 23 to celebrate the swearing-in of the 100,000th Americorp member. At this event (or at some other time), the President also could announce: (1) new grants to support 500-1000 Americorps Promise Fellowships to support the goals set at the Presidents' Summit; (2) the recipients of the Presidents Service Awards, the nations highest volunteer service award; and (3) the recipients of the President's Student Service Awards.

Community Empowerment

Individual Development Accounts: The President may have an opportunity to sign a bill to provide funds for IDAs, which the President has supported since 1992. At the bill signing, the President could announce that he is sending a letter to the bank regulators asking that IDA accounts count towards a financial institutions CRA requirements.

September 8, 1998

MEMORANDUM FOR BRUCE REED
ELENA KAGAN

FROM: Domestic Policy Council Staff

SUBJECT: Compilation of Preliminary New Ideas

CHILDREN AND FAMILLIES

1. Child Care. While this is not a new idea, we must maintain our support for our child care initiative in order to have credibility on the rest of a new "families first" agenda.

2. Paid Parental Leave. Funding for paid-parental leave for the purpose of looking after a newborn baby, or a newly-adopted child for 12 weeks (although we may reduce the length of time, depending on costs). A leave initiative may be targeted to families whose incomes are below a certain level.

3. Home Visitation. Funding for programs that counsel and support parents in the parenting process. These programs are often conducted by trained professionals, such as nurses and counselors, and they tend to dramatically decrease levels of abuse, which in turn decreases rates of delinquency and crime amongst children and youth.

4. Child Welfare. Additional funding and improvements of independent living. (Specifics to follow.)

5. Child Tax Credit. Double the Child Tax Credit, from $500 per child to $1000, for parents of children aged 0 to three.

6. Home Office Tax Deduction. Expand the allowable expenses for those who work out of their home.

7. Flex-Time. Offer tax incentives for companies that offer flexible work hours for their employees, compressed work weeks, part-time work with benefits, job sharing, career sequencing, and extended parental leave.

8. After-School Programs. Support after-school programs in both school-based and non-school-based settings, with a priority to those programs that are tailored to work hours.

CIVIL RIGHTS

1. Enhance the CRS program at Justice. The Community Relations Service at Justice has been a significant force in cooling racial tensions in communities all over the country. Since the 1980s, their budget has been decimated. This initiative could (1) enhance CRS's ability to provide mediation services to resolve community civil rights concerns as an alternative to litigation; and (2) provide CRS conflict resolution training and technical assistance to communities. The CRS is very popular with the AG and she often talks of wanting it strengthened.

2. Inter-Agency Task force on Discrimination. This initiative would create an inter-agency task force (headed by the Civil Rights Division at Justice) to expand research on the extent of racial discrimination in the country. The research would focus on developing uniform testing protocols in housing, employment, and access to capital and then using these tools to asses the nature and extent of discrimination in these areas. This effort could be linked to agency compliance and/or enforcement work.

3. Improve Civil Rights Information Sharing. This proposal would provide funds to establish and maintain a system that links the data bases of agencies with civil rights enforcement responsibilities -- thus allowing, for example, OCR at Education to have better access to work being done by the Education Section at Civil Rights.

4. Becoming an American. A national effort to focus on easing the transition to the U.S. for new immigrants. We could provide grants to community-based organizations that fund English and civics classes for new immigrants. Also, we could encourage the development of programs that provide practical transition-type help to new immigrants -- such as understanding the public education system; understanding the housing system, etc. According to the INS, there is a bit of this being done on the community level, but they do not fund any of it. Also, some of the education bits are done by the Dept. of Ed. (adult education and/or literacy), but not in a coordinated way. HHS funds some transition work for refugees. This general idea was first talked about by the Jordan Commission.

5. Sweat-Shop Initiative. Expand enforcement against labor abuses in "sweatshops" and on farms that employ migrant farm laborers. Many of the wage & hour laws in place to protect low-wage workers are not adequately enforced by the Department of Labor, in part because of dramatic reduction in funding for these efforts during the 1980s. These workplaces often serve as places of gateway employment for new immigrants, and thus the abuses disproportionally affect Latinos and Asians.

6. Equal Pay. A program that could be run by the EEOC and DOL to increase outreach to businesses to educate them about the legal requirements for paying equal wages, provide technical assistance, improve training for EEOC employees and resources for increases in enforcement capabilities.

COMMUNITY EMPOWERMENT

1. Access To Capital For All Americans.

*CDFI Tax Credit. In 1996, we proposed a tax credit for investors in CDFIs. We could re-propose this $100 million non-refundable tax credit. The maximum amount of credit allocable to a particular investment would be 25 percent of the amount invested.

*Voluntary CRA. Launch a bully pulpit effort to encourage non-bank financial institutions to develop and implement principles for community investment.

*Micro-Enterprise. Provide authorization and funding for CDFI Fund to provide technical assistance to micro enterprise organizations and micro-entrepreneurs (PRIME Act, Kennedy-Domenici).
*Secondary Market. Develop coordinated administration initiative to take first steps towards secondary market for community development loans, including data collection, education, standardization, regulatory review, and the creation of a loan loss reserve fund to back pools of community development loans pooled and sold by the private sector.

*Fair Lending. Continue to push the Fed to permit collection of data on race and income of small business borrowers; consider legislation if this fails.

*Capital Access Programs. Push to give the CDFI Fund authorization to launch small business capital enhancement program to back state-run loan loss reserve funds that permit banks to make more difficult small business loans.

2. Sustainable Development.

*Environmental Activity Bonds. In response to the growing needs of urban areas, an environmental bond would help cities meet the environmental goals set by the Clinton Administration. EPA has identified three areas which would be candidates eligible to receive funding: brownfields, drinking water, urban river/waterfront cleanup, and the creation of parks and other public spaces. Drinking water (as cities need to improve infrastructure to meet the requirements of the Safe Drinking Water Act) and brownfields are two areas that cities continue to seek assistance for financing. Our preference is to be more inclusive and allow municipalities increased flexibility to identify their priorities. However, there should be attention paid to how this financing would intersect with other Administration initiatives like the Clean Water Action Plan, Drinking Water Revolving Loan Fund, and TEA-21.

*Urban River Corridors and Wetlands Restoration Projects. EPA proposes urban river corridor and wetlands restoration efforts tailored to improve the human health and economic opportunities in urban communities. To date, EPA has made small grants to a number of cities and municipalities for these types of projects. With additional grants to local communities, the Agency could provide the necessary funding for projects to improve community water resources. These projects would provide employment opportunities for residents, benefit the economic welfare and technical competence of local residents, and empower the community to build for a better future. Restored areas can serve to attract and sustain business as well as provide outlets for recreation.

*Community Preference and Visualization Tools. Building the social capital necessary to change transportation and land-use policies to create more livable communities also requires tools that the average citizen can use to understand the implications of major policy choices. EPA proposed to act as a catalyst in the development and use of such innovative decision making tools. The types of tools would include: 1) Community Preference Surveys, which show communities pictures of different neighborhood types, and help the community reach a consensus about the types of development that are desirable; 2) simulation tools, which would get a community "development ready" or help a community experiment with alternatives that have been proposed; and 3) new software, accessible to the public as well as urban planners, to view and evaluate alternative urban designs for

any community.

*Asthma Initiatives. Through better implementation and new investments, EPA believes the Federal government can take action that will show immediate and long term results to reduce asthma rates among children.

*Air Quality Credits. EPA proposes to provide incentives to transportation planning by developing protocols for potential air quality credits toward state attainment plans for locally-initiated strategies and projects that create less auto-dependent communities. Similarly, the Agency proposes to create the next generation of the Clean Air Brownfields Partnership Pilot by continuing and expanding its ongoing efforts to link air quality goals and brownfields/infill redevelopment. After 2000, EPA proposes to partner with cities that have a significant brownfield site in the decision-making phase of redevelopment, work with the city, state, and developer to come up with a project design that maximizes air quality benefits, and allow credit for these activities under the State Implementation Plan.

3. Job Creation in Distressed Communities.

*Local Infra structural Improvement and Economic Revitalization Fund. Emil forwarded this idea to establish a Federal grant program to fund local Infra structural improvements. This would spark revitalization of declining or stagnant low-income areas by providing funds to upgrade local infrastructure. These Federal dollars could leverage State, local, and private funds for such Infra structural efforts.

*Community Revitalization Tax Credit. LISC proposes a Community Revitalization Tax Credit (CRTC) --similar to the Low-Income Housing Tax Credit --to help stimulate private-sector investment in commercial property in under served neighborhoods.

*Community Development Corporation Tax Credit. In 1993, we put in place a demonstration tax credit for investors in 20 CDCs. According to this report for Bruce Katz shop at Brookings, this program has been effective. We could propose expanding this CDC tax credit to more areas. The author of this report also proposes some changes to make the tax credit more effective.

*Expand and Rationalize Employer-Side Tax Incentives. This includes EZs, Welfare to Work, WOTC, DC Jobs Credit.

*Working Ventures Fund. Fund one or more national non-profits to fund, evaluate, share best practices, develop networks, and link non-profits to their business community, in the job training and placement field, as LISC and Enterprise do in the housing

*Community Empowerment Fund. a) Include targeting for welfare to work projects; b) allow links to venture capital focused on minority-owned or small business in distressed areas; c) eliminate mandatory pledge of CDBG dollars for CEF loans.

*Metro Jobs/Community Development Corporation (CDC) Links. Would target job-poor but CDC-served central-city neighborhoods to create or strengthen a welfare-to-work infrastructure that is place-based but people-focused and regional in orientation (where the jobs are). Would build on HUDs Bridges to Work and complement DOL and HHS efforts, focusing on concentrations of assisted housing run by CBOs.

4. Low Income Savings.

*Asset Development for Section 8 Voucher Recipients. Currently, an individual still sees the size of their subsidy reduced for each extra dollar he/she earns. This new idea from Liebman and Orszag would roll-over any savings --or a part of the savings --from an individual earning more money into an Individual Development Account (IDA). That is, if the size of a persons Section 8 voucher is reduced by about 30 cents for each extra dollar he/she earns, we could put this savings --up to 30 cents --in an IDA. We could also the capabilities created by EFT 99 to electronically transfer money to efficiently establish IDAs for more Americans.

*Brownfields Meets Community Development. Under this proposal, we would push banks to invest in brownfields as part of their CRA commitments.

5. Affordable Housing.

*Elderly Housing Initiative. 1) Housing modernization grants to existing elderly housing projects for modernization, physical redesign, and/or conversion to assisted living; 2) Expanded and more flexible service coordinator grants to meet needs of increasingly frail population in public and assisted housing; 3) authority for PHAs to use vouchers for the housing component of assisted living costs.

*Regional Affordable Housing Initiative. Targeting regions with severe jobs-housing imbalance and established partnerships for regional collaboration, HUD would provide grants and loan guarantees to support planning, regulatory streamlining across jurisdictions, and development.

*Vouchers. An expanded request will focus on incrementals, welfare to work, and homeless.

6. Promoting Homeownership In Distressed Communities.

*Low-Income Homeownership Tax Credit. Self-Help --a community group in North Carolina --proposes a tax credit for investors who provide second mortgages to low-income families. This could significantly reduce the barriers to homeownership among low-income families, who do not really benefit from the home mortgage interest deduction.

*Increase Allocation of Mortgage Revenue Bonds. Each state receives a supply of tax-exempt mortgage revenue bonds. These bonds help low-income families become homeowners and help develop affordable rental housing. There are currently 53 co-sponsors of legislation in the Senate and 316 co-sponsors of legislation in the House to increase the allocation of mortgage revenue bonds by slightly more than 50 percent and then index it to the rate of inflation.

*Expand Use of Mortgage Credit Certificates. Mortgage Credit Certificates (MCCs) are credits against federal income tax equal to between 10 and 50 percent of mortgage interest (to a limit of $2,000 per homeowner) issued by state governments. MCCs count against states ability to issue mortgage revenue bonds. We could propose to expand the MCC program to allow the limit to be $4,000 for homeowners in EZs or ECs. We could also propose allowing states to not have to count MCCs against their mortgage revenue bond base.

*First-Time Homebuyer Tax Credit. The 1997 tax law put in place a $5,000 tax credit for first-time homebuyers in the District of Columbia. To boost homeownership in Empowerment

Zones, we could propose allowing any first-time homebuyer in an EZ to take advantage of this tax provision.

*Historic Homeownership Assistance Tax Credit. The National Trust for Historic Preservation proposes a 20-percent tax credit to homeowners who rehabilitate or purchase a newly rehabilitated historic home and occupy it as a principal residence.

*Homeownership Vouchers. Already authorized, would apply rental subsidies to mortgage-related expenses for first-time homebuyers who were Section 8 tenants.

EDUCATION

1. Class Size Reduction. Reintroduce Presidents proposal to reduce class size in grades 1-3 to an average of 18. Needs to be funded on the mandatory side. If necessary, we could combine this with a teacher quality/recruitment initiative, so that funds in the early years of the program are devoted to (1) incentives for people to enter teaching and/or (2) teacher training and professional development.

2. School Modernization. Weve tried this on the mandatory side and weve tried this on the tax side. Assuming we dont get it this year, weve got to try again next year.

3. School Discipline/Safety. We are working on an overhaul of the Safe and Drug Free Schools Program, that will: (1) focus the program on comprehensive, proven approaches to improve school discipline and safety; (2) better target the funds to schools/communities with the greatest needs; and, (3) improve data collection and reporting, including school report cards on safety/discipline issues. Because the program currently spreads (small amounts of) funds around to almost all school, and because of its initial emphasis on keeping schools drug-free, the politics of this program will probably require that any shift in emphasis on greater targeting will require additional resources.

4. Teacher Supply and Quality. Here are three initial ideas for improving teacher quality. The first two came out of our initial discussions on the Presidents race report. We can decide down the road whether to keep them focused on high poverty schools, or make them more universal. We can also break out particular pieces of them into separate initiatives if we want to:

Make sure there are qualified teachers in high poverty schools. First, encourage and support state and local efforts to improve the preparation, certification, recruitment, selection, induction, retention, evaluation, reward and dismissal of teachers overall. Support necessary R&D on critical components of an upgraded system, such assessing teacher competence in the classroom. Second, work to end the practice of disproportionately placing and keeping unqualified teachers in high poverty schools. Require states to require prospective teacher to pass basic skills/subject matter tests (and help them develop more demanding assessments) in order to be licensed Prohibit school districts receiving Title 1 funds from staffing Title 1 funded classes (what about schoolwides???) with unqualified teachers, and bar those without an effective system for teacher evaluation (including removal of incompetent teachers) from receiving Federal (or just Title 1) funds. Require K-4 teachers in Title 1 schools to successfully complete training in teaching reading, and fund the training. Third, help attract and retain the best teachers for high poverty schools. Fund induction and continuing professional development programs

in high poverty schools. Provide incentives for Board-certified teachers to teach in high poverty schools.

Recruit More Minority Teachers. Many believe that a major factor influencing childrens success in education is role models. Enhance current recruitment programs with effective incentives to attract more minorities to the teaching profession. Minority teachers, administrators, and school personnel serve as role models for minority students and can provide an important link between schools and parents.

*Establish subject-specific teacher/administrator training institutes/academies/centers in every state. There are crying needs to train existing teachers in key subject areas, such as reading, technology use, math/science and other academic subject. We should establish subject specific training centers in each state (or perhaps in geographic regions within states). The idea is to create a place, probably at a university, that has the subject-matter capacity and can work with school systems to develop and implement a strategy for ensuring that every teacher who needs it gets high quality, intensive and ongoing training in the subject and how to teach it. This could either substitute for or complement the current teacher training program (Eisenhower Professional Development Program), which provides funds to states and school districts on a formula basis, with broad discretion on how the funds can be used for professional development. We could also establish training centers for principals and other school leaders.

Continuing the Troops to Teachers (TTT) program (due to phase out in Oct 1999). TTT provides stipends to encourage retired military personnel to teach and school districts to hire and train them. TTT attracts more minorities and men into the teaching profession than are traditionally represented, they have background in understaffed subjects such as math and science, and are more willing to teach in inner-city classrooms.

5. Recruiting and Training Principals. Most states and communities lack good strategies for recruiting and preparing individuals with the knowledge and skills to provide the kind of leadership and management schools need right now. We could propose a competitive demonstration program to provide focus, leadership and effective models for the field. This would not be a big-ticket item.

6. Urban/Rural Initiative. This could take two forms. One would be some version of Education Opportunity Zones--a competitive grants program that rewards performance and requires accountability. A second would be to create local performance partnerships, in which local communities agree to create schools that are safe, have high standards and qualified teachers, after-school programs, tutors and other forms of extra help for kids, technology, etc. The districts would be responsible for creating schools with these opportunities, and would be accountable for improving achievement across the board (perhaps as measured against national standards). In return, the districts would (1) be able to combine funds from relevant ED and other programs, so they can figure out the best way to provide the learning opportunities; (2) get extra funding over and above the funding from the existing categorical programs; and (3) gain or lose additional funding based on performance (with some floor established to minimize the risk for districts).

7. Choice Demonstration Program. Establish a demonstration program to challenge states and school districts/cities to expand the range of high quality schools students and families can choose among, thereby enabling students in low performing schools to move to better ones. A variety of approaches should be encouraged, including:

Community College Enrollment. High school students should be permitted to enroll in community colleges, for high school level or college level courses. This step could provide inner city students with access to more qualified teachers, because most community colleges have faculty with subject matter expertise (whereas urban high schools often have teachers teaching out of field). It could also help boost minority enrollment in college. [see if this can build on existing tech-prep programs, or other articulation agreements.]

Contract School System. Transform urban school systems from bureaucracies which operate large numbers of schools into systems in which the local governing body contracts out the operation of each school--to teachers, nonprofits, school management firms, etc. In effect every school becomes a charter school, with a distinct mission, control over its own staffing and budget, and accountable for results. The local school board is responsible for selecting the schools, identifying new types of schools that might be needed and soliciting proposals to operate the school, monitoring the performance of each school and holding it accountable. Under this approach, all schools would eventually be schools of choice.[see Paul Hills work for background on this]

Schools located at large employers. Encourage large employers to provide facilities on site for schools for children of their own employees, while the school district provides the teachers, curriculum, instructional materials, etc. Dade County's Satellite Learning Centers provide the model for this approach. Dade's experience shows that these schools can (1) be more diverse than other schools, because work sites are more diverse than residential neighborhoods (2) save the school districts the cost of new facilities (3) save employers costs associated with employee turnover and (4) increase parental involvement in the schools.

Expanding choice through smaller, schools-within-schools. Transform large, impersonal schools into smaller schools-within-schools that would dramatically expand choices within public education for families without requiring students to leave their neighborhoods. Many parents want more choice in education but don't want to send their children to school far from home. This proposal would address that need and enable many more students to get the personalized learning attention that so many families want; it also may reduce discipline and violence problems. A grants program could support networks of schools or school districts to plan and implement this concept and provide information and counseling to help students and their families make good choices. This proposal could be linked or combined with the "contract" schools concept by creating a competitive process to award contracts to manage each school-within-a-school to teachers, non-profits, charter schools, etc.

8. English Language Acquisition. As part of the planned overhaul of the Bilingual Education Program, we should consider a number of initiatives:

Make every LEP child competent in English within 3 years of obtaining services. English language competency is the key to success in schooling and the economy. ESL and similar services should be made universally available to all students who need them. Federal funding can provide matching grants to States to do this. The requirement--including funding and accountability--for serving LEP kids and helping them become competent in English within 3 years should be built into the Title 1 program. Other programs, such as after-school and technology, should also be designed so that in schools with significant numbers of LEP kids, they are also focused on helping kids learn English within 3 years.

* Support English Plus. In addition to ensuring that all LEP students learn English, we

should promote foreign language learning, starting in the early grades, for students whose native language is English. The objective is to dramatically increase the number of students who leave school fluent in two or more languages, regardless of their native language.

Support demonstrations of, and if effective greatly expand "Newcomer High Schools" for recently arrived immigrant students. Many school districts are facing an increasing number of secondary immigrant students who have low level English or native language skills, and in many cases, have had limited formal education in their native countries. In order to prevent these students from dropping out (and these children are a significant factor in the 40% Hispanic drop-out rate), these students must learn English, take the required content courses and catch up to their U.S. peers. Some district have developed Newcomer programs --either a separate school or a school-within-a-school. These programs typically educate students for a limited period of time (most for less than two years) before enrolling them in their home schools. Three such schools are 4-year high schools. The programs reach beyond the students themselves, providing classes to orient parents to the U.S. and 63% offer adult ESL classes. There are currently 75 such programs in 18 States and the Center for Applied Linguistics has sponsored an evaluation of their effectiveness.

9. Quality pre-school education. We can propose an initiative to make quality pre-school universally available, or at least universally available for poor kids. There should be two key components to this. One is to provide a number of funding streams to pay for it. Head Start should be the base, though we should also look at ways in which Title 1 could play a larger role. Second, we should provide incentives to both preschools and school districts that receive federal funds, to work together to help ensure that the preschools programs are focused on helping kids get ready for school, by requiring the schools to reach out to preschools and let them know what they expect kids to know and be able to do when they come to kindergarten, and by giving the preschools the help they need to provide an appropriate curriculum.

10. Federal Matching Funds for AP courses and for AP and SAT/ACT Preparation. The President has made universal access to two years of higher education a priority, and has created ways to alleviate the financial hurdles. A logical next step in improving the quality of access is to make all students more competitive by closing the gaps in advanced course availability as well as SAT and ACT test scores. The Federal government could establish funding matching mechanisms to encourage states to improve access to AP courses and preparation for AP tests in low-income schools; in areas where AP courses are not available, funds could be used for partnerships with community colleges that offer similar courses. Similarly, matched funds could be used to do one of a number of things for SAT/ACT preparation: pay for low-income youth to attend prep courses (e.g., Kaplan; Princeton Review); fund poor school districts to set up their own test prep programs; as in America Reads, waive the federal match for Work Study students who help prepare disadvantaged students for the tests.

11. "High Hopes" for Adults. While the President has made enormous progress in making available resources for higher education for people of all ages, the primary focus of Administration informational campaigns and initiatives like High Hopes have been to encourage young people to go to college. A new initiative could combine two efforts. First, the Administration could launch an informational campaign encouraging adults to go back to school and inform them of new resources available to help, including Lifetime Learning and Hope Scholarship Tax Credits, Individual Training Accounts under the new Workforce Investment Act, and Pell Grants (which apparently few realize can be used for

part-time students). Second, a new "High Hopes" grants program targeted at adults, partly focused on encouraging minorities and women to go back to school, could support local partnerships of business, community colleges, labor unions, one-stop centers and others to provide the information and counseling needed to encourage and assist adults to enroll in courses and programs that will help them succeed in their local job market.

12. Encourage High Schools to Offer/Require Service Learning. We should consider expanding the service learning initiative (Learn and Serve) to encourage more school districts to incorporate service into their education programs. The service learning program could be expanded to provide a stronger infrastructure, e.g., service coordinators for high schools, in order to make the service experience both more rewarding and educational for students.

HEALTH

1. Long-Term Care and Medicare Reforms for Elderly, Disabled and Their Families.

Long-term care tax credit. Along with the lack of coverage of prescription drugs, the poor coverage of long-term care represents a major cost burden for the elderly and their families. Long-term care costs account for nearly half of all out-of-pocket health expenditures for Medicare beneficiaries. This proposal would give people with two or more limitations in activities of daily living (ADL) or their care givers a tax credit of $500 (or more, if affordable) to help pay for formal or informal long-term care. This initiative would be coupled with other long-term care policies (e.g., offering private long-term care insurance offering to Federal employees). (Cost: About $4 billion over 5 years, offset by closing some tax loopholes, and would help about 3.4 million people).

Offering private long-term care insurance to Federal employees. Since expanding Federal programs alone cannot address the next centurys long-term care needs, the Federal government --as the nations largest employer --could illustrate that a model employer should promote high-quality private long-term care insurance policies to its employees. Under this proposal, OPM would offer its employees the choice of buying differing types of high quality policies and use its market leverage to extract better prices for these policies. There would be no Federal contribution for this coverage. (Cost: Small administrative costs; OPM estimates about 300,000 participants).

Tax credit for work-related impairment expenses for people with disabilities. Almost 75 percent of people with significant disabilities are unemployed; many of those within the population cite the cost of employment support services/devices, as well as the potential to lose Medicaid or Medicare coverage, as the primary barriers to seeking and keeping employment. This proposal, strongly advocated by your Task Force on Employment of Adults with Disabilities, would give a 50 percent tax credit, up to $5,000, for impairment-related work expenses. It could be a stand alone proposal in the budget or packaged as a long-term care initiative if we decide to defer announcing the long-term care tax credit. (Cost: About $500 million over 5 years, offset by closing tax loopholes, and would help about 300,000 people).

New Family Care giver "One-Stop-Shop" Support Program. About 50 million people provide

some type of long-term care to family and friends. Families who have a relative who develops long-term care needs often do not know how to provide such care and where to turn for help. This proposal would give grants from the Administration on Aging to states to provide for a "one-stop-shop" access point to assist families who care for elderly relatives with 2 or more ADL limitations and/or severe cognitive impairment. This assistance would include providing information, counseling, training and arranging for respite services for caregivers. (Cost: About $500 -750 million over 5 years).

Adding prescription drug coverage to Medicare (new policy). The lack of coverage for prescription drugs in Medicare is widely believed to be its most glaring shortcoming. Recognizing the medical communitys reliance on prescriptions for the provision of much of the care provided to Americans, virtually every private health plan for the under-65 population has a drug benefit. Medicares lack of coverage is largely responsible for the fact that drug costs are the highest out-of-pocket cost for three out of four elderly. This burden will only become more acute in the next century as the vast majority of advances in health care interventions will be pharmacologically-based. Responding to this fact, Republicans and Democrats on the Medicare Commission, as well as almost every health care policy expert, are consistently stating that reforming Medicare without addressing the prescription drug coverage issue would be a mistake. We are developing a wide variety of options, including a means-tested option, a managed care benefit only approach, and a traditional benefit for all beneficiaries. If desirable, a proposal could be included in the budget or coordinated with the March release of the Medicare Commissions recommendations. (Cost: Varies significantly depending on proposal, but could be $1 -20 billion a year; assumed offset would be Medicare savings, which might more easily be achieved in context of a broader reform proposal).

* Cancer clinical trials demonstration (FY 1999 budget; not passed). Less than three percent of cancer patients participate in clinical trials. Moreover, Americans over the age of 65 make up half of all cancer patients, and are 10 times more likely to get cancer than younger Americans. This proposed three-year demonstration, extremely popular with the cancer patient advocacy community, would cover the patient care costs associated with certain high-quality clinical trials. (Cost: $750 million over 3 years).

* Redesigning and increasing enrollment in Medicares premium assistance program (extension of July executive action and new policy). Over 3 million low-income Medicare beneficiaries are eligible but do not receive Medicaid coverage of their Medicare premiums and cost sharing. Many more may not get enough assistance through the new, BBA provision that is supposed to help higher income beneficiaries. We are developing a range of proposals that build on the Presidents actions in this area to better utilize Social Security Offices to educate beneficiaries about this program, to reduce administrative complexity for states and to give them incentives to engage in more aggressive outreach efforts. (Costs vary depending on policies; probably about $500 million to $2 billion over 5 years).

2. Health Insurance Coverage Expansions.

* Providing new coverage options for people ages 55 to 65 (FY 1999 budget; not passed). Americans ages 55 to 65 have a greater risk of becoming sick; have a weakened connection to work-based health insurance, and face high premiums in the individual insurance market. This three-part initiative would: (1) allow Americans ages 62 to 65 to buy into Medicare, through a premium designed so that this policy is self-financed; (2) offer

a similar Medicare buy-in to displaced workers ages 55 and over who have involuntarily lost their jobs and health care coverage; and (3) give retirees 55 and over whose retiree health benefits have been ended access to their former employers health insurance. A proposal such as this would be minimally necessary for any serious consideration of proposals to raise Medicares eligibility age. (Cost: About $1.5 billion over 5 years, which would assist about 300,000 people).

*Health coverage for the temporarily unemployed (FY 1997 and 1998 budgets; not passed). Because most health insurance is employment based, job changes put families at risk of losing their health care coverage. Many families do not have access to affordable health insurance when they are between jobs because they work for firms that do not offer continuation coverage or cannot afford individual insurance. The proposal would provide temporary premium assistance for up to six months for workers between jobs who previously had health insurance through their employer, are in between jobs, and may not be able to pay the full cost of coverage on their own. (Costs depend on whether it is done as a demo (about $2.5 billion over 5 years, which would help about 600,000 people) or nationwide (about $10 billion over 5 years, which would cover about 1.4 million persons)).

* Childrens health insurance outreach (FY 1999 budget; not passed and new policy). By the first anniversary of CHIP, we expect about 45 states to have CHIP plans approved. These new expansions have great potential to help uninsured children, but not if families do not know or understand the need for insurance. Moreover, over 4 million uninsured children are eligible for Medicaid today. Last years budget included several policies to promote outreach, including allowing states to temporarily enrolling uninsured children in Medicaid through child care referral centers, schools, etc; and allowing States to access extra Federal funds for childrens outreach campaigns. An additional proposal is to pay for a nationwide toll-free number that connects families with state eligibility workers. NGA is sponsoring this line for one year only; such a line is essential for the nationwide media campaign that we are planning to launch in January with the NGA and Americas Promise (Colin Powells group). (Cost: Between $400 and $1 billion over 5 years.)

* Parents of children on CHIP (new policy). Since children who are uninsured usually have parents who are uninsured, an easy way to target uninsured adults is to extend eligibility for Medicaid or CHIP to parents of children covered by these programs. This has been done successfully in some states, through Medicaid 1115 waivers, and would be a logical next step to covering low-income adults. (Cost: Depends on the proposal and assumed take-up rates by the states).

* Optional state coverage expansion through eligibility simplification (new policy). In the wake of welfare reform, Medicaid eligibility rules have become even more complex since states must cover people who would have been eligible for AFDC under the old rules. Additionally, Medicaid law allows states to cover parents but not adults without children --even if they are very poor. This proposal would allow states to opt for a pure poverty standard for Medicaid eligibility for all people (like we do for children) rather than the old categorical eligibility categories. Not only would such an approach simplify the Medicaid program for families and states; it would provide an opportunity for significant coverage expansion. While any change in Medicaid almost always raises concerns amongst some advocates, this proposal would be strongly supported by the Governors and advocates such as the Center for Budget and Policy Priorities. (Cost: Depends on the proposal and projected coverage expansion take-up rates).

*Voluntary purchasing cooperatives (FY 1997, 1998, and 1999 budgets; not passed). Workers

in small firms are most likely to be uninsured; over a quarter of workers in firms with fewer than 10 employees lack health insurance almost twice the nationwide average. This results in large part because administrative costs are higher and that small businesses pay more for the same benefits as larger firms. This proposal would provide seed money for states to establish voluntary purchasing cooperatives. These cooperatives would allow small employers to pool their purchasing power to try to negotiate better rates for their employees. (Cost: about $100 million over 5 years).

3. Increase the Indian Health Service budget. In order to reach more of the targeted population, we should provide a significant increase to the IHS budget in order to address areas such as substance abuse, elder health care, injury prevention, domestic violence and child abuse, and sanitation facilities.

HOMELESS

1. Homeless Veterans. The National Coalition of Homeless Veterans estimates that there are as many as 275,000 homeless veterans on any given night. According to the Department of Veterans Affairs, an approximately $60 million increase in funding would constitute the single largest investment into breaking the cycle of homelessness among veterans. This proposal would seek to increase residential alternatives, community-based contracted care, job preparation activities, stand down activities (community-sponsored events that conduct one-stop service delivery programs for homeless veterans), the distribution of clothing, and long-term housing. The VA estimates that this proposal would positively impact approximately 100,000 to 150,000 veterans annually.

2. Allow VA to sell surplus property with 10 percent of proceeds going to homeless veterans. OMB proposes to amend the Property Act of 1949 to create a 5-year pilot project for the VA to sell off property with 10 percent of the proceeds going to local homelessness projects under the McKinney Act (with this 10 percent being earmarked for homeless veterans) and the other 90 percent going to the VA for capital funds (buildings, equipment, infrastructure, but not staff). Currently, the way the law works is that all the proceeds from surplus property goes to homelessness, but this has not provided an incentive to the agencies to sell property because they do not get to keep any of the proceeds. OMB states that since 1989, only one piece of property has been sold under this provision. OMB will be circulating their proposal within a couple of weeks. OMB would propose to permit VA to sell 25 pieces of property, but does not have a cost estimate yet.

3. Homelessness Demonstration Project Modeled after TANF. Funds could be set aside in the FY2000 budget to create a demonstration project so that one state, region, or locality could try to move persons from homelessness to self-sufficiency. The demonstration project should set up performance goals similar to TANF so that there is a measure of how many persons have been made self-sufficient. There could be a performance bonus for the demonstration project if the goal of the project is met.

4. Medicaid Outreach Project for Homelessness. A Medicaid outreach project could be set up, similar to the CHIP outreach project, that would reach out and cover homeless persons. We should develop a cost estimate to determine that, over time, dollars would be saved if persons are treated under Medicaid rather than on an as-needed basis in emergency rooms and clinics. This idea could be expanded to reach out to more than simply the homeless population to include all groups who are Medicaid-eligible.

CONSUMERS

1. Consumer Bill of Rights. A consumer bill of rights could address a number of areas such as enforcement, notice to consumers, and dissemination of information. We could announce this bill of rights as a package, but then pull out separate pieces for separate events like we do in the Patients Bill of Rights area. We could include a number of different areas such as the following:

* Auto Insurance Fraud. Auto insurance fraud is a $13 billion-a-year problem in America. We could propose significant funding for a Justice Department anti-auto insurance fraud. Since an estimated 13 percent of auto-insurance premiums go to pay for fraud, we could claim that this effort will help drive down auto-insurance premiums.

* Slamming/Cramming. Cramming, in which con artists add bogus charges to consumers telephone bills, and slamming, the unwanted switching of long-distance telephone service from one carrier to another, and are the top two respective complaints reported to the National Fraud Information Center in 1998. In 1997, the FCC received more than 20,000 complaints from customers who were slammed. So far, the FCC has fined slammers, announcing a $5.7 million fine this year, and announced voluntary guidelines for cramming that local telephone companies say they will follow. We could add money for enforcement to the FCC and/or DOJ. In May, the Senate overwhelming passed legislation that would impose new penalties on slammers and would eliminate common slamming methods, such as contest entry forms that, when signed by unsuspecting customers, authorize a switch of their long-distance carriers.

*Telemarketing Fraud. Telemarketing fraud is among Americas worst white-collar crimes, robbing unsuspecting victims of an estimated $40 billion per year. We could increase the FBI budget to increase investigations of this type of fraud. Recently, the Washington Post reported that volunteers from the American Association of Retired Persons (AARP) work undercover for the FBI, posing as potential victims to catch telemarketers on the prowl. Because telemarketing fraud often is targeted against the elderly, we could combine this piece with the elder abuse in a separate event.

*ATM Proposal. Weinstein proposes that Treasury publish an annual report on consumer financial issues, including ATM fees. In each report, Treasury would provide a list of insured financial institutions based on geographic divisions and by size. Treasury would report on the following categories: (1) Fees charged to depositors at ATMs at their home branches; (2) Fees charged by institutions to depositors using other banks ATMs; (3) Fees charged by ATM networks; (4) ATM fees charged to non-member depositors by institutions; (5) Minimum deposit requirements for checking and savings accounts; (6) Fees for overdrafts; and (7) Checking account fees. We will need to develop categories which underscore the differences in types of accounts. If we just list checking account fees, the fees that aren't reported would increase.

TOBACCO

1. Tobacco Counter advertising. Fund a $200 million per year tobacco Counter advertising and education campaign, as proposed in the Presidents 1999 budget and McCain legislation. This campaign would develop Counter advertising and purchase enough media time to reach teens at least four times a week. The campaign would also fund an extensive school-and community-based anti-tobacco education campaign.

2. Tobacco Cessation. Each year, 20 million smokers attempt to quit, but only 1 million, or 5 percent, succeed. More than 90 percent smokers who attempt to quit do so on their own, and the vast majority fail within 2 to 3 days. However, research shows that effective cessation methods could raise success rates to 10-20 percent (over 2 million people annually). The Agency for Health Care Policy and Research (AHCPR) endorsed 5 smoking cessation methods that have been proven to be effective in helping people to quit: gum, patch, nasal spray, inhaler, and pill (Zyban). A full course of these treatments costs around $200-300 (for a three months supply, without counseling). However, less than half of managed care organizations provide coverage of any AHCPR-approved therapies, and those that provide coverage may impose cost-sharing requirements that hinder access to treatment. In fact, a study of managed care in Washington State found that eliminating copayments for smoking cessation services significantly increased participation rates.

3. Continued call for comprehensive legislation to stop children from smoking before they start. Total combined cost of all these initiatives: $855 million over 5 years. We could make a series of proposals, some part of the budget and some not: (1) Fall --announce new DOD anti-tobacco plan, and new DOL and OPM tobacco-free workplace programs; (2) Winter --propose Medicaid and Veterans coverage of cessation benefits through FY2000 Budget; and (3) Spring --tax coverage of cessation as a medical expense and expanded coverage of cessation benefits in FEHBP.

* New Department of Defense anti-tobacco plan. This plan is still being vetted at the agency but will likely include covering over-the-counter nicotine replacement therapies under military health care coverage as part of a comprehensive military-wide anti-tobacco plan. Cost: $60 million per year.

* Anti-tobacco workplace initiatives by DOL and OPM. DOL could expand its drug-free workplace initiative to provide information to employers on steps they can take to reduce tobacco use among employees (cost: $63,000 per year). OPM could disseminate a model workplace cessation program for all federal agencies (agencies would use existing appropriated funds).

* Medicaid coverage. Currently, smoking cessation prescription and non-prescription drugs are optional state benefits under the Medicaid statute. We could propose to require states to cover cessation, as the McCain bill did (CBO estimated cost: $120 million over 5 years, HCFA estimated $114 million). Alternatively, we could propose an enhanced federal matching rate for smoking cessation treatments, in order to offer the states an incentive to cover these services. The Hansen-Meehan bill establishes a 90 percent match rate for state costs of smoking cessation services at an estimated cost of about $110 million over 5 years. Currently, 23 states cover Zyban, 6 states cover non-prescription treatments, and 5 states cover cessation counseling. A study by the Center on Addiction and Substance Abuse at Columbia University found that over 42 percent of Medicaid recipients smoke, as compared to 25 percent of the general population and that nearly 10 percent of all Medicaid hospital days are attributable to smoking.

* Veterans. We should re-propose the plan from the Presidents 1999 budget which created a new discretionary program open to all veterans who began using tobacco products while in the service, regardless of their eligibility for other VA health care services (currently less than 15 percent of veterans receive their health care through the VA system because of statutory limits --veterans must be low income or have a service-related injury.) The VA would contract with private sector entities to furnish AHCPR-approved services to

interested veterans. OMB estimates that this proposal would cost $87 million for the first year, and $435 million over 5 years. Thirty-six percent of the 25 million veterans in this country smoke.

*Tax Treatment. Currently, the cost of cessation treatment cannot be claimed as a deductible medical expense because the IRS does not recognize smoking or tobacco addiction as a "disease." The IRS has indicated in written opinions that an official medical authority classification of smoking as a disease would allow cessation to deduct these expenses. Treasury is interested in pursuing this in 1999. This would be done outside of the budget.

* Federal Employees Health Benefit Program. We could require enhanced coverage of smoking cessation services. One option is to raise coverage limits to more accurately reflect the cost of AHCPR-approved treatments, and to raise the number of treatments allowed per lifetime to account for the fact that the average smoker requires three to five cessation attempts before they successfully quit (i.e., require coverage of $300-400 per treatment, with three maximum treatments covered per lifetime). Another option is to waive the deductible and copayment requirement for cessation benefits. Currently FEHBP fee for service plans, which cover 70 percent of beneficiaries, are required to provide only $100 in smoking cessation benefits. Generally, this coverage does not kick in until after the calendar-year deductible has been met, and most plans restrict benefits to once per lifetime. Many plans only cover prescription drugs. HMO coverage of smoking cessation benefits varies greatly. This would be done outside of the budget, but would have to occur in the spring as part of OPMs annual letter to contracting plans, establishing the terms for the following year of coverage.

WELFARE

1. Helping the Hardest-to-Employ Get and Keep Jobs.

* Extend Welfare-to-Work Grants and Strengthen Focus on Fathers. Funding for the $3 billion grant program that the President fought for in the Balanced Budget Act ends in FY 1999. These funds are targeted at the hardest-to-place welfare recipients, and non-custodial parents of children on welfare, and at concentrated areas of poverty. 75% of the funds are allocated to states, who in turn pass them to local Private Industry Councils and 25% of the funds are available on a competitive basis. We expect DOL to propose extension of the grant program in their FY 2000 budget proposal. We should consider revising the statutory language to increase the focus on increasing employment of fathers. While there is a significant level of interest in serving this population, there is likely more we could do to increase the quantity and quality of services. This should also increase support from the Ways & Means committee as Shaw is very interested in fatherhood issues. Possible approaches include requiring states and communities to designate a minimum portion of WTW formula funds for fathers, setting aside a portion of competitive grant funds for this purpose, or earmarking funds for needed technical assistance and capacity building on this relatively new area. Other changes worth considering: shifting more funds toward competitive grants, increasing tribal set aside (currently 1%), and streamlining data collection requirements. Assuming level funding, this would cost $1.5 billion annually.

* Request Additional Welfare-to-Work Housing Vouchers. We are unlikely to get the full 50,000 housing vouchers requested for FY 99. This approach continues to have merit, both

in helping families move from welfare to work and as a catalyst for changing the way local housing authorities, and HUD, do business. Cost to fully fund 50,000 vouchers is $283 million. Some, including Deich and Edley, have also suggested allowing housing authorities to convert Section 8 vouchers that are turning over to the more flexible approach of the WTW vouchers.

* Invest in Increasing English Language and other Literacy Skills. There is evidence that those with low education levels have a harder time leaving welfare. There is also emerging evidence that English language may be a barrier for some minority welfare recipients, including immigrants. We may want to explore whether there is more the federal government could do to increase access to ESL and other basic education that is combined with work, though this does not necessarily have to be done with TANF funds. We need to first explore what is available, whether there are successful models that can be replicated, and what the demand is.

2. Helping New Workers Succeed in the Workforce/Achieve Self-Sufficiency.
There are several ways to ensure people moving from welfare to work can get to their jobs:

Request full $150 million authorized for Access to Jobs for FY 2000 (TEA-21 set guaranteed funding from the Highway Trust Fund at $60 million for FY 2000). This would allow DOT to fund more competitive grants. Note these funds can be spent on current and former welfare recipients, as well as families up to 150% of poverty so they help the working poor as well.

Donate surplus federal vehicles to welfare to work programs. These could be given, leased, or sold to current and former welfare recipients for whom public transit it not a viable option, including those living in rural areas. Cars could be allocated through community-based organizations or intermediaries. This could be modeled after the initiative to donate federal computers to schools.

* Help former welfare recipients access funds to purchase cars. In some areas, public transit is not a viable option for a family moving from welfare to work. In addition, owning a car is something many poor families aspire to, and something that helps them become part of the economic mainstream. Family Services of America, and other organizations, currently offer revolving loans for low income families to purchase cars. FSA's model currently operates in 20 sites and is scheduled to expand to 60 sites later this Fall, with partial funding from foundations and private financial institutions. They are also seeking federal funding to help with this expansion. Possible sources include: HUD, Treasury, DOL WTW grants, as well as existing federal and state TANF funds. Another option is to expand allowable uses of IDAs to include purchasing a car needed to go to work.

* Connection between TANF and Unemployment Insurance. There is growing interest in exploring the relationship between these two systems. Historically, few welfare recipients have qualified for UI, and some have essentially used AFDC as a form of unemployment insurance. As more welfare recipients joining the labor force, we need to consider the most appropriate way to provide income support to them between jobs. Various approaches include: (a) changing rules of the UI system that make it hard for former welfare recipients to qualify for UI once they go to work and in the event they lose a job and (b) creative uses of federal TANF or state MOE funds to provide income support to people in between jobs. Either approach should be accompanied by a strong effort to promote job retention and rapid re-employment. This could be considered as part of a more comprehensive UI reform initiative that NEC has been considering, but it would not depend

on that. NOTE: NGA has a grant to explore this issue and several states are trying innovative approaches. While we do not have to frame the issue in terms of planning for economic downturns, it seems prudent to address this issue earlier rather than later.

* Optional State Coverage Expansion Through Eligibility Simplification (see Health section).

*Transitional Medicaid. Families can currently receive Transitional Medicaid for up to 12 months after leaving welfare, but only about 20 to 30 percent of eligible families are enrolled. The program has many procedural hurdles that make it more difficult to access than regular Medicaid coverage and the 12 months transitional period is too short for many families. The budget could eliminate some of the current prescriptive reporting requirements now in the law (that, for example, requires families to report earnings in the fourth, seventh, and tenth months of coverage and divides the 12 months of coverage into two 6 month segments with different co-pay and benefit rules) and allow states to provide a full 12 months of coverage without regard to changes in family circumstances, similar to the 12-month option for children that was adopted in the Balanced Budget Act. In addition, the budget could provide states the option of extending transitional Medicaid to 24 or 36. These ideas need to be fully discussed, vetted, and costed out. The current program reauthorization sunsets in 2001.

*Extend the Work Opportunity Tax Credit and Welfare-to-Work Tax Credits (WOTC has already expired and WTW will expire in 1999).

DISABILITY POLICY

1. Expanding the Defense Departments "CAP" program. The Defense Departments Computer Accommodations Program ("CAP") purchases equipment for DOD employees with disabilities to allows them to keep working if they become disabled, or for new employees just joining the workforce. By using a central $2 million fund for such purchases, individual offices do not have to bear the cost within their own budgets, and are less likely to be deterred from hiring a person with a disability. CAP is also able to get better prices on equipment through its bulk purchases and expertise. It has a showroom to help employees try out appropriate adaptive devices (CAP makes the decision on what equipment is purchased, not the employee). It has provided over 9,000 accommodations since its inception in 1990. This program is a good example of how employers and employees are taking advantage of new (and increasingly cheap) technology, such as computers for the blind that talk and listen, and alternative computer keyboards for people with dexterity problems, that allow people with disabilities to work. Expanding the program has the strong support of the Administrations appointees with disabilities, in particular for Tony Coelho, chair of the President's Committee on Employment of People with Disabilities.

Defense has estimated that it would cost $8 million a year to expand CAP government-wide, but this is likely overstated since CAP now serves the entire Defense Department for $2 million a year. A more realistic range is $2 -5 million a year. While having DOD perform this service for all federal employees is a bit unusual, they have a great deal of expertise at this task and they are ready to take on the added responsibility.

2. Tax Credit for Disability Related Expenses. New tax credit for employers and/or individuals with disabilities with extraordinary disability-related expenses, such as assistive technology or a personal assistant. The proposed credit would allow a credit of

50 percent of the first $10,000 of disability-related work expenses. [Need Treasury information on scoring.]

3. New BRIDGE grant program. This program would create interdisciplinary consortiums of service providers (employment, transportation, etc.) to better assist people with disabilities in going to work. NEC and DPC will receive revised proposal shortly from the Presidents Task Force on Employment of People with Disabilities and will evaluate and vet.

4. Information and Communication Technologies for People with Disabilities. NEC has developed draft proposals now being vetted to ensure that new technologies will be designed from the beginning to be accessible to people with disabilities. Ideas include leveraging federal government procurement, investing in R&D, funding industry consortia, training the next generation of engineers, etc. (Tom Kalil is working on this, coordinating with DPC and OMB).

June 24, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed, Elena Kagan
Gene Sperling, Sally Katzen

SUBJECT: Summer Announcements and Events

Listed below are ideas for announcements and events that you could do this summer. We have noted which of our offices has primary responsibility for each idea.

Health (DPC/NEC as noted below)

Release New Executive Order Authorizing OPM to Terminate FEHBP Insurance Plans That Are Out of Compliance with Kennedy-Kassebaum Law. This policy would strengthen enforcement of the Kennedy-Kassebaum law by allowing the Federal Employees Health Benefits Plan (FEHBP) to take action against any insurer that discriminates against sicker patients -- including by terminating the insurance plan. Although we have not seen many reports of discrimination recently, advocates would characterize this action as reducing the likelihood of future abuses. We would announce the policy at an event including men and women who have suffered from these kinds of insurance practices. (DPC)

Release New HHS Report on Long-Term Care and Announce Policy Initiative(s). A new report from HHS shows that millions of American families care for chronically ill elderly relatives and friends, and that this care places a significant strain on families. The President could announce an initiative to encourage private long-term care insurance by offering it through the FEHBP and/or counseling Medicare beneficiaries to consider private insurance. In addition, if we are willing to consider proposals with budgetary effects, we could announce a new respite care tax credit, which we are in the preliminary stages of reviewing. (DPC/NEC)

Approve the 25th State Childrens Health Insurance Program. As of today, HHS has approved the CHIP plans of 20 states, which should cover about 2.5 million children when fully implemented; we expect to reach the half-way mark by approving the 25th CHIP plan early next month. We could use this occasion to release another progress report and hold an event featuring families already helped by the program and a bipartisan group of governors. (DPC)

Enhance Welfare-to-Work Commitment by Giving States Option to Maintain Health Insurance for Working Adults. We may be able to issue a new HHS regulation that would allow more states to provide Medicaid coverage to more low-income two-parent families. (Current federal law, applicable in all states without pre-welfare law waivers on this subject, limits Medicaid to only those two-parent families in which the parents work less than 100 hours per month.) States believe that this regulation would enhance welfare-to-work efforts and encourage two-parent families. The regulation, however, has large cost implications (about $800 million over five years), and we are currently discussing with OMB whether an offset for such a regulation is needed. (DPC)

Announce Policies for People with Disabilities. We have been working on administrative and legislative policies to enable people with disabilities to (1) reside in their communities, rather than institutions, and (2) return to work activities. For example, we are working on a legislative proposal to provide personal care assistance services to enable people with disabilities to return to work. We also are exploring ways to develop and spread new technologies that enable people with disabilities to live and work more easily. These proposals generally will have budget implications; we are currently working with OMB on finding appropriate offsets. We could announce these actions on July 26, the anniversary of the Americans with Disabilities Act. (DPC/NEC)

Announce Outreach Effort for Low-Income Medicare Beneficiaries. A new report, to be released by Families USA in early July, will show that about 3.9 million eligible Medicare beneficiaries -- nearly half of all eligible beneficiaries -- do not get premium assistance . We could release an executive directive to HCFA, SSA, and the Administration on Aging to implement new outreach and enrollment initiatives. (At the very least, such an action would inoculate us against the Families USA report, which is likely to receive a great deal of attention). (NEC)

Education (DPC/NEC as noted below)

Announce New Legislation, With Offsets, to Reduce Class Size. Senator Murray intends to introduce legislation with as many as 20 co-sponsors to implement your class size initiative. DPC and OMB are working with Murrays staff on potential offsets that she could use in making this announcement. We think you could participate in the announcement of this legislation (as you previously expressed interest in doing) without binding yourself to using the offsets for this (and only this) purpose. (DPC)

Announce New Bilingual Education Plan. You could transmit legislation to reform the federal bilingual program, including by requiring school districts to establish a goal of moving all Limited English Proficient (LEP) students into regular English language classes within three years. We are sending you a separate memo on the pros and cons of taking this action. Irrespective of whether you decide to transmit such legislation, you could take other actions to assist LEP students -- for example (1) propose ways to strengthen teaching for LEP students (e.g., by recruitment and training initiatives); (2) issue a directive to the Secretary of Education to report on best practices of teaching English to LEP students, as well as to conduct or support further research in this area; (3) support community-based initiatives that supplement school programs for LEP students; and (4) propose ways of strengthening foreign language education for English-speaking students. Some of these proposals would have budgetary implications, but we do not yet have good cost estimates. (DPC)

Announce First Grants of Comprehensive School Reform (Obey/Porter) Program. The Education Department will soon be ready to announce grants under the new Comprehensive School Reform program. These grants will support proven school reforms in hundreds of schools. You or the Vice President could make this announcement. (DPC)

Launch the Education Departments Summer Reading Initiative. Seventy partnerships across the country will launch summer reading programs aimed at young children next month. You could help to kick off these programs, while calling on Congress again to enact America Reads (if it has not yet done so). (DPC)

Announce Grant to DC Training Alliance. You could announce a Labor Department pilot program that would give a $1.2 million planning grant (the "metro-tech grant") to the DC, MD, and VA job-training systems to train workers to meet the demand in this areas high-tech industry. The pilot program will fund 100 workers. We expect the pilot to lead to a demonstration project serving 3,000 people at a cost of $17 million. We can announce this grant anytime the near future. (NEC)

Participate in School Construction and Smaller Class Size Day. You, the Vice President, Mrs. Clinton, and Mrs. Gore all could participate in a back-to-school day that would focus on school construction and smaller class sizes. In advance of this day, you would ask parents, volunteers, Members of Congress, and community leaders to join together to help rebuild, renovate, and modernize local public schools. The event would provide a terrific visual and give Democrats in Congress a chance to highlight this important issue in the fall. (NEC)

Report on Success of School-to-Work Program. We expect a major study to be released soon on School-to-Work, one of the signature programs of your first year in office. If it is positive, we might use the release of this study to highlight the program, call for the business communitys continued participation in it, and attack right-wing opposition. We are not sure of the timing of this report. One problem with this event is that our current budget scales back the school-to-work program (from $400 million to $250 million). (NEC)

Crime and Drugs (DPC)

Announce Support for Child Access Prevention Legislation, Issue Child-Proof Gun Challenge, and Issue Regulation on New Gun Signs. You could (1) support child access prevention legislation (both Sen. Durbin and Rep. McCarthy have bills) that would hold adults liable if they give children easy access to guns; (2) challenge industry to get a child-proof gun (i.e., a gun that can be shot only by authorized adults) on the market by the year 2000; and/or (3) announce a Treasury Department regulation (responding to a directive you signed a few months ago) requiring gun dealers to post signs warning gun purchasers about their responsibility to keep guns away from children.

Report on Youth Crime Gun Interdiction Initiative and Press for Congress to Fund Our Budget Request. The second anniversary of your gun tracing initiative falls in July, and we may have a report by then on the continued success of this program. (If not, the report will be ready later in the summer.) Our budget asked for $28 million to expand this initiative, which the House appropriations subcommittee fully funded last week. An event could keep up the pressure for full funding of this initiative. We could combine the event with the actions on youth access to guns described above.

Announce Federal Drug Strike Force for Chicago and Support for Chicagos Anti-Gang Ordinance. DOJ is prepared to announce that it will dedicate some 300 federal agents and 20 prosecutors to form a drug strike force in Chicago. We have promised Mayor Daley that we will make this announcement soon. At the same time, we could comment on the brief we just filed in the Supreme Court supporting Chicagos anti-gang ordinance.

Announce New Demonstration Project to Fund Faith-Based Anti-Crime Programs. DOJ is now considering whether and how to put together a demonstration project to fund faith-based anti-crime programs, such as the one profiled recently in a Newsweek cover story. We will have to work through some constitutional concerns, but we could be ready to go on this new effort by mid-summer. Some of your advisors, however, have reservations about such a

religiously-oriented grant program.

Announce New COPS Grants. We will have several opportunities this summer to announce new cop grants, including grants targeted to combating methamphetamine use and extensions of prior grants (i.e., a fourth year of funding) in small cities. We should try to time such an announcement to coincide with new crime statistics.

COPS in Schools. By the end of the summer, the Departments of Justice and Education should be ready to (1) offer recommendations to you for getting more police to work with schools (in response to your directive last week); (2) release COPS grants to provide additional law enforcement assistance in schools; (3) hold a conference on how law enforcement officers can help to keep schools safe; and (4) issue a report on the success of the Safe and Drug Free Schools Program.. We could try to package these announcements in a single event.

Release Early Warning Guide for Schools; Follow Up With Annual Report on School Safety. In compliance with your recent directive, the Departments of Justice and Education are scheduled to complete by the end of summer a guide for schools on how to identify and respond to early warning signs of troubled youth. We could combine release of this report with a White House meeting with officials of the cities that recently have suffered school shootings. A month or so later, in early October, the Justice Department will be ready to release the annual report on school safety that you ordered in the wake of the Paducah shooting. This document will compile all data on school crime, discuss successful strategies to reduce school violence, and include a checklist for parents on school safety. You could use the release of this report as an opportunity to address hundreds of schools by satellite on school violence issues.

Launch Nationwide Phase of Our Anti-Drug Media Campaign. You are currently scheduled to announce the national roll-out of the $195 million media campaign in July. ONDCP will buy a "roadblock" on network TV that night, unveil new ads, and host local events in scores of participating cities.

Release Drug Court Grants. You could announce the latest drug court grants from DOJ and highlight the success of this program, as you previously have indicated some interest in doing. (As you know, a recent study showed some very good results.) You could combine the release of these grants with the launch of the anti-drug media campaign discussed just above, or alternatively combine it with the release of new DUF/ADAM (Drug Use Forecasting/Arrestee Drug Abuse Monitoring) data, which will almost certainly show that most arrestees in our major cities test positive for drugs, and that more resources are needed to test, treat, and sanction these offenders.

Release Results of Household Survey. The Household Survey -- one of two major drug surveys on teen drug use -- should be out by August. Last year's survey was the first to indicate a dip in teenage drug use, and this year's is likely to show the same. The Survey also will contain new data on youth tobacco use.

Release Stalking Report and Associated Policies. DOJ is preparing a report showing that about eight million women in this country report having been stalked. We are working with DOJ on policy recommendations to go with this report, but have not yet determined their exact content.

Tobacco (DPC)

Bring Medicare Suits Against Tobacco Companies? We and the Counsels Office will advise you within the next couple of weeks on whether the federal government should bring suit against the tobacco companies for losses to the Medicare program caused by tobacco-related disease. If you choose to go ahead with these suits, you can direct the Attorney General to prepare the suit for filing. (There is little chance that the suit will actually be ready to file this summer.)

Prevent Filmmakers from Using Federal Facilities for Films that Contain Youth Smoking. We are exploring whether agencies that oversee federal facilities (e.g., DOD, the Forest Service) can require, as a condition of granting a permit to film a movie on those facilities, that the movie not show (or perhaps, not glamorize) youth smoking or drug use. Your advisors are very split on this idea -- some love it, some hate it -- and we are continuing to explore it.

Release Report on Effects of Price Increases on Youth Smoking. We are ready to release a Treasury Department report showing how price increases can dramatically reduce youth smoking. This report should be useful to show the absurdity of the House Republicans "no-money" approach to this problem. When they release that bill, we will have Treasury (or commission an independent expert) to do a report on the likely effects of the bill on youth smoking.

Release Results of Household Survey. As discussed above.

Welfare-to-Work (DPC/NEC as noted below)

Release Report Showing the Increase in the Proportion of Welfare Recipients Going to Work. Following on the GAO report last week, HHS is scheduled to report to Congress on the increase in work among welfare recipients. The report should have some new data, although it also will collate previously released figures. Sometime this summer, HHS also will receive information from the states on whether they are meeting the welfare laws work participation rates. This information should generate a fair bit of interest, but it is not yet clear whether the news will be good. (DPC)

Endorse Individual Development Account Bill. You have indicated interest in doing an event to endorse and highlight the Coats-Harkin IDA legislation. This bill would establish a four-year, $100 million demonstration program under which state, local, and nonprofit entities would match money deposited into IDAs by low-income families. One event idea is for you to go to a community development bank and help a welfare recipient open a bank account; we could use such an event to push for CDFI funding at the same time. Another, simpler idea is to do a Rose Garden event with the sponsors of the bill and welfare recipients. (DPC/NEC)

Food Safety (DPC)

Call for Congress to Fund Our Food Safety Initiative and Pass Legislation Giving FDA and USDA More Enforcement Authority. The relevant House and Senate subcommittees allocated almost no funds to our food safety initiative; at the same time, our proposals to give USDA additional recall authority and give FDA additional authority over imported foods are languishing. You could do an event with members of Congress and food safety advocates urging Congress to act on these measures. (Summer is the time when people think most about these issues.) We must ensure, however, that such an event is consistent with our overall

strategy on the Agriculture Appropriations bill.

Veterans (DPC)

Announce Coordinated Effort to Assist Homeless Veterans. We have been working with the Veterans Administration on a plan to help the 250,000 homeless veterans in this country. The plan would involve outreach efforts, substance abuse treatment, and mental health care, in addition to housing assistance. The annual cost would be about $30 million. Assuming we believe we can find this amount of money in next years budget, you could direct the VA now to come back to you with a plan on how to address this issue.

Rural Issues (DPC/NEC)

Deliver Speech on Rural Issues. DPC, NEC, and USDA have prepared a rural agenda for a speech sometime this summer. The agenda includes: (1) the use of new technologies, such as distance learning and telemedicine, to benefit rural areas; (2) the enforcement of antitrust laws in agricultural-related industries; (3) the expansion of programs that help farmers manage risk; (4) the promotion of free trade; (5) the expansion of agricultural cooperatives; and (6) the renewal of the ethanol subsidy. We also could announce all or part of this agenda though a radio press conference in which you, the Vice President, and Secretary Glickman could participate.

Financial Services (DPC/NEC)

Announce Consumer Credit and Financial Services Bill of Rights. DPC and NEC are developing an initiative -- including both administrative actions and a legislative proposal -- aimed at educating consumers about the use of credit and bank services, improving the information consumers receive, and targeting predatory practices. This initiative is still at an early stage of development, but we probably will be ready by near the end of the summer.

Pensions (NEC)

Announce Pension Proposals. Your advisors have reached consensus on two pension proposals (in addition to the proposals announced in January). The joint and two-thirds/three-quarters survivor annuity proposal would increase benefits for some surviving spouses of pension plan participants, while the other proposal, initially advanced by Rep. Price (D-NC), would allow workers to count FMLA time toward pension vesting requirements. This would ensure that those (relatively few) workers close to the 1,000-hour minimum requirement for vesting do not lose a year of vesting because of time taken off under FMLA. This can be billed as a women's pension item.

Housing (NEC)

Announce HUD-NAR "One America" Agreement. HUD and the National Association of Realtors (NAR) have reached a final agreement on the "One America Broker" program. Under the program, NAR will sponsor training for real estate professionals on how to better serve minority and immigrant home buyers. The training will address adherence to Fair Housing Act principles, as well as ways to expand the housing choices available to minorities and other underserved groups. Realtors who complete the course and commit to serving these groups would be able to use the "One America" logo in advertising and promotional materials, which could help them to attract additional clients. To be certified, realtors must be free of any Fair Housing Act violations. The agreement could be

announced/highlighted by you or the Vice President at an event with a minority or immigrant new home buyer who previously experienced discrimination and (possibly) a realtor with an outstanding record serving underserved groups.

International Economics (NEC)

Announce Trade Adjustment Assistance Package. We could do an event on helping everyone benefit from a global economy. This event could have four different components, focused on both worker and community adjustment:
*You could announce the consolidation and reform of the Trade Adjustment Assistance (TAA) program and the NAFTA-TAA program. This would more than fulfill your promise to strengthen the TAA/NAFTA-TAA programs during the fast track debate.
*A possible Executive Order establishing a coordinating committee on community adjustment issues. This could be modeled after the Executive Order on defense adjustment programs.
*You could call on Congress to pass your EDA budget and NADBank budget, so that we can effectively deal with communities that have severe and sudden economic distress.
*Memorandum of Understanding between NADBank and EDA so that they work better together. This is important to Rep. Torres and the Hispanic Caucus. NADBank/CAIP and EDA have done a lot of work together, but it could be an important symbolic message to the Hispanic Caucus for the relationship between the two to be formalized.

Announce New Sanctions Policy. You could announce the release of a Presidential Decision Directive on Sanctions which would establish a joint NEC/NSC interagency sanctions review group to monitor and coordinate broad United States government sanctions policy. The group would ensure that prior to sanctions being implemented the Administration would conduct a cost/benefit analysis. The group could also review existing sanctions in place to determine whether they are still serving an important purpose in fulfilling our policy objectives. The time could be ripe for such an announcement because of the keen awareness on the Hill and elsewhere about the proliferation of new sanctions regimes and their cost to the U.S. economy. An interagency process has been working on such a directive; work could be finalized in time for an announcement. Because the Glenn Amendment has crystallized opinion about the problems with unilateral sanctions, this can and should be done sooner rather than later (i.e., over the next couple of weeks).

Give Major International Trade Speech. You could articulate U.S. trade objectives for the year leading up to the 1999 WTO Ministerial Conference, which we are hosting. You could also announce the selection of the city for such an announcement. Over 20 cities have expressed interest; the conference will bring international attention and over 10,000 attendees from foreign government, business, press and NGOs. The policy initiative would be a refinement of the goals outlined at the May 1998 WTO Anniversary in Geneva.

October 25, 1998 DRAFT

MEMORANDUM FOR: Bruce Reed
Elena Kagan

FROM:Cynthia Rice

CC:Paul Weinstein

SUBJECT:Tobacco and the FY 2000 Budget

Our FY 2000 budget should be part of a multi-pronged effort to reduce teen tobacco use, involving possible settlements and executive actions. In this effort, we must maintain our commitment to comprehensive tobacco legislation including a significant price increase, restrictions on advertising and marketing to children, and public health programs, while moving forward incrementally when we can.

I believe we cannot propose a budget without tobacco without being perceived as walking away from our commitment to comprehensive legislation. However, we should remember that our commitment first and foremost is to comprehensive legislation that meets the President's five principles, not to the McCain bill alone. We should propose a budget that will help increase our changes of enacting legislation into law, not one that adheres line by line to the McCain bill. We should at a minimum repackage our proposal enough so that those who were critical of the McCain bill could support it.

Rethink Our Strategy in Light of Possible Tax Legislation

I believe we should recognize that Congress is going to try to enact a tax cut next Congress, and -- given the support for saving the surplus for Social Security -- they will desparately need offsets. Second, we should recognize that no price increase -- whether labeled a tax or not -- will pass the Congress without the support of the Finance and Ways and Means Committees. Thus, I think we should propose our FY 2000 budget with an eye towards Finance and Ways and Means. Working with Finance and Ways and Means has risks. First, we would have to be willing to accept the "tax" label. Second, the House would play a central role, as would Hatch, although with some counterveiling pressure from Chafee and Conrad. However, working with these committees would not only allow us to gain momentum from the tax legislation, it could allow us to marshall additional supporters for our effort.

Leverage Additional Support

We should engage additional supporters, including:

Advocates for the elderly and people with disabilities that support long-term care tax

credit and Jeffords-Kennedy. We should devote a portion of the tobacco revenue to these proposals and work with the organizations on a joint strategy.

The pharmaceutical companies which produce smoking cessation products -- SmithKline Beecham (Nicoderm CQ patches and Nicorette gum) Glaxo Wellcome (Zyban pill), McNeil Consumer Products (Nicotrol patch, Nicotrol nasal spray, Nicotrol inhaler), Ciba-Geigy (Habitrol patch), Lederle (Prostep patch) and others. These companies will benefit from new legislation subsidizing use of their product, and we should ensure that they are working on our side.

The American Medical Association and other health professional organizations -- as we join forces with them on the Patients Bill of Rights, we should ensure that they are also making tobacco legislation a priority.

Neutralize the Opposition

Our budget should incorporate funds for law enforcement, drug programs, Medicare trust fund, and farmers. We should also engage in a dialogue with the retailers to see if we can do consistent with our principles to keep them on the sidelines.

In addition, we should consider proposing a price increase levied on each company based on the number of children that use their product. The new brand-specific SAMSHA survey will give us the data to do so. We could propose this as an alternative to an assessment plus a company-specific lookback, thus avoiding another round on the constitutionality of lookbacks while providing each company incentives to reduce youth smoking.

Maintain our commitment to the states

If there is no state settlement in the coming months, we would need of course to maintain our commitment to the state share of the settlement funds while holding them to their commitment of devoting a share of the funds to a menu of spending items.

EF

Proposed Tobacco Budget

Price Increase

1. Tobacco Counteradvertising. Fund a $200 million per year tobacco counteradvertising and education Campaign, as proposed in the Presidents 1999 budget and McCain legislation. This campaign would develop counteradvertising and purchase enough media time to reach teens at least four times a week. The campaign would also fund an extensive school-and community-based anti-tobacco education campaign.

2. Industry Documents. As the result of the Presidents directive, we expect to receive a plan from HHS in October outlining how to make tobacco industry documents more accessible to the public. Follow up work will be needed to implement this plan. While we can probably secure some private funding for this purpose, it is likely that federal funding will also be needed.

3. Tobacco Cessation. Each year, 20 million smokers attempt to quit, but only 1 million, or 5 percent, succeed. More than 90 percent smokers who attempt to quit do so on their

own, and the vast majority fail within 2 to 3 days. However, research shows that effective cessation methods could raise success rates to 10-20 percent (over 2 million people annually). The Agency for Health Care Policy and Research (AHCPR) endorsed 5 smoking cessation methods that have been proven to be effective in helping people to quit: gum, patch, nasal spray, inhaler, and pill (Zyban). A full course of these treatments costs around $200-300 (for a three months supply, without counseling). However, less than half of managed care organizations provide coverage of any AHCPR-approved therapies, and those that provide coverage may impose cost-sharing requirements that hinder access to treatment. In fact, a study of managed care in Washington State found that eliminating copayments for smoking cessation services significantly increased participation rates.

These proposals to help current smokers quit could be coupled with our continued call for comprehensive legislation to stop children from smoking before they start. Total combined cost of all these initiatives: $855 million over 5 years. We could make a series of proposals, some part of the budget and some not: (1) Fall --announce new DOD anti-tobacco plan, and new DOL and OPM tobacco-free workplace programs; (2) Winter --propose Medicaid and Veterans coverage of cessation benefits through FY2000 Budget; and (3) Spring --tax coverage of cessation as a medical expense and expanded coverage of cessation benefits in FEHBP.

* New Department of Defense anti-tobacco plan. This plan is still being vetted at the agency but will likely include covering over-the-counter nicotine replacement therapies under military health care coverage as part of a comprehensive military-wide anti-tobacco plan. Cost: $60 million per year.

* Anti-tobacco workplace initiatives by DOL and OPM. DOL could expand its drug-free workplace initiative to provide information to employers on steps they can take to reduce tobacco use among employees (cost: $63,000 per year). OPM could disseminate a model workplace cessation program for all federal agencies (agencies would use existing appropriated funds).

* Medicaid coverage. Currently, smoking cessation prescription and non-prescription drugs are optional state benefits under the Medicaid statute. We could propose to require states to cover cessation, as the McCain bill did (CBO estimated cost: $120 million over 5 years, HCFA estimated $114 million). Alternatively, we could propose an enhanced federal matching rate for smoking cessation treatments, in order to offer the states an incentive to cover these services. The Hansen-Meehan bill establishes a 90 percent match rate for state costs of smoking cessation services at an estimated cost of about $110 million over 5 years. Currently, 23 states cover Zyban, 6 states cover non-prescription treatments, and 5 states cover cessation counseling. A study by the Center on Addiction and Substance Abuse at Columbia University found that over 42 percent of Medicaid recipients smoke, as compared to 25 percent of the general population and that nearly 10 percent of all Medicaid hospital days are attributable to smoking.

* Veterans. We should re-propose the plan from the Presidents 1999 budget which created a new discretionary program open to all veterans who began using tobacco products while in the service, regardless of their eligibility for other VA health care services (currently less than 15 percent of veterans receive their health care through the VA system because of statutory limits --veterans must be low income or have a service-related injury.) The VA would contract with private sector entities to furnish AHCPR-approved services to interested veterans. OMB estimates that this proposal would cost $87 million for the first year, and $435 million over 5 years. Thirty-six percent of the 25 million veterans in this

country smoke.

*Tax Treatment. Currently, the cost of cessation treatment cannot be claimed as a deductible medical expense because the IRS does not recognize smoking or tobacco addiction as a "disease." The IRS has indicated in written opinions that an official medical authority classification of smoking as a disease would allow cessation to deduct these expenses. Treasury is interested in pursuing this in 1999. This would be done outside of the budget.

* Federal Employees Health Benefit Program. We could require enhanced coverage of smoking cessation services. One option is to raise coverage limits to more accurately reflect the cost of AHCPR-approved treatments, and to raise the number of treatments allowed per lifetime to account for the fact that the average smoker requires three to five cessation attempts before they successfully quit (i.e., require coverage of $300-400 per treatment, with three maximum treatments covered per lifetime). Another option is to waive the deductible and copayment requirement for cessation benefits. Currently FEHBP fee for service plans, which cover 70 percent of beneficiaries, are required to provide only $100 in smoking cessation benefits. Generally, this coverage does not kick in until after the calendar-year deductible has been met, and most plans restrict benefits to once per lifetime. Many plans only cover prescription drugs. HMO coverage of smoking cessation benefits varies greatly. This would be done outside of the budget, but would have to occur in the spring as part of OPMs annual letter to contracting plans, establishing the terms for the following year of coverage.

In addition to these efforts, any Medicare prescription proposal (see above) should include coverage of prescription cessation agents.

4. Expanded SAMHSA Survey. As the result of the Presidents directive, HHS will be including questions in their National Household Survey on Drug Abuse regarding brand-specific use of tobacco. This will allow us to determine which brands are most popular among youth, and help us identify which companies may be marketing to this population. Some federal funding will be necessary to support this expanded effort.

October 26, 1998 DRAFT

MEMORANDUM FOR: Bruce Reed
Elena Kagan

FROM:Cynthia Rice

CC:Paul Weinstein

SUBJECT:Tobacco and the FY 2000 Budget

Our FY 2000 budget should be part of a multi-pronged effort to reduce teen tobacco use, involving possible settlements and executive actions. In this effort, we must maintain our commitment to comprehensive tobacco legislation including a significant price increase, restrictions on advertising and marketing to children, and public health programs, while moving forward incrementally when we can.

I believe we cannot propose a budget without tobacco without being perceived as walking away from our commitment to comprehensive legislation. However, we should remember that our commitment first and foremost is to comprehensive legislation that meets the President's five principles, not to the McCain bill alone. We should propose a budget that will helps increase our changes of enacting legislation into law, not one that adheres line by line to the McCain bill.

Recognize that Tax Legislation May Move

I believe we should recognize that Congress is going to try to enact a tax cut next Congress, and -- given the support for saving the surplus for Social Security -- they will desparately need offsets. Second, we should recognize that no price increase -- whether labeled a tax or not -- will pass the Congress without the support of the Finance and Ways and Means Committees. Thus, I think we should propose our FY 2000 budget with an eye towards Finance and Ways and Means.

Working with Finance and Ways and Means has risks. First, we would have to be willing to call the price increase a tax. Second, the House would play a central role, as would Hatch, although with some counterveiling pressure from Chafee and Conrad. However, working with these committees would not only allow us to gain momentum from the tax legislation, it could allow us to marshall additional supporters for our effort.

Leverage Additional Support

We should engage additional supporters, including:

The elderly and disabled organizations that support long-term care tax credits and

Medicare. We should devote a portion of the tobacco revenue to these purposes and work with the organizations on a joint strategy.

The pharmaceutical companies which produce smoking cessation products -- SmithKline Beecham (Nicoderm CQ patches and Nicorette gum) Glaxo Wellcome (Zyban pill), McNeil Consumer Products (Nicotrol patch, Nicotrol nasal spray, Nicotrol inhaler), Ciba-Geigy (Habitrol patch), Lederle (Prostep patch) and others. These companies will benefit from new legislation subsidizing use of their product, and we should ensure that they are working on our side.

The American Medical Association and other health professional organizations -- as we join forces with them for a Patients Bill of Rights, we should ensure that they are also making tobacco legislation a priority.

Emphasizing the health aspects of the tobacco bill could help us gain public support. Polls conducted in late June found 61 percent of people say cigarette prices should be raised as a public health effort to provide billions of dollars to the public health system in return for the medical costs caused by smoking, while only 44 percent said they should be raised because this is the one of the best ways to cut down on teenage smoking.

Neutralize the Opposition

Our budget should neutralize the opposition by incorporating funds for law enforcement, drug programs, Medicare, and farmers. We should also engage in a dialogue with the retailers to see if we can keep them on the sidelines.

In addition, we should consider proposing a simplified price increase, such as a fee levied on each company based on the number of children that smoke their product, that avoids a lookback while still providing companies with incentives to reduce youth smoking.

Maintain our commitment to the states

Whether there is or is not a state settlement in the coming months, this budget should reflect our commitment to provide states with their share of the settlement funds while ensuring they devote at least half the funds to a menu of spending items.

FFTobacco Budget Provisions

Overview

The budget could contain a tobacco price increase devoted to the following five purposes:

1) Anti-drug and anti-tobacco counteradvertising and public education campaigns;
2) Health care, including smoking cessation, drug treatment, long-term care expenses, and the Medicare trust fund;
3) Scientific research at the National Institutes of Health;
4) Law enforcement efforts to crack down on illegal drugs and underage tobacco use and to prevent smuggling and drug trafficking; and
5) Assistance to tobacco farmers and their families.

In addition, the budget could include a provision waiving federal Medicaid recoupment allowing states to keep their share of state settlement funds if they commit to spend the proceeds on a menu of programs [list]. We could propose to add to this several values-based ideas, including that states shall require minors to complete an anti-smoking, anti-drug, and anti-alcohol class prior to receiving a drivers permit or license and shall suspended minors licenses if they are found posessing, purchasing, or attempting to purchase drugs, alcohol, or tobacco.

Anti-Drug and Anti-Tobacco Counteradvertising and Public Education

We should propose to fund a nationwide tobacco counteradvertising which campaign, like that currently underway for drugs, would develop counteradvertising and purchase enough media time to reach teens at least four times a week. The campaign would also fund an extensive school-and community-based anti-tobacco education campaign. (Cost: $4.7 billion over 5 years)

A central part of this effort will be HHS' effort to make [Industry Documents]. As the result of the Presidents directive, we expect to receive a plan from HHS in October outlining how to make tobacco industry documents more accessible to the public. Follow up work will be needed to implement this plan. While we can probably secure some private funding for this purpose, it is likely that federal funding will also be needed.

Health Care

Tobacco Cessation. Each year, 20 million smokers attempt to quit, but only 1 million, or 5 percent, succeed. More than 90 percent smokers who attempt to quit do so on their own, and te vast majority fail within 2 to 3 days. However, research shows that effective cessation methods could raise success rates to 10-20 percent (over 2 million people annually). The Agency for Health Care Policy and Research (AHCPR) endorsed 5 smoking cessation methods that have been proven to be effective in helping people to quit: gum, patch, nasal spray, inhaler, and pill (Zyban). A full course of these treatments costs around $200-300 (for a three months supply, without counseling). However, less than half of managed care organizations provide coverage of any AHCPR-approved therapies, and those that provide coverage may impose cost-sharing requirements that hinder access to treatment. In fact, a study of managed care in Washington State found that eliminating copayments for smoking cessation services significantly increased participation rates.

These proposals to help current smokers quit could be coupled with our continued call for comprehensive legislation to stop children from smoking before they start. Total combined cost of all these initiatives: $855 million over 5 years. We could make a series of proposals, some part of the budget and some not: (1) Fall --announce new DOD anti-tobacco plan, and new DOL and OPM tobacco-free workplace programs; (2) Winter --propose Medicaid and Veterans coverage of cessation benefits through FY2000 Budget; and (3) Spring --tax coverage of cessation as a medical expense and expanded coverage of cessation benefits in FEHBP.

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* Anti-tobacco workplace initiatives by DOL and OPM. DOL could expand its drug-free

workplace initiative to provide information to employers on steps they can take to reduce tobacco use among employees (cost: $63,000 per year). OPM could disseminate a model workplace cessation program for all federal agencies (agencies would use existing appropriated funds).

* Medicaid coverage. Currently, smoking cessation prescription and non-prescription drugs are optional state benefits under the Medicaid statute. We could propose to require states to cover cessation, as the McCain bill did (CBO estimated cost: $120 million over 5 years, HCFA estimated $114 million). Alternatively, we could propose an enhanced federal matching rate for smoking cessation treatments, in order to offer the states an incentive to cover these services. The Hansen-Meehan bill establishes a 90 percent match rate for state costs of smoking cessation services at an estimated cost of about $110 million over 5 years. Currently, 23 states cover Zyban, 6 states cover non-prescription treatments, and 5 states cover cessation counseling. A study by the Center on Addiction and Substance Abuse at Columbia University found that over 42 percent of Medicaid recipients smoke, as compared to 25 percent of the general population and that nearly 10 percent of all Medicaid hospital days are attributable to smoking.

* Veterans. We should re-propose the plan from the Presidents 1999 budget which created a new discretionary program open to all veterans who began using tobacco products while in the service, regardless of their eligibility for other VA health care services (currently less than 15 percent of veterans receive their health care through the VA system because of statutory limits --veterans must be low income or have a service-related injury.) The VA would contract with private sector entities to furnish AHCPR-approved services to interested veterans. OMB estimates that this proposal would cost $87 million for the first year, and $435 million over 5 years. Thirty-six percent of the 25 million veterans in this country smoke.

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In addition to these efforts, any Medicare prescription proposal (see above) should include coverage of prescription cessation agents.

Scientific Research

As noted in the health care section, your FY 1999 budget includes historic increases in the NIH and Congress funded the NIH at even higher levels (an historic $2 billion increase this year). You could either continue to fund this research at historic levels or you may wish to propose less to make room for other priorities (Cost: $300 million to $1 billion).

Law Enforcement

Tobacco Farmers

Price Increase

[n addition, we should consider proposing a simplified price increase levied on each company based on the number of children that smoke their product. The new brand-specific SAMSHA data we are collecting this year will enable us to do so. This approach would provide an alternative to an assessment plus a company-specific lookback while still providing companies with incentives to reduce youth smoking. Alternatively, we could adopt a straight per pack excise tax or an assessment combined with a lookback, or a larger assessment combined with a lookback rebate.]

Expanded SAMHSA Survey. As the result of the Presidents directive, HHS will be including questions in their National Household Survey on Drug Abuse regarding brand-specific use of tobacco. This will allow us to determine which brands are most popular among youth, and help us identify which companies may be marketing to this population. Some federal funding will be necessary to support this expanded effort.

State Settlements

October 25, 1998 DRAFT

MEMORANDUM FOR: Bruce Reed
Elena Kagan

FROM:Cynthia Rice
Andrea Kane

CC:Paul Weinstein

SUBJECT:Welfare Reform and the FY 2000 Budget

[Proposals below designed to meet the following six goals -- move more people from welfare to work, help working families stay employed, ensure more parents pay the child support they owe, encourage both parents to be actively involved in their childrens lives, provide health care and food assistance to needy families, and remove barriers to increased employment of people with disabilities. Many of these goals can be advanced through executive action as well, as noted below].

This text was in the 9/15 memo:

1. Helping the Hardest-to-Employ Get and Keep Jobs.

Extend Welfare-to-Work Grants and Strengthen Focus on Fathers. Funding for the $3 billion grant program that the President fought for in the Balanced Budget Act ends in FY 1999. These funds are targeted at the hardest-to-place welfare recipients, and non-custodial parents of children on welfare, and at concentrated areas of poverty. 75% of the funds are allocated to states, who in turn pass them to local Private Industry Councils and 25% of the funds are available on a competitive basis. We expect DOL to propose extension of the grant program in their FY 2000 budget proposal. We should consider revising the statutory language to increase the focus on increasing employment of fathers. While there is a significant level of interest in serving this population, there is likely more we could do to increase the quantity and quality of services. This should also increase support from the Ways & Means committee as Shaw is very interested in fatherhood issues. Possible approaches include requiring states and communities to designate a minimum portion of WTW formula funds for fathers, setting aside a portion of competitive grant funds for this purpose, or earmarking funds for needed technical assistance and capacity building on this relatively new area. Other changes worth considering: shifting more funds toward competitive grants, increasing tribal set aside (currently 1%), and streamlining data collection requirements. Assuming level funding, this would cost $1.5 billion annually.

* Request Additional Welfare-to-Work Housing Vouchers. We are unlikely to get the full 50,000 housing vouchers requested for FY 99. This approach continues to have merit, both in helping families move from welfare to work and as a catalyst for changing the way local housing authorities, and HUD, do business. Cost to fully fund 50,000 vouchers is $283 million. Some, including Deich and Edley, have also suggested allowing housing authorities to convert Section 8 vouchers that are turning over to the more flexible approach of the WTW vouchers.

* Invest in Increasing English Language and other Literacy Skills. There is evidence that those with low education levels have a harder time leaving welfare. There is also emerging evidence that English language may be a barrier for some minority welfare recipients, including immigrants. We may want to explore whether there is more the federal government could do to increase access to ESL and other basic education that is combined with work, though this does not necessarily have to be done with TANF funds. We need to first explore what is available, whether there are successful models that can be replicated, and what the demand is.

2. Helping New Workers Succeed in the Workforce/Achieve Self-Sufficiency.
There are several ways to ensure people moving from welfare to work can get to their jobs:

Request full $150 million authorized for Access to Jobs for FY 2000 (TEA-21 set guaranteed funding from the Highway Trust Fund at $60 million for FY 2000). This would allow DOT to fund more competitive grants. Note these funds can be spent on current and former welfare recipients, as well as families up to 150% of poverty so they help the working poor as well.

Donate surplus federal vehicles to welfare to work programs. These could be given, leased, or sold to current and former welfare recipients for whom public transit it not a viable option, including those living in rural areas. Cars could be allocated through community-based organizations or intermediaries. This could be modeled after the initiative to donate federal computers to schools.

* Help former welfare recipients access funds to purchase cars. In some areas, public transit is not a viable option for a family moving from welfare to work. In addition, owning a car is something many poor families aspire to, and something that helps them become part of the economic mainstream. Family Services of America, and other organizations, currently offer revolving loans for low income families to purchase cars. FSA's model currently operates in 20 sites and is scheduled to expand to 60 sites later this Fall, with partial funding from foundations and private financial institutions. They are also seeking federal funding to help with this expansion. Possible sources include: HUD, Treasury, DOL WTW grants, as well as existing federal and state TANF funds. Another option is to expand allowable uses of IDAs to include purchasing a car needed to go to work.

* Connection between TANF and Unemployment Insurance. There is growing interest in exploring the relationship between these two systems. Historically, few welfare recipients have qualified for UI, and some have essentially used AFDC as a form of unemployment insurance. As more welfare recipients joining the labor force, we need to consider the most appropriate way to provide income support to them between jobs. Various approaches include: (a) changing rules of the UI system that make it hard for former welfare recipients to qualify for UI once they go to work and in the event they lose a job and (b) creative uses of federal TANF or state MOE funds to provide income support to people in between jobs. Either approach should be accompanied by a strong effort to promote job retention and rapid re-employment. This could be considered as part of a more comprehensive UI reform initiative that NEC has been considering, but it would not depend on that. NOTE: NGA has a grant to explore this issue and several states are trying innovative approaches. While we do not have to frame the issue in terms of planning for economic downturns, it seems prudent to address this issue earlier rather than later.

* Optional State Coverage Expansion Through Eligibility Simplification (see Health section).

*Transitional Medicaid. Families can currently receive Transitional Medicaid for up to 12 months after leaving welfare, but only about 20 to 30 percent of eligible families are enrolled. The program has many procedural hurdles that make it more difficult to access than regular Medicaid coverage and the 12 months transitional period is too short for many families. The budget could eliminate some of the current prescriptive reporting requirements now in the law (that, for example, requires families to report earnings in the fourth, seventh, and tenth months of coverage and divides the 12 months of coverage into two 6 month segments with different co-pay and benefit rules) and allow states to provide a full 12 months of coverage without regard to changes in family circumstances, similar to the 12-month option for children that was adopted in the Balanced Budget Act. In addition, the budget could provide states the option of extending transitional Medicaid to 24 or 36. These ideas need to be fully discussed, vetted, and costed out. The current program reauthorization sunsets in 2001.

*Extend the Work Opportunity Tax Credit and Welfare-to-Work Tax Credits (WOTC has already expired and WTW will expire in 1999).

DISABILITY POLICY

1. Expanding the Defense Departments "CAP" program. The Defense Departments Computer Accommodations Program ("CAP") purchases equipment for DOD employees with disabilities to allows them to keep working if they become disabled, or for new employees just joining the workforce. By using a central $2 million fund for such purchases, individual offices do not have to bear the cost within their own budgets, and are less likely to be deterred from hiring a person with a disability. CAP is also able to get better prices on equipment through its bulk purchases and expertise. It has a showroom to help employees try out appropriate adaptive devices (CAP makes the decision on what equipment is purchased, not the employee). It has provided over 9,000 accommodations since its inception in 1990. This program is a good example of how employers and employees are taking advantage of new (and increasingly cheap) technology, such as computers for the blind that talk and listen, and alternative computer keyboards for people with dexterity problems, that allow people with disabilities to work. Expanding the program has the strong support of the Administrations appointees with disabilities, in particular for Tony Coelho, chair of the President's Committee on Employment of People with Disabilities.

Defense has estimated that it would cost $8 million a year to expand CAP government-wide, but this is likely overstated since CAP now serves the entire Defense Department for $2 million a year. A more realistic range is $2 -5 million a year. While having DOD perform this service for all federal employees is a bit unusual, they have a great deal of expertise at this task and they are ready to take on the added responsibility.

2. Tax Credit for Disability Related Expenses. [See "Health" section, above.]

3. New BRIDGE grant program. This program would provide incentives for state and local agencies and private organizations to form interdisciplinary consortiums of service providers (employment, health, transportation, etc.) to better assist people with disabilities in going to work. NEC and DPC will receive revised proposal shortly from the Presidents Task Force on Employment of People with Disabilities and will evaluate and vet. Estimated cost for this three-year grant program is $150 million a year.

4. Information and Communication Technologies for People with Disabilities. NEC has developed draft proposals now being vetted to ensure that new technologies will be designed from the beginning to be accessible to people with disabilities. Ideas include leveraging federal government procurement, investing in R&D, funding industry consortia, training the next generation of engineers, etc. (Tom Kalil is working on this, coordinating with DPC and OMB).

July 21, 1998

MEETING WITH ECONOMIC ADVISORS

DATE: July 22, 1998
TIME: 12:00pm-12:45pm
LOCATION:Cabinet Room
FROM:Gene Sperling

I.PURPOSE

Erskine Bowles requested that you meet with your economic advisors again, as you did last month, to update you on key economic, financial, and budgetary issues. We will discuss (1) possible strategies to buffer our "Save Social Security First" position against Republican tax cut proposals; (2) the state of the economy with respect to second quarter GDP growth; and (3) the current financial situation in Asia and Russia and its effect on the global economy.

II.BACKGROUND

Tax Cuts/Surplus. It appears that the Republicans will try to tap the surplus to pay for their tax cuts. We will discuss with you ways to strengthen the resolve of Democrats to Save Social Security First and our efforts to work with them to fashion an alternative tax cut that advances your priorities. The IRS bill signing event (immediately following this meeting) provides an opportunity to build on the strong message you delivered last Friday on the surplus.

State of the Economy. We will review the latest economic indicators and forecasts for GDP growth in the second quarter and the rest of the year. In light of recently released data on trade flows and inventories, most forecasters have revised downward significantly their estimates of second quarter GDP growth. Many analysts now expect the advance estimate of second quarter GDP, to be released on July 31, to show near-zero and conceivably negative growth. We will highlight three factors responsible for the changed assessment: the GM strike, the impact of Asian financial crisis on U. S. trade, and the significant decline in inventory investment from its record level in the first quarter. We also want to discuss with you the prospects for growth in the second half of 1998 and the year as a whole and analyze some key risks to the forecast.

Global Economy. As part of an ongoing review on Asia Financial crisis, we will discuss the nature of the IMF program and challenges ahead for Russia; the current financial situation in Ukraine; the impact of sanctions on Pakistans financial situation; and the continued lack of direction in Japans banking and fiscal priorities.

III.PARTICIPANTS

The President
The Vice President
Erskine Bowles
Sylvia Mathews
Maria Echaveste
John Podesta
Gene Sperling
Jack Lew
Janet Yellen
Ron Klain
Larry Stein
Secretary Rubin
Larry Summers
Rahm Emanuel
Paul Begala
Bruce Reed
Elena Kagan
Lael Brainard
Tim Geithner
Sandy Berger
Jim Steinberg
Jill Blickstein
Leon Fuerth

IV.SEQUENCE OF EVENTS

You will meet with your advisors in the Cabinet Room.

V.PRESS COVERAGE

NONE

VI.REMARKS

NONE

VII.ATTACHMENTS

a.Options for Surplus/Tax Cut Strategy
b.CEA Review -- The Current Economic Status
c.Treasury Paper

Cynthia Rice/Elena Kagan
Daily Report -- 8/21/97

Legal Immigrants and Food Stamps -- Five advocacy groups held a press conference today in the Senate Russell building to call upon Congress and the Administration to restore food stamps to legal immigrants. As we noted in our last weekly report, about 900,000 legal immigrants will lose food stamps this month, as a result of a provision in the welfare law requiring states to drop legal immigrants from the rolls within a year after enactment. At todays press conference, the National Council of La Raza, the U.S. Catholic Conference, and other groups praised us for restoring disability and health benefits to legal immigrants in the budget, but said the "anniversary of welfare reform act is no cause for celebration" because of the food stamp cuts.

In preparation for the food stamp cutoff, the Department of Agriculture has undertaken an extensive outreach campaign to inform legal immigrants of the 14 other nutrition programs for which they are still eligible (including WIC, School Lunch and Breakfast, Child and Adult Care Food Program, Nutrition Assistance Program for the Elderly, and the Emergency Food Assistance Program). This outreach campaign includes publishing an informational op-ed in Spanish language and other speciality newspapers; releasing an issue brief to the media, advocacy groups, and state and local government officials; and providing Hispanic radio stations with taped informational announcements. In addition, as we noted in last weeks report, Congress at our urging recently enacted legislation allowing USDA to sell food stamps to states for distribution to legal immigrants and other individuals made ineligible by the welfare law. Washington State, Massachusetts, and New York already have signed up for this option and other states have expressed interest. An additional six states (CO, FL, MD, MN, NE, RI) are using state funds to provide nutritional assistance to legal immigrants in other ways.

TO:Elena Kagan
FROM:Jennifer Klein
DATE:6/25/97
RE:Immunization Partnership with WIC

You had asked me to respond to the Presidents question about whether we can expand the WIC programs partnership with the Centers for Disease Control to increase immunization rates.

FEBRUARY 14, 1996

MEMORANDUM TO:JENNIFER O'CONNOR

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

RE:Subpoenas Issued by House Committee on Government Reform & Oversight

The House Committee on Government Reform and Oversight is conducting an investigation into the Travel Office and various other matters. In connection with its inquiry, the Committee has issued subpoenas to the White House requiring the production of certain White House records. We are in the process of providing responsive White House records, from your files and those of others, to the Committee.

Last week, the Committee issued personal subpoenas to you and other current and former White House employees. These personal subpoenas call for personal as well as White House records. The Counsel's Office will handle production of your responsive White House records, i.e., records created or obtained during the course of your official duties. Accordingly, you should forward any White House records you believe may be responsive to the Counsel's Office and we will determine whether they should be produced to the Committee. You should provide any responsive personal records directly to the Committee.

In many respects, the personal subpoenas are similar to requests that the Counsel's Office previously sent to you in December 1995 and earlier this month. You do not need to provide any White House records you have already produced to the Counsel's Office in response to those earlier requests. Any additional White House records that are responsive to your personal subpoena should be provided to Elena Kagan in OEOB Room 125 by Wednesday, February 21, 1996.

We recognize that the Committee's numerous requests for virtually the same records have been confusing. If you have questions, please contact Jane Sherburne (6-5116).

Thank you for your cooperation.
FF

FEBRUARY 14, 1996

MEMORANDUM TO:RAHM EMMANUEL

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

RE:Subpoenas Issued by House Committee on Government Reform & Oversight

The House Committee on Government Reform and Oversight is conducting an investigation into the Travel Office and various other matters. In connection with its inquiry, the Committee has issued subpoenas to the White House requiring the production of certain White House records. We are in the process of providing responsive White House records, from your files and those of others, to the Committee.

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Thank you for your cooperation.
FF

FEBRUARY 14, 1996

MEMORANDUM TO:HAROLD ICKES

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

RE:Subpoenas Issued by House Committee on Government Reform & Oversight

The House Committee on Government Reform and Oversight is conducting an investigation into the Travel Office and various other matters. In connection with its inquiry, the Committee has issued subpoenas to the White House requiring the production of certain White House records. We are in the process of providing responsive White House records, from your files and those of others, to the Committee.

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Thank you for your cooperation.

FF

FEBRUARY 14, 1996

MEMORANDUM TO:CRAIG LIVINGSTONE

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

RE:Subpoenas Issued by House Committee on Government Reform & Oversight

The House Committee on Government Reform and Oversight is conducting an investigation into the Travel Office and various other matters. In connection with its inquiry, the Committee has issued subpoenas to the White House requiring the production of certain White House records. We are in the process of providing responsive White House records, from your files and those of others, to the Committee.

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Thank you for your cooperation.
PF

FEBRUARY 14, 1996

MEMORANDUM TO:GEORGE STEPHANOPOULOS

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

RE:Subpoenas Issued by House Committee on Government Reform & Oversight

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Thank you for your cooperation.

FF

FEBRUARY 14, 1996

MEMORANDUM TO:LISA CAPUTO

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

RE:Subpoenas Issued by House Committee on Government Reform & Oversight

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We recognize that the Committee's numerous requests for virtually the same records have been confusing. If you have questions, please contact Jane Sherburne (6-5116).

Thank you for your cooperation.

July 4, 1997

MR. PRESIDENT:

Bruce Reed and Elena Kagan have proposed, based on a recommendation from Attorney General Reno and Secretary Babbitt, that you issue a Memorandum next week directing Reno/Babbitt to appoint a commission to work with tribal leaders to analyze the law enforcement problems in Indian Country. The Commission will report by October 31.

On many reservations, public safety is less secure than in the most crime-plagued inner cities. Some violent crimes go wholly uninvestigated because of a shortage of law enforcement officers. The Bureau of Indian Affairs at Interior wields most of the law enforcement authority, but one consideration is to transfer this authority to the better-funded DOJ -- the commission would study this option, among others.

A copy of the DPC memo and proposed directive is attached. This has not been fully vetted and approved yet, but we expect that it will early next week. Rather than bothering you on the road, we wanted to let you know about it now and will have it executed on your behalf next week. If anything changes, we will let you know.

Phil Caplan

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Sally Katzen

SUBJECT:Heads-up on EPA Final Rule on Clean Air Act Requirements for American Indian Tribes

We will soon conclude review of an EPA final rule, required under the Clean Air Act (CAA), specifying procedures and requirements for American Indian tribes who want to administer CAA programs within territories under their jurisdiction.

The rule allows tribes to pick and choose some program elements and not others, depending on environmental priorities and tribal capacity. EPA will provide a federal backstop to ensure air quality protection in areas where tribes do not choose to administer their own programs, or fail to implement necessary program elements. EPA will also provide federal matching grants to help tribes who wish to participate in the program to develop adequate administrative capacity to do so. Whereas States must contribute 40 percent of the cost of these matching grants, EPA is establishing only a 5 percent matching share for tribes (with an economic hardship waiver where appropriate).

One key issue addressed by the rule is the appropriate geographical extent of tribal jurisdiction over CAA programs. Some commenters (mainly tribes) supported a broad (inclusive) interpretation of the geographical extent of tribal jurisdiction; others (States and some industries) supported a more restrictive interpretation. States may oppose this favorable treatment of tribes in the final rule. Some States may also be concerned that the rule grants the tribes who opt into the program jurisdiction over all areas within the exterior boundaries of the tribes reservations, and allows EPA to determine on a case-by-case basis the appropriateness of including additional lands outside the reservations, whether or not they are contiguous to them. On the other hand, environmentalists may question the adequacy of EPAs backstop provisions. On the whole, we are satisfied that EPA has handled this issue well. Please call me if you have any questions.

FFcc:Maria Echaveste
Rahm Emanuel
John Hilley
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
Katie McGinty
Bruce Reed
Gene Sperling
Don Gips

Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
T.J. Glauthier
Larry Haas

March 5, 1998

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Don Arbuckle
Acting Administrator

SUBJECT:Heads-up on Indian Housing Regulation

We have just concluded our review of a HUD final rule that sets up a new block grant program for Indian housing. This rule implements certain provisions of the Native American Housing Assistance Act of 1996 that permits HUD to release grant funds to Indian tribes far in advance of their spending money for housing purposes, thus allowing the tribes to earn interest on the funds.

HUD prematurely committed to Indian groups immediate access to all Indian housing money before clearing this with OMB. In fact, HUD had not included this commitment in their FY 1999 budget submission. If cleared as drafted, HUDs rule would have had a substantial negative effect on the budget -- increasing FY 1999 spending by some $400 million over that planned. Consequently, OMB worked with HUD to develop an alternative that permits more modest advance grant payments to Indian tribes. This alternative approach partially fulfills HUDs commitment to allow advance grant payments while also being consistent with the Presidents Budget. Indian groups were consulted about this solution and grudgingly approved.

HUD will be publishing the final rule in the next few days.

FF

cc:Maria Echaveste
Rahm Emanuel
Larry Stein
Ron Klain
Thurgood Marshall, Jr.
Ann Lewis
Sylvia Mathews
John Podesta
Bruce Reed
Gene Sperling
Elena Kagan
Barry Toiv
Michael Waldman
Michael Deich
Linda Ricci

Memo

To:Maria Echaveste
From:Maritza Rivera
Date:December 22, 1997
Re:INS Restructuring Meeting

Basically the meeting focused on what should go into the budget and into the contract with Booz Allen.

Commissioner Doris Meissner reported that after the review the recommendation is that the INS should stay in tact and that the enforcement side and the service side be separated in order for INS to operate more efficiently with particular emphasis on:
* significantly improving customer service
* significantly improving standard practices across the country
* geographical separation of offices (setting up separate office per region)
* improving integrating activities to establish a single transfer of data between offices

Morley Winograd from National Performance Review asked about separating out that portion of INS that provides service and running it like a performance based organization which are run like a private/public organization and not a governmental agency.

Commissioner Meissner responded that she was envisioning a separation of enforcement and services but not having the services portion its on organization because it might be taking the process too far.

Elena Kagan, DPC, wanted to know what about the Commissioners organizational chart did not work.

Commissioner Meissner responded that the chart was incomplete because it only addressed the headquarters level and not the field level which is the real issue here, i.e. issue of how to make the operations take place. Commissioner Meissner is unsure of how to accomplish the separation between enforcement and service and is looking for a process on arriving at this.

Michael Deich, OMB stated that OMB is interested in establishing a principle of the separation between enforcement and services at both the headquarters level as well as the field level.

Commissioner Meissner is not comfortable with this.

Michael Deich commented that in order to avoid the Republicans going after INS was to be clear on what the Administration wants to do before March 1st which is the date set for Booz Allen to make their recommendations. He believes that if the Administration does not set out its goal as specifically as possible when it announces its proposal then the Republicans will have from the time the announcement is made until March 1st to put their spin on it. To avoid this problem, Michael suggests that when the budget comes out the Administration needs to say that they reviewed INS and it should remain whole and give specific direction on what changes are necessary and then have the logistics worked out by Booz Allen instead of saying that INS should remain whole but we are unsure as to what changes should take place.

Commissioner Meissner added that the Attorney General feels that there should only be one person in charge at the community level, i.e. on the ground instead of two people in charge. She believes that the biggest problem is in terms of inconsistency at the field level.

Commissioner Meissner also reported that what they have said to Booz Allen is that they want to separate the enforcement side from the services side and is asking Booz Allen how this should be done.

Michael Deich is uncomfortable with this. He thinks the Administration should settle the fundamental issues and then ask Booz Allen to recommend how to implement the changes.

Elena Kagan agreed. She believes the Administration should be delegating the principles and asking Booz Allen to figure out how to implement these. Elena thinks that in the budget there should be a commitment to separation at both levels, i.e. headquarters and field and to figure out how to do this and not give Booz Allen the Commissioners chart. Also, she believes the Administration should use the budget as a forum to state what the Administration proposes to do after careful review and leave it to Booz Allen to work out how to implement the proposals.

Commissioner Meissner would like OMB and DPC in on meetings with Booz Allen as this process goes on. The process should start on the beginning of the year with possible meetings to take place the second week of January. Then on about February 2nd OMB, DPC and Commissioner should all get back with Booz Allen to see where they are going at the half way mark in order to give Booz Allen feedback for the final recommendations.

Elena Kagan thinks it would be helpful if there was more to add on February 2nd because it would strengthen the Administrations hand since it would be telling Congress what Congress hearings will look like. This of course can only occur to the extent that the Administration has details on what it will look like at the headquarters or field level or both.

In the meantime all comments on the Draft by OMB should be directed ASAP to Steve at Michael Deichs office at OMB and also to Commissioner Meissner.

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Franklin D. Raines

FROM: Sally Katzen

SUBJECT: Heads-up on DOJ/INS Affidavit of Support Interim Final Rule

On July 2, 1997, we circulated a heads-up memo on an INS interim final rule requiring sponsors of immigrants to file an affidavit of support that will enable Federal, State, and local governments to recoup the costs of any "means-tested benefits" received by the immigrants. The rule will be published (finally) in the Federal Register at the end of this week. I have attached a copy of our July 2 heads-up memo to refresh your memory on the substance. Please give me a call if you have any questions.

cc: Maria Echaveste
Rahm Emanuel
John Hilley
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
Bruce Reed
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Kathy Wallman
Josh Gotbaum
Michael Deich
Larry Haas

March 18, 1997

To:Bruce Reed
Elena Kagan

From:Lyn Hogan
Cynthia Rice

cc:Diana Fortuna

Re:Welfare Reform and the Internet Project

Following is a proposal to give welfare offices around the country access to the World Wide Web and the Internet in order to access valuable employment information, child care resources, available state social services, and other information relevant to both welfare recipients and caseworkers.

Proposal

We propose to expand Internet access to high traffic welfare offices around the country. Providing Internet access to key welfare offices will accomplish several goals: 1) welfare recipients and caseworkers will have access to Internet job banks, including the Department of Labors Americas Job Bank; 2) welfare recipients and caseworkers will have access to other relevant information including training programs, job placement organizations, and child care resources; 3) welfare intake offices would be able to link to the DOL one-stop shops and other related social welfare offices; 4) welfare recipients could market themselves on the Internet particularly by posting resumes, and; 5) welfare offices around the country could share information on best practices.

Background

There are approximately 6,500 welfare field offices in the country. About one third of those offices are already connected to the Internet or have adequate computer hardware to easily link to the Internet. To ensure that all welfare offices have at least two computers with access to the Internet, we would need to provide the remaining two thirds of the welfare offices with software and hardware as well as training and maintenance. To give every welfare office two computers connected to the Internet would cost approximately $40,365,000 initially plus additional annual operating costs of $14,235,000. Even if computers are donated, operating costs will still be incurred.

However, through donations and executive orders, we can defray most of the start-up costs. Further, by targeting high traffic welfare offices or those in high poverty areas, we can better target our scarce resources.

Actions

I.Help Welfare Offices Access Up To Date Computer Equipment

*Approach private sector for computer donations

*Expand EO 12999

April 1996 Executive Order 12999 streamlines the transfer of excess and surplus Federal computer equipment to the Nations classrooms. By expanding this executive order to cover welfare offices in addition to classrooms, we could potentially equip XXX welfare offices with computers.

*Ask private sector to donate training, technical and maintenance services to defray operating costs

II.Expanding Job Listings on the Internet

*Issue an EO directing agencies to electronically file all Federal job listings rather than mailing and/or posting listing

III.Access and Expand Existing Web Sites

*The Department of Labor houses Americas Job Bank, a nationwide job bank of private sector jobs that lists approximately 750,000 openings and can conduct searches geographically. Americas Job Bank is a collection of state job banks plus direct entries.

*The Office of Personnel Management runs an Internet job bank on available federal jobs which could be linked to Americas Job Bank.

*Software Technology Corporation in Georgia is running HeadHunter.NET, a fully automated job search and posting service that provides free access to all job listings and allows recruiters, companies and businesses to post their listings at no charge.

*The White House has a fully operational welfare reform web site with links that could be expanded to include and job banks and other related web sites.

*

March 19, 1997

To:Bruce Reed
Elena Kagan

From:Lyn Hogan
Cynthia Rice

cc:Diana Fortuna

Re:Welfare Reform and the Internet Project

The following is a proposal to give welfare offices around the country access to the World Wide Web and the Internet in order to access valuable employment information, child care resources, available state social services, and other information relevant to both welfare recipients and caseworkers.

Proposal

We propose to expand Internet access to high traffic welfare offices around the country. Providing Internet access to key welfare offices will accomplish several goals: 1) welfare recipients and caseworkers will have access to Internet job banks, including the Department of Labors Americas Job Bank; 2) welfare recipients and caseworkers will have access to other relevant information including training programs, job placement organizations, and child care resources; 3) welfare intake offices would be able to link to the DOL one-stop shops and other related social welfare offices; 4) welfare recipients could market themselves on the Internet by posting resumes, and; 5) welfare offices around the country could share information on best practices.

Background

There are approximately 6,500 welfare field offices in the country. About one third of those offices are already connected to the Internet or have adequate computer hardware to easily link to the Internet. To give the remaining welfare offices access to the Internet, we would need to provide them with software and hardware as well as training and maintenance. To give every welfare office two computers connected to the Internet would cost approximately $40,365,000 initially plus additional annual operating costs of $14,235,000. Even if computers are donated, operating costs will still be incurred.

However, through donations and executive orders, we can defray most of the start-up costs. Further, by targeting high traffic welfare offices or those in high poverty areas, we can better target our scarce resources.

Actions

I.Help Welfare Offices Access Electronic Job Listings

*Expand Executive Order 12999, which streamlines the transfer of excess and surplus Federal computer equipment to the Nations classrooms. By expanding this executive order to cover welfare offices in addition to classrooms, we could potentially equip XXX welfare offices

with computers.

*Announce private sector commitments to donate computers and provide training, technical, and maintenance services (from a variety of companies including Software Technology Corporation of Georgia).

*Direct the HHS and the Department of Labor to notify state welfare agencies how they could obtain donated computers and access job databanks.

II.Expand Job Listings on the Internet

*Issue an Executive Order directing federal agencies and contractors to electronically file all job listings with Americas Job Bank.

III.Access and Expand Existing Web Sites

*Direct the Department of Labor to provide links from its Americas Job Bank to OPM and to any other private sector job banks that wish to be linked (Software Technology Corporation of Georgia may wish to link its HeadHunter.NET site). Americas Job Bank is a nationwide job bank listing approximately 750,000 openings, some from state organized job banks and some direct entries. The OPM directory lists all available federal jobs. Software Technology Corporation in Georgia is running HeadHunter.NET, a fully automated job search and posting service that provides free access to all job listings and allows recruiters, companies and businesses to post their listings at no charge.

*Expand the White House welfare reform web site to provide links to Americas Job Bank and other related web sites.

*

March 19, 1997

To:Bruce Reed
Elena Kagan

From:Lyn Hogan
Cynthia Rice

cc:Diana Fortuna

Re:Welfare Reform and the Internet Project

The following is a proposal to give welfare offices around the country access to the World Wide Web and the Internet in order to access valuable information on employment, child care resources, available social support services, and other information relevant to both welfare recipients and caseworkers.

Proposal

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Background

There are approximately 6,500 welfare field offices in the country. About one third of those offices are already connected to the Internet or have adequate computer hardware to easily link to the Internet. To ensure that every welfare office has at least two computers connected to the Internet, we would have to provide hardware and software at a cost of approximately $40,365,000 initially plus additional annual operating costs of $14,235,000.

Through computer donations and executive orders we can defray most of the start-up costs. Further, by targeting high traffic welfare offices or those in high poverty areas, we can better target our scarce resources. However, even if computers are donated, operating costs will still be incurred.

Actions

I.Help Welfare Offices Connect to the Internet to Access Electronic Job Listings and Other Work-Related Information

*Announce private sector commitments to donate computers and provide training, technical, and maintenance services (from a variety of companies including Software Technology Corporation of Georgia).

--Direct Federal agencies to encourage their computer suppliers to donate used computers following contract refresh periods. (Refresh contracts with suppliers require those suppliers to update or "refresh" the governments computers on a regular basis.)

--Approach the Association of Chief Information Officers -- a private sector group of most of the nations high tech companies -- to donate computers.

*Announce annual Presidential awards to companies that donate computers to this and other government efforts, and honor each company on the White House web page.

*Direct HHS and the Department of Labor to notify state welfare agencies how they could obtain donated computers and access job data banks.

*Expand Executive Order 12999 to cover welfare offices. EO 12999 streamlines the transfer of excess and surplus Federal computer equipment to the Nations classrooms. By expanding this executive order to cover welfare offices in addition to classrooms, we can access available computers for some of the 6,500 welfare offices.

II.Expand Job Listings on the Internet

*Issue an Executive Order directing federal agencies and government contractors to electronically file all job listings with Americas Job Bank.

III.Access and Expand Existing Web Sites

*Direct the Department of Labor to link Americas Job Bank to OPM and any other private sector job banks that wish to be linked (Software Technology Corporation of Georgia may wish to link its HeadHunter.NET site). Americas Job Bank, a nationwide Internet job bank, lists approximately 750,000 openings, 95 percent of which are private sector, from state organized job banks and national entries. The OPM directory lists all available federal jobs. Software Technology Corporation in Georgia is running HeadHunter.NET, a fully automated job search and posting service that provides free access to all job listings and allows recruiters, companies and businesses to post their listings at no charge.

*Direct White House staff to expand the White House welfare reform web site to provide links to Americas Job Bank and other related web sites.

*

March 21, 1997

To:Bruce Reed
Elena Kagan

From:Lyn Hogan
Cynthia Rice

cc:Diana Fortuna

Re:Welfare Reform and the Internet Project

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Actions

I.Help Welfare Offices Connect to the Internet to Access Electronic Job Listings and Other Work-Related Information

*Expand Executive Order 12999 to cover welfare offices. EO 12999 streamlines the transfer of excess and surplus Federal computer equipment to the Nations classrooms. By expanding this executive order to cover welfare offices in addition to classrooms, we can access available computers for some of the 6,500 welfare offices.

*Announce private sector commitments to donate computers and provide training, technical, and maintenance services. (These donations would hopefully come from a wide variety of sources including companies involved with Work Now, high tech firms that are members of the Association of Chief Information Officers, and a consortium formed by Software Technology Corporation of Georgia.)

*Direct Federal agencies to encourage their computer suppliers to donate used computers following contract refresh periods. (Refresh contracts with suppliers require those suppliers to update or "refresh" the governments computers on a regular basis.)

*Announce annual Presidential awards to companies that donate computers to this and other government efforts, and honor each company on the White House web page.

*Direct HHS and the Department of Labor to notify state welfare agencies how they could obtain donated computers and access job data banks. The agencies would also track how many donations were made.

II.Expand Job Listings on the Internet and Increase Access to More Web Sites

*Issue an Executive Order directing federal agencies and government contractors to electronically file all job listings with Americas Job Bank, increasing the number of job listings on the internet.

*Direct the Department of Labor to link Americas Job Bank to OPM and any other private sector job banks that wish to be linked. Americas Job Bank, a nationwide Internet job bank, lists approximately 750,000 openings, 95 percent of which are private sector, from state organized job banks and national entries. The OPM directory lists all available federal jobs. Software Technology Corporation in Georgia is running HeadHunter.NET, a fully automated job search and posting service that provides free access to all job listings and allows recruiters, companies and businesses to post their listings at no charge.

*Direct White House staff to expand the White House welfare reform web site to provide links to Americas Job Bank and other related web sites.
FFNext Steps

Before announcing these actions, we would want to ensure that:

*Adequate private sector commitments can be announced.

*State representatives (i.e., APWA and NGA) will welcome the plan.

*Adding welfare offices to EO 12999 wont interfere with the Administrations computers in the classroom goals.

*Department of Labor is ready to execute new actions (i.e. link to other databanks).

*Plans are discussed with Software Technology Corporation and Speaker Gingrich.

*We have decided whether to target this initiative only to certain welfare offices and which criteria, if any, should be used.

Date

MEMORANDUM FOR CHIEFS OF STAFF OF EXECUTIVE
AGENCIES AND DEPARTMENTS

FROM:Bruce Reed
Assistant to the President and Domestic Policy Advisor

Thurgood Marshall, Jr.
Assistant to the President and Secretary to the Cabinet

SUBJECT:Child Care

Over the past decade, the number of families with working parents has expanded dramatically, increasing the need for quality, affordable child care. Making quality child care more affordable and accessible is good for the economy and central to a productive American workforce, as well as important to healthy child development and later success in school.

As you may know, the President announced in April that he will host a White House Conference on Child Care this coming fall. Across the federal government, there are many efforts -- from research to technical assistance to training initiatives -- that affect the quality and supply of child care. The President is committed to building on these efforts to serve Americas working families better.

On xxx at xxx in xxx, Elena Kagan, Deputy Assistant to the President and Deputy Director of Domestic Policy, will chair an interagency meeting to discuss recommendations from federal agencies on the upcoming White House conference and discuss possible child care policy initiatives. Please designate a senior official from your agency to participate in this meeting, which we intend to be the first of an ongoing interagency working group. The representative should call xxx at 456-xxxx for clearance purposes. Please ask your agencys representative to develop and bring to the meeting a brief memorandum (of approximately three to five pages in length) that documents efforts relating to child care. Specifically, the memorandum should include:

1. A list and assessment of existing projects and programs funded by your agency that target child care for children ages birth through adolescence. These may include special publications, demonstration grants, research, conferences or other projects. With the exception of GSA, please include projects that affect the general population, rather than child care for federal employees.

2. A list and assessment of any planned projects, programs, and events of your agency that target child care, including projected funding levels and population to be served.

3. Proposals, as specific as possible, for additional projects and programs that could be undertaken to improve and expand child care services for children of working families.

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Sally Katzen

SUBJECT:Heads Up on DOJs Interim Verification Guidance

We have just concluded review of DOJ guidance that will provide agencies administering Federal benefit programs (including State and local agencies) basic information on whether and how to verify immigration status of benefit recipients. (Under the recently enacted welfare and immigration laws, certain benefit programs are now prohibited from providing benefits to particular categories of immigrants.) The guidance, which will be published in the Federal Register, also reinforces the importance of civil rights laws that prohibit discrimination; identifies immigration documents acceptable for verification; and defines the terms "Federal public benefit", "Federal means-tested public benefit" and "qualified alien".

The guidance is not binding. It will nonetheless attract some attention. In particular, States may raise concerns with the added burden immigration verification places on them (even though it is required by law). It may also reopen the debate on the definition of means-tested benefits (which drew some criticism when it appeared in an earlier regulation). The advocate groups should not be opposed.

Please let me know if you have any questions.

cc:Maria Echaveste
Rahm Emanuel
John Hilley
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
Bruce Reed
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Kathy Wallman
Josh Gotbaum
Michael Deich
Larry Haas

DRAFT -- FEBRUARY 2, 1996

MEMORANDUM FOR:JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

As you know, the House Committee on Government Reform and Oversight has subpoenaed certain White House records, inclu-ding certain ones from your files. Please review your White House "records,"11For purposes of responding to the subpoena requests, please refer to the definition of "records" found in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve any "records"

1."related to the White House Travel Office matter22For purposes of responding to the subpoena requests, please use the definition of "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). or the White House Project33For purposes of responding to these requests, the term "White House Project" refers to an endeavour which "involved both improving the 'staging' of Presidential events as well as finding a way to utilize excess Presidential Inaugural Commission funds for outsourcing White House assistance or providing assistance to the White House."" that were created as of January 11, 1996; and

2.all calendars, "phone records (including message slips, phone logs, pages or any White House record of phone calls)" for the period May 1, 1995 through November 30, 1995.

Although this request is very similar to the December 19, 1995 request previously sent to you by the Counsel's Office, please be aware that it is broader in scope and seeks records created over a longer period of time. You do not need to provide any documents which have already been produced to the Counsel's Office in response to the December 19, 1995 request. However, it is extremely important that you conduct a thorough search of your records to determine whether you possess any additional responsive documents. Any such material should be provided to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 7, 1996.

September 29 , 1997

Dear Elena,

I wanted to thank you for speaking with the Kansas University students today. It was a treat to have you there. The University means a great deal to me and your participation was invaluable to the students. I heard great reviews!

If I can ever return the favor, please do not hesitate to call. Thank you again.

Sincerely,

Janet Murguia
Deputy Assistant to the President
for Legislative Affairs/House Liaison

Ms. Elena Kagan
Deputy Assistant to the President
for Domestic Policy
2nd Flr, West Wing
Washington, D.C. 20500

UNCLASSIFIED
WITH SECRET ATTACHMENT

May 27, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: ERSKINE B. BOWLES

SUBJECT: Issues Update

This memorandum reviews several key issues being tracked by the White House offices today.

CHINA MFN

*House Minority Leader Dick Gephardt Speaks Out Against Extending China MFN. Rep. Gephardt today urged Congress to reject your request that most-favored-nation trading status be extended to China for another year, saying that you have been "too weak" with China. Gephardt criticized Chinas human rights record and trade policies which he said include "blackmailing" companies into giving China technology and trade secrets that will make it an economic powerhouse. He added that major U.S. companies may miss out on some business contracts with China but Washington must maintain leadership on the human rights issue as it did in South Africa. Gephardt said he believed European countries and other major economic powers would follow the U.S. lead and China would eventually be forced to improve human rights policies. It is the second year in a row that Gephardt has opposed renewal of most-favored-nation status to China. Last year the House passed renewal 286 to 141.

FCC CHAIRMAN RESIGNS

UNCLASSIFIED
WITH SECRET ATTACHMENT*Today Chairman Reed Hundt of the Federal Communications Commission wrote to you to say that he intends to leave as soon as a successor is appointed. He intends to serve until that happens. His letter said that he wishes to spend more time with his family. A statement was issued in your name thanking him for his service and praising his accomplishments including progress on connecting the classrooms and libraries, improving children's broadcasting and completion of the World Trade Organization telecommunications agreement.

LATE TERM ABORTION

*Late Term Abortion -- Internal Planning. Sylvia Mathews chaired an internal staff meeting today to plan both a short-term and long-term course of action in anticipation of your veto of the late term abortion bill. The meeting resulted in the following assignments: Leg Affairs will monitor the status and timing of the House and Senate versions of the bill and

its ultimate delivery to you; DPC (Elena Kagan) will coordinate with HHS and DOJ regarding the departments' views on alternatives to the bill; DPC will also take the lead on developing policy ideas on women's health and other issues to counter the focus on abortion issues; Public Liaison will organize meetings with (1) core pro-choice groups to hear their ideas regarding plans for sustaining the veto and future efforts to recast the choice and (2) broader women's groups to discuss an agenda of women's issues.

ECONOMIC REPORT

*Consumer Confidence at 28 Year High. In May, Consumer Confidence, as measured by the Conference Board, rose to its highest level since July 1969. Also, the preliminary estimate of Consumer Sentiment by the University of Michigan indicates that it is the highest it has been since the survey began in the 1950s. CEA reports that this mirrors what other economic data are telling us: economic performance is the strongest it has been in decades.

The Conference Board release shows that the percentage of consumers who feel jobs are plentiful jumped in May, and the number of people reporting unfavorable labor market conditions fell to an all-time low. This is a reflection of the very strong labor market: since January 1993, the economy has created more than 12 million jobs, and the unemployment rate has fallen below 5 percent for the first time in 24 years.

The Conference Board survey also showed that consumers are more optimistic about the future. Respondents expect business conditions and employment prospects to improve over the next six months. This is consistent with our economys strong fundamentals: the deficit has been cut by 77 percent since 1992, helping spark this remarkable period of strong growth and low inflation.

Although measures of consumer attitudes can bounce around a lot from month-to-month, these high readings are not just a statistical quirk. Both Consumer Confidence and Consumer Sentiment have been rising steadily since 1993. And, both indexes have been at the high end of their historical ranges for the last several months.

CABINET REPORT

*Blue Ribbon Schools. Today, Secretary Riley named 262 public and private elementary schools selected as 1996-97 Blue Ribbon Schools, honoring schools that offer a rigorous, rich curricula to all of their students. The awardees excelled in the following areas: High student retention and graduation rates; challenging standard and curriculum; excellent teaching; school, family and community partnerships; and student performance on measures of achievement. The schools recognized this year are in 41 states, DC and Puerto Rico.

NSC REPORT

**See attached report from the NSC.

g\data\travel\subreq\JCS

DRAFT -- FEBRUARY 7, 1996

MEMORANDUM FOR:JANE SHERBURNE

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

As explained in our February 1, 1996 memorandum to all staff of the Executive Office of the President, the House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its Travel Office investigation. In addition to the records identified in our February 1 memorandum, the Government Reform Committee also seeks certain other records from your files. Please review your White House "records,"11For purposes of responding to the subpoena, please refer to the definition of "White House Travel Office matter" found in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve the following records:

All calendars and phone records, message slips or phone logs . . . made to or from any of the following individuals, from May 1, 1995 through November 30, 1995 regarding the White House Travel Office matter22For purposes of responding to the subpoena requests, please use the definition of the term "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). or the case of U.S. v. Billy Ray Dale:" Jon Yarowsky, Natalie Williams, Miriam Nemetz, Abner Mikva, Margaret Williams, Capricia Marshall, Patsy Thomasson, John Podesta, Catherine Cornelius, Mark Gearan, Bruce Lindsey, David Watkins, Janet Greene, Betsey Wright, Webb Hubbell, Bill Kennedy, Jeff Eller, Neil Eggleston, Cliff Sloan, Mike Berman, Harry Thomason, Darnell Martens, Beth Nolan, James Hamilton, Susan Thomases, James Lyons, Roy Neel, John Gaughan, any employee of the Military Office,33See attachment 2 for a list of all employees of the Military Office from January 20, 1993 through the present. Larry Herman, John Shutkin, any employee of KPMG Peat Marwick,33We are aware that at least he following KPMG Peat Marwick employees were involved in some aspect of the White House Travel Office matter: Larry Herman, Dan Russell, Leslie Casson, Carolyn Rawdon, Nicholas DiCarla, Charles Siu and John Shutkin. Billy Ray Dale, Barney Brasseaux, John Dreylinger, Ralph Maughan, John McSweeney, Robert Van Eimeren, Gary Wright, David Bowie, Pam Bombardi, Tom Carl, Stuart Goldberg, Lee Radek, Jamie Gorelick, Adam Rossman and David Sanford.

It is extremely important that staff members conduct a thorough search for responsive documents. Each Assistant to the President or Department head should ensure that his or her staff members conduct such a search. Please provide any responsive materials to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 12, 1996.

February 1, 1996

MEMORANDUM TO HAROLD ICKES

From:Jeremy Ben-Ami
Betsy Myers
Nancy Ann Min
Debbie Fine

Subject:Abortion Issues Status

As per your request, attached is an updated summary of abortion issues in the appropriations and authorization bills.

Also attached is the earlier version of this we sent to you. Please call us if you have any questions.

cc:Carol Rasco
Alice Rivlin
Alexis Herman
Martha Foley
George Stephanopoulos
James Castello
Elena Kagan
John Hart
Susan Brophy
Janet Murguia
Tracy Thornton
Judy Gold

FESIGNED BILLS

1.Treasury Postal - Forbids the FEHB from providing federal employees the option of purchasing health insurance plans that include abortion coverage, with an exception for coverage where the life of the mother is at stake, and for cases of rape and incest.

The President signed the bill on November 19, 1995, though Statements of Administration Policy (SAP) had indicated our opposition to this provision. The signing statement by the

President did not mention the issue.

2.Department of Defense Appropriations - Signed by the President on November 30, 1995, this overturns the President's January 1993 Executive Order allowing abortions to be performed at overseas medical facilities using private funds. Life, rape and incest exceptions are included. SAPs and the President's signing statement indicated the Administration's concern with this provision.

3.Foreign Operations Appropriations - After several SAPs conveying the Administration's opposition, this bill was signed by the President as a part of the most recent Continuing Resolution (the 9th CR) on January 26. It had been stalled for months between the House and Senate primarily because of differences over family planning funding for overseas organizations. The House language reinstated "Mexico City" policy, which denies all family planning funding for overseas organizations if they perform abortions or speak out about reproductive choice, even with private money. (The President had signed an executive order when he came into office reversing "Mexico City".) The Senate language maintained the President's policy.

Unable to resolve differences over "Mexico City" policy, the appropriations committee maintained the President's policy, but reduced funding and complicated its administration: without an authorization bill, no international family planning funds will be released until July 1st. Starting July 1st, international family planning funds can be distributed -- but at 65% of the FY95 appropriation. This amounts to approximately $80 million less funding than would otherwise likely have been appropriated for FY96 (based on a rough estimate from AID). Furthermore, the money must be spent in 15 equal installments -- which results in an extremely difficult process for administering the funds on a month-by-month basis. In addition, the UNFPA will be funded by the same guidelines: starting July 1st at 65% of FY95 spending in month-by-month installments.

The "Mexico City" policy may appear again in the international affairs authorization bill, which has passed the House and the Senate but has not been conferenced. The House and Senate bills are very different from each other in many ways, however, and it is possible that they will not successfully conference the two.
4.9th Continuing Resolution -- Human Embryo Research: A provision in the 9th Continuing Resolution prohibits the use of Federal funding for: (1) the creation of human embryos for research purposes, and (2) research in which embryos are "destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero" under Federal law. The latter provision has the effect of applying the same standards to human embryo research funded by the Federal government that are applied to research using fetuses. It is important to note here that human embryo research is not the same as fetal tissue research, which is conducted on tissue that is the product of a fetus that has been aborted or miscarried.

Impact on Administration Policy:
*In January 1993, the President issued an Executive Order lifting the Bush Administration ban on Federal funding of research involving transplantation of human fetal tissue from elective, induced abortions. Such research, which is subject to strict requirements and safeguards, could lead to advances in women's health and in treatment of diseases like leukemia and Parkinson's. The provision in the 9th CR on human embryo research does not have any effect on the President's Executive Order.

*On December 2, 1994, the President stated that funding of research on human embryos, "...

raises profound ethical and moral questions as well as issues concerning the appropriate allocation of federal funds... I do not believe that federal funds should be used to support the creation of human embryos for research purposes, and I have directed that NIH not allocate any resources for such research." Although the provision in the 9th CR goes further than the President's policy -- restricting some research that could have been allowed under his policy -- it does adopt part of his position.

*The provision in the 9th CR does not have any effect on any research currently funded by NIH, which has not yet allocated any funds for human embryo research. At the same time, it does restrict research not affected by the President's directive that hold promise for improving human health; such as treating infertility and preventing birth defects.

AWAITING ACTION

1.District of Columbia - This bill is now out of Conference and has passed the House; it has not yet been voted on in the Senate. It contains virtually the same language on abortion as the 6th CR, signed by the President earlier this year.

The 6th CR, which funds D.C. through the end of the fiscal year, prohibits the D.C. government from spending local funds to pay for abortions, with life, rape and incest exceptions. The D.C. Appropriations bill prohibits the DC government from spending Federal or local funds on abortions, with life, rape and incest exceptions. The main issue here is that these restrictions on the use of local funds -- in the CR and in the appropriations bill -- do not apply to any other state or local government.

2. Department of Defense Authorization: This enacts into law the reversal of the President's Executive Order passed and signed in the DOD appropriations bill. The Administration's opposition to this provision has been stated in a number of SAPs as well as in the President's statement vetoing the original bill. We believe that it requires a strong statement in the signing statement.

3.Labor/HHS - has passed the House; awaiting floor action in the Senate.

House bill (1) allows states to deny Medicaid funding for victims of rape and incest; (2) overrides standards set by the American Council on Graduate Medical Education which require ob/gyn residents to be trained in abortion procedures by allowing hospitals denied accreditation for not providing abortion training to remain eligible for federal funds; (3) contains the same restrictions as were passed in the 9th CR on human embryo research. The Senate committee bill did not contain these provisions. We have expressed strong opposition to 1 and 2 in SAPs.

4.Commerce, Justice, State - President vetoed on December 19, and his statement referred to opposition to a provision that prohibits use of Justice funds for abortions for female prisoners, with exceptions in cases involving rape or danger to the life of the mother. The Justice Department thinks there is a strong likelihood that this provision could be held unconstitutional.

PP

It is worth noting that in response to this significant reduction in funding, Secretary Christopher has directed State and AID to channel additional funding into programs that indirectly support family planning in an attempt to offset the cuts; such as girls education and maternal health.

The NIH was in the process of developing plans to establish an advisory committee to review proposals not affected by the President's directive.

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Jack Lew

FROM:Don Arbuckle

SUBJECT:Proposed DOI Rule Limiting Use of Personal Water Craft (i.e., "JetSkis") in National Parks

We are about to conclude review on a Department of Interior proposed rule that would restrict the use of Personal Water Craft (PWC), i.e., "JetSkis," in areas controlled by the National Park Service (NPS), including National Parks, National Recreation Areas, National Seashores, and National Lakeshores. The proposed rule sets forth the policy that PWC use is inappropriate in all such areas. However, 12 specific areas where PWC use is already common would be given two years before the ban takes effect. In addition, NPS intends to exempt another 13 specific areas where PWC use is common and where such use is consistent with the enabling legislation of that area. For all other park areas, each area would need a separate rulemaking to allow PWC use.

This policy responds to complaints from park visitors about the aggressive behavior of PWC users, resulting in excessive noise, conflicts with other visitors uses, and safety concerns. In addition, environmental and conservation groups, as well as recreational groups (i.e., canoe, kayak, hiking, and camping interests) have expressed keen interest in this rulemaking. In fact, one group has communicated its intent to sue NPS if any PWC use is allowed at all.

On the other hand, PWC users, boating enthusiasts, manufacturers, and their associations are equally concerned over their continued access to waters in park areas.

NPS believes that this rulemaking is necessary, because there is no consistent NPS policy on the use of PWCs and because of the uncertain authority for specific areas to resolve these issues independently. Considerable public comment on the proposed regulation is expected.

FF

cc:Maria Echaveste
Rahm Emanuel
Larry Stein
Ron Klain
Thurgood Marshall, Jr.
Ann Lewis
Sally Katzen
Minyon Moore
John Podesta
Bruce Reed

Gene Sperling
Elena Kagan
Barry Toiv
Michael Waldman
Janet Yellen
Mickey Ibarra
T.J. Glauthier

May 30, 1996

MEMORANDUM FOR JOHN HILLEY

From: Peter Jacoby
Jamie Rubin

Subject: Campaign Finance Reform

It appears that campaign finance reform legislation will soon receive serious consideration on the floors of both the Senate and the House. In the House, Majority Leader Armey has announced that it will be part of a package of "reform" bills to be considered on the floor of the House during the week of July 8. In the Senate, Senators McCain and Feingold have filed their bipartisan campaign finance reform bill as an amendment to the Department of Defense authorization bill scheduled for floor consideration next week. The Senators hope that this manuever will force the Republican leadership to grant floor time for their measure later this summer.

During the House debate on campaign finance reform, it is likely that three alternative packages will be considered: 1) a Republican leadership proposal; 2) a Democratic leadership proposal; and 3) a bipartisan package offered by Congresswoman Linda Smith and Congressman Meehan. A summary of the Democratic leadership plan and the bipartisan plan is attached.

The Republican leadership bill, which is still taking shape, is likely to contain provisions to implement the U.S. Supreme Court's Beck decision. This decision allows union members to direct that their union dues may not be used for political purposes. The Republican plan will also require a majority of contributions to come from within the candidate's district. Finally, Republican reformers (and Speaker Gingrich and Majority Leader Armey) would like to include a PAC ban in their leadership bill, but this proposal has run into heavy rank and file opposition and its disposition is uncertain. If the PAC ban is not included in the bill, PAC contribution limits and individual contribution limits ($5,000 and $1,000 respectively) will be equalized. The Republican bill is scheduled for Committee markup in mid-June.

During several meetings of an informal campaign finance working group (comprised of Kathy Wallman and Elena Kagan, Paul Weinstein, Michael Waldman, and Bill Curry) several consensus positions emerged:

1) The House Republican Leadership bill is a poison pill and if presented to the President it would likely garner a veto.

2) The proposed Democratic leadership bill falls short of the President's past positions and should not be endorsed.

3) The President has to reassert his strong desire for campaign finance reform legislation. Specifically, he should reiterate his support for meaningful, bipartisan reform legislation such as the McCain/Feingold bill and the Meehan/Smith bill. The President is already on

record for supporting the McCain/Feingold bill.

Note:

Communications Workers of America v. Beck was a Supreme Court case decided in 1988. The plaintiff was an electrical worker for US West. Although he was not a member of the telecommunications workers union (and therefore paid no union dues), Beck was required to pay the union "agency fees" so he wouldn't receive free the benefit of the union's labor negotiations. Beck sought a refund of his agency fees on the grounds that the union used some of his money for objectionable political purposes (i.e. PAC contributions to candidates he opposed).

The Supreme Court ruled in favor of Beck and ordered the union to refund to him whatever portion of his agency fees it didn't use for labor-management negotiations. At issue now is the effectiveness of procedures for assuring that agency fee-payers understand and can exercise their rights under Beck. Republicans have for several years claimed that unions make the refund process far too difficult and that the amount refunded is too low. Republicans have also tried to extend the effect of Beck to all union members.

January 29, 1997

MEMORANDUM FOR DON BAER
ELENA KAGAN
PAUL WEINSTEIN

FROM: KUMIKI GIBSON
JONATHAN WEISS

RE: FOLLOW-UP ON COMMUNITY EMPOWERMENT RE STATE OF THE UNION

As a follow-up to our attached memorandum yesterday for the State of the Union, we are providing for inclusion more detail about the "Community Empowerment Act" legislation and also, as promised, a community empowerment "success story"

I. "COMMUNITY EMPOWERMENT ACT"

Please note that by the time of the State of the Union, the legislation will have been introduced by Sen. Carol Moseley-Braun and others in the Senate and Rep. Charles Rangel in the House. When mentioning the legislation, we would like to have the President salute the leadership of Rep. Rangel and Sen. Carol Moseley-Braun in leading the effort. Suggested language:

We are working with Congress to enact the "Community Empowerment Act," which would provide a second round of Empowerment Zones as well as a tax incentive to encourage the redevelopment of Brownfields. I want to congratulate Rep. Charles Rangel and Sen. Carol Moseley-Braun for leading this legislative effort and wanted to especially single out Rep. Rangel for his decades of service in helping to lift up our Nations distressed areas.

II. SUCCESS

Set forth below is a personal "success story" on community empowerment for suggested use in the speech:

One of the many new businesses creating jobs in the Empowerment Zones is one in the Baltimore Empowerment Zone called Elder Health. This one-year-old business, designed to provide health care services for the poor elderly in the neighborhood, is located on a cleaned-up and renovated Brownfields site -- a former railroad warehouse.The company now employs more than 50 workers. Many of its workers are Zone residents like a woman named Jonaz Nixon. Jonaz had spent the last three years unemployed and on welfare before getting the opportunity to work there last May. She has since already been promoted -- and has changed her life around. She now plans to move her career further forward by taking the next step: Going to college part-time so that she can earn her B.A. Jonazs story and the new opportunities being created in our poorest areas tell of the tremendous potential of our community empowerment efforts in giving people the chance to make the most out of their lives.

* * *

Please contact us if you need additional information about our community empowerment work in general or this story in particular.

g\data\travel\subreq\JRY

DRAFT -- FEBRUARY 7, 1996

MEMORANDUM FOR:JONATHAN YAROWSKY

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

As explained in our February 1, 1996 memorandum to all staff of the Executive Office of the President, the House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its Travel Office investigation. In addition to the records identified in our February 1 memorandum, the Government Reform Committee also seeks certain other records from your files. Please review your White House "records,"11For purposes of responding to the subpoena, please refer to the definition of "White House Travel Office matter" found in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve the following records:

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It is extremely important that staff members conduct a thorough search for responsive documents. Each Assistant to the President or Department head should ensure that his or her staff members conduct such a search. Please provide any responsive materials to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 12, 1996.

If you have any questions regarding the House subpoena, please call Special Counsel Jane

Sherburne (6-5116).

Memo to E Bowles on JTC Estimates
- -JTC Update.doc
May 14, 1998
JTC Update.doc
MEMORANDUM FOR ERSKINE BOWLES

Through:Frank Raines
From:Joshua Gotbaum
Re:Joint Tax Estimates

As we discussed last night, the Joint Tax estimates are not as far from OMBs as some people feared.
Net Receipts to Government Over FY99-03: $69.4 Billion vs our $71.2 Billion. The Joint Tax estimate had been reported to be lower than that ($51.9b) because they keep their records for a different 5-year period than we do, FY98-02; since the bill wouldnt become effective until FY99, theyre only showing four years of actual payments. (After the five years, their receipts drop because of a mistake in the S. 1415 volume adjustment, which Senate Commerce will correct. The attached numbers include the effects of the mistaken volume adjustment, so the figures for after 2003 should be ignored.)
Payments Per Pack are Higher than OMB, but Not $2.00. By 2003, they are showing $1.89 in inflated (nominal) dollars. Thats $1.68 in FY99$. They get up to $2.02 in inflated dollars in 2004 ($1.74 real), including the effects of a fee on exporters that we believe Senate Commerce will drop, plus lookback. We have scheduled a meeting with them this afternoon to find out as much as we can about the remaining differences. Some of those

(e.g., coverage of smokeless and cigars) might be changed in a Senate Commerce managers amendment; others well just have to explain our differences in assumptions.

An Excise Tax at $1.10 Would Raise Much Less. Although JCT is showing the $1.10 excise tax as raising roughly the same amount of money over five years, by 2003 its 15% less each year. The only reason theyre showing comparable amounts within the 5-year period is that they go to $1.10 more quickly than McCain.

c:Bruce Reed
Elena Kagan

MEMORANDUM FOR ERSKINE BOWLES

FROM:Sally Katzen

SUBJECT:Heads-up on FDAs Notice on Unpasteurized Fruit and Vegetable Juice

We are about to conclude review of a Notice that sets forth FDAs plans to address several outbreaks of foodborne illnesses (primarily from e-coli bacteria) from consumption of certain unpasteurized fruit and vegetable juices. The Notice outlines FDAs intent to propose two rules -- a rule requiring certain producers of unpasteurized fruit juices to institute a HACCP (Hazard Analysis and Critical Control Points) program designed to control hazards that may occur during processing; and a rule requiring labels warning consumers of the risks associated with drinking unpasteurized juices. In addition, the Notice encourages unpasteurized fruit juice producers to voluntarily and immediately place warning labels on fresh juices such as apple cider in anticipation of the 1997 apple cider season (only a few weeks away).

This Notice is not binding at this time. It will nonetheless attract some attention. Consumer groups will applaud the plans, but may comment that FDA is not acting swiftly enough in this area; industry, including particularly small apple growers who specialize in unpasteurized juices, will likely be wary of new mandates that are perceived as costly and difficult to implement. If you have any questions, please call my Special Assistant, Michael Fitzpatrick (5-1247), as soon as possible.

cc:Maria Echaveste
Rahm Emanuel
Thurgood Marshall, Jr.
John Hilley
Ann Lewis
Sylvia Mathews
Bruce Reed
Chris Jennings
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Josh Gotbaum
Larry Haas

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 Reimburesement 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 (Pam Barr 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 (USGS) to Propose Buyout (Gary Reisner x54806)

National Park Service Concessions Report Submitted to OMB (Gary Reisner x54806)

DOJ/DOI Initiaitive 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, USDA's 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 Administration's 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 Administration's 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 EPA's 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 HHS's 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 EPA's 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 Senate's 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 aren't 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 DOI's 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 CNMI's Governor expressing his concern over CNMI's labor, immigration and law enforcement practices. Recently, CNMI's immigration and labor practices have been the subject of critical articles in the Reader's 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 -- NRD's 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.

October 25, 1998 DRAFT

MEMORANDUM FOR: Bruce Reed
Elena Kagan

FROM:Cynthia Rice
Andrea Kane

CC:Paul Weinstein

SUBJECT:Welfare Reform and the FY 2000 Budget

[Proposals below designed to meet the following six goals -- move more people from welfare to work, help working families stay employed, ensure more parents pay the child support they owe, encourage both parents to be actively involved in their childrens lives, chincreaseemployment of people with disabilities. Many of these goals can be advanced through executive action as well, as noted below].

This text was in the 9/15 memo:

1. Helping the Hardest-to-Employ Get and Keep Jobs.

Extend Welfare-to-Work Grants and Strengthen Focus on Fathers. Funding for the $3 billion grant program that the President fought for in the Balanced Budget Act ends in FY 1999. These funds are targeted at the hardest-to-place welfare recipients, and non-custodial parents of children on welfare, and at concentrated areas of poverty. 75% of the funds are allocated to states, who in turn pass them to local Private Industry Councils and 25% of the funds are available on a competitive basis. We expect DOL to propose extension of the grant program in their FY 2000 budget proposal. We should consider revising the statutory language to increase the focus on increasing employment of fathers. While there is a significant level of interest in serving this population, there is likely more we could do to increase the quantity and quality of services. This should also increase support from the Ways & Means committee as Shaw is very interested in fatherhood issues. Possible approaches include requiring states and communities to designate a minimum portion of WTW formula funds for fathers, setting aside a portion of competitive grant funds for this purpose, or earmarking funds for needed technical assistance and capacity building on this relatively new area. Other changes worth considering: shifting more funds toward competitive grants, increasing tribal set aside (currently 1%), and streamlining data collection requirements. Assuming level funding, this would cost $1.5 billion annually.

* Request Additional Welfare-to-Work Housing Vouchers. We are unlikely to get the full 50,000 housing vouchers requested for FY 99. This approach continues to have merit, both in helping families move from welfare to work and as a catalyst for changing the way local housing authorities, and HUD, do business. Cost to fully fund 50,000 vouchers is $283 million. Some, including Deich and Edley, have also suggested allowing housing authorities to convert Section 8 vouchers that are turning over to the more flexible approach of the WTW vouchers.

* Invest in Increasing English Language and other Literacy Skills. There is evidence that

those with low education levels have a harder time leaving welfare. There is also emerging evidence that English language may be a barrier for some minority welfare recipients, including immigrants. We may want to explore whether there is more the federal government could do to increase access to ESL and other basic education that is combined with work, though this does not necessarily have to be done with TANF funds. We need to first explore what is available, whether there are successful models that can be replicated, and what the demand is.

2. Helping New Workers Succeed in the Workforce/Achieve Self-Sufficiency.
There are several ways to ensure people moving from welfare to work can get to their jobs:

Request full $150 million authorized for Access to Jobs for FY 2000 (TEA-21 set guaranteed funding from the Highway Trust Fund at $60 million for FY 2000). This would allow DOT to fund more competitive grants. Note these funds can be spent on current and former welfare recipients, as well as families up to 150% of poverty so they help the working poor as well.

Donate surplus federal vehicles to welfare to work programs. These could be given, leased, or sold to current and former welfare recipients for whom public transit it not a viable option, including those living in rural areas. Cars could be allocated through community-based organizations or intermediaries. This could be modeled after the initiative to donate federal computers to schools.

* Help former welfare recipients access funds to purchase cars. In some areas, public transit is not a viable option for a family moving from welfare to work. In addition, owning a car is something many poor families aspire to, and something that helps them become part of the economic mainstream. Family Services of America, and other organizations, currently offer revolving loans for low income families to purchase cars. FSA's model currently operates in 20 sites and is scheduled to expand to 60 sites later this Fall, with partial funding from foundations and private financial institutions. They are also seeking federal funding to help with this expansion. Possible sources include: HUD, Treasury, DOL WTW grants, as well as existing federal and state TANF funds. Another option is to expand allowable uses of IDAs to include purchasing a car needed to go to work.

* Connection between TANF and Unemployment Insurance. There is growing interest in exploring the relationship between these two systems. Historically, few welfare recipients have qualified for UI, and some have essentially used AFDC as a form of unemployment insurance. As more welfare recipients joining the labor force, we need to consider the most appropriate way to provide income support to them between jobs. Various approaches include: (a) changing rules of the UI system that make it hard for former welfare recipients to qualify for UI once they go to work and in the event they lose a job and (b) creative uses of federal TANF or state MOE funds to provide income support to people in between jobs. Either approach should be accompanied by a strong effort to promote job retention and rapid re-employment. This could be considered as part of a more comprehensive UI reform initiative that NEC has been considering, but it would not depend on that. NOTE: NGA has a grant to explore this issue and several states are trying innovative approaches. While we do not have to frame the issue in terms of planning for economic downturns, it seems prudent to address this issue earlier rather than later.

* Optional State Coverage Expansion Through Eligibility Simplification (see Health section).

*Transitional Medicaid. Families can currently receive Transitional Medicaid for up to 12 months after leaving welfare, but only about 20 to 30 percent of eligible families are enrolled. The program has many procedural hurdles that make it more difficult to access than regular Medicaid coverage and the 12 months transitional period is too short for many families. The budget could eliminate some of the current prescriptive reporting requirements now in the law (that, for example, requires families to report earnings in the fourth, seventh, and tenth months of coverage and divides the 12 months of coverage into two 6 month segments with different co-pay and benefit rules) and allow states to provide a full 12 months of coverage without regard to changes in family circumstances, similar to the 12-month option for children that was adopted in the Balanced Budget Act. In addition, the budget could provide states the option of extending transitional Medicaid to 24 or 36. These ideas need to be fully discussed, vetted, and costed out. The current program reauthorization sunsets in 2001.

*Extend the Work Opportunity Tax Credit and Welfare-to-Work Tax Credits (WOTC has already expired and WTW will expire in 1999).

DISABILITY POLICY

1. Expanding the Defense Departments "CAP" program. The Defense Departments Computer Accommodations Program ("CAP") purchases equipment for DOD employees with disabilities to allows them to keep working if they become disabled, or for new employees just joining the workforce. By using a central $2 million fund for such purchases, individual offices do not have to bear the cost within their own budgets, and are less likely to be deterred from hiring a person with a disability. CAP is also able to get better prices on equipment through its bulk purchases and expertise. It has a showroom to help employees try out appropriate adaptive devices (CAP makes the decision on what equipment is purchased, not the employee). It has provided over 9,000 accommodations since its inception in 1990. This program is a good example of how employers and employees are taking advantage of new (and increasingly cheap) technology, such as computers for the blind that talk and listen, and alternative computer keyboards for people with dexterity problems, that allow people with disabilities to work. Expanding the program has the strong support of the Administrations appointees with disabilities, in particular for Tony Coelho, chair of the President's Committee on Employment of People with Disabilities.

Defense has estimated that it would cost $8 million a year to expand CAP government-wide, but this is likely overstated since CAP now serves the entire Defense Department for $2 million a year. A more realistic range is $2 -5 million a year. While having DOD perform this service for all federal employees is a bit unusual, they have a great deal of expertise at this task and they are ready to take on the added responsibility.

2. Tax Credit for Disability Related Expenses. [See "Health" section, above.]

3. New BRIDGE grant program. This program would provide incentives for state and local agencies and private organizations to form interdisciplinary consortiums of service providers (employment, health, transportation, etc.) to better assist people with disabilities in going to work. NEC and DPC will receive revised proposal shortly from the Presidents Task Force on Employment of People with Disabilities and will evaluate and vet. Estimated cost for this three-year grant program is $150 million a year.

4. Information and Communication Technologies for People with Disabilities. NEC has

developed draft proposals now being vetted to ensure that new technologies will be designed from the beginning to be accessible to people with disabilities. Ideas include leveraging federal government procurement, investing in R&D, funding industry consortia, training the next generation of engineers, etc. (Tom Kalil is working on this, coordinating with DPC and OMB).

MEMORANDUM
COUNCIL OF ECONOMIC ADVISERS

February 28, 1997

To:Janet Yellen

From:Chris Ruhm

CC:Alicia Munnell

Subject:Federal Policies Targeted To Children in Their Earliest Years

Attached is a copy of the Memorandum from the President directing heads of executive departments and agencies to report by March 24, 1997 on existing, planned, or proposed projects targeting the earliest years of life. Although we are only peripherally involved in such efforts, I assume that we are required to provide some type of response. Towards that end, I have included a copy of the memo I sent to Elena Kagan regarding our proposed white paper on investments in young children. Please let me know if something similar is sufficient to respond to the Presidents memorandum or if we wish to provide a more detailed response.

January 22, 1996

MEMORANDUM FOR JANE SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

ELENA KAGAN
ASSOCIATE COUNSEL TO THE PRESIDENT

FROM:TERRY GOOD
OFFICE OF RECORDS MANAGEMENT

RE:SUBPOENA FOR DOCUMENTS

Attached are copies of various documents in response to your request for:
any and all documents and/or communications referring or relating to the location, efforts to locate, production, efforts to produce, whereabouts, or existence of documents referring or relating to: (a) legal representation provided by, legal work performed by, or Rose Law Firm compensation allocated to Hillary Rodham Clinton; or (b) legal representation provided to or legal work performed for Madison
Guaranty Savings & Loan.

November 18, 1997

MEMORANDUM FOR DISTRIBUTION

FROM: ELENA KAGAN
DEPUTY ASSISTANT TO THE PRESIDENT
FOR DOMESTIC POLICY

RE: DEPUTIES MEETING ON CHILD CARE INITIATIVE

As you know, the President announced that he will unveil a child care initiative in his 1998 State of the Union Address. The Domestic Policy Council has been leading a policy development process, with significant input from various federal agencies and White House offices, to develop policy options on child care for the Presidents consideration.

The purpose of todays Deputies-level meeting is to discuss various policy options for the child care initiative that have been developed over the past months. At the meeting, representatives from the Departments of the Treasury, Health and Human Services, and Education will make brief presentations of several proposals, with the balance of the meeting reserved for discussion.

Attached for your review please find several documents: 1) an overview paper which outlines current federal investment in child care, proposes goals for a new child care initiative, and summarizes the policy options for discussion at the Deputies meeting, and 2) the policy proposals developed by various agencies (which are summarized in the overview paper).

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MEMORANDUM FOR ELENA KAGAN

From:Sandra Thurman
Director, Office of National AIDS Policy
(202) 632-1090

Date:October 31, 1997

Re:Letter from Bob Fogel

Thanks for sending along a copy of the letter from Bob Fogel to the President. Ive spoken with Bob a number of times since the letter was written, and I think hes feeling more comfortable. He spoke with both the First Lady and Bruce Lindsey at a Chicago event, which was helpful for him.

I have drafted a response from the President to the letter for your review. I will continue to communicate regularly with Bob.

Let me know if you have any questions.

Todd

November 20, 1998

Memorandum for NEC Deputies

From:Sally Katzen

Subject:Mondays Meeting on an Initiative on Adult Basic Skills

At the Deputies meeting on Monday at 2:30 pm in Room 100 we will discuss a set of proposals to support a Presidential initiative on adult basic skills. Attached is a background memo briefly describing most of the potential components of this initiative with additional materials on how to subsidize workplace education to be provided by the Department of Education and the Treasury Department at the meeting.

The purpose of this meeting is to get each agencys views on the various components of the initiative (with the exception of the workplace education component) before it is presented to President; those attending should be prepared to commit their agencies. In addition, we will finalize the background memos on subsidizing employer-provided workplace education through tax credits and/or grants in preparation for presenting options to the Principals.

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James OConnor - SBA
Betsey Myers - SBA
Kevin Thurm - HHS
Patricia Ruggles - HHS
Robert Mallett - Commerce

November 19, 1998

DRAFT ... DRAFT ... DRAFT ... DRAFT

The Partnership for a Literate America: Filling the Gaps in Adult Education and Literacy

An alarming number of American adults -- 44 million according to the National Adult Literacy Survey -- struggle with a job application, cannot read to their children, or are left on the welfare rolls because they lack basic skills. Many have a learning disability and never knew it. Often, they do not know where to get help, are embarrassed to seek it, or cannot because of family responsibilities. Others are immigrants who face long waiting lists in many cities where they seek English-as-a-Second Language courses. This initiative would build on and improve our existing programs for adult basic education (see the attached description) in order to provide these Americans with every possible opportunity to get screened for learning disabilities, improve their basic skills (in reading, writing, and arithmetic), and learn to speak English: at the workplace, in the community, or in the privacy and convenience of their home.

Potential Components of the Initiative:

1.Expanding the quality and capacity of the adult education system: An increase in funding for the adult basic education system by $85 million (to $450 million) for FY2000 and to $1 billion by FY 2005. An informal poll by the Department of Education suggests that about one-half of States would first investment in program quality (such as increasing the number of full-time teachers, expanding the of technology in adult education systems, achieving greater intensity of instruction, and increasing support services including child care, transportation, and counseling). The other half would expand program capacity in family literacy and instructional services.

2.Jump-Start for Literacy: Quality Teaching for Adult Learners: Improving the quality of adult basic skills instruction by making funds available to States to support professional development for adult education teachers over a five-year period. In order to receive participate, States would provide a 25% match of the Federal contribution to fund specialized preservice and inservice training for teachers in teaching subject matter to adults in contexts such as work or citizenship, teaching to high standards, teaching learning disabled adults, assessing learning gains, and using technology as an educational tool for adults. (Cost: $50 million annually, if all states participated.)

3.ESL Civics Initiative: Common Ground Partnerships: Target the 6-12 States that are home to the majority of immigrants as well as localities within other States that have significant concentrations of immigrant populations to establish systemwide ESL/civics programs to help immigrants adapt to their new lives in America. These partnerships would be cooperative agreements with the Dept. of Education so that the design and implementation of each States activities could be coordinated and overseen by the Dept. (Cost: $40 million annually if only fund States; $60 million if also fund cities.)

4.Filling the Gap: A 21st Century Workforce Education Initiative: Encourage employers to provide workplace education in two ways:

*Either through a tax credit to employers or with federal grants to employers. (Cost: To be determined.)

*Establish State Workplace Extension Service coordinators who would work with employers on how to use the workplace more effectively as a learning environment. (Cost: $12.5 million annually.)

5.High Skill Communities Campaign: Create a framework in which States and local communities could mobilize and implement, according to their needs, strategies to promote lifelong

learning and literacy and accelerate progress in meeting state and national goals related to adult education and lifelong learning. A "Community Lifelong Learning Assessment Toolkit" would be developed that would include: estimates of state and local literacy levels to help establish baseline data and set community goals; tools for assessment, organizing a campaign, building community partnerships, and submitting applications (with examples of bylaws, surveys, plans, report forms, resolutions/letters, budgets, and administrator job descriptions). If we were to follow the model in Georgia, we could "certify" communities that meet certain criteria. (Cost: $0 if bully pulpit or $15 million if fund state coordinators and substate grants for outreach and partnership building.)

6.America Learns Technology: There is an array of programs to develop and demonstrate practices and products that may be successfully used in adult education programs across the country, including:

I. Content/software development: The government could cost-share the development of instructional material with publishers and software companies to encourage the private sector to develop higher-quality material for adult basic education, ESL, GED equivalence, etc. Some of the content could be customized to particular skill standards, such as those developed by the National Retail Federation. The idea would be to make content available in multiple formats [Web, CD, game player, interactive television.] It might also be possible to get matching funds from community colleges or employers. (Cost: $1-3 million. 10 grants for ~ $20 million.)

II. Pilots and evaluation: The government could provide matching grants to communities that deploy and evaluate the use of these new technologies for adult literacy (rate of completion, results on relevant tests, other learning outcomes).

Cost: $250K per pilot - 80 grants for $20 million.

III. Community access points: We need to expand the number of places in the community that have access to computers, software and the Internet. We have an existing program to provide support for community computing centers that is funded at $10 million. Note that the e-rate is already connecting libraries, which play an important role in some adult literacy programs.

Cost: $250K per center per year. Existing program could fund 40 centers. Adding $10 million to the program could double the number of centers funded. Communities could also be encouraged to keep their schools open longer, which will have computers and Internet access.

IV. Recruiting 50,000 volunteer tele-mentors: The government could provide a grant to an organization to help recruit and train people that could serve as "tele-mentors" for adults participating in online literacy programs. For example, organizations such as "Impact Online" are using the World Wide Web to recruit volunteers for a variety of non-profit organizations. Companies such as Hewlett-Packard are encouraging their employees to serve as tele-mentors. (cost: $2 million per year.)

V. Research and development: Preliminary results have shown that advanced technologies such as speech recognition and intelligent tutoring systems can significantly improve student outcomes. R&D is needed to advance the state-of-the-art and train the next generation of software developers. (cost: $1 million per research team - 10 grants for $10 million year.)

VI. Bully pulpit: We could challenge the private sector to help out by, for example:

*Making the content available at video rental stores, or making it available on cable and WebTV;

*Exploring new business models that make this market more attractive for software developers (e.g. getting a local chamber of commerce to purchase a "site license" for an entire metropolitan area);

*Making the use of technology for adult basic education part of the "Welfare to Work" effort.

VII. Ensure that the other elements of the literacy initiative are designed with technology in mind: For example, it should be an eligible expenditure for the workplace tax credit for employers to provide their employees with home PCS and courseware.

Outstanding Policy Issue:

Should we use tax credits or grants to subsidize the provision of workplace education? (Treasury and the Dept. of Education will provide options at the meeting.)

Background on Adult Education

The Adult Education Act is the major source of Federal support for basic skills improvement. Basic grants to States are allocated by a formula based upon the number of adults, over age 16, who have not completed high school in each State. States distribute funds to local providers through a competitive process based upon State-established funding criteria. Local programs of instruction emphasize the acquisition of basic skills including: reading, writing, computation, communication and problem solving. Courses of instruction include Adult Basic Education (ABE), Adult Secondary Education (ASE), and English as a Second Language (ESL).

The new Adult Education Act (passed in the Workforce Investment Act) establishes new, researched based criteria for program quality and provides strong accountability for results. Under the new law, states will set goals for adult learner achievement and will negotiate those levels with the Department prior to plan approval.

The Federal investment in adult education for FY 99 is $385 million. Of that, $365 million goes directly to states to support adult education and literacy services. States are required by law to provide a 25% match for adult education funds, but recent assessments show the Federal investment leverages more than three times the required match in State and local funds for adult education and literacy programs. The average per learner Federal expenditure is less than $300 annually in current dollars; using constant 1995 dollar values, Federal spending per participant dropped from $274 in 1966 to $73 in 1998.

More than 4 million adults in 4,000 adult learning centers participate in adult education annually. Between 1990 and 1994, the Adult Education State Grant program enabled 1.5 million adults to complete high school or earn a GED. Yet, the 1994 National Evaluation of Adult Education Programs found that current programs serve only a small percentage of adults in need of services and that many participants leave before they achieve any

literacy gains (primarily for personal reasons such as child care and transportation that are unrelated to instructional program quality).

Over the last decade, adult education enrollment has increased by nearly one-third. English language instruction for limited English proficient adults is the fastest growing component of the adult education program, with enrollments increasing 72 percent in the last ten years. Adult basic education enrollments have increased by 46 percent. Adult education is currently experiencing an influx of out-of-school youth whose goal is secondary education completion. Large urban areas report an unmet demand for ESL services. States are being called upon to simultaneously meet the demand for increased adult education services and to improve program quality.

One area greatly in need of improvement is training for adult education teachers. Most adult education teachers work part-time. Many are elementary and secondary education teachers who do not have formal training in teaching adult learners. A majority of adult education teachers are employed by public school districts. Other organizations that employ adult education teachers include community colleges, universities, large corporations, speciality schools, job training centers and religious or community-based organizations. A majority of States do not have a system for certifying adult education teachers. Many adult basic education and ESL teachers, as well as volunteer instructors, receiving little training in subject matter content or in the process of teaching.

FEBRUARY 20, 1996

MEMORANDUM FOR:DAVID KENDALL

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its investigation into the "White House Travel Office matter."11For purposes of responding to the subpoena requests, please use the definition of "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). Please review any White House "records22For purposes of responding to the subpoena requests, please use the definition of "records" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). that may be in your possession that were created on or before January 11, 1996, and retrieve the following:

1."All records related to the General Accounting Office review of the White House Travel Office."

2."All records related to the Justice Department's Office of Professional Responsibility review of the White House Travel Office."

3."Any records related to American Express obtaining the White House Travel Office business including all records related to any contact with GSA or American Express."

4."All records related to the Peat Marwick review of the White House Travel Office and any subsequent reviews such as that performed by Tichenor and Associates and any records reflecting any contacts, communications or meetings with any Peat Marwick attorneys or officials."33We are aware that at least he following KPMG Peat Marwick employees were involved in some aspect of the White House Travel Office matter: Larry Herman, Dan Russell, Leslie Casson, Carolyn Rawdon, Nicholas DiCarla, Charles Siu and John Shutkin.

5."Any records of any contacts or communications related to any IRS matter regarding UltrAir and/or any IRS matter regarding any other White House charter company, any IRS matter related to any of the fired seven travel office employees, or any other IRS matter related to the White House Travel Office and any records of contact or communi-cations with IRS Commissioner Peggy Richardson by Mack McLarty, Webb Hubbell, Bruce Lindsey, Vince Foster, Bill Kennedy, or any other member of the White House Counsel's office44For a list of employees serving in the White House Counsel's Office from January 20, 1993 to the present, see Attachment 2. from May 1, 1993 to" January 11, 1996."

6."All records related to the Treasury Inspector General's investigation of the IRS audit of UltrAir. (The investigation requested by Rep. Frank Wolf in May 1993)."

7."Any records relating to any proposal to use independent financing or unused Presidential Inaugural Committee funds to assist anyone on the White House staff, outsource White House duties or tasks, or otherwise assist White House operations. This would include records regarding any efforts, both inside and outside the White House to explore, evaluate or implement such proposal. It would also include records of any subsequent analysis of such efforts."

8."Any records relating to or mentioning the finding of the note in Mr. Foster's briefcase or any other location following his death, any Travel Office records of Mr. Foster's and any records relating to the finding or existence of or explanations of any files of Mr. Foster's relating to the White House Travel Office matter, Special Government Employees, issues of nepotism, the use of volunteers or any efforts to obtain Office of Legal Counsel opinions on any of these matters and any records of any contacts with Mr. James Hamilton, Lisa Foster, Harry Thomason, Susan Thomases, James Lyons about Vincent Foster records."

9."Any records relating to Mr. Thomason, Mr. Martens, Ms. Penny Sample, Ms. Betta Carney and Mr. Steve Davison and any other World Wide Travel employees including, but not limited to, all records indicating what these individuals did while at the White House, any documents relating to issues arising out of any actions they took while at the White House, any personnel records, requests for passes or pass forms, requests for office space and any forms related to office space, phone or other equipment, and any records relating to any actions taken by these individuals regarding the White House Travel Office. (For Ms. Sample, this request would also include all trip files for trips she had any involvement with while at the White House.)"

10."All records about problems or allegations or wrongdoing in the Travel Office from January 20, 1993 to" January 11, 1996.

11."All tapes or videotapes produced by Mr. Thomason or any associates of his for the White House, the Bill Clinton for President Committee or the Clinton/Gore '92 Committee and all billings and financial statements relating to such work."

12."Any tapes, tape recordings, or videotapes of any kind related to the White House Travel Office, the White House Travel Office employees, or any allegations of wrongdoing by anyone in the White House Travel Office or any air charter company or other business doing business with the White House Travel Office."

13."All records relating to Travel Office funds and/or documents being placed in the White House military office and all records of any inquiries about related events."

14."All records of any contacts with David Watkins or Bill Kennedy from the time they ended their employment at the White House to" January 11, 1996.55Bill Kennedy's effective date of resignation was 11/21/94. David Watkins' effective date of resignation was 6/17/94.

15."All Executive Order documents located in Mr. Foster's Travel Office files and/or his briefcases."

16."All records related to Harry Thomason and/or Darnell Martens discussing pursuing contracts with GSA, all records related to ICAP (Interagency Committee on Aviation Policy),

and any records of the White House Counsel's office analyzing the issues raised by Mr. Thomason and Mr. Martens actions at the White House."

17."All records related to any sexual harassment complaints about Mr. David Watkins during the Clinton/Gore 1992 campaign or during his tenure at the White House and any records of meetings, actions, or communications regarding such complaints and all records related to the $3000 per month retainer provided to Mr. Watkins by the Clinton for President campaign."

18."All records of any contacts, communications or meetings regarding the `Watkins memo' produced to the Committee on January 3, 1996 and the chain of custody of this memo."

19."All indices or catalogues of Vincent Foster's office, tapes, computer and documents and who received each document from his office."

20."All records relating to the actions of Mr. Watkins at the White House regarding the use of White House helicopters, the names of all individuals in the two helicopters used in May 1994 for Mr. Watkins golf outing and all records relating to his departure from the White House."

21."All records relating to the matter of United States of America v. Billy Ray Dale, any investigation by the Justice Department into the White House Travel Office matter (as defined in the accompanying "Definitions and Instructions"), and all records relating to Billy Ray Dale as well as any records of talking points prepared about Mr. Dale."

22."All records related to the gathering of documents for any review or investigation related to the White House Travel Office matter (as defined in the accompanying "Definitions and Instructions"). This includes, but should not be limited to, the White House Management Review, the IRS internal review, the GAO Travel Office review, the OPR (Office of Professional Responsibility) investigation, the Public Integrity investigation, the Treasury IG investigation, the FBI internal review, Independent Counsel Robert Fiske, and Independent Counsel Kenneth Starr."

It is extremely important that staff members conduct a thorough search for responsive documents. Each Assistant to the President or Department head should ensure that his or her staff members conduct such a search.

We recognize that, in many respects, the House subpoena is identical to the December 19, 1995 document request previously sent to you by the Counsel's Office. You do not need to provide any documents which have already been produced to the Counsel's Office in response to the December 19, 1995 request, or any other prior request. But for all other responsive records that fall within the above categories, please provide such materials to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 7, 1996.

If you have any questions regarding the House subpoena request, please call Jane C. Sherburne (6-5116) or Associate Counsel Wendy White (6-7361).

Thank you for your cooperation.

FF

April 7, 1998 (Draft)

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. The participants in the discussion are expected to be a local farmer, a farmer who represents growers statewide and has worked well 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, and a community activist who has helped bring farmers and health advocates together. Secretary Glickman will also participate on the panel, and Governor Patton and Senator Ford will be present but speak at the second event.

After the roundtable, you will travel to a school where you will address students and reinforce the message of reducing youth smoking.

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. The majority of burley tobacco producers in Kentucky favor continuation of the federal price support program.

Many Kentucky tobacco farms are very small. The average Kentucky tobacco farm plants only 4.5 acres of burely 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. However, large farms dominate Kentuckys burley tobacco business. Last year, 70 percent of the total burley sold came from only 26 percent of the farms.

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.

According to USDA, Kentucky experienced an abnormal year for their 1997 burley tobacco crop. Adverse weather conditions resulted in tobacco with high moisture content that was of a 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 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 plus a modest reserve, and then divides up the right to grow that full amount among the quota holders. The burley quota can be sold, rented or leased. In addition, the tobacco program 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, which are 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.

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. You, however, made protecting tobacco farmers and their communities one of the five key elements of your plan for comprehensive tobacco legislation.

Legislative Background

Three types of legislative approaches for farmers have been discussed. First, Senator Lugar proposed legislation that would quickly "buy-out" quota owners from the governmental system at approximately $8 a pound. In Senator Lugars plan, tobacco prices would then be subject to the free market. Second, Senator Ford proposed legislation that would maintain the current quota system, while also compensating farmers (up to $8 per pound) for the difference between the prices they would have enjoyed without legislation and the diminished prices they may experience. Senator Fords bill also includes transition fund for communities. Finally, Senator Robb had proposed legislation that would combine elements of both of the above approaches. He sought to buy-out farmers, but replace the quota system with a production control system based on permits. Unlike quotas, permits would be given only to those who actually grew tobacco and could not be bought or rented.

Senator Fords proposal, the LEAF Act, appealed mostly to burley growers like those in Kentucky who have small farms and want to continue the quota program. Senator Robbs

approach gained some support from flue-cured farmers (based mainly in North Carolina, South Carolina and Virginia) who believe the buy-out and license system better fits more capital-intensive flue-cured production. Senator Lugars approach has not attracted widespread support; even tobacco-state senators like McConnell who philosophically favor this approach probably will not come out for it publicly.

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. 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, and retains the quota system for those who do not take the buyout, but provides payments to both remaining quota holders, lessees, and tenants to the extent that base quota declines. 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 transferring of quotas from inactive quota holders to actual producers was part of the Senator Robbs proposal and is intended to make it possible for 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 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, and allowing only active producers stay in program. Permits may not be sole or leased, but may be transferred to descendents.

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 limiting right 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 which create farm and off-farms employment, expanding infrastructure, 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.

Costs Incidental to the Program: All USDA costs associated with tobacco are paid out of a tobacco growers trust fund, including administrative costs, crop insurance, cooperative extension service costs, and any other costs.

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.
*Economic development grants set at $375 million less administrative costs for first ten years.
*Assistance for dislocated workers set at $25 million annually for ten years.

Secretary Glickmans Trip to Kentucky

Last Friday, on April 3, Secretary Glickman and Tom Freedman traveled to Lexington, Kentucky 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

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.

FF

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 burely 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.

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 Lugars 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 Deputys 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 Administrations objectives. We hope to obtain sign-off on this language at a DPC/NEC Deputys 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 employees 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 isnt 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. Weve 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. Heres 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 its 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. Weve 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 subside 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 Dashcles 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:

FF

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:

FF

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 mandaotry 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 2/5/99Record

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

FF

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 AdministrationPolicy 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 suugest 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.

FF

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

FF 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 reviseddraft 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

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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 werent 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 werent 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)
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

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

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--"Reports" (Letters

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--Draft Bills

DRAFT BILLS RECEIVED FOR CLEARANCE DURING PAST WEEK

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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 Eurpoeans 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.

FFDARLENE -
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

-- Testimony

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 appears 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 governments 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 Wisconsins BadgerCare Program: On Friday, HHS approved Wisconsins 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. Wisconsins 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 appraised 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 find.

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 dont 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 Smiths 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 years "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 Armey 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 todays 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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~~CONFIDENTIAL~~

TO: MORLEY
FROM:JEFF
RE:MY TRANSITION ISSUES

First, let me again say that I hope that youll 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 didnt 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 Commissions 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 dont go off track.

2. Intervention. As a matter of principle, Ive 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 theyre 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 shes 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 dont 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 dont particularly like working with Gerry. They will, of course, work with whomevers representing the VP. But, particularly because of the sensitivity of some of the issues, Gerry should not be the only person theyre 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 youll 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.

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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)
FFInterior 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 Rockefellers 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 Utilitys 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 dont 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 arent 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 plaint 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 Holdrens 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 NSFs 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 agencys 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 tomorrows 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 Wests 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 OMBs 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 issued 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.

Attachements: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).

PP

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 enhancment 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 of 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 similalrly 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 Barkesdale 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. Satchers 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.

NLWJC – Kagan

Hard Drive – Folder 9

M E M O R A N D U M

TO:Don, Ann, Rahm

FROM:Eli

RE:Possible Presidential Involvement/Action on "Tuskegee Study"

DATE:Thursday, January 30, 1997

A quick report on a meeting this afternoon with Kitty Higgins, Elena Kagan, HHS Chief of Staff Bill Corr, and Assistant Secretary for Health Philip Lee.

Background

As you know, between 1932 and 1972 the Public Health Service (now part of HHS), together with the Tuskegee Institute, conducted a long-term study of untreated syphilis known as the "Tuskegee Study." For the purposes of the study, federal, state and local officials allowed about 400 African-American men to go untreated for syphilis, even though treatment was available. (11 of these men are still alive.) The study was stopped only after it became public in 1972. The government then agreed to provide medical care to the victims and their families for the rest of their lives.

The Governments Study

In 1996, CDC and HHS sponsored a Tuskegee Syphilis Study Committee (technically the Presidents committee, although I do not believe he has ever publicly commented on the issue). In May, 1996, the Committee issued a report which recommended that the President apologize on behalf of the government. The report also suggested initiatives in minority health, training for health care workers serving in minority communities, and a clearinghouse to help investigators conduct ethically responsible research. The study has gotten a great deal of media attention, much of it focussed on the fact that the incident has fueled African-American distrust of government and public health authorities.

HHSs Request for a Presidential Event or Message

HHS is now requesting some kind of Presidential involvement -- ranging from a proclamation or press statement, to an actual Presidential event. They initially asked that this happen before February 10th (which is clearly impossible), because that is when an HBO movie about the Tuskegee Study will premiere; at the very least, they would like to do this by the end of February, which is African-American History Month.

HHS was arguing that the President should simply issue an apology, since that was the Committees main recommendation. Apparently, HHS was not prepared to act on any of the Committees other recommendations. Kitty, Elena and I agreed that it is almost certainly not worth Presidential involvement unless we can show real action. HHS promised to report back ASAP with possible steps that could be taken.

The key questions are:

Is this issue worth the Presidents involvement, even if we can show action?

If so, is it better to quietly issue a proclamation or statement or to design an actual event?

If not, should HHS do something on their own?

Please advise; once we receive more options from HHS, we plan to hold another meeting on this issue.

MEMORANDUM

TO:ELENA KAGAN
CYNTHIA RICE

CC:KEN APFEL
JOHN MONAHAN

FROM:ANNE LEWIS

RE:COMMENTS ON DRAFT TEXAS LETTER

DATE:MARCH 31

I do not think the Texas letter as it currently stands takes a strong enough position.

The language is very cautious and I believe could be read as a more ambiguous signal then we intend to send. Suggestions for strengthening it are:

3rd graphRewrite : HHS believes states must bear in mind Section 1902 of the SSA which establishes the principle that ....

Delete the qualifier, "In general ..."

4th graph:Add a sentence which explicitly states that while the Medicaid principle is the basis for our guidance, we do not wish to imply that the incentives in Medicaid are analagous. (HHS can craft appropriate language.)

7th graph:Rewrite: "HHS endorses the search for increased efficiency and accelerated innovation through the use of outside contractors. At the same time, however, we emphasize thast contract terms must assure program integrity and embody incentives that tightly align contractors interests with program goals. Further, contract terms must provide for the kind of complete and transparent data that allows for meaningful evaluation and on-going competition.

August 5, 1997

MEMORANDUM FOR BRUCE REED
GENE SPERLING
ELENA KAGAN

FROM: Jose Cerda
Emil Parker
Ellen Seidman
Paul Weinstein

SUBJECT: NEC/DPC Economic and Community Empowerment Work Group

I. Proposed Membership

DPC: Paul Weinstein, Jose Cerda, Cynthia Rice, Diana Fortuna
NEC: Jonathan Kaplan, Emil Parker, Peter Orzag, Ellen Seidman
OVP: Jonathan Weiss, Julian Potter
CEA: Sandy Korenman
OMB: Michael Deich, Steve Redburn
CEQ: Keith Laughlin
Treasury: Michael Barr,
Office of the Comptroller: Matt Roberts
HUD: Paul Leonard, Gloria Robinson
Labor: Ray Uhalde
HHS: David Garrison, Don Sykes
Transportation: Jan Lieber
Interior/BIA: (need candidate)
SBA: Ruth Sandoval
USDA: Carl Willock
EPA: Tim Fields, Harriet Tregoning
Energy: Mark Mazur

II. Look Back

A. Ask CEA, Treasury, and OMB to review economic and other data on major Administration economic development initiatives, including CRA reform, Empowerment Zones/Enterprise Communities, CDFI program, reform of Low Income Housing Tax Credit and Mortgage Revenue Bond Program, Public Housing Reform, Home-Ownership Initiative, SBA One Stop Career Centers/Job Training, and the Brownfields pilot program.

B. CEA survey of data and literature on urban and rural economic development

C. Clinton record on issues with impact on race.

Overall Economy:
1. Impact of 1993 Economic Plan

2. Impact of 1997 Balanced Budget Agreement

III. Implementing New Initiatives in Balanced Budget Agreement

Welfare Jobs Initiative -- The reconciliation bill includes the President's proposal to create $3 billion Welfare to Work Jobs Challenge to move long-term welfare recipients into lasting, unsubsidized jobs. These funds can be used for job creation, job placement and job retention efforts, including wage subsidies to private employers, transportation and other critical post-employment support services. The Labor Department will provide oversight but the dollars will be placed, through the Private Industry Councils, in the hands of the cities who are on the front lines of the welfare reform effort.

Welfare-to-Work Tax Credit -- This provision will give employers an added incentive to hire long-term welfare recipients by providing a credit equal to 35% of the first $10,000 in wages in the first year of employment, and 50% of the first $10,000 in wages in the second year, paid to new hires who have received welfare for an extended period. The credit is for two years per worker to encourage not only hiring, but also retention.

Brownfields Tax Incentive - The tax incentive will be available for three years. The Treasury Department estimates that this $1.5 billion tax incentive will leverage more than $6 billion for private sector cleanups nationwide, allowing redevelopment of 14,000 brownfields. It is not yet clear whether EPA and HUD will be successful in securing funding for their proposed expansion of the Brownfield pilot program

Increased CDFI Budget Allocation -- The House has agreed to fund the program at $125 million next year.

2nd Round of Empowerment Zones -- the reconciliation bill includes, a second round of EZs --15 urban and 5 rural EZs. The new EZs will benefit from a different blend of tax credits from first-round EZs. They will be eligible for the Brownfields tax incentive, special expensing of business assets, and qualification for private-activity bonds. The selection of the new Empowerment Zones is a major initiative on its own.

DC revitalization plan

IV. Possible New Initiatives

This list is by no means exclusive; we expect members of the group to suggest other proposals and areas for exploration.

The Ten Best Mayors Tour -- The working group would identify the ten most successful mayors, Democrats and Republicans, and go and meet with them and their staffs to discuss their best economic development ideas: Lead DPC/NEC.

Affordable Housing and Housing Mobility -- Look at a possible expansion of vouchers and AT proposals to address housing discrimination and mobility issues: Lead HUD/ NEC.

Expand Low-Income Housing Tax Credit (LIHTC)-- The President fulfilled in 1993 his commitment to make this credit permanent. LISC has proposed lifting the cap on the LIHTC

to allow for expanded use of the credit targeted to the development of housing for individuals moving out of public housing: Lead Treasury and HUD.

Fannie Mae/Freddie Mac/Federal Home Loan Banks/Farm Credit System -- these organizations and systems remain a relatively untapped resource of housing and economic development lending for low-income individuals and underserved communities and business groups: Lead Treasury and HUD.

Serving the "Unbanked" -- Treasury is engaging in an effort to further expand lending, investment, and basic banking services to the unbanked. This includes an initiative to provide money to financial institutions to insure that REASONABLE ATM use is free for individuals living in distressed communities, financial education programs, etc.: Lead Treasury.

Metropolitan Coordination and Collaboration -- Proposals to encourage region-wide coordination, especially in areas such as welfare-to-work, transportation, environment and education: Lead OMB, CEQ with extensive DOC, DOT, and HUD participation.

Sustainable Development -- Brownfields is the best example this Administration has of combining good environmental policy with sound economic development design. CEQ has undertaken a large effort to review current best practices of sustainable development. The working group needs to task them with coming up with their best ten ideas to promote the cleanup of the environment and encourage private investment in our cities: Lead EPA, CEQ, Treasury, HUD.

Small/Minority/Women-Owned Business Equity Capital, Entrepreneurship -- Policy proposals could be considered in areas including microlending, CDFI tax credits, and CRA credit for additional categories of bank investment: Lead Treasury, SBA.

CRA Principles for Nonbanks. Explore methods of applying CRA principles to nonbank providers of financial services; e.g., mortgage companies, insurance and securities firms: Lead Treasury, DPC, NEC.

Welfare-to-Work Tax Credit -- monitor utilization and explore options to channel some portion of the tax credit benefits to nonprofits: Lead Treasury, NEC, DPC.

August 12, 1996

MEMORANDUM FOR JACK QUINN

FROM:Ken Apfel

SUBJECT:Food Stamp Eligibility

We had a conversation about whether children of noncitizen parents are eligible to participate in the Food Stamp Program if the children are United States citizens. I asked my staff to research this issue. This memo outlines how citizen children are treated under current law and how this would differ under enacted welfare reform legislation.

Under current law, only citizens and legal immigrants are eligible to receive food stamps. For households that meet the Programs income eligibility criteria, the amount of food stamps provided is based on household size and household income. A household without any income would receive the maximum benefit established for a household of that size. As household income increases, the size of the food stamp benefit declines.

Under current law, an income eligible household composed of a legal immigrant parent and a citizen child is eligible to receive food stamp benefits for a household of two persons. If the parent is an illegal alien, the citizen child is eligible to receive food stamps for a household of one person. The size of the food stamp benefit would be calculated using a prorated portion of the parents income. In other words, a proportion of the ineligible persons income is included in the determination of eligibility, but the ineligible person is not counted as part of the household in calculating the size of the benefit.

The welfare reform legislation passed by Congress would ban most legal immigrants from receiving food stamps until citizenship. Citizen children would continue to be eligible for food stamps and the size of the benefit would be determined based on procedures similar to those outlined above for households with some eligible and some ineligible members. The one difference is that the welfare reform legislation would give States the option to include all of the income from ineligible household member when calculating benefits, rather than a prorated share. Although it is questionable whether many States would exercise this option because food stamp benefits are 100% Federally funded, it would simplify State administration.

cc:Elena Kagan
Bruce Reed

MEMORANDUM TO THE DIRECTOR

THROUGH:CHARLES KIEFFER

CC:JACK LEW
REBECCA CULBERSON
JILL BLICKSTEIN

FROM:Alice Shuffield
DATE:April 28, 1997
RE:Pending SAPs likely to come up in Tuesdays 7:45 a.m. meeting

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Attached are two pending draft SAPs on bills that will go to the House or Senate floor on Tuesday. Upon her return from Philadelphia on Monday night, I spoke to Sylvia Mathews about each of the SAPs. She is concerned about (1) their substance, (2) our short turn-around time for sending them to the Hill, and (3) running them by the President on his day off.

Below is an outline that details the development the SAPs, and explains the short time frame. In addition, it describes or recommends remaining steps to reach final clearance. At this point in the process, the two SAPs will follow different courses of action, but both SAPs prompted Sylvias concern.

1.S. 543 - Volunteer Protection Act of 1997
Pending SAP: Administration Opposes

Sequence of events:
oFirst heard of possible scheduling of bill: Thursday, 4/24
oMotion to proceed to bill appeared: Friday, 4/25
o LRD developed and circulated the SAP to the agencies: Thursday and Friday, 4/24-25
oThe Senate filed cloture late Friday on the motion to proceed to the bill, with a vote to occur on Tuesday at 2:15.
oEOP clearance began Monday, 4/28, and the SAP went through numerous iterations and revisions in the EOP clearance process. (Vicki Radd was notified of potential issue on Monday around 2:30 pm.)

On Monday afternoon, we held a conference call with all interested parties, including Bruce Lindsey/Bill Marshall (WHLA), Elena Kagan (DPC), Ellen Seidman/Kathy Wallman (NEC), Victoria Radd (COS), and Tracy Thornton (WHLA). Michael Deich did not participate in the call, but concurred with the product. Attached is the SAP that resulted from that discussion.

Sylvia Mathews saw the statement late Monday night, however, and argues that it mis-represents the Presidents National Service position. She directed Elena Kagan to draft a memo to the President for the Chief of Staff to raise to him on Tuesday. OMB, DPC, NEC, WHLA, and Justice agree that we oppose the bill in relation to product liability, as stated in the attached SAP. But the context of the Presidents Volunteer Summit today, our opposition could be misleading. Another option is that we could simply not send a SAP up

at all.

2.H.R. 1342 - To Provide for a One-Year Enrollment in the Conservation Reserve Program (On Tuesdays House Suspensions Calendar)
Pending SAP: The Secretary of Agriculture will recommend veto.

Sequence of Events:
oReported out of the Committee: April 17, 1997
oPlaced on the House calendar: April 23, 1997
oLRD developed and circulated the SAP to the Agencies: Thursday and Friday, April 24-25
oEOP clearance (with WHLA and COS) began Monday afternoon, April 28
oNeed to send SAP by 2:00 pm Tuesday for House Floor action

USDA wants the statement to say the Secretary would recommend that the President veto the bill. Unfortunately, they have not communicated this to the Hill. OMB, CEQ, and WHLA concur with the Secretaries position, but want to ensure communication with the Hill before we send our statement up.

Sylvia Mathews asked OMB to prepare a memorandum to the President explaining the USDA veto threat. However, given that this is not a senior advisers or a Presidential veto threat, we do not believe a memo to the President is necessary at this time. T.J. will coordinate with USDA in the morning to make sure USDA has consulted with the Hill, and he will talk with Sylvia Mathews before we issue a statement.

MEMORANDUM

TO:BRUCE REED, ELENA KAGAN

FROM:TOM FREEDMAN, MARY L. SMITH

RE:VICTIM INFORMATION AND NOTIFICATION EVERYDAY ("V.I.N.E.")

DATE:NOVEMBER 18, 1997

SUMMARY

In June 1996, in conjunction with his support for a Victims Rights Amendment, the President directed the Department of Justice (DOJ) to "adopt a nationwide automated victim information and notification system." Following the Presidents direction, DOJ established a working group to look into the matter. The working group produced a report that outlines what the DOJ currently does to notify victims. In addition, as part of the FY98 Budget, DOJ has allocated $8 million for the FBI to try to create a software system to track victims. However, there is no immediate plan for a solicitation to be issued regarding software development.

Earlier this month, Governor Patton and Mrs. Patton from Kentucky met with Rahm Emanuel, Mickey Ibarra, Craig Smith, and Sylvia Mathews. In particular, the Governor highlighted that Kentucky has a statewide automated victim notification system called "Victim Information and Notification Everyday (V.I.N.E.)" that notifies self-selected victims when offenders are scheduled to be released from the states prisons and jails.

Following is background on steps DOJ has taken with regard to victim notification, how it might fit with other DOJ programs, a description of the V.I.N.E. system, statistics on V.I.N.E, and other considerations.

I.BACKGROUND

*In connection with the Presidents support for a constitutional amendment for victims rights, the President directed the Attorney General in June 1996 to "adopt a nationwide automated victim information and notification system," to work with other agencies to ensure victim participation, to "consider legislation that would prohibit employers from dismissing or disciplining employees who are victims of crime and whose participation as victims in criminal proceedings requires them to take time away from their employment," and to work with state officials to "achieve a uniform national baseline of protections for victims."

*In July 1997, DOJ developed a package of legislation that was sent to the Hill. As part of this package, DOJ proposed a bill entitled the "Victims Rights Act of 1997." Section 2 of this proposed bill included a automated victim information and notification system. This bill was never introduced.

*Kim Lesnek, who is a member of the DOJ working group on victims rights, reports that DOJ has done an assessment of current victim notification within the Department. The Bureau of Prisons currently notifies only victims of violent crime on escapes, parole hearings, and release dates.

*The DOJ working group considered the V.I.N.E. system, but did not pursue it. DOJ thought that the V.I.N.E. system did not meet its obligations under current law to make its "best efforts" to notify victims at various stages of federal proceedings. One of Ms. Lesneks main concerns about the V.I.N.E. system was that it required victims to register in the system, and the working group had read current federal law restrictively to require the federal government to proactively contact victims. However, when questioned, Ms. Lesnek admitted that currently federal prosecutors rely on victims to return completed forms, acknowledging that they want to be notified. Accordingly, current federal practice is not that much different in concept from the V.I.N.E. system. Ms. Lesnek indicated that the working group would be willing to take another look at the V.I.N.E. system.

*As part of the FY98 appropriation, DOJ received $8 million to look into developing a computerized victim-notification system that would link the Bureau of Prisons, the U.S. Attorneys Offices, and the Executive Office of the U.S. Attorneys. However, the working group needs to meet again to actually decide how DOJ will spend the money for developing this system. It had been anticipated that the FBI would take the lead in the development. The FY98 budget also allocated funds for approximately 93 new positions to perform victim notification in the U.S. Attorneys Offices. These positions perform much of the notification by mailing out notices.

*The Victims Rights Working Group has discussed the possibility of working with the federal debt collection team at DOJ in the future. Kathleen Hegerty of the Justice Management Division at DOJ reports that it expects to award a contract for development of software to collect federal civil debt only in January 1998. This software would be installed at the Executive Office of the U.S. Attorneys, the U.S. Attorneys Offices, Main Justice, and any Justice field offices. For instance, if these systems were able to talk to each other, the FBI could code in the victims names at the investigation stage, which could then be used to notify them at later stages in the proceedings such as when judgment is awarded and when the defendant is released from prison.

II.DESCRIPTION OF V.I.N.E.

*Information about inmates housed in local jails, adult correctional facilities, and certain juvenile facilities is available 24 hours a day, seven days a week. Through computer generated telephone calls, all registered persons will be contacted a predetermined telephone number when an inmate is scheduled for release or if an inmate escapes from custody. In addition to victims, law enforcement agencies and the general public have access to housing locations and release information through the 24-hour telephone service.

*Information available through V.I.N.E.
1.Status: If not in custody, the date the inmate was released will be given.
2.Location: Current jail or institutional address and telephone number will be given for inmates currently in custody.
3.Parole eligibility: If applicable, the next scheduled hearing date will be given.
4.Sentence description: If applicable, the tentative release date will be given.

*How a victim registers for V.I.N.E. A person requesting to be notified calls a toll-free number. The system will call the victim for an established period of time or until the requesting party acknowledges the receipt of the release information.

*Frequency of notification. Notification regarding the release of an inmate will be made every 30 minutes for a 24-hour period or until the registered person acknowledges receipt of the information. Notification regarding the release of an inmate from a state institution will be made, if possible, 72 hours before the inmates release. In cases of parole, changes in sentences due to immediate time credits, court-ordered discharges or escapes, the system will begin to call once the inmate is released.

*System Security. The V.I.N.E. system allows each person to register two telephone numbers. The system requires the victim to leave a four-digit, personal identification number (PIN). Use of the PIN is the only way to halt the notification calls.

*Victim Confidentiality. The inmate will not know who is registered under the system. Victims can register anonymously. The victims names are never in the system.

III.STATISTICS (from the V.I.N.E. materials)

*There are presently 3000 correctional facilities that would need to be connected to a computer system in order to achieve national coverage for victims that wish to be notified. A national system would include smaller county jails in addition to state penitentiaries and large jails. 50% of the jails in this country are small facilities.

*At present, Kentucky states that its V.I.N.E. system monitors approximately 170,000 of the countrys approximately 1,000,000 inmates.

*Kentucky estimates that a national V.I.N.E. system would cost approximately $14.5 million to connect all states correctional facilities and $24.8 million to operate annually thereafter. This estimate seems low.

*Based on its own experience, Kentucky estimates that a national system could be operational within 24 to 36 months from the initiation of the funding.

*The development of a national database of inmates could be used for other purposes in addition to victim notification. For instance, the Social Security Administration could use this information to suspend benefits to inmates who are housed in county jails. In addition, the information could be used to alert states to collect child support payments when inmates are released.

IV.OTHER CONSIDERATIONS

*Kentucky reports that it has not experienced any complaints similar to those surrounding the notification in Megans law, perhaps because here the notification occurs while the inmate is still incarcerated.

*Kentucky reports that it has experienced no liability problems such as victims suing the state or correctional facilities.

MEMORANDUM TO BRUCE REED

FROM:Ken Apfel

RE:Allowable Work Programs for Individuals Subject to the Food Stamp Time Limit

USDA has contacted my staff regarding three policy issues regarding the current law provision to limit food stamps for three months for childless able bodied adults between the ages of 18-50. This memo describes each issue briefly and provides my recommendations. I would like your input and assistance in providing feedback to the Department. Well need to resolve these issues quickly. Secretary Glickman is giving a speech to Public Voice on Thursday where he may announce several of these issues contrary to my recommendations.

Should USDA increase the level of "public fanfare" associated with the waivers it provides to States? States can seek waivers from the time limit for areas within the State which have high unemployment or insufficient jobs. About half the States have sought waivers and USDA has generally been approving them or working with the States to make the waivers permissible. The Office of the Secretary is very interested in starting big press events for each new waiver it approves -- in particular they would like to do one for D.C. I understand they may even be holding waiver approvals until this issue is resolved.

I have advised strongly against such a decision since the welfare implementation group has wanted to keep a low profile on the waivers. States and advocates know the Administration is working hard to assist them with waivers. Large press events probably will only earn the Administration and USDA attacks from opponents of the waiver policy -- who to date have been very quiet. I would recommend Diana call Greg Fraiser, USDAs Chief of Staff, and provide him with guidance on how to handle approval of the waivers and urge on-going press coordinate with the welfare reform implementation group.

Should food stamp recipients subject to the 3 month time limit (18-50's) be able to stay on the program if they are participating in a voluntary workfare program? Under the current restriction, childless adults between the ages of 18-50 cannot receive food stamps for more than 3 months in any 36 month period unless s/he is:
-working 20 hours per week or more
- participating in a work or training program 20 hours per week or more
- participating in workfare (no hour restriction), or
- otherwise exempt from the regular employment and training program

Workfare is defined as any program authorized under Section 20 of the Food Stamp Act or a comparable State program. According to the implementing regulations, there are two types of workfare programs: voluntary and mandatory. There are a couple of differences between mandatory and voluntary workfare:

MandatoryVoluntary
Sanctions for non-
compliance Yes No

Required Hours Generally, benefitsnegotiated between

divided by the min. wage.the individual and the organization providing

Can't exceed 30 per. wk.
the workfare slot. Can't exceed 30 hr. per wk.

FLSA AppliesYes Yes

Who Runs It?A State or a politicalSame.
subdivision

Let me first describe how I had thought the time limit would interact with workfare under current law. Some States would make an effort to provide workfare slots to individuals who hit the time limit. If an individual hit their 3 month mark, the State might offer them the opportunity to sweep the floors of a local church. The number of hours the individual would have to work at the church each month would equal their benefits/the min. wage or some standardized amount close to but not in excess of that amount. That is about 5 to 7 hours per week if just the food stamp benefit for a single individual is being worked off -- significantly less than the 20 hour requirement for other activities. As long as the individual keeps showing up to sweep, she keeps getting benefits.

If the individual doesn't show up for workfare, the church would report her non-compliance to the State. The State would terminate her benefits for the next month and put her in sanction. So even if the individual went out and got a job for 20 hours per week, she could not regain eligibility until the sanction period was over. This period could range from 3 months to a lifetime period depending on the number of previous sanctions and the State's choice. The sanction may seem like adding insult to injury but there is a certain logic. Compare this woman with a man who was not offered a workfare slot and who loses his benefits after the 3 month period expired. He would not receive a sanction. In fact, if he were able to find a job right away, he could regain eligibility immediately. Since he played by the rules, his change in work behavior would be rewarded while the individual who did not comply with the work requirements is punished.

The States and advocates have suggested that since voluntary workfare is authorized under Section 20, it would be an allowable activity at the end of the three month period. The main differences between voluntary and mandatory workfare is the number of hours required and the sanction policy. An individual can work 1 hour a week and still be in voluntary workfare. Also, if they fail to comply they are not subject to sanction. USDA thinks that since voluntary workfare is described in their own regulations as allowable under Section 20, they have to allow it as an acceptable activity for the 18-50 group. I agree that they have a compelling argument, but disagree that voluntary workfare is a must under current authorities.

USDA could interpret the new statute as only permitting mandatory workfare. They could make an administrative declaration that only mandatory workfare is allowed and follow up with regulations. In addition, USDA has the authority to turn down the voluntary workfare programs now. The current regulations say that if the Secretary can show that the benefits of the voluntary workfare program do not exceed the costs, they don't have to approve it. Given that the voluntary workfare option would only cost money, the Department could turn them down, although it would be a rather touchy approach to the problem.

Even if we agree with the Departments position, USDA can clamp down on voluntary workfare. They could require that voluntary workfare use the same hours requirement as mandatory

workfare -- the benefit divided by the minimum wage. They could also require that States require that the voluntary agency provide some proof that the individual actually came by to set up a placement before continuing the fourth month of benefits.

My staff has informed USDA that my position is the current policy and regulations should be changed. States should no longer able to provide voluntary workfare to the 18-50 group. This Administration has a solid tradition of supporting tough work requirements. While the structure of the food stamp time limit is unnecessarily harsh, I do not believe that we can allow something as unstructured and loose as voluntary workfare. I suspect USDA will want to discuss this issue further and may involve outside advocacy groups.

Finally, USDA also wants to publicly announce their proposed policy on voluntary workfare. Consistent with my first recommendation, I would strongly recommend against this strategy. The Administration should continue its quiet and very effective method of working with States and advocates.

Please contact me quickly so that we can discuss these issues.

cc:Franklin Raines
Elena Kagan
Diana Fortuna

September 21, 1997

To:Bruce Reed, Elena Kagan

From:Cynthia Rice

cc:Diana Fortuna, Elisabeth Stock

Subj:Status of Federal Welfare Hiring

The National Performance Review prepared a chart, which I will send you, which shows the varied success of agencies to date to meet their federal welfare hiring goals. Both the Executive Office of the President and the Office of Personnel Management have already hired 100% of those they pledged to hire by the year 2000. Also on the high end are the Social Security Administration (25%), the Department of Labor (22%) and HHS (19%). As of August 22nd, however, HUD had met 0% of its goal, Commerce and State 1%, and Justice 2%, EPA and NASA 3%. The Department of Education has hired only one person, 5% of its 21 person commitment.

The National Performance Review staff have been working with all the agencies on their performance. I recently worked with Anne McGuire and Barry Toiv to organize a meeting of agency policy and communications staff to reinforce the importance of 1) improving performance; and 2) managing press inquiries.

I thought it might be useful to send a note from you, Bruce, to all the members of the Domestic Policy Council saying "I thought you would be interested to see this chart comparing agency performance in meeting their federal hiring commitments. As you may know, agencies must report their fiscal year 1997 hires to the National Performance Review by November 15th. Contact Bob Stone at XXX-XXXX for more information." Ill make sure the idea doesnt step on any toes in the VPs office. What do you think?

*1.October 6, 1998

MEMORANDUM FOR THE CHIEF OF STAFF

FROM:Bruce Reed
Elena Kagan

SUBJECT:Meeting with Representative Waxman

Representative Waxman has requested this meeting to discuss Federal recoupment of Medicaid revenues. As you recently told Governor Chiles, we would relinquish our claim to state tobacco recoveries in exchange for the states agreeing to use half their money on the menu of seven items that we negotiated with the NGA as part of the McCain legislation (child care, child welfare, the maternal and child health block grant, the substance abuse block grant, the safe and drug free schools program, Eisenhower education grants, and the state match for the childrens health insurance program). We oppose the NGAs current proposal to eliminate our claims outright, allowing the states to use their funds in an unrestricted manner. While it seems unlikely that this issue will be resolved this year -- and we are not actively seeking a resolution at this time -- we do want to ensure that Senator Hutchison does not succeed in adding an appropriations rider codifying the NGA proposal.

Waxman objects to any attempt to resolve the issue this year, because he believes that any such resolution would deter passage of comprehensive tobacco reform next term. If something has to be done this year, however, Waxman is likely to prefer the position of the public health groups, who are calling for 20 percent of the federal portion of the settlement funds to be spent on tobacco control. Thus, they want 50 percent of the funds for unrestricted purposes, and 40 percent for the state menu, and 10 percent for tobacco control. Waxmans staff told us that they believe it is important to reserve funds from the state settlements for federal tobacco control initiatives, in case the state settlement gives Congress less of an incentive to pass comprehensive reform next year. It is worth noting that an equally, if not more compelling, argument can be made that funds used for this purpose may provide a greater disincentive for the passage of comprehensive reform, because Republicans will claim that we already have passed a bill.

Your goals for this meeting should be to convey:
(1) we are not actively pursuing a resolution to this issue;
(2) we will not support any resolution unless it includes, at a minimum, a range of Democratic priorities that are agreeable to all of us;
(3) our primary objective must be to work together to make sure that the Republicans do not pass a no-strings rider which prevents federal recoupment and allows unrestricted use of the funds;
(4) we believe that supporting the previously negotiated, NGA-based McCain menu is the best way to do that. Thus, we will support the McCain menu, and we will try to secure some funding for tobacco control as part of it if we can;
(5) if Republicans agree to other funding restrictions, or agree to reserving a portion for the federal government, then we can discuss at that time which restrictions would help us best achieve our goals.

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September 11, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

Health Care -- Medicaid and the Patients Bill of Rights: Next Thursday, you are currently scheduled to participate in a event in which you will announce the application of the patients bill of rights to the Medicaid program. This action will underscore that you are doing all you can to extend patient protections to Federal health plans but will also highlight the need for Federal legislation to extend these protections to all Americans. Although we have not finalized plans for this event, it may be done in conjunction with Members of Congress who also support strong enforceable legislation. As of this writing, it appears that in the absence of significant pressure Senator Lott will not bring the patients bill of rights up for a vote. Senator Daschle, however, is challenging Majority Leader on a nightly basis to schedule votes on this legislation.

Health Care -- Vice Presidents Health Care Event in New Hampshire: Next Friday, the Vice President is scheduled to join Governor Shaheen in a health care event to discuss a number of Administration health care priorities that have received great support in New Hampshire. At this event, the Vice President will highlight the approval of New Hampshires new Childrens Health Insurance Program, the application of the patients bill of rights to Federal Employees Health Benefit plans, a new grant to New Hampshire for support services for disabled individuals going to work, and perhaps an initiative related to programs for older Americans. This series of multi-generational initiatives will be extremely well received by the Governor and the state.

Education -- Charter Schools Legislation: The Administration is continuing discussions with Senate staff to reach agreement to bring a charter school bill to the Senate floor. The bill was approved by full committee with bipartisan support last month, and is generally similar -- with a few important differences that would need to be resolved in conference -- to a bipartisan charter school bill approved by the House last year. The final obstacle to approval by the full Senate appears to be a demand from Senator Harkin permitting a small portion of the funds to support "innovative" non-charter schools, in states where charter schools are not permitted. Senate Republicans (and Senator Kennedy's office) oppose this provision because it undermines one purpose of the bill -- to provide incentives to states to enact charter schools legislation. We are attempting to broker a compromise, either by helping Senator Harkin find ways of directing funds to innovative schools outside the framework of charter schools legislation, or by including in the charter schools bill a small demonstration program to support schools with most of the features of charter schools (i.e., a public school of choice with flexibility and a performance contract) but are located in a state without a charter school law. It is unclear whether either Harkin or the Republicans will accept this compromise.

Welfare Reform -- Caseloads Continue to Decline: Last week, USA Today published a misleading story saying the decline in welfare rolls is slowing. In fact, the rate of

decline is continuing to hold steady nationally, at about 2% per month and about 20% per year. The actual number of people leaving the rolls is smaller but -- because the rolls are smaller -- the rate of decline has stayed the same. For example, the rolls declined by 6 percent between March-June of 1997 and by 6 percent between March-June of 1998 (the article compared the two periods and claimed the national decline had slowed by 20%). However, the article correctly pointed out that caseloads in selected states such as Wisconsin, Idaho and Wyoming, which have experienced declines of more than 80% since 1993, are leveling off.

Welfare Reform -- GAO Report on TANF Surplus: At Congressman Shaw's request, GAO did a report on how states are using their federal and state welfare reform funds. The study confirms the general trend that HHS described in their recent report to Congress on TANF -- that with major caseload declines, many states are spending more per person and investing in services to help people get and keep jobs. Because of caseload declines, the fixed level of federal funding for TANF block grants, and the required level of state maintenance of effort, GAO estimates that there was $4.7 billion more in combined federal and state resources available for 1997 than there would have been under the old welfare system for the same period. On average, this equates to a 25 percent increase in funding although there is significant state variation. Funding was higher for 46 states, ranging from one percent in Alaska and Connecticut to 102 percent in Wyoming.

GAO found that a number of states significantly reduced state funding on welfare programs, but at least 22 states must still invest more per recipient than they did in 1996 in order to meet the laws maintenance of effort. For example, Michigan reduced its welfare spending by $42 million, but must increase spending per recipient by about 22 percent just to meet the maintenance of effort requirement. GAO found many encouraging examples of states investing in work-related supports including child care, training, and transportation. While many state officials have adopted the strategy of invest now in helping move the maximum number of people in to the workforce, others have set up rainy day funds to prepare for future changes in the economy. These federal TANF funds remain in the U.S. treasury until they are expended. In the news articles commenting on the GAO report, governors expressed concerns that Congress may be tempted to raid these unspent balances.

Tobacco -- Study on Smokers' Quitting Rates: A study published in the September 3rd New England Journal of Medicine found that smokers were four times more likely to quit if their health insurance plan paid the full cost of smoking cessation services, rather than paying just half. The researchers found that with full coverage, 10 percent of smokers per year use cessation services and 2.8 percent successfully quit smoking, compared to 2.4 percent usage and 0.7 percent quit rates if insurance paid only half the cost. The study involved 90,000 enrollees in the Puget Sound health maintenance organization. In preparation for your FY 2000 budget, we are examining ways to make cessation services more affordable within the Defense, Veterans, Medicaid, Medicare, and federal employees health systems. We believe the proposals to help current smokers quit could be coupled with your continued call for comprehensive legislation to stop children from smoking before they start.

Children and Families -- Child Care Appropriations: The Senate Labor-HHS Education Committee appropriated $182 million in new funding for the Child Care and Dependent Block Grant. This is the amount that we requested in new discretionary funding as part of your child care proposal. In your proposal, this appropriation paid for a fund for states to enforce quality standards, a research and evaluation fund, and scholarships for child care providers. The Committee, however, did not specifically fund those programs.

Immigration --H-2A guestworkers: Last 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. Secretary Herman sent a letter to Senator Wyden strongly opposing his amendment because it would severely weaken the labor protections for migrant farmworkers. However, in an attempt to address the concerns raised by growers but also protect the interests of farmworkers, we have committed to engaging in a bi-partisan working group with members of Congress on the issue of H-2A reform. Despite our expressed desire to approach this reform in a careful, bi-partisan fashion, Senator Wyden has continued to press us to work with him directly to improve his bill. We are meeting with Senator Wyden this week to discuss our substantive and procedural concerns with his approach (including trying to do this reform as a last-minute amendment to an appropriations bill). However, our goal is to get his amendment stripped from the CJS bill and to do the real work of forging a consensus reform solution in the context of the bi-partisan group. This group will likely include Senators Wyden, Graham, Kennedy, Feinstein, Abraham and Coverdell and Representatives Lamar Smith, Bishop, Becerra, Watt and Berman.

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*Figure 10.1.

MEMORANDUM TO FRANKLIN D. RAINES

THROUGH:Michael Deich

FROM:Alan Rhinesmith
Ken Schwartz

SUBJECT:Weekly Report Covering the Week of October 13, 1997

1.IRS Budget "Surprises" -- This week, responding to the recent wave of bad publicity, Treasury unveiled nearly 200 planned reforms for the Internal Revenue Service designed to improve customer service and the IRS's capacity to resolve taxpayer problems resulting from IRS audits. Treasury has already requested nearly $100 million in FY 1999 to fund the reforms, and that could go higher. Moreover, there is some likelihood Treasury will seek supplemental funds in FY 1998. Lastly, IRS has informed us they will not RIF any employees in 1998 as planned. This casts doubt on their ability to realize and utilize expected savings from modernization, and to implement needed restructuring in the future.

2.Sampling in the 2000 Census -- In a strategy meeting with John Hilley on how to address the Census sampling language in the CJS Bill, Commerce DOC presented preliminary information on conducting a 2000 census without sampling and the possibility of testing this method during the 1998 Decennial "Dress Rehearsal." Hilley seemed interested in testing BOTH sampling and traditional census methods in the dress rehearsal.

3.Civil Rights -- Civil rights advocates met with DPCs Elena Kagan last week to recommend ideas for improving the state of civil rights, including improving White House coordination of Federal policy and strengthening enforcement of civil rights laws. DPC also met with three Federal civil rights agencies -- EEOC, Justice's Civil Rights Division, and the civil rights offices of Education, HHS, and Labor (including OFCCP). The agencies suggested ideas for upcoming initiatives and potential strategies to help the Administration achieve its requested FY 1999 civil rights enforcement budgets. HTF is working with DPC to develop civil rights initiatives as part of the FY 1999 budget formulation process.
4.Treasury Credit Union Study -- Treasury has released its study evaluating the National Credit Union Administrations supervision of corporate credit unions, the National Credit Union Share Insurance Fund (NCUSIF), and the industry in general. It finds that NCUA is doing an acceptable job of supervising both the NCUSIF and the industry, and does not recommend moving the NCUSIF to another regulator (e.g. FDIC). The study does, however,

characterize the corporate credit union system as fragile and thinly capitalized, and recommends strengthening credit union earnings retention requirements and the NCUSIF's reserve ratio (to 1.5% of insured shares).

5.FTS2001 -- In response to industry comments, GSA is revising follow-on contracts for the FTS 2000, to make the procurement more in line with commercial practices. The Interagency Management Council (a group of agency telecommunications managers) is drafting a letter to GSA Administrator Barram, requesting policy guidance from OMB on the follow-on procurement. We are preparing a more detailed memo on this issue.

6.Debt Collection Improvement Act -- Treasury is forming an interagency steering committee to improve implementation of the Debt Collection Improvement Act. The committee will include agency CFOs and other representatives from the Federal Credit Policy Working Group, and will work to improve systems required to support Treasury offset and cross-servicing. Systems problems that the committee cannot help resolve will be referred to the CFO Council.
4.Quincy Shipyard Loan Guarantee. A provision in the 97 Budget Act instructs the Department of Transportation to guarantee a $52 million loan to the State of Massachusetts to help reopen and modernize the Quincy, MA Shipyard. Contrary to standard credit reform, the provision requires the State itself to pay the subsidy cost of the guarantee to the Department. Secretary Slater has authority to calculate that subsidy rate and cost, which he estimates as 12% and $7 million respectively. Now, two events have called the estimate into question and may require the State to pay more. First, DOTs IG is investigating the methodology the Department used to calculate the estimate. And second, a shipbuilding contract designated as a primary financing source for repayment of the loan has fallen through.

May 30, 1997

MEMORANDUM FOR THE PRESIDENT

FROM:GENE SPERLING

RE:NEC Weekly Report

America Reads: The work-study challenge has begun to pick up steam, with 225 colleges now on board. The new regulation waiving the work-study match for reading tutors goes into effect on July 1, and we are looking for a possible event that could highlight that action as well as the summer reading program sites that are now in operation.

Comp Time: We began negotiations on comp time this week. NEC, Legislative Affairs, and Democratic Senate staff met with Senators Jeffords, Ashcroft, and Dewine staff. The Republicans were insistent on using S.4 (the Ashcroft bill which undermines the 40 hour work week) as the starting point for discussions. We reiterated our objections and offered to produce a paper laying out our changes to S.4. We dont expect to reach an agreement until Senate Republicans decide to abandon the most objectionable provisions to S.4 -- those which undermine the 40 hour work week -- and they clearly have not decided to do so yet.

PM/OZ. In coordination with Katie McGinty and Sally Katzen, the NEC held another principals meeting on the EPAs proposed particulate matter and ozone standards. Katie, Sally and I feel it is best to use a few days for informal conversations with Carol Browner and others to hopefully help move us towards a decision consistent with the spirt and letter of the law. As you would expect, outside reaction is very split with environmental and health groups pushing for strong provisions, while Congressman Dingell, whom I spoke with today, continues to threaten us with a "bloody war" over this. It is clear that there is a Breaux-Chafee letter being organized that, while far less strident that Congressman Dingell, will call for a more cautious approach than they believe the EPA is considering.

Volunteers/Tort Reform: We completed work on the volunteer liability bill signing statement. With Legislative Affairs and DPC, we met with the staff of Senators Breaux and Hollings to discuss broader product issues. We will meet with staff of Senator Rockefeller and Mr. Dingell on Monday, as well as have an interagency meeting to continue work on alternatives. The main topics of discussion are joint and several, punitive damages and the statute of repose.

Stock options: Ellen Seidman met with representatives of the high tech and retail industries concerning the bill to restrict tax deductions for stock options submitted by

Senators Levin and McCain. They discussed their reasons for opposing the bill, as well as their assessment of likely legislative strategy. Senator Levin is hoping to talk to Bob Rubin soon.

Real Estate Industry: I met with representatives from the real estate industry to discuss their concerns about depreciation recapture rules. In particular, they want a capital gains tax package to include a cut in the recapture rate -- the rate at which amounts that had been previously deducted as depreciation are taxed upon sale of the property. I reassured them that we had not finalized our position on capital gains, and that we would go back to them if we were to carve out the recapture rules (which is one of the many options available to reduce the cost of a capital gains tax cut). One strategy we will be talking about in our budget meetings is that if we agree to include depreciation recapture schedules in the capital gains tax cut, we will seek to have the clear support from the real estate industry for key parts of our package.

City Jobs Data: Myself, Elena Kagan and others from the NEC and DPC met with Secretary Cuomo to go over a possible "State of the Cities" report that could be presented in conjunction with the U.S. Conference of Mayors. One major issue we talked about was how to show long-term negative trends for city populations and jobs that justify our key urban initiatives without glossing over the progress made over the last couple of years. We decided to run the numbers from 1993-1996 which presented that way, show while there are long-term negative trends, there has been important progress since 1992.

House Republicans on Welfare-to-Work: Elena Kagan and I, along with DPC, NEC, OMB, Labor and HHS staff, met with House Republican committee staff to discuss the Administrations priorities regarding the $3 billion in welfare-to-work funds. Under the draft Republican proposal circulated yesterday, all of the dollars would be distributed to States by formula, with no dollars directly to city governments, no performance-based funding and no competitive application process. Job creation would not be allowed. We presented the Administration position on these points.

Ron Haskins, the chief Republican welfare staffer, indicated that job creation would be added to the allowable uses and seemed amenable to distributing at least part of the money through a competitive grant process. He did not indicate any flexibility re: strengthening the nondisplacement provisions and was relatively unenthusiastic about performance bonuses. His position on channeling funding directly to cities was unclear. Drafting began today; we will keep you posted.

Historic Homeownership Tax Credit: I met with Dick Moe (President of the National Trust for Historic Preservation) to discuss a proposal for a historic homeownership tax credit. This proposal is based on the existing historic rehabilitation tax credit (which applies to commercial buildings). It would provide a 20 percent tax credit for rehabilitation and reconstruction expenditures for historic homes (or homes in certified historic districts). The goal of the tax proposed credit is to provide an incentive for people to buy, refurbish, and live in older homes, generally in central cities.

One potential problem is that the benefits from this proposal could flow mainly to real estate developers and to those with upper incomes, unless the proposal is well-targeted. We will bring this into our budget process to see if this is an idea worth considering.

Economic Event: The Vice President, Secretary Rubin, Director Raines, Chairman Yellen, and

I briefed the press on Friday on how well the economy has been performing since you took office. We noted the revised GDP growth rate of 5.8 percent during the first quarter of 1997 --the highest in a decade -- and emphasized our three-part economic strategy. The reaction was positive: reporters asked a series of substantive questions on the economy and our budget plans. We also distributed a packet of charts and an updated report card on the economy over the past 4 years which I showed you at the radio address taping.

At your request, we will work with others in the White House to come up with a larger distributional plan on this and other areas where our economic and budget policies have made a major difference.

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July 21, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Health Care -- Patients Bill of Rights Update: Congressional Democrats were thrilled with the two patients bill of rights events you held last week. The media gave these events good coverage, but expressed skepticism about whether Democrats really want to pass legislation this year. Our best response to these doubts -- regardless of whether we want legislation or a political issue -- is to remain nonpartisan in tone, as you did in your remarks. As of now, both the House and the Senate may bring patients bill of rights legislation to the floor this week. In the House, the Republican Leadership is attempting to pass a rule for separate up or down votes on the Republican Task Force bill and the Dingell/Ganske legislation. Under this scenario, the Task Force bill may pass, but with few or no Democrats and with a few Republican defectors. The Dingell/Ganske bill probably will receive about 200 votes. In the Senate, the Leadership will allow amendments, as well as complete substitutes, to the Republican bill; for this reason, the Senate is likely to produce a stronger bill than the House even though the Senate Republican bill is the weakest proposal on the table. It is still unclear whether Senators Chafee and Graham will introduce a bill. If they do, it is likely to have a full set of patient protections and an enforcement mechanism that is stronger than the limited civil monetary penalties in the House Republican bill but not as strong as the state-court enforcement option in the Dingell-Ganske bill. Because of the partisan divide on this issue, this kind of compromise approach may receive little support.

2. Health Care -- Nursing Home Enforcement: Senators Grassley and Breaux will release next week a scathing GAO report on inadequacies in nursing home care across the country. This report will criticize HCFA sharply for failing to monitor or oversee nursing home quality. As you know, we have worked with HHS to develop a strong initiative, including both legislative proposals and administrative actions, to make improvements in this area. The package provides for criminal background checks on nursing home workers, strengthened penalties for nursing homes that fail to meet standards, and closer federal oversight of state enforcement mechanisms. (The briefing memo we sent you described the initiative more fully.) Your announcement of this package today should blunt the impact of the GAO report, though it still will receive media attention.

3. Health Care -- Long Term Care: Congressman Mica, the Chairman of the Government Oversight Committee with jurisdiction over the Federal Employees Health Benefits Program (FEHBP), is planning to mark up a bill this week that would allow federal employees to purchase private long-term care. We have serious concerns about Micas proposal, primarily because it does not ensure that the packages offered will be high-quality. We are developing an alternative proposal on this subject to include in a broader long-term care package that you can announce later this summer. In the meantime, OPM will write Mica a letter noting your longstanding interest in this issue while raising concerns about his

proposed policy.

4. Tobacco -- Meetings with Hatch: Bruce Lindsey, Larry Stein, and we met with Senators Hatch, Feinstein, Torricelli, and Breaux last week to explore options for moving their tobacco bill in the Senate. As you know, the bill is based on the June 20th settlement, but with a slightly higher price and somewhat increased lookbacks. We expressed some concerns about the FDA provisions in his bill, and noted our fear that the absence of any company-specific lookback penalties and the scope of the liability provisions -- including not only a liability cap, but also a prohibition on class actions and punitive damages -- would prevent the bill from gaining strong Democratic support. Because Torricelli and Feinstein said that a significant number of Senate Democrats look to Senator Conrad for guidance on this issue, we all agreed to have another meeting, this time with Conrad in attendance. That meeting will take place on Tuesday afternoon. Following the principals meeting, we also sat down with Hatchs staff to discuss further his FDA proposal. Although we continue to have some differences on this issue, the meeting went well; there is little reason to think that the FDA issue would stand in the way of a deal if everything else could be satisfactorily resolved.

5. Tobacco -- Counteradvertising Campaign: We are exploring with ONDCP whether to incorporate tobacco counteradvertising in our national youth anti-drug media campaign. Although ONDCPs $195 million budget must go toward anti-drug ads, we could encourage the television networks to use some of the matching funds they provide to air anti-tobacco messages. If we decide to go down this route, we would work with HHS and public health groups such as the Campaign for Tobacco Free Kids to propose programming ideas and produce specific advertisements.

6. Crime -- Values-Based Anti-Crime Initiative: You are scheduled to unveil a new values-based violence prevention initiative at an event on the South Lawn this Wednesday. The initiative will support the efforts of community organizations, including faith organizations, to provide values-based instruction and activities for at-risk youth to improve public safety. Some of the activities undertaken by the grant recipients, in partnership with law enforcement, schools, courts, and service providers, include gang intervention, gun abatement, truancy prevention, mentoring, drug and alcohol abuse, conflict resolution, and job training. The initiative will provide grants of between $75,000 and $150,000. The grant recipients are located in 16 cities: Salinas, CA; Los Angeles, CA; Washington, DC; Miami, FL; Chicago, IL; Indianapolis, IN; Baltimore, MD; Detroit, MI; Kansas City, MO; Hempstead, NY; Portland, OR; Philadelphia, PA; Charleston, SC; San Antonio, TX; Richmond, VA; and Seattle, WA.

7. Crime -- Appropriation for Youth Crime Gun Interdiction Initiative: The Senate now has joined the House in fully funding your Youth Crime Gun Interdiction Initiative. The new funding will allow us to place additional ATF agents in each of the 27 cities in which the initiative is now operating; it also may enable us to expand the initiative to other cities.

8. Education -- Charter School Legislation: The Senate Labor and Human Resources Committee is scheduled to mark-up a charter schools expansion bill this week. The bill will contain many of the provisions we have recommended, and has solid bipartisan support. We will work to convince Democrats to use other bills -- perhaps including the Ed-Flex bill discussed below -- as a vehicle for forcing votes on other education priorities, so that we have a chance of moving this bill expeditiously through the Senate and to conference. In addition, we are planning to release an estimate of charter school enrollment for the upcoming school year and two Education Department reports -- one on what parents should

look for in charter schools, the other on what guidelines chartering agencies should set -- at your speech to Boys Nation this Friday.

9. Education -- Ed-Flex Legislation: The Labor and Human Resources Committee also is scheduled to mark-up a Frist/Wyden Ed-Flex bill this week. As you know, the 12 states now participating in the Ed-Flex demonstration program have authority to waive most requirements in the major federally funded elementary and secondary education programs. The Frist-Wyden bill would give this flexibility to any state meeting specified requirements. We and the Education Department have worked hard with Frist and Wydens staff, as well as with the NGA, to ensure that the preconditions for participation in Ed-Flex are sufficiently stringent -- i.e.. that states get waiver authority only if they have in place standards and assessments, school report cards, and procedures for intervening in failing schools. You announced support for this kind of approach at the last NGA Winter meeting. Democrats and most of the education community are at best lukewarm to this bill; even if Senate Democrats support it in committee, they are likely to use it as a vehicle for trying to move higher priority items, such as our class size reduction initiative. Republicans also may attempt to use the bill as a vehicle for their favorite proposals -- e.g., vouchers and block grants -- so its ultimate fate is quite uncertain.

10. Food Safety -- Appropriations Victory: The Senate passed last week, by a vote of 66-33, an amendment offered by Senator Harkin to restore $68 million for funding of your food safety initiative. Harkins amendment funded the increase by requiring the tobacco industry to take over the administrative costs associated with the USDAs tobacco program. We worked closely with Harkin and consumer groups to promote the amendment, and several newspapers, including the Los Angeles Times, published strong editorials in support. We will continue this effort to ensure that we get a good result on this issue in conference.

11. Welfare Reform-- Wellstone Amendment on Work Requirements: As part of its passage of the Higher Education Act, the Senate approved an amendment offered by Senator Wellstone, by a vote of 55-43, to allow states to count up to two years of vocational education or college toward the welfare work requirements. States currently can count one year of vocational education toward the work requirements, subject to a 30% cap on the percentage of the caseload that can count this activity as work; the cap would continue to apply under the Wellstone proposal. Supporters of the amendment argued that it would help welfare recipients increase their earning potential and improve the chances of their permanently leaving the welfare system. Opponents argued that it would weaken the work requirements, which are the lynchpin of the welfare law and the engine for caseload reduction. We understand that House Republicans will try to eliminate the Wellstone amendment in conference.

One possible compromise might be to let college attendance count for up to half of a person's work requirement (i.e., 10-15 hours) for up to two years. Amended in this way, the law would expect college students receiving welfare to perform some work, but would recognize the difficulty of juggling work, classes, and parenting responsibilities. Of course, if the Republicans succeed in simply knocking out the Wellstone amendment, we will continue our efforts to encourage states to use the existing flexibility in the welfare law (and in work-study programs) to accommodate college students.

12. Welfare Reform -- Illegal Immigrants: HHS will issue a list this week of "federal public benefits," which illegal immigrants are not eligible to receive under the welfare law. The list includes adoption assistance and foster care, child care, low-income heating assistance, Medicare, Medicaid, the Social Services Block Grant, the new Child Health

Insurance Program, and TANF, as well as 20 smaller programs. The list excludes community health centers and maternal and child health programs, which will continue to be available to all comers. House Republicans (e.g., Lamar Smith) may argue that HHS should not have excluded these programs, but there are good policy reasons and a sound legal basis for doing so. At the same time, DOJ will issue a proposed rule instructing providers of federal public benefits on how to determine whether a potential recipient is an illegal alien. The rule requires a provider to look at documents for everyone, unless the provider has applied for and received a temporary waiver. Providers will view this requirement as a serious administrative burden, but the law left little room for any alternative approach.

13. Abortion -- Congressional Update: A series of contraception- and abortion-related votes occurred last week in the House, and we expect more next week. First, the House passed by a vote of 224-198 the Lowey proposal to require health plans participating in the FEHBP to provide coverage of contraceptives. Second, the House passed by a vote of 276-150 legislation making it illegal to transport a minor across state lines in order to avoid a states parental consent law. Third, a House committee passed an amendment offered by Congressman Istook to require parental consent for Title X family planning services. We can expect the House to turn this week to the Partial Birth Abortion Act and the "Mexico City" international family planning restrictions.

14. Community Empowerment -- Community Reinvestment Act (CRA): According to a report by the National Community Reinvestment Coalition (NCRC), the private sector has pledged more than $1 trillion going forward in loans to distressed communities, with more than 95 percent of these financial commitments made since 1992. The NCRC also reported that there have been 23 times more financial commitments to distressed communities from banks in the past 5 years than in the previous 15 years. In addition, lending commitments under the CRA have increased 69-fold from the pre-1993 era -- from an average of $2.6 billion per year between 1977 and 1992 to about $180 billion per year in the past 5 years. Despite the success of your Administration's reform of CRA, some in Congress are working to attach riders to the Credit Union Membership Access Act which would gut the program. Over the next weeks, the NEC, DPC, and Treasury will monitor this situation closely.

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July 31, 1998

MEMORANDUM FOR THE PRESIDENT

FROM:Bruce Reed
Elena Kagan

RE:DPC Weekly Report

Health Care -- Patients Bill of Rights Update: The Senate adjourned this week without bringing up the patients bill of rights for a vote or debate. Your radio address and the event the Vice President participated in with Senate Democrats on Friday, focused on the Senate Republicans lack of action and emphasized the key weaknesses in their bill. Earlier this week, Sens. Chafee, Lieberman, and Graham introduced their own patients bill of rights proposal. With the exception of Sen. Spector, this legislation is not likely to receive any additional Republican support, since the bill is much closer to Daschle-Kennedy than the Senate Leadership proposal and because Sen. Lott is placing extraordinary pressure on Republicans not to cosponsor the bill. It is important to note that, in some ways, the new bill goes even further than your Quality Commissions recommendations. Yet, we have not yet embraced this legislation because early Administration support would not be helpful to Sen. Chafee or improve the liklihood of eventually getting a strong bill out of the Senate. Moreover, Senate Democrats do not yet want to compromise until it becomes clear that it is necessary to do so.

The most contentious issue on the patients rights legislation continues to be the enforcement mechanism. As you know, the Dingell-Ganske/Daschle-Kennedy bill provides for state-court enforced remedies for patients who have been harmed by wrongful actions taken by health plans. The Republican Leaderships approach utilizes civil monetary penalties, which are completely inadequate because their penalties are largely based on the degree to which health plans are in compliance, rather than providing damages to patients whose health plans actions harm or kill them. Chafee-Lieberman attempts to split the difference between these two bills with federally-enforced remedies that would provide for economic/compensatory damages but not punitive awards. Sens. Daschle and Kennedy have already stated this approach is inadequate. But this is probably more for positioning reasons than for serious policy objections. To underscore how serious we are about passing a strong patients bill of rights this year, we need to continue our push for such legislation throughout the summer. We need to spend additional time in defining the differences between the Republican and Democratic bills, so that the media recognizes that the distinctions are much more than just the right to sue an HMO. We can achieve this through additional events and outside validation by groups and policy experts.

Health Care -- DeSario Case: Earlier this year, the second circuit of U.S. Court of Appeals ruled in favor of the state of Connecticut Medicaid policy that was used to deny beneficiaries of needed medical equipment. This ruling infuriated the disability community and moved them to appeal the decision. Because HHS concluded that Connecticuts coverage policy is excessively restrictive and discriminatory to people with disabilities, it believes the ruling is incorrect. Although states can apply restrictions to coverage of medical equipment by basing the coverage decision on the health care needs of the entire

Medicaid population, they cannot make decisions on the entire needs of the population without taking note of the special needs of the disability population. In addition, states must have a publicly known and timely appeals process. HHS is planning on sending a clarifying guidance letter next week to all states. We decided to hold this letter until after this weekends NGA conference because the Departments interpretation will likely not be well received by many Governors. While the Governors will be relieved that the guidance does not limit their authority to restrict coverage, it will likely broaden many states coverage rules and potentially increase Medicaid expenditures. While disability advocates will welcome this letter, they will wish that it went further by requiring coverage of all medically necessary devices.

Tobacco -- House Legislative Update: House Republicans may unveil their tobacco legislation as soon next week. Although we have not yet seen legislative language, the seven bullet points they released before the July 4th recess indicate that it will be a watered-down bill, with no price increase, weak advertising provisions, and limited FDA authority. House Democrats expect to have a Rules Committee fight over whether they will be allowed to offer a substitute. We have been helping Representative Waxman prepare for the possible contingencies. While the Hansen-Meehan bill is an option, Waxman is also drafting a bill that does not include an up-front price increase but contains very large lookback penalties which will effectively function as a price increase.

Tobacco -- New CDC Data: The CDC released a study on Thursday which indicates that lower income, minority, and younger populations would be more likely to quit smoking and reduce their cigarette consumption in response to a price increase. Controlling for income and education, blacks are twice as responsive as whites to price increases and Hispanics are even more price responsive. These differences indicate that cigarette price increases would lower smoking rates and enhance public health outcomes especially for minorities. Specifically, the study found that about one quarter of 18-24 year old Hispanic smokers and approximately 10 percent of 18-24 year old black smokers are estimated to quit smoking altogether in response to a 10-percent price increase in comparison with about 1 percent of white smokers of the same age. With the exception of whites, the effect of price on smoking rates declines with age. The study examined data on adults only.

Service -- Using Work-Study Funds for Community Service: Some time ago, you and Harris Wofford discussed how to encourage schools to use work-study funds for community service by college students. For the past three years, colleges and universities have been required to report how much of their federal work-study funds are spent on community service. According to the data, the average college/university spent 10% of its work-study funds on community service in 1996-97, which is up slightly from 7% in 1994-95. Out of a total of 3,250 schools, only 12% use more than 20% of their funds for service, and only 2% of schools use more than half their allocation for service.

Under a 1992 law, schools must spend at least 5% of work-study funds on community service. In 1996-97, 9% of all schools (290) failed to meet this requirement. This is down significantly from 24% two years earlier, but still high. The law defines community service broadly for the purposes of the 5% minimum. Any job that is designed to improve the quality of life for local residents or solve a local problem qualifies. For example, jobs in a college library may qualify depending on whether there are other libraries in the community. The Education Department does not penalize schools that fail to meet this requirement.

We will not know the impact of America Reads on these numbers until October, when data from

1997-98, the first year of that program, is complete.

Welfare Reform -- Minorities on Welfare Reform Caseload: The New York Times report on the increasing share of minorities on the welfare caseloads highlights some important trends and issues that we will explore further. In the meantime, it's helpful to put the information in context.

First, the racial/ethnic composition of welfare caseloads has been changing gradually over the last 25 years: whites rose from 38 percent in 1973 to a peak of 42 percent in 1983 and have dropped steadily to 35 percent in 1997. The proportion of blacks has generally declined, from 46 percent in 1973 to 37 percent in 1997. As the New York Times points out, the most significant trend is the increase in the Hispanic portion of the caseload, from 13 percent in 1973 to 23 percent in 1997. However, this is not too surprising given the rapid increase in the Hispanic population overall. The question is how welfare reform may be affecting these historic trends. National data on the racial/ethnic characteristics of welfare recipients are only available through June 1997, so it is hard to gauge the impact of the past year when welfare reform efforts accelerated so rapidly. Some states have more recent data which they shared with the Times, and which may reveal more significant trends. It is also worth noting that the caseload data only tells who is currently on the rolls; it does not tell the rate at which different groups are entering and exiting.

Second, the number of white, black and Hispanic families receiving welfare have all dropped since 1994 (when caseloads peaked), but the rate of decrease has been greater for whites than blacks, with an even slower decline for Hispanics.

9497% Change
Whites1.9M1.4 M-26%
Blacks1.8M1.5 M-18%
Hispanics1.0 M .9 M -9%

Third, the changes are more dramatic than the actual mix of who is left on the caseloads, at least on a national basis. While the story pointed out important trends, the conclusion that the composition of the caseload has changed dramatically seems unwarranted.

9497
Whites37%35%
Blacks36%37%
Hispanics20%23%

Fourth, there is some encouraging evidence from Census data that the employment rates of former welfare recipients are increasing even faster for minorities than for whites (although the actual rates and the disparity between groups remains disturbing). Between 1996 and 1997, the percentage of all prior year welfare recipients who were employed in the next year increased by 28%. The increase was highest for blacks (33%), followed by Hispanics (22%) and whites (21%).

Finally, there is longstanding evidence that minorities on welfare disproportionately share characteristics that may make it harder to leave the rolls: lower education levels, lower marriage rates, larger families, employment and housing discrimination, and isolation from areas with jobs.

Welfare Reform -- Welfare Reform Anniversary Event, including Medicaid 100-hour rule: On

August 5th, you will participate in a Welfare Reform Anniversary Event to mark the progress we've made over the past two years and announce steps we're taking to ensure even more families make a successful transition from welfare to self-sufficiency by ensuring that those leaving welfare for work have health coverage and accumulate assets. We will release HHS' first Report to Congress on TANF and announce regulations waiving old welfare rules that prevented some states from providing Medicaid to two parent families who go to work (100 hour rule). In addition, you will endorse the House and Senate Individual Development Accounts proposals to help low income families save and build assets (Coats/Harkin in Senate, Souder/Hall/Kasich in House). Since August 5th is also the one-year anniversary of enacting the $3 billion Welfare-to-Work grants, the Department of Labor will release Welfare-to-Work formula grants to 5 more states (MD, VA, WV, NM, NH). Finally, we can release the latest numbers showing that federal agencies have now hired 5,714 new workers off the welfare rolls.

Crime/Drugs -- Treasury-Postal Appropriations: (1) Firearms Clips. A Feinstein amendment to ban the importation of large capacity ammunition clips was tabled by a vote of 54-44. The amendment would have banned the import of clips which were grandfathered under the 1994 assault weapons ban. (2) Drugs. Legislation sponsored by Sens. Biden and Hatch to reauthorize ONDCP was added to the bill by voice vote. The Administration supports the Hatch-Biden version of the reauthorization bill.

Crime -- Prison Population: On Sunday, the Justice Department will release a report showing that in 1997, the nation's adult prison population grew by 61,186 men and women -- a 5.2% increase from 1996. Last year, the total number of federal and state inmates reached over 1.24 million adults -- a 60% increase over the inmate population in 1990. However, last year's increase (5.2%) is lower than the average annual growth of 7% since 1990. Between 1990 and 1996 (the last year this particular data was available), violent offenders were responsible for much of the growth among state prisoners, accounting for 50% of the increase during the 6-year period. In addition, the number of female prisoners increased by 6.2% in 1997 to a total of 79,624; women now comprise 6.4% of all prisoners -- up from 5.7% in 1990.

Of the total 1997 prison population, state prisons held 1.13 million inmates and federal prisons held 112,900 inmates. California and Texas together held more than a quarter of all state prisoners. Nine states reported prison population increases of at least 10 percent, with HI (23%), WV (15%), AK (14%) and ME (14%) reporting the largest increases. States reporting decreases include: OR, MT, NM, and D.C.

Education -- Charter Schools: The Senate Labor and Human Resources Committee reported out the charter schools bill unanimously, and without amendment. Before the bill comes to the floor, there is one remaining issue to be worked out with Sen.Coats, regarding a requirement in existing law that charter schools use a lottery to select students if the school is oversubscribed. Sen.Coats wants the Education Department to provide guidance that interprets that requirement flexibly, enabling charter schools to guarantee places for the children of founders and siblings of students already enrolled. Coats may also push for guidance that would make it easy for charter schools to have selective admission requirements, rather than being open to all interested applicants. We are working with the Education Department to find reasonable accommodations to these issues, without opening the door to abuses that could increase the number of racially identifiable schools. Our preference is to craft Education Department guidance that is satisfactory to Sen.Coats.

Education -- National Board for Professional Teaching Standards: In preparation for the

conference on the Higher Education Act, we are working on a strategy for eliminating the Goodling provision that prohibits continued funding for the NBPTS. This will be a difficult fight. Goodling appears as dug in on this issue as he has been on national tests. There is little interest in the Board among House Democrats on the conference committee, and though there is bipartisan support for the Board in the Senate, the prospects for sustaining a veto are weak in light of the overwhelming majorities that supported the bill in both Houses. While few members on either side of the aisle share Goodlings antipathy toward the Board, some of his attacks (e.g., the high salary of the Boards President and the high financial cost to teachers for seeking board certification) appear to resonate even with supportive Democrats. Our overall strategy is to work with the Board to find compromise language that responds to the criticisms that are being made while preserving the federal funding stream. We are also working closely with NEA and AFT to shore up support among key House Democrats, and will work with Governor Hunt at the NGA meeting this weekend to mobilize Republican Governors and business leaders who support the Board.

Education -- Ed-Flex: The Senate Labor and Human Resources Committee reported out an Ed-Flex bill which makes all states eligible to receive the authority to waive federal education requirements if they have academic standards, tests and school-by-school accountability measures in place. The bill reflects the principles in the Administrations proposal you announced at the NGA meeting last winter, and we have indicated our support for the bill. Senate Democrats tried to stall the bill with a range of amendments, but ultimately, and unhappily, let it pass. The prospects for floor action are not clear at present.

Education -- DC charter schools: The Administration and congressional staff have been exploring ways to address a potential shortfall of funding for DC charter schools this academic year. The budget developed earlier this year by the Control Board and the DC Government significantly underestimated the number of students likely to attend charter schools, providing only $12 million of the approximately $30 million needed for full per-pupil allocations to support the 4,000 students projected to attend charter schools this year. While the original DC appropriations bills introduced in the House and Senate included only the $12 million recommended for charter schools, the House version of the bill has added $20 million from the federal payment, a move supported by the Administration. Meanwhile, a manager's amendment offered to the bill on the Senate floor may include a provision either to fully fund charter schools out of the DC surplus or direct the Control Board to determine an offset within the DC budget to fully fund charter schools. The Administration will continue to work with Congress and the Control Board in the coming days to make sure there is full funding available to the schools.

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August 7, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

Health Care -- Home Care Reimbursement Controversy Update: Home care providers across the nation are pushing Congress to modify the Medicare reimbursement change included in last years Balanced Budget Act. As you will recall, these changes (a phased in prospective payment system similar to the one that has effectively constrained hospital payments) were made to address the unprecedented increases in home health expenditures -- from $4.7 billion in 1990 to $17.2 billion in 1997. Less than a year into implementation of these changes, home care providers are advising Members that these cuts are too severe, penalize efficient providers, and are unfair to providers who serve a disproportionate numbers of sicker patients. There appears to be some validity to these concerns in certain areas. Your letter to Val Halamandaris of the National Association for Home Care, advising him of your commitment to develop an administratively feasible, budget neutral fix was well-received. Congress also wants to respond, but has been unable to develop a politically and economically acceptable alternative. It appears that a budget neutral policy cannot receive sufficient political support because it ends up being more of a "re-arranging the deck chairs" approach that alienates as many Members as it pleases. However, putting more money on the table would require extremely unpopular Medicare offsets. On Thursday, in frustration, Rep. Thomas and some other Members of the Ways and Means Committee criticized HCFA for its lack of response. We will continue to look at all options, but it now appears that the only way to pass an acceptable alternative will be to find some more Medicare savings. However, it is highly likely that the Congress will push hard for us to deliver on some political cover and savings to mitigate the payment problems now being experienced by the home care providers.

Health Care -- Patients Bill of Rights Event: On Monday, you are scheduled to attend a large patients bill of rights event in Kentucky. Consistent with your discussion with the Democratic caucus, you will use this event to highlight the numerous shortcomings of the Republican Leadership bills. The President of the Kentucky Medical Association, a lifelong Republican, is currently scheduled to participate in this event and discuss the AMAs disappointment with the Republican bills. Other major provider and consumer organizations will also validate this message and praise your leadership for putting progress ahead of partisanship. We have been working with the House Democratic Leadership and the Departments on how best to differentiate these bills, and Secretary Shalala has submitted an op-ed highlighting the important differences. Finally, at this event, you will announce that the Federal Employees Health Benefits Program (FEHBP) is implementing anti-gag regulation as part of your continuing efforts to bring all Federal health programs in compliance with the patients bill of rights, even as Congress delays passing legislation.

Health Care -- Elder Abuse: We are working on an initiative that you could potentially unveil in an event late next week that responds to continuing reports of problems of elder

abuse. HHS and NIH have been working on reports that document emotional, physical, psychological, and financial abuses of older Americans, often by family members. This initiative would include: announcing new Justice Department grants to help identify and prevent elder abuse; creating a new center on elder abuse, and renewing the call on Congress to reauthorize the Older Americans Act, which includes services to help elders at risk for abuse. We will also work with aging advocates and others to help highlight some of the best practices in the states to crack down on elder abuse. This initiative compliments your recent initiative to ensure that patients in nursing homes are provided with the highest quality services possible.

Education -- National Board for Professional Teaching Standards: Mr. Goodling has agreed to drop his provision in HEA prohibiting funding for the National Board for Professional Teaching Standards, in exchange for the Administrations agreement to resolve differences in OMB and C.O. scoring of the student loan program. Goodling also agreed not to offer amendments to end federal support to NBPTS to other legislation this year, such as the Labor-HHS-Education appropriations bill. While this deal protects the Board for this year, we expect Goodling to pursue his agenda against the Board in next years reauthorization of the Elementary and Secondary Education Act. Our efforts over the last few weeks have demonstrated that while the Board enjoys broad bipartisan there is little deep support for the Board in the House, and that even Senate supporters of the Board have questions about its operation. We will continue to work closely with Gov. Hunt and the NBPTS on a strategy to shore up support for the Board in both the House and Senate.

Education -- Bilingual Education: Rep. Riggs bilingual education bill was scheduled for a floor vote Thursday evening. However, the Republican leadership pulled the bill before it could come to a vote. The Democratic whip counts indicated strong Democratic unity and the Hispanic Caucuses believes there would have been Republican opposition to Riggs from some in the New Mexico, Texas and Florida delegations. The bill could still come up after the recess, though Riggs is likely to have difficulty getting floor time in September.

[ELENA: THE FOLLOWING IS USEFUL PRIMARILY TO SEE IF HES GOT ANY REACTION OR GUIDANCE FOR US. IF YOU DONT WANT THAT NOW, ID PROBABLY DROP IT]

Education -- National Education Goals Panel: The National Education Goals Panel met last week to begin discussing the future of the National Education Goals and the NEGP. The Panel is scheduled to complete its deliberations on this issue in early December. Governor Hunt has asked for our guidance on how we would like the panel to handle this issue. Thus far, there appears to be a bipartisan consensus among the governors on the panel, supported by Secretary Riley, that it is important to continue to have national education goals in some fashion, beyond the year 2000. There is also agreement that there must continue to be a mechanism to monitor progress toward reaching the goals, though little certainty that NEGP in its current form is the right mechanism for carrying out that function. Along with Secretary Riley, we believe that you, rather than the Goals Panel or the governors alone, ought to lead an effort to examine what has been accomplished in the near-decade since the goals were established, and what the Nations education goals ought to be for the future. However, we also believe that it will be much more difficult now than in 1989 initiate a process for establishing new goals, or even reaffirming the existing ones. It will be more difficult for control of the process to be shared between the Administration and the Governors to the relative exclusion of other parties and even if we could, much more difficult to establish bipartisan consensus with the Governors. Yet, a more open process could be even more difficult to bring to a productive conclusion. Despite the concerns, we are beginning to think through a strategy for how to proceed in this area.

Community Empowerment -- Empowerment Zones/Enterprise Communities (EZ/EC): Last Friday, a bipartisan coalition led by Sens. Jeffords, Leahy, and Warner, introduced legislation that would provide grant funding for the second round of Empowerment Zones. This bill, the result of month-long negotiations between the Administration and Senate staff, differs from the Administration's earlier bill in several key areas. In addition to providing flexible grants to the second round EZs the bill would provide: 1) funds for a new demonstration program called Rural Opportunity Communities (ROCs) to spur economic development in communities that cannot qualify for the EZ/EC program; 2) a new pool of money for well-performing ECs and EZs that have exhausted their existing resources; 3) a preference for high-performing first round ECs who are applying for a second round EZ. In the coming weeks, DPC, OVP, and NEC will continue to work closely with HUD and USDA in procuring additional cosponsors for this legislation and work to secure its passage as a rider on revenue-related legislation out of the Senate Finance Committee.

NOTE: (Elena, in response to your e-mail, OVP is still waiting to get sign-off from the Vice President about delaying the report from the Commission on Digital Broadcasting until late November. They have asked therefore that we include an update for POTUS next week.)

Crime -- Concealed Weapons Legislation -- On August 5th, the Judiciary Committee favorably reported legislation (H.R. 218) expanding the right of certain persons to carry concealed weapons across interstate lines. As originally introduced -- and proposed by the Fraternal Order of Police -- this bill would have allowed current and former law enforcement officers to carry concealed firearms across state lines. As amended in the Judiciary Committee -- and with strong support from the NRA -- the bill would also allow private citizens with permits to carry a loaded and concealed weapon in their home states to be able to do the same in other states that permit concealed weapons.

Currently, 29 states are required to issue concealed weapons permits to persons not prohibited from owning a firearm (generally, a convicted felon); 13 states may issue concealed weapons permits, but retain some discretion in approving and denying applicants; 7 states prohibit the carrying of a concealed weapon; and only 1 state -- Vermont -- does not require any permit or license to carry a concealed weapon. The practical effect of H.R. 218, as amended, is to allow millions of gun owners to carry concealed and loaded weapons on an interstate basis in 43 of the 50 states.

Crime -- Law Enforcement: On Friday, the House Crime Subcommittee is scheduled to mark up legislation to provide college scholarships to the children and spouses of local law enforcement officers killed in the line of duty. In 1996, you signed legislation to provide such scholarships to the dependents of slain federal officers; last year, you called on Congress to expand these educational benefits to families of state and local law enforcement as well. Similar legislation passed the full Senate in May.

Gay and Lesbian Issues -- Sexual Orientation Executive Order Upheld: The House blocked a measure, sponsored by Rep. Hefley, that would have prohibited funding to implement your May 28 executive order which prohibits discrimination based on sexual orientation in the federal civilian workforce. By a vote of 252 to 176, the House rejected arguments that this executive order would lead to affirmative action for gays and lesbians. Sixty-three Republicans joined 188 Democrats and the one independent in voting against the measure. The DPC, along with Counsels Office and OPL, worked closely to ensure that House members had information to rebut arguments about special preferences. A recent Wall Street Journal/NBC News Poll showed that 72 percent supported the order against antigay bias in

federal agencies, while only 20 percent opposed it.

Children and Families -- After-School Programs and Service: You asked us to look into a proposal from a White House Fellow to earmark 15 percent of proposed funding for the 21st Century Community Learning Centers program for after-school programs run through the Corporation for National Service (CNS). Strengthening the connection between service and after-school activities is important, and service is in fact already a significant part of the current 21st Century program. However, specific earmarking from an Education Department program to the CNS might be disadvantageous for both programs: (1) funds from the Education Department come with many more restrictions on their use than CNS dollars; (2) additional earmarking would drain the 21st Century program of resources (the Administrations budget proposal already targets 10 percent of program funding to community-based organizations, and the House Appropriators cut our budget request from $200 million to $60 million); and (3) it would lessen our ability to promote greater utility of public school buildings during after-school hours. We will, however, continue to explore ways in which we can provide greater support and funding both to traditional after-school learning programs and specific service-oriented programs.

Welfare Reform -- Minorities on Welfare Reform Caseload: The New York Times report on the increasing share of minorities on the welfare caseloads highlights some important trends and issues that we will explore further. In the meantime, it's helpful to put the information in context.

First, the racial/ethnic composition of welfare caseloads has been changing gradually over the last 25 years: whites rose from 38 percent in 1973 to a peak of 42 percent in 1983 and have dropped steadily to 35 percent in 1997. The proportion of blacks has generally declined, from 46 percent in 1973 to 37 percent in 1997. As the New York Times points out, the most significant trend is the increase in the Hispanic portion of the caseload, from 13 percent in 1973 to 23 percent in 1997. However, this is not too surprising given the rapid increase in the Hispanic population overall. The question is how welfare reform may be affecting these historic trends. National data on the racial/ethnic characteristics of welfare recipients are only available through June 1997, so it is hard to gauge the impact of the past year when welfare reform efforts accelerated so rapidly. Some states have more recent data which they shared with the Times, and which may reveal more significant trends. It is also worth noting that the caseload data only tells who is currently on the rolls; it does not tell the rate at which different groups are entering and exiting.

Second, the number of white, black and Hispanic families receiving welfare have all dropped since 1994 (when caseloads peaked), but the rate of decline has been greater for whites than blacks, with an even slower decline for Hispanics.

9497% Change
Whites1.9M1.4 M-26%
Blacks1.8M1.5 M-18%
Hispanics1.0 M .9 M -9%

Third, the changes are more dramatic than the actual mix of who is left on the caseloads, at least on a national basis. While the story pointed out important trends, the conclusion that the composition of the caseload has changed dramatically seems unwarranted.

9497
Whites37%35%

Blacks36%37%
Hispanics20%23%

Fourth, there is some encouraging evidence from Census data that the employment rates of former welfare recipients are increasing even faster for minorities than for whites (although the actual rates and the disparity between groups remains disturbing). Between 1996 and 1997, the percentage of all prior year welfare recipients who were employed in the next year increased by 28%. The increase was highest for blacks (33%), followed by Hispanics (22%) and whites (21%).

Finally, there is longstanding evidence that minorities on welfare disproportionately share characteristics that may make it harder to leave the rolls: lower education levels, lower marriage rates, larger families, employment and housing discrimination, and isolation from areas with jobs.

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December 19, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Welfare -- Welfare-to-Work Competitive Grants: The Department of Labor will release a notice in early January seeking welfare-to-work competitive grant applications. DOL will award a total of $711 million in five rounds of competition, two in FY 1998 and three in FY 1999. Projects will be funded for up to three years. Both public and private entities may apply, including state and local governments and community and faith-based organizations. We worked with DOL to ensure that the notice seeks projects designed to place welfare recipients into jobs quickly and to provide the support services and skills training they will need to succeed in the work force. Like the activities supported by formula funds (the rest of the $3 billion welfare-to-work program), these projects must serve long-term welfare recipients with multiple barriers to employment. DOL intends to award about 70 percent of competitive funds to projects in cities with high concentrations of poverty and about 30 percent to projects in rural areas. The first round of applications will be due in March.

2. Crime -- COPS: The Justice Department last week announced $47 million in grants to fund an additional 800 police officers under the COPS Program. The grants went to law enforcement agencies in 32 states, and included a grant to New York City to fund 300 officers. The announcement brings the total number of officers funded under the COPS Program to 66,000.

3. Crime -- 3-1-1 Community Policing Number: Dallas launched a new citywide 3-1-1 non-emergency response system last week. Dallas residents will be able to call 3-1-1 and request any city service 24-hours a day, seven days a week. Baltimore celebrated its one-year anniversary as the nation's first 3-1-1 project on October 1. The 3-1-1 initiative in Baltimore has helped to reduce the volume of calls to 9-1-1 by 25 percent and to cut the average response time to emergency calls by two-thirds.

4. Crime -- Brady Handgun Checks: Ohio signed an agreement with the Justice and Treasury Departments last week to conduct background checks for all handgun sales. Arkansas is now the only state not conducting background checks. Despite an opinion issued by Arkansas Attorney General Winston Bryant that the state has the necessary authority, the Governor continues to refuse to allow the checks. As a result, Attorney General Bryant has asked the Treasury and Justice Departments to name him the designated chief law enforcement officer authorized to conduct background checks statewide. The proposal is currently under consideration by both Departments.

5. Tobacco -- Document Disclosure: Chairman Bliley released last week 834 tobacco industry documents that his committee had subpoenaed. The documents do not seem to contain any smoking guns, but reveal the industrys persistent efforts to conduct and support

"scientific" research to support its litigation positions. More documents may come to light over the next month, as a result of either judicial rulings or additional congressional subpoenas. Chairman Bliley worked very closely with Rep. Dingell in demanding and releasing the documents; this cooperation may bode well for the progress of tobacco legislation in the House when Congress returns in January.

6. Tobacco -- Smoking Cessation: You recently asked about the possibility of funding smoking cessation efforts through national tobacco legislation. As the CEA informed you, a recent study in the Journal of the American Medical Association found that intensive smoking cessation programs can be among the most cost-effective of preventive intervention programs -- more cost-effective, for example, than mammography screening. Because of the proven success of these programs, you have stated that expansion of smoking cessation activities is a critical element of comprehensive tobacco legislation. The settlement itself proposed that $1 billion annually for the first 4 years and $1.5 billion annually thereafter would go to smoking cessation efforts. We have protected this level of funding in the budget process, rejecting proposals to use this projected revenue for non-smoking-related programs. This level of funding would be insufficient to allow the exact method of providing cessation services studied by JAMA, but neither HHS nor OMB thinks this method the most efficient. HHS is now preparing options for allocating smoking cessation funds, with estimates of how many quitters each option will produce. One potentially effective approach is to provide incentives to managed-care plans to encourage participation in smoking cessation programs.

Weekly Report
April 23, 1998

H-1B

Based on meetings between Sally Katzen and Elena Kagan with House members and their staff, it looks as though 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.(?) 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-May.

G. I. Bill
[Brian, Im making this up because I think that we should wait to see what happens tonight and tomorrow]
The Senate version of the G. I. Bill, the Workforce Investment Partnership Act, has been scheduled for the floor next week. We clearly support passage of the bill, however 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. However, we have elected not to fight the amendment now in order to move the bill through the Senate. 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.

Weekly Report
September 17, 1998

H-1B Visas

Once again the House Republican leadership has postponed bringing legislation to increase the number of temporary (H-1B) visas for highly skilled foreign workers to the floor; their current plan is to bring the bill to the floor next week. The reason for the delay is that the bill, that does not include adequate protections for U.S. workers and has insufficient training funds, does not appear to have enough votes to pass (partially because of our threat to veto the legislation). Meanwhile, Cecilia Rouse, on my staff, and Peter Jacoby, of White House Legislative affairs, met several times last week Senator Abrahams staff in order to reach an agreement that would include significant additional funding for training and strong protections for U.S. workers. At this time some progress has been made and it is possible that we can reach an agreement in the next week.

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 68 to 31, 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 support in the House -- from either Republicans or Democrats.

Faced with waning support for their bill, last week Sens. Wyden and Graham met with Erskine Bowles, Sally Katzen, and Elena Kagan 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 Cecilia Rouse, on my staff, Elena Kagan and Julie Fernandes of DPC, and Barbara Chow and her staff at OMB met twice with the staff of House and Senate Democrats. After giving their bill careful consideration, however, we plan to list this amendment as one of the reasons to issue a veto threat on the CJS Appropriations bill. That said, we have begun a bi-partisan working group (including the Department of Labor and USDA) to consider potential reform to the H-2A program.

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July 10, 1998

MEMORANDUM FOR THE PRESIDENT

FROM:Bruce Reed
Elena Kagan

RE:DPC Weekly Report

1. Tobacco -- State Attorneys General: Next week, the state attorneys general will meet to consider a possible new agreement between the states and the tobacco industry. The industry is interested in a new "state-only" deal that would give the states the $200 billion over 25 years they negotiated last year in return for settling the state cases. No federal or state legislation would be required. The deal would produce a price increase of 30-35 cents per pack, but would not say anything about FDA authority, farmers, lookback surcharges, or federal investments in research, counteradvertising, cessation and so on (although states would have substantial funds to invest in counteradvertising, tobacco education and prevention, etc.). The industry would agree to the advertising restrictions from the Minnesota settlement (no billboards, no promotional products, no film placements). Apart from settling the state cases, the industry would receive none of the liability protections of the June 20th agreement.

If such a deal materializes, we believe we should 1) embrace it, and try to bring the attorneys general to the White House to announce it; and 2) challenge Congress to finish the job by passing a streamlined bill that includes a smaller (e.g. 50-cent) tax increase to pay for targeted tax cuts (marriage penalty, long-term care), along with FDA authority, counteradvertising, and lookback surcharges. Well still need to figure out what to do about farmers (paid for by the industry) and whether we can persuade the states to use a portion of their settlement for tobacco control, childrens health, and/or child care. The state-only deal may take some pressure off Hill Republicans on tobacco (although its not clear they were feeling much pressure anyway). But they remain under intense pressure to find revenue for a tax cut, and they can hardly sustain the argument that its better to use Social Security and the surplus than tax tobacco.

2. Tobacco -- House and Senate Legislative Activity: When the House returns from recess, we can expect Rep. Pryce to unveil the Republican Leaderships tobacco legislation. Although we have not yet seen the legislative language, we are preparing to say that it will not save lives because it lacks a significant price increase and contains weak advertising restrictions (OMB and Treasury are preparing draft estimates based on likely scenarios). In addition, Representative Waxman is planning an event to highlight that members of the Republican House Leadership have taken hundreds of rides in recent years on tobacco industry corporate jets, paying only commercial fares for trips worth tens of thousands of dollars.

In the Senate, Senators Conrad and Kerry are approaching Domenici and Gorton about a streamlined bill that would settle the state cases in return for a 75-cent price increase (with another 50-cent increase in five years if teen smoking is not cut in half), FDA

authority, warning labels, and other public health provisions, but no new federal programs. Three-quarters of the money would go to the states, which would have to spend one-third on tobacco control and one-third on our menu, with one-third unrestricted. The rest of the money would go for a marriage penalty tax cut. The industry would be required to pay for Fords tobacco farmer program over the next ten years. Domenici does not seem very interested in a comprehensive bill, even at 75 cents, and Gorton raised concerns about the FDA authority and the proposals lack of attorneys fees limitation (a state-only settlement would diminish Gortons interest as well)

3. Tobacco -- Executive Memoranda on Industry Documents: On Friday, July 17, in your remarks to Girls Nation, you will announce two directives to make tobacco industry documents far more accessible to the public. The first directive will require HHS to develop a plan for a user-friendly database and/or index of the documents and make them widely available. The second directive will instruct DOJ to file a brief to support the State of Minnesotas effort to make public an industry-created index to their documents. The release of this index would provide the public with a critical roadmap to industry documents and may identify documents that have not yet been produced.

4. Tobacco -- Study on African Americans and Nicotine: On Tuesday, the Journal of the American Medical Association published a study revealing that African American smokers have higher levels of metabolized nicotine than whites or Mexican Americans. This is true even though African Americans smoke fewer cigarettes per day than white smokers. This finding may help explain why African American smokers have more difficulty in quitting smoking, and are at higher risk of developing and dying from lung cancer than whites, and will prompt more research in this area.

5. Education -- Charter Schools: The Education Department is completing its second year evaluation of charter schools, as well as a guide to help chartering agencies (e.g., state and local school boards) do a better job selecting charter schools and holding them accountable. We will package these reports together for you to release, perhaps at an AFT/NEA event on July 29. The Senate Labor and Human Resources is expected to mark up a charter schools bill on July 22. The bill strengthens incentives for states to promote charter schools, and provides greater flexibility for charter schools while demanding increased accountability. There is growing resistance from the education community to passing a charter schools bill this session, and growing pressure on Democrats to drag their feet on the bill. We continue to support the committee in its efforts, and believe the bill will ultimately be reported out of committee.

6. Education -- Bilingual Ed: The Education Department has completed work on its bill to overhaul bilingual education, and it is ready for transmittal if and when needed. Next week, we will begin consultations with House Democrats, seeking their views on whether an alternative to Riggs is needed, and sharing with them the approach in our bill. In addition, we are working closely with the Education Department and other agencies to make sure we have a robust package of steps you can take or propose, in addition to changes in the bilingual education program, that will actually make it possible for students to succeed in learning English. These steps include strengthening Head Start to better prepare LEP students for school, forming partnerships to help school districts recruit and train qualified teachers, and using technology to train teachers of LEP students and help students acquire English skills. We anticipate completing work on the entire package within the next 2 weeks.

7. Health Care -- Patients Bill of Rights Update: Next week, we are planning two events to increase your visibility on the patients bill of rights legislation. The first is a roundtable with physicians and patients who have had bad experiences with managed care plans, such as being denied access to a specialists, that would have benefited from a patients bill of rights. We are currently working with the American Medical Association to see if they would be willing to host this event. The second event could be with the Democrats on the Hill. It may also be possible to highlight Congressional Budget Office estimates of the Dingell-Kennedy-Ganske legislation, which we expect will project premiums to increase by about 4 percent for the average employee, which amounts to about $7 a month (a cost that will be split between employers and employees). We are also looking to see if we could unveil a new Families USA report that highlights what states are doing in this area. On the Hill, the Senate Republicans are working on their patients rights bill. We expect that their legislation will contain many, but not all of the patients protections, including some type of modest enforcement provision.

8. Health Care -- 25th State Approved for Childrens Health Insurance Program (CHIP): Next week, HHS is planning to approve Utah and Maryland, which will represent the 24th and 25th states for CHIP. Taken together, these 25 state proposals will provide health care coverage for more than 2 million uninsured children. We should highlight this, possibly through a public event with these Governors, both of whom have expressed interest in participating. If you are not available, we may want to consider having the Vice President do this event.

9. Children and Families -- Well-Being Report: Next Wednesday, the Federal Interagency Forum on Children and Family Statistics will release its second annual report, America's Children: Key Indicators of Well-Being, which you called for in 1997 by Executive Order. The report compiles regularly measured and representative Federal Government statistics on children. This year's report will show positive trends in the overall condition of the nations children, including decreases in childhood mortality (with infant mortality at an historic low); increases in childhood immunization; dramatic decreases in the number of children with high blood lead levels; lower teen birth rates; and higher college graduation rates. The report will also point to high levels of cigarette smoking, alcohol consumption, and drug use among children; high numbers of children without health insurance (10.6 million in 1996, up from 9.8 million in 1995); an increase in low-birth-weight babies; and no significant change in the number of children in poverty (about 20 percent). We will try to time the CHIP approvals to coincide with this data, and the First Lady will highlight the findings in her weekly column the following week.

10. Welfare Reform -- Child Support Penalties Bill Coming to You for Signature: With our strong support, the House and Senate have passed legislation that makes a number of positive changes to child support law. The bill creates more sensible penalties for states that fail to meet the 1988 Family Support Acts requirement to establish state-wide child support computer systems. Instead of the current draconian penalty of withholding all federal child support funds -- a penalty unlikely ever to be imposed -- it puts in place smaller, automatic, and escalating penalties, ranging from 4% of funds for the first year to 30% for the fifth year that a state fails to implement such a system. A dozen states may face penalties. The largest is California, which is still years away from having a functioning system. Los Angeles County unsuccessfully sought an exemption from its portion of Californias penalty on the grounds that its system has performed well even if the state has not, but Republicans opposed it.

The bill provides a new formula, proposed by an Administration-led working group, for

distributing child support incentive funds based on states performance on a number of key child support goals, such as paternities, child support orders, and collections, rather than simply cost effectiveness as under current law. It will also make it easier for states to establish medical support orders in cases where the non-custodial parent has private health insurance, by putting in place a process to create a medical support order form that all companies will recognize.

While the bill is a good one, we have not pushed for an event in connection with the signing because it could serve to emphasize how long it has taken some states to comply with the 1988 law requiring state-wide computer systems, and because the press may choose to stress the fact that the bill significantly reduces penalties for those states that have not yet put them into place.

*MEMORANDUM

TO: BRUCE REED, ELENA KAGAN, MICHAEL COHEN

CC: MARY SMITH, WILLIAM KINCAID

FROM: TOM FREEDMAN
JULIE MIKUTA

RE: FURTHER INFORMATION ON INTERVENTIONS INTO SCHOOLS

DATE: JUNE 16, 1997

SUMMARY

This Administration has encouraged the fixing of failing schools by closing or reconstituting them, or by reopening them as charter schools. This memo discusses: relevant statutes; Administrative support; and supporters/ critics. Attached is an addedenum to the previous table on school takeovers; it focuses on where sanctions have been implemented and what the results have been.

I. RECENT STATUTES: IMPROVING SCHOOLS ACT, 1994 [ESEA]

A. Title I funds [P.L. 103-382]
Title I is the largest single federal investment in schooling, providing almost $7 billion to schools systems across the country to improve education for children at risk of school failure who live in low-income communities. It reaches more than 6 million children annually, primarily in the early elementary grades. The reauthorization of Title I in 1994 redesigned the program such that its primary aim is now on helping the targetting children to meet high standards.

Title I funds can be applied to the reconstitution of chronically failing schools. So far, they have not been used in this way, according to the Department of Education which plans to investigate this issue.

Students in schools that receive Title I funds are required to meet challenging state standards. Schools or districts in which students fail to reach these goals for 2 years are required to make improvement plans and submit them to the local educational agency (in case of failing school) or the State (in the case of a district). The local education agency or the state must then provide technical assistance. If the school or district makes limited progress for 3 years, corrective actions may be taken. These include: reconstituting personnel, and (in the case of a failing school) creating a charter school. The State reports its overall strategy on how to aid failing schools to the Federal level; reports of individual schools do not pass from state to federal level.

B. Distinguished Educator [Sec 1117]
Requires each state to establish a corps of "distinguished educators" who will provide technical assistance to schools and districts farthest from meeting the States student performance standards. Kentuckys program is the model; all of the 53 schools that were assigned a distinguished educator showed improvement by the end of the second year.

II. PREVIOUS ADMINISTRATION SUPPORT

State of the Union Address

The Address does not explicitly mention failing schools. However, when the Department of Education expanded each of the 10 parts of education plan outlined in the speech, two components recommend reconstituting or closing failing schools. They both propose that charter schools replace failing schools in some circumstances.

President Clinton said: "Every state should adopt high national standards."
The Dept of Eds elaboration:
*urges holding schools and their states or districts accountable for results
*recommends overhauling or shutting failing schools and allowing charter schools to start over in their place
*encourages states or districts to use authority under reformed Title I program to hold schools accountable

President Clinton said: "Every state should give parents the power to choose the right public school for their children."
*the Dept of Eds elaboration: advocates fixing failing schools, by reconstituting or shutting and then reopening them if necessary, or creating new charter schools

Secretary Rileys State of American Education Address (2/18/97)

Secretary Riley calls fixing failing schools the "first order of business". Failing schools should be reconstituted or closed if it cant be changed. He praises the efforts occurring in New York, Chicago, Memphis, Atlanta and San Francisco.

III. NON-PROFIT ACTIVITY

The Consortium for Policy Research in Education and the Pew Foundation for School Improvement co-sponsored a working group meeting this spring. Teachers and administrators involved in this process, state and federal representatives and academics attended. A follow-up meeting focusing on defining indicators is tentatively planned for this fall.

IV. LEGAL BATTLES

The Voting Rights Act of 1965 has created obstacles for school takeovers. Opponents charge that a state limits the voting rights of a citys racial minorities when it appoints a group to replace the elected school board or when it reduces the local boards powers. A few CA counties, along with most Southern states, are required by the Act to get Justice Department approval before doing anything that would affect minority voting rights [Ed Week 3/26/97]. In the fall of 1996, Michael Cohen met with officials from TX, CA and NY to discuss this problem.

V. THE DEBATE

Proponents of reconstitution or of turning failing schools into charter schools
*Alveda Celeste King, niece of Martin Luther King, Jr., and head of "Save the Kids, Now!" coalition, supports empowering parents and teachers to operate their own schools [USA Today, 6/16/97]
*attorney Peter Graham Cohn of the NAACP [San Francisco]: "[Reconstitution] is a way to

radically transform the schools", said. "The whole concept has placed San Francisco in the forefront of education innovation. Its a clear benefit." [San Fran Examiner, 8/14/96]
*Ronnie Davis, spokesperson for NYs United Federation of Teachers: supported Chancellor Crews plans to intervene in troubled schools, and said the union would support the intervention even if it means replacing the entire schools staff [NYT, 11/1/95]
*Dianne Ravitch (Asst Sec of Ed Sec of Ed, 91-93; now at the Brookings Institution and NYU) Joseph P. Viteritti (Research Prof in the Wagner School of Public Service in NYU) advocated putting failing schools in NYC on probation and closing them if they do not improve. [Reforming Education Today, 1995]

Proponents who qualify their support:
*Richard Elmore, Harvard University professor: believes radical strategies like reconstitution are the wave of the future but fears the process will be undertaken far too haphazardly: "If a district is going to reconstitute then it had better make sure schools have ample resources and teachers have sufficient professional-development opportunities. Otherwise, it's just inviting failure." [Ed Wk, 3/97]
*Susan Fuhrman, a professor of educational policy at Rutgers University and director of the Consortium for Policy Research in Education: the limited research indicates that the threat of sanctions motivates teachers and administrators and the most promising approaches provide substantial technical assistance and professional development to teachers (e.g. in Chicago, KY and MD) but the research also says these approaches are costly and that underfunding is a significant obstacle to success

Opponents
*the NAACP opposed transferring control of Clevelands schools to Mayor White in 1996
*teachers unions across country

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Sally Katzen

SUBJECT:Heads-up on FDA Final Rule on Quality Mammography Standards

We have just concluded review of an FDA final rule that establishes nationwide quality and safety standards for mammography facilities. The final rule, which implements the Mammography Quality Standards Act (MQSA), combines five proposed regulations addressing accreditation, facilities, personnel, equipment, and performance standard alternatives.

The rule strikes an appropriate balance between imposing new costs on mammography facilities (which can limit patient access to mammography services) and improving our ability to protect womens health. Although the provisions of the rule are highly prescriptive, FDA pushed the performance standards as far as they could given the state of the art in this area.

As part of the White Houses efforts to promote breast cancer awareness, the President is expected to announce the rule this Saturday in his radio address. While FDA received over 19,000 comments on the proposal, the final rule is generally expected to be well-received by the public, including physicians, mammography facilities, and advocacy groups.

Please call me if you have any questions.

FFcc: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

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May 19, 1998

TOBACCO EVENT

DATE:May 20, 1998
LOCATION:South Lawn
BRIEFING TIME:9:30 am
EVENT TIME:9:45 am
FROM:Bruce Reed

I.PURPOSE

To endorse Senator McCains Managers Amendment and urge the Senate to pass this comprehensive tobacco legislation this week.

II.BACKGROUND

This is an opportunity to applaud the Senate for taking up comprehensive, bipartisan legislation to dramatically reduce teen smoking, and to announce your support for the McCain bill. You will urge the Senate to move swiftly to pass Senator McCains Managers Amendment, which is currently before the Senate, and announce that you would be pleased to sign it into law. Specifically, you will announce your strong support for the improvements made to the McCain bill which will help reduce youth smoking and protect the public health.

You will be surrounded by 1400 youth ages 10-14 from the local D.C. area who participate in the National Campaign for Tobacco-Free Kids and will be holding a rally to push for tobacco legislation on the steps of the Capitol with Senators McCain and Conrad following this event. Approximately 150 public health advocates, tobacco control advocates, and tobacco farmers will also be in the audience.

The specific improvements made to the McCain bill include:

*Tough industry-wide and company-specific surcharges that will finally make reducing youth smoking the tobacco companies bottom line;

*Protection for all Americans from the health hazards of secondhand smoke in public buildings;

*No antitrust exemption for the tobacco industry;

*Strong licensing and anti-smuggling provisions to prevent the emergence of a contraband market and prosecute violators;

*A dedicated trust fund to provide for a substantial increase in health research funding as we move into the 21st Century, a nationwide counteradvertising campaign to reduce youth smoking, effective state and local programs in tobacco education, prevention, and

cessation, law enforcement efforts to prevent smuggling and crack down on retailers who sell tobacco products to children, assistance for tobacco farmers and their communities, and funds for the states to make additional efforts to promote public health and protect children; and

A higher, $8-billion-a-year cap on legal damages, which will only be available to tobacco companies that finally change the way they do business, by agreeing to accept sweeping restrictions on advertising, continue making annual payments and lookback surcharges even if those provisions are struck down, make substantial progress toward meeting the youth smoking reduction targets, prevent their top management from taking part in any scheme to promote smuggling, and abide by the terms of the legislation rather than tying it up in court.

III.PARTICIPANTS

Briefing Participants:
The Vice President
Secretary Shalala
Secretary Riley
Bruce Reed
Elena Kagan

Event Participants:
The Vice President
Tara Lipinsky, 1998 Gold Medal Figure Skater and Spokesperson for the National Campaign for Tobacco Free Kids.
Emily Broxterman, Campaign for Tobacco Free Kids National Youth Advocate Winner, Overland, Kansas

IV.PRESS PLAN

Open Press.

V.SEQUENCE OF EVENTS

- You do a brief photo-line in the Oval Office with Tara Lipinsky, Emily Broxterman, two Regional Youth Advocate Winners, representatives from each of the 8 schools present at the event, Bill Novelli, President of the Campaign for Tobacco Free Kids and Matt Myers, Senior Legal Counsel for the Campaign for Tobacco Free Kids.
-You will then be announced into the South Lawn accompanied by the Vice President and youth from the Campaign for Tobacco-Free Kids.
-The Vice President will make remarks and introduce Tara Lipinsky.
-Tara Lipinsky will make remarks and introduce Emily Broxterman.
-Emily Broxterman will make remarks and introduce you.
-You will make remarks and then depart.

VI.REMARKS

Remarks provided by Speechwriting.

March 30, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: Tobacco Update

Senator McCain announced a comprehensive tobacco bill today for mark-up on Wednesday in the Senate Commerce Committee. The bill is not perfect, and we will continue to seek improvements. But it represents real progress (see the attached chart comparing the McCain bill with the June 20th settlement and your positions), and it should enhance the prospects for enacting comprehensive tobacco legislation in this session of Congress.

The Commerce Committee is likely to pass the bill this week with bipartisan support. Among Republicans, Senators Stevens, Gorton, Hutchison, Snowe, and Frist are likely to vote yes; Senators Burns and Ashcroft are likely to vote no; Senators Abraham and Brownback are undecided; and Senator Lott probably will recuse himself. Among Democrats, Senators Hollings, Wyden, Breaux, and Kerry are likely to vote yes; Senators Rockefeller and Dorgan will vote no; and Senators Bryan, Inouye, and Ford are undecided. The mainstream public health groups (Heart Association, Cancer Society, etc.) called the bill an encouraging step forward, but Drs. Koop and Kessler probably will criticize the bill because it contains some liability limits and increases the price of cigarettes less than they would like. The industry responded to McCains announcement by saying that it would not agree to the legislation, but many observers believe that the industry has taken this position only to prevent the price from increasing still further.

Erskine gave the Administrations response to the bill in your absence. At a previously scheduled speech at the Center for National Policy (given before McCain made the liability provisions of the bill more acceptable to the public health community), Erskine said that the bill laid a good foundation for future efforts, but had room for improvement. In addition to praising Sen. McCains leadership and process, Erskine lauded the legislation for raising the price of tobacco products substantially, giving the FDA full authority to regulate tobacco products, and including a strong plan to protect tobacco farmers. Erskine criticized the bill for having inadequate lookback penalties, and noted that it did not contain a comprehensive plan for using tobacco revenues to protect the public health and assist children. Erskine said he would not address the liability issues because the rest of the legislation did not yet meet your principles.

The bill emerged from a weeks-long process in which McCain consulted with the Attorneys General, Wall Street analysts, public health leaders, and the Administration. As noted above, at the last moment, McCain changed the liability provisions of the bill -- removing the bar on class actions and probably on punitive damages -- to get the support of at least some members of the public health community. The final bill, which we summarize more fully below, addresses many of your concerns and offers an opportunity for bipartisan accomplishment.

1. Funding and Per-Pack Price Increase. The McCain bill essentially uses your budget numbers, raising approximately $70 billion over five years (including a $10 billion up-front payment) and generating a $1.10 increase in the price of a pack of cigarettes by 2003. The bill prevents the real price of tobacco products from increasing after the fifth year by including a volume adjustment on annual payments. Some in the public health world, as well as a number of liberal Democrats, will criticize the price rise as insufficient, arguing that an almost immediate $1.50 increase is required to reduce youth smoking dramatically. Your own plan, however, contains the same price increase, and we have estimated that it will help reduce youth smoking by over 40 percent in five years.

2. FDA Regulation. The bill provides full authority to the FDA to regulate tobacco products. To respond to concerns from pharmaceutical companies about the effect of regulating tobacco under normal "drug and device" authority, we agreed to set up a separate chapter in the Food Drug and Cosmetic Act for tobacco products. We managed to do so, however, without ceding any of the authority the FDA has claimed over tobacco. This victory was hard-fought -- Senators Hatch and Jeffords argued strenuously for language defining the FDAs authority more narrowly -- and will be subject to challenge on the floor. Senators McCain and Frist, however, have committed to fighting off weakening amendments, so we are in the best position possible (given a Republican Congress hostile to the FDA) to emerge from the Senate with full FDA authority.

3. Farmers. The bill contains a plan to protect tobacco farmers and their communities, which has the support of Senators Hollings, Ford, and Robb. We do not yet know the full details of this piece of the legislation, but it is designed to address the concerns of both burley and flue-cured tobacco farmers. Needless to say, it will contain funds fully sufficient for these purposes, and accordingly meets your demand to protect tobacco farmers.

4. Lookback Penalties. The bill provides for non-deductible industry-wide lookback penalties capped at $3.5 billion per year. The industry will have to pay $80 million for each percentage point by which it misses youth smoking targets between 0 and 5 percent, $160 million for each percentage point between six and ten percent, and $240 million for each percentage point over 11 percent. The industry will hit the $3.5 billion cap at about a 20 percent miss, so any larger miss will be "free." There are no monetary penalties on individual companies for failing to meet youth smoking targets. The bill does contain a provision for taking away the liability protections of any company that misses the youth smoking targets by more than 20 percent, but this provision has a very large loophole and probably will have little effect as currently drafted.

As Erskine noted in his speech, the penalty provisions are the weakest part of the McCain bill. We have raised serious concerns about both the $3.5 billion cap and the absence of any company-specific penalties. We also will try to tighten the provision that makes liability protections contingent on success in reducing youth smoking. We assume that such amendments should not come in committee, but during debate on the floor.

5. Liability Provisions. As late as Sunday, Senator McCain intended to include liability provisions very close to those in the proposed June 20 settlement. These provisions included a $6 billion cap on annual liability payments (with any judgments beyond the cap rolled over to the next year), as well as prohibitions on class actions and punitive damages. By Monday morning, however, the public health community (including the mainstream groups) had made clear to McCain that they would denounce the bill if it contained these provisions. McCain accordingly modified the legislation to permit class actions. We think the legislation now allows punitive damages as well, but we have not received the new

language and are not entirely certain. Drs. Koop and Kessler and some liberal Democrats will oppose the bill because of the remaining liability limits.

A simple cap on damages -- without any limitations on class actions or punitive damage claims -- is the least objectionable form of liability protection for the industry. We will try, however, to raise the cap beyond the level set in the McCain legislation; you should note, for the sake of comparison, that the Harkin-Chafee bills cap stands at $12 billion.

6. Budget Issues. The biggest issue left unresolved by the McCain bill is how to allocate tobacco funds. Although the bill takes care of tobacco farmers, and also provides money for smoking cessation, counteradvertising, and some research, it leaves other spending issues for the Senate floor. Senator Domenicis budget resolution would reserve all tobacco funds for Medicare, not even allowing the spending on farming and public health contained in the McCain bill. The Senate will take up amendments to this resolution tomorrow to make tobacco funds available for class size, child care, NIH, farmers, and other purposes. Many Republicans have raised concerns about the Domenici approach, but they may decide to vote for it, on the theory that as long as they have 60 votes for a tobacco bill, they can waive the budget rules anyway.

When the time comes to engage in serious negotiations over how to allocate tobacco funds, we expect bipartisan consensus on 75-80 percent of the spending ($10 billion over 5 years for farmers; $10 billion for cessation, counteradvertising, and other public health programs; $10-15 billion for NIH; and $20-25 billion for states). The battle will be over how to divide up the remaining $15 billion or so. Senate Republicans will seek money for Medicare; House Republicans may push Rep. Archer's proposal for health care tax deductions for small business and the self-employed; and Democrats will push for everything from child care to school construction.

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The emergence of the McCain bill is a very positive development. It will attract bipartisan support, and it is close to meeting your principles. We should continue, however, to press for real improvements -- particularly in the bills penalty and liability provisions. Tomorrow, Erskine, Larry, and we will have meetings with Senators McCain, Hollings, and Daschle about how to move forward to enact the strongest possible tobacco legislation.

April 9, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: McCain Legislation

With the overwhelming vote in favor of the McCain legislation in the Senate Commerce Committee and the subsequent announcement of the tobacco industry that it will fight this legislation, we have entered into a new phase of our effort to procure a comprehensive tobacco bill to reduce youth smoking. The Commerce Committee vote last week brought new momentum to this legislative effort. The industrys response should only add to that momentum, by making it even harder for Members of Congress to block legislation, lest they look as if they are doing the industrys bidding.

The broad consensus among your advisors is that we should aim for a strong, comprehensive bill that meets our core public health objectives and that the industry might reluctantly swallow in the end. Without industry consent, some provisions in comprehensive legislation (i.e., the most far-reaching advertising restrictions) would be impossible, while other provisions (e.g., narrower advertising restrictions and lookback penalties) would be in litigation for years. We should not compromise our objectives to secure that consent, but at the same time we should not ask for more than we need to achieve our public health goals and in the process destroy any chance of industry acquiescence. In any event, most of your advisors believe that efforts to push the price too far would be counterproductive, because tobacco-state Democrats will join with Republicans to derail a bill that goes as far as some in the public health community might like. Instead, we should try to address the aspects of the McCain bill that are most important to us and to securing broad Democratic support.

Your advisors also agree that the best way to get this kind of bill is to engage in negotiations with Senators Lott, Daschle, McCain, and Hollings that are designed to produce an agreed-upon bill to go to the Senate floor. The greatest danger we face is chaos on the Senate floor, in which some amendments roll back what we already have achieved (e.g., on FDA jurisdiction), while other amendments make the bill essentially unpassable (e.g., by stripping all liability protections while increasing the overall price of the deal).

We recommend against direct discussions with the industry at this stage; we doubt they would level with us anyway. Assuming Senator Hollings is in the room, we should have a decent sense of the industrys concerns, and of course we have more-than-adequate lines of communication to the public health community.

We list below several aspects of the McCain legislation in which we should seek changes during these negotiations. Note that FDA jurisdiction does not appear on this list; we were able to reach an agreement on this issue with Senators McCain and Frist, prior to the Commerce Committee vote, that satisfies all our regulatory needs and objectives.

I. Youth Lookback Penalties

We already have said that Congress must strengthen the lookback penalties in the McCain legislation, by incorporating some company-specific penalties and raising the cap on the industry surcharge. The incorporation of some company-specific penalties is a core demand of the public health community, and is strongly supported by HHS and Treasury. Such penalties, however, may be unacceptable to the industry, and especially to Phillip Morris because of its disproportionately large share of the youth market. (Unlike industrywide penalties, which can be passed on in the form of higher prices, company-specific penalties come straight out of a companys profits.) Bruce Lindsey has noted that even if we need to make demands in this area, we should not let the issue of company-specific penalties become grounds for vetoing the bill. We agree, but think it is important to try to find a way to address this issue.

A number of approaches are available, and we should not now tie ourselves down to any of them. A company-specific penalty developed by Treasury and HHS would impose a $500 fee for every child by which a company misses the targets (i.e., if a company misses the target by 10,000 children, it would pay a fee of $5,000,000). This per-child surcharge represents the present value of the profits a company would gain from addicting a teenager over his lifetime. Treasury estimates that the total cost of this penalty -- i.e., across all companies -- could reach as much as $500 million a year. Another approach, probably more acceptable to the industry, would be to allow suits between companies for redistribution of the industry-wide penalty. Such indemnification suits would create a potential for transforming the industry surcharge into a company-specific penalty scheme, without increasing the overall cost of the penalty provisions. We will continue to try to develop creative solutions in this area so that we can enter negotiations with a range of proposals.

Raising the cap on industry-wide penalties is obviously an easier matter. We would suggest proposing a change from the current $3.5 billion to $4 to $5 billion if possible.

II. Price per Pack and Spending

Price per Pack

2

We should not demand any increase in the McCain bills funding levels in the first five years, because McCain essentially adopted our own budget numbers (while adding a $10 billion up-front payment). We recommend waiting until CBO scores the McCain bill before deciding whether to seek any increase in funding levels in later years. (McCain has asked CBO to score his bill by the time Congress returns.) Congressional scorekeepers may well estimate that the yearly payments in the bill will increase the price of cigarettes not by the $1.10 we estimated, but by the $1.50 that the public health community has most often demanded. The higher figure may result from assumptions by CBO that (1) states will use the opportunity to increase state excise taxes, further reducing the number of packs sold and (2) the bill will significantly increase the black market for cigarettes, resulting in fewer than expected packs sold through the legitimate retail market. By reducing the number of expected packs sold, both of these changes would increase the per-pack price estimate, because the annual industry payment set in legislation would be spread among fewer packs. Once we know the actual per-pack price increase calculated by Congressional scorekeepers, we will be in a better position to determine whether we should push for a small increase in funding levels after the fifth year.

Spending

We hope for bipartisan consensus on much of the spending: we think Members could agree on approximately $10 billion over 5 years for farmers; $10 billion for prevention, cessation, counteradvertising, FDA enforcement, and other public health programs; $10-15 billion for research (the Republicans may want to limit these funds to NIH); and $20-25 billion for states. This distribution leaves about $15 billion on the table, which Republicans will want to spend on Medicare or tax cuts and Democrats will want to spend on programs like child care and school construction.

One issue will concern the use of the state money. Our budget earmarked 57 percent of the state funding for child care, class size, and Medicaid outreach initiatives. As we go forward, we should argue at a minimum for a menu of state programs, such as child care and education, on which states would have to use a significant portion of their funds. For example, in the Harkin-Chafee bill, half of the state funds must be spent on one of 20 listed programs, which include child care, K-12 education, Medicaid, the Child Health Insurance Program, and Head Start.

Another issue, more important in the out-years, concerns the amount of money allocated to paying legal judgments. The June 20th settlement put only a few billion dollars into the tort fund in the first five years, on the theory that lawsuits against the industry would take some time to come to judgment. Congress may well use the same assumption, given competing spending priorities. But once this initial grace period is concluded, Congress must figure out how to fund legal judgments. The June 20th settlement placed a $5 billion annual cap on judgments, with $4 billion coming from the industrys base payments to the government and $1 billion (a kind of copayment) from the defendant companies coffers. The McCain bill establishes a $6.5 billion cap; McCain contemplated that $5.2 would come from the industrys base payments, with $1.3 as a copayment, but his bill does not actually address this issue. Some in the public health world may begin to call for the entire amount to be paid by the companies, outside of their payments to the government. This change, however, would add an enormous amount to the total cost of the deal and could doom prospects for legislation. Room for a tort fund thus will have to be found in the out-years by squeezing some of the spending listed above.

III. Antitrust Exemption

The McCain bill contains antitrust exemptions for the tobacco industry that are not necessary to achieve the goals of the legislation and may have serious anticompetitive effects. As written, the bill exempts any and all agreements designed to "reduce the use of tobacco products by underage individuals." This exemption could cover (among other things) price-fixing agreements of all sorts. The Department of Justice believes strongly, and we agree, that we should oppose all antitrust exemptions, except possibly for a narrowly-drawn exemption designed to allow companies to agree to restrict their advertising and marketing to children.

IV. International Tobacco Control Efforts

As part of the public health spending noted above, we believe we should include significant funding ($200 million a year) for international tobacco control efforts. These funds should be spent on both governmental and non-governmental efforts to promote public health and smoking prevention efforts abroad.

The McCain bill has several additional international provisions that we would like to

change so that they do not interfere with our diplomatic and trade priorities. For example, although we support the bill's effort to prohibit U.S. government support for promotion of tobacco overseas, we need to ensure that the language does not interfere with USTR's ability to negotiate tariff reductions or interfere with treatment of other products. In addition, the McCain bill contains a provision that the State Department and HHS consider problematic and unenforceable, which would require U.S. companies to abide by the new labeling and advertising requirements when doing business in other countries. The industry strongly objects to these provisions for a different reason, because it views them as a real threat to its international operations.

V. Environmental Tobacco Smoke

The McCain bill would exempt the hospitality industry (restaurants, bars, casinos, etc.) from its environmental tobacco smoke provisions, which ban smoking, except in enclosed and specially ventilated areas, in public facilities. In addition, the bill would allow individual states to "opt out" of all of the provisions, even if the state had no ETS protections of its own. Although HHS strongly opposes the hospitality exception (workers in the hospitality industry face grave risks from second-hand smoke), we doubt it is politically feasible to remove it. We should, however, try hard to eliminate the state opt-out provision, which could leave many of the nations citizens without any protection from ETS. Alternatively, we might consider pushing the Harkin-Chafee approach to this issue, which rather than imposing a ban would provide funds to States that progressively reduce exposure to ETS.

VI. Liability Provisions

We believe we should adhere to the basic structure of the liability provisions in the McCain legislation. If we need to make these provisions a bit tougher, we can try to raise the cap from the current $6.5 billion to the $8 billion contained in Harkin-Chafee. Note, however, that doing so only compounds the budgetary issues surrounding the tort fund noted earlier in this memo: to the extent that money for tort judgments come from the industrys payments to the government, that money squeezes out funds for public health and other priorities; conversely, to the extent that money for tort judgments comes over and above the industrys payments to the government, the expected cost of the deal to the industry increases.

Finally, we may want to change the provisions in the McCain legislation that deny the liability cap to certain companies. The current provision, which has received almost no attention, lifts the cap for companies that miss the youth lookback target by more than 20 percentage points if they also have violated the Act or taken action to "undermine the achievement of youth smoking reductions." Because of the vagueness of this standard, the provision may have little or no effect. We should either tighten it (by linking the cap only to objective measures) or discard it entirely. Especially if we try to make the liability provisions tougher in other areas, agreeing to eliminate the provision may prove useful.

VII. Constitutional Issues

The Department of Justice is prepared to recommend changes to the advertising, marketing, and other speech-related provisions of the legislation in the event that the industry does not sign protocols agreeing to these restrictions. The Department also would like us to press for the elimination of all provisions regulating non-commercial speech, such as one

that forbids companies from lobbying Congress, regardless whether the companies offer agreement.

Conclusion

In summary, we would recommend seeking these improvements:

Youth Lookback Penalties

*Incorporate some company-specific component in the penalty scheme
*Increase the industry-wide surcharge cap from $3.5 billion to between $4 and $5 billion

Price and Spending

*No change in annual payment amounts in first five years; wait until CBO scores before deciding whether to seek later changes
*Ensure spending on research, public health, and farmers, press for spending on child care and education, or at least a menu including these programs

Antitrust Exemption

*Eliminate the antitrust exemption

International Tobacco Control

*Support funding for governmental and non-governmental organizations
*Narrow provision prohibiting U.S. support for promotion of tobacco overseas to ensure it does not interfere with USTR authority to negotiate treaties
*Remove requirement that companies must abide by new labeling and marketing requirements when operating overseas

Environmental Tobacco Smoke

*Eliminate "opt-out" provision that allows states to adopt weaker laws

Liability

*Retain basic structure of liability priorities
* Consider modifying level of cap and relation of cap to youth reduction targets

Constitutional Issues

*Recommend changes to minimize Constitutional difficulties

September 21, 1998

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: Bruce Reed
Elena Kagan

SUBJECT: Tobacco Update

This memo (1) advises you of recent conversations we have had with an attorney for the industry, which confirm that the industry has no interest in expanding its expected settlement with the states, in the way suggested by Dick Scruggs, to include the federal government; (2) informs you of a recent NGA/NAAG proposal that Congress pass legislation eliminating the federal governments claim for a portion of state tobacco recoveries, and outlines a compromise proposal that Governor Chiles may suggest to you on Tuesday; and (3) outlines a new idea of Bruce Lindseys to try to use the state settlement discussions to gain clear FDA jurisdiction over tobacco products.

1.Meyer Koplow, the outside counsel for Philip Morris, told us last week that the industry has no interest in bringing the federal government into its settlement discussions with the states. (Our initial conversations with Koplow took place the week before last, but Koplow took some time to speak with his client and get back to us.) According to Koplow, the industry does not think it makes sense to upset the state negotiations, given how close they are to success, in order to pursue a broader settlement whose prospects of completion are highly uncertain. (Koplow, of course, speaks only for Philip Morris, but if Philip Morris is not interested in talking with us, we can bet that no one else is either.)

In explaining this conclusion, Koplow first noted the legal complexities involved in crafting a comprehensive settlement -- in particular, the difficulty of insulating the liability protections and the FDA provisions from legal challenge. Although he thought there was some chance of resolving these issues to all parties satisfaction, he said (correctly) that we would have to do much hard work before knowing whether such a resolution was possible. Koplow also noted the practical difficulties involved in the Scruggs scheme; for example, he believes that the states would not agree to any arrangement that would subtract punitive damages from their share of the money. Finally, Koplow stressed the "psychological" difficulties of attempting to reach an agreement. The industry, according to Koplow, simply does not trust us; it fears that we will bow to political pressure and increase our demands during negotiations.

Koplow left open the possibility that the industry would want to deal with us separately at some future time, after it had completed the state settlement. He noted that Philip Morris wants to resolve all government claims, including potential claims by the federal government. He implied that the kind of deal Philip Morris contemplates would not necessitate legislation and would include (1) money, (2) FDA jurisdiction, and (3) certain marketing restrictions excluded from the state settlement (in part so the industry has something to offer the federal government). He did not specifically raise liability

protections in this context.

2.The National Association of Attorneys General (NAAG) wrote a letter to Congressional leaders last week urging them to pass legislation before Congress adjourns to "clarify that the Health Care Finance Administration should not assert any claims against state tobacco recoveries" (letter attached). We can expect the NGA to support this demand strongly; indeed, Republican Governors probably have talked already with Senator Lott and Speaker Gingrich about moving this legislation. A set of talking points prepared for Democratic Governors, for use in a recent phone call with the Administration, urges us to support the legislation, as does a letter that Senator Graham just sent you (talking points and letter attached).

Governor Chiles is meeting with you on Tuesday, primarily to discuss this issue. (As you know, Florida has a very special interest in the issue because it is one of four states to have completed a settlement with the industry.) Chiles may urge you to support a bill that simply eliminates the federal governments claim to any tobacco recovery, as described above. His staff, however, has suggested that Chiles may come in with a compromise option, predicated on the agreement we reached with the NGA in the context of the McCain legislation. Under this approach, the federal government would renounce its claim to a state recovery only when the state agreed to use half its money on a menu of seven items: child care; child welfare; the maternal and child health block grant; the substance abuse block grant; the safe and drug free schools program; Eisenhower education grants; and the state match for the childrens health insurance program (subject to a six percent ceiling). This approach would give us exactly what we would have gotten from the "state side" of the McCain legislation, and we should seriously consider it -- especially given the alternative legislation that the NGA and NAAG are proposing.

We should note that any proposal restricting the federal governments ability to bring claims against the states will involve serious budget issues. The Congressional Budget Office currently projects that the federal government will recoup $1.2 billion over five years from state tobacco settlements; we can expect the Office to score even Chiless compromise approach at approximately that amount. The Governors supposedly have agreed on a plan to reimburse the federal government for this cost, under which they would divide the cost amongst themselves based on their share of the total settlement funds. OMB is currently evaluating this proposal.

3.Bruce Lindsey has proposed a more ambitious plan for using our recoupment claims as leverage to get something out of a state settlement. Under the Lindsey plan, we would drop our recoupment claims if a state agreed to (1) take 45 percent of the money unrestricted; (2) use
45 percent of the money for the seven items on our menu; and (3) give over 10 percent of the money to a "tort fund" which would pay legal judgments against the industry. If the judgments failed to exhaust the tort fund, the remaining money in the fund would return to the unrestricted state pot. Conversely, if the judgments exceeded the tort fund, the remaining liability would come out of the restricted state pot -- and if that too were exhausted, would revert to the industry. In exchange for this potentially valuable benefit the industry would agree to FDA jurisdiction -- if possible, through the settlement itself; if not, by dropping its opposition to legislation.

The great virtue of this scheme is that it could make the state settlement partly our victory: if everything works correctly, we would achieve the important goal of full FDA jurisdiction. The scheme, however, raises at least three questions. First, we may not be

able to convert this deal into an effective guarantee of FDA jurisdiction. The legal difficulty of getting regulatory jurisdiction through a settlement is heightened in this scheme because we probably could not be a party to the agreement; moreover, the industrys assurance that it would not fight a legislative solution (even if it is believed) hardly guarantees the result we want in a Congress replete with FDA-haters. Second, even if we could surmount this problem, the states may well refuse to consider this plan, given that it puts more than half of their money at risk of going back to the industry for legal judgments. Third, the left in our own party may react with outrage to this agreement, arguing that we effectively have "bought" FDA jurisdiction by granting the industry relief from liability. We would have to explore these questions more thoroughly before pursuing this option.

September 30, 1998

MEMORANDUM FOR THE PRESIDENT AND VICE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: Federal Tobacco Claims

Over the last few months, we and Bruce Lindsey have had many conversations with Department of Justice attorneys regarding the feasibility of bringing suit against the tobacco companies for Medicare and other losses stemming from the use of tobacco products. We also have asked DOJ lawyers to consult with a number of law professors and trial attorneys who have considered the viability of a lawsuit.

The Department now has concluded that it should not bring suit against the companies. Almost everyone at DOJ agrees that such a suit could be brought consistent with Rule 11 (i.e., with minimum professional standards). Most DOJ lawyers also acknowledge that given the size of the claim and other factors, the companies might well choose to settle the suit (as they are settling state claims) for a substantial sum of money plus public health concessions. DOJ attorneys believe, however, that they should not bring suit unless they would stand a reasonable prospect of actually winning the suit at trial and on appeal (i.e., putting aside all settlement possibilities). The attorneys have concluded that under existing law governing Medicare and other potential federal claims, they cannot meet this standard. The lawyers principally argue that current law precludes the federal government from aggregating (i.e., bringing in a single suit) claims for each Medicare beneficiarys tobacco-related health care costs.

At the same time, most DOJ attorneys appear amenable to settling federal claims against the tobacco companies without bringing a prior lawsuit. (The lawyers reason that although they cannot bring suit against the companies for want of an effective aggregation device, they do in fact have millions of individual claims against the companies, which they could settle all at once.) Under this approach, the government would enter into negotiations with the tobacco companies to resolve potential federal claims; if an agreement were reached, the parties would file in court a settlement agreement and proposed consent decree, which would release federal claims against the tobacco companies in exchange for some combination of monetary damages and injunctive relief. No legislation would be necessary.

We have some reason to believe that the companies -- at least Philip Morris and Lorillard -- would have an interest in entering into this kind of negotiation in the wake of a settlement with the states (which, as you know, is rumored to be in the offing). The principal outside counsel for Philip Morris (Meyer Koplow) recently suggested to Elena that his client wants to resolve all government claims against it, including potential claims by the federal government. He implied that a potential settlement agreement could include money, FDA jurisdiction, and marketing restrictions.

The prospects of actually reaching a good agreement with the companies are uncertain. We

know that the companies want to rid themselves of potential government litigation, primarily so they can spin off non-tobacco assets. But without an actual suit against the companies, we would have relatively little leverage in negotiations. Moreover, we could encounter serious legal difficulties in trying to achieve some of our objectives -- particularly, an assurance of FDA jurisdiction -- through a non-legislated settlement.

We believe the Administration should attempt to engage the companies in such a negotiation, but we wanted your approval first. There is always some risk that Democrats will fret that we are letting the companies off too easily. However, they will be reassured somewhat by the Justice Departments involvement in these negotiations -- and the only relief the companies can get out of these talks is from a suit we have not brought. The advantage of entering into negotiation is that we might be able to get something done on tobacco without Congress -- and if not, we could lay the groundwork for legislative action next year.

Approve: _____ Disapprove: _____ Lets Discuss: _____

November 24, 1998

NOTE TO JOHN PODESTA

FROM:Elena Kagan
Cynthia Rice

SUBJ:Tobacco Issue to be Raised Today by Governor Chiles

At your meeting this afternoon, Governor Chiles plans to give you a proposal regarding the state of Floridas tobacco settlement. Under this plan, the state of Florida would agree to spend 50 percent of its tobacco settlement funds on the menu of items we and the states agreed to in the McCain legislation. In exchange, HCFA would agree not to assert any claim to the state settlement funds.

The Justice Department previously has advised us that there are real legal obstacles to entering into such an agreement without Congressional approval. We will, however, immediately send the Governors proposal to the Department for a legal opinion.

Additional Background on Medicaid Recoupment

Under current law, states must share with the federal government a portion of any Medicaid claims they recover (from any source, including lawsuits and third party insurers). The exact amount of the share is based on the percentage of the states Medicaid costs that are paid by the federal government. This percentage varies by state according to a statutory formula and averages 57 percent nationwide. For Florida, the percentage is 50 percent. Although states do not dispute the federal governments right to recoup Medicaid funds generally, they argue that little or none of the tobacco settlement funds derive from Medicaid claims and thus recoupment should not apply.

In the McCain bill, the federal government waived its claim to a share of Medicaid funds in exchange for a requirement that the states spend 50 percent of their funds on a menu of seven items: child care; child welfare; the maternal and child health block grant; the substance abuse block grant; the safe and drug free schools program; Eisenhower education grants; and the state match for the childrens health insurance program (subject to a six percent ceiling).

*

MEMORANDUM

TO:BRUCE REED, ELENA KAGAN, MICHAEL COHEN

CC: MARY SMITH, WILLIAM KINCAID

FROM: TOM FREEDMAN
JULIE MIKUTA

RE: EFFECTIVENESS OF INTERVENTIONS INTO SCHOOLS

DATE:JUNE 12, 1997

SUMMARY

Schools or districts that have been taken over, put on probation or reconstituted get mixed reviews. Test scores rarely rise in the first few years of state control. The earliest observable results are seen in the form of reformed fiscal practices, reorganization of management, improvements to site maintenance, and correction of poor record keeping. Districts and states that have recently developed intervention schemes (i.e. Chicago, MD, KY) emphasize improving instructional strategies, whereas older approaches target organizational structure. Attached is an overview of schools/ districts that are seen as improving under state control. There is a lack of research into the effectiveness of these approaches.

NUMBERS OF FAILING SCHOOLS

Baltimore: 50 of the citys 180 schools are eligible for takeover
Chicago: 109 of 554 schools on probation due to low test scores
Michigan: about 130 districts do not meet current standards
Florida: State Education Commissioner identified 158 failing schools based on low scores
Tennessee: for each of past 2 years, fewer than 2% of schools meet state criteria
New York: State Board of Regents identified 57 failing schools in 1995
Indianapolis: 51 of 86 schools placed on probation in 1996 and another 25 issued warnings because failed to meet criteria including attendance, test scores and contact with parents

SUPPORT FOR TAKEOVERS/ RECONSTITUTION

"[Reconstitution] is a way to radically transform the schools", said attorney Peter Graham Cohn of the NAACP [San Francisco]. "The whole concept has placed San Francisco in the forefront of education innovation. Its a clear benefit." [San Fran Examiner, 8/14/96]. [NB: the NAACP opposed transferring control of Clevelands schools to Mayor White.]

Richard Elmore, Harvard University professor who has studied school restructuring:
*believes radical strategies like reconstitution are the wave of the future: "Id be surprised if we didn't have a version of it everywhere within the next five years."
*finds reconstitution somewhat appealing: "The threat of dismissal is one of the few ways to make principals and teachers truly accountable."
*fears the process will be undertaken far too haphazardly: "If a district is going to reconstitute then it had better make sure schools have ample resources and teachers have

sufficient professional-development opportunities. Otherwise, it's just inviting failure." [Ed Wk, 3/97]

Susan Fuhrman, a professor of educational policy at Rutgers University and director of the Consortium for Policy Research in Education:
*the limited research indicates that the threat of sanctions motivates teachers and administrators
*the most promising approaches provide substantial technical assistance and professional development to teachers (e.g. in Chicago, KY and MD)
*the research also says these approaches are costly and that underfunding is a significant obstacle to success

Ronnie Davis, spokesperson for NYs United Federation of Teachers, supported Chancellor Crews plans to intervene in troubled schools, and said the union would support the intervention even if it means replacing the entire schools staff [NYT, 11/1/95]

Dianne Ravitch (Senior Research Scholar in the School of Education at NYU; Asst Sec of Ed and Counselor to Sec of Ed, 91-93) and Joseph P. Viteritti (Research Prof in the Wagner School of Public Service in NYU) advocated putting failing schools in NYC on probation and closing them if they do not improve. [Reforming Education Today, 1995]

WORKING GROUP ON SCHOOL RECONSTITUTIONS

The Consortium for Policy Research in Education and the Pew Foundation for School Improvement co-sponsored a working group meeting this spring. Teachers and administrators involved in this process, state and federal repsentatives and academics. A follow-up meeting focusing on defining indicators is tentatively planned for this fall.

TITLE I FUNDS AND RECONSTITUTION

Title I funds allow for reconstitution of chronically failing schools. So far, these resources have not been applied, according to the Department of Education which plans to investigate this issue.

LEGAL BATTLES

The Voting Rights Act of 1965 has created obstacles for school takeovers. Opponents charge that a state limits the voting rights of a citys racial minorities when it appoints a group to replace the elected school board or when it reduces the local boards powers. A few CA counties, along with most Southern states, are required by the Act to get Justice Department approval before doing anything that would affect minority voting rights [Ed Week 3/26/97]. In the fall of 1996, Michael Cohen met with officials from TX, CA and NY to discuss this problem.

January 3, 1997

MEMORANDUM FOR TODD STERN

FROM:G. TIMOTHY SAUNDERS
Executive Clerk

DAVID KALBAUGH
Assistant to the Executive Clerk

SUBJECT:Request for President's Signature on Certificates of Appreciation - Pageant of Peace

We have received from Alison Bracewell, Office of Intergovernmental Affairs, a letter from Pete Torres, Federal Relations Programs, Office of the Resident Representative, Commonwealth of the Northern Mariana Islands (CNMI), requesting that the President sign 19 Certificates of Appreciation for members of a sixth grade class who helped decorate the CNMI Christmas Tree on the ellipse.

According to Alison Bracewell, this request came to the White House without prior notification. We have no record of certificates of this nature being issued in the past. A search of the files in Records Management show further that nothing has been issued to any other individuals who helped decorate the other 50 plus trees on the ellipse this year.

As you know, the Pageant of Peace is primarily run by the Park Service, not the White House. I recommend against issuing these certificates.

FF

January 7, 1997

MEMORANDUM FOR TODD STERN

FROM:G. TIMOTHY SAUNDERS
Executive Clerk

SUBJECT:White House Staff Commission

The attached commission is ready for presentation:

Sally Patricia Paxton, of the District of Columbia

Special Associate Counsel to the President

EF

January 8, 1997

MEMORANDUM FOR TODD STERN

FROM:G. TIMOTHY SAUNDERS
Executive Clerk

SUBJECT:White House Staff Commission

The attached commission is ready for signature:

John D. Podesta, of the District of Columbia
Assistant to the President of the United States of America and Deputy Chief of Staff

EF
January 15, 1997

MEMORANDUM FOR TODD STERN

FROM:G. TIMOTHY SAUNDERS
Executive Clerk

SUBJECT:White House Staff Commissions and Certificates

Shall we prepare White House Staff Commissions for the following new staffers. They include the new members of the senior staff and other individuals that appear on White House Managements latest staff list:

Commissions

Erskine B. Bowles, of North Carolina
Chief of Staff to the President of the United States of America

Sylvia Mathews
Assistant to the President of the United States of America and Deputy Chief of Staff

Brigadier General Donald Kerrick, United States Army
Deputy Assistant to the President for National Security Affairs

James Steinberg
Deputy Assistant to the President for National Security Affairs and Deputy National Security Advisor

Certificates

Paul Busick
Special Assistant to the President for National Security Affairs

Donald Goldberg
Special Assistant to the President for Legislative Affairs

Barry Toiv
Special Assistant to the President and Deputy Press Secretary

FF
January 17, 1997

MEMORANDUM FOR TODD STERN

FROM:G. TIMOTHY SAUNDERS
Executive Clerk

SUBJECT:White House Staff Certificate

Shall we prepare a White House Staff Certificate for the following staffer. He is listed on White House Managements latest staff list:

Michael David Malone, Arkansas (eff. 11/24/96)
Special Assistant to the President and Director of White House Operations

FF
January 21, 1997

MEMORANDUM FOR RICK MUFFLER

FROM:DAVID KALBAUGH
Assistant to the Executive Clerk

SUBJECT:White House Staff Certificate

Please prepare a White House Staff Certificate for the following staffer.

Michael David Malone, Arkansas
Special Assistant to the President and Director of White House Operations
Date: 11/24/96, two hundred and twenty first

FF
January 21, 1997

MEMORANDUM FOR TODD STERN

FROM:G. TIMOTHY SAUNDERS
Executive Clerk

SUBJECT:White House Staff Certificate

The attached White House Office certificate is ready for signature.

Michael David Malone, Arkansas (eff. 11/24/96)
Special Assistant to the President and Director of White House Operations

FF
January 22, 1997

MORANDUM FOR THE PRESIDENT

FROM:TODD STERN

SUBJECT:Appointment of Your Cabinet Nominees

Attached for your signature are the appointment documents for two of your Cabinet nominees who were confirmed by the Senate.

Madeleine Korbel Albright
Secretary of State

William S. Cohen
Secretary of Defense

FF
January 23, 1997

MEMORANDUM FOR PHIL CAPLAN

FROM:DAVID KALBAUGH
Assistant to the Executive Clerk

SUBJECT:Distinguished Federal Civilian Service Citations

We have received for the Presidents signature the citations for Milton Hamilton and James Lee. As you remember, the citation language was approved last November (attached).

FYI: At this point OPM has not scheduled these medals for presentation. They will be getting back to us with possible plans. It looks as if they plan to present these at the Agency level which is quite common.

FF
February 4, 1997

MEMORANDUM FOR TODD STERN/PHIL CAPLAN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

We are preparing commissions for the following White House staffers. They all appear on White Managements staff list of 1/24/97.

Ann Lewis
Assistant to the President and Deputy Director of Communications (eff. 1/13/97)

Victoria Louise Radd, of the District of Columbia
Assistant to the President and Chief of Staff to the Chief of Staff(eff. 1/20/97)

Bruce Nelson Reed, of Idaho
Assistant to the President for Domestic Policy and Director of the Domestic Policy Council (eff. 1/20/97)

Gene B. Sperling, of Michigan
Assistant to the President for Economic Policy and Director of the National Economic Council (eff. 1/20/97)

Daniel K. Tarullo, of Massachusetts
Assistant to the President for International Economic Affairs (eff. 1/20/97)

Elena Kagan, of Illinois
Deputy Assistant to the President for Domestic Policy (eff. 1/5/97)

Brigadier General Donald Kerrick, United States Army
Deputy Assistant to the President for National Security Affairs (eff. 1/7/97) (He will be "designated" by the President as opposed to being "appointed" as he is active duty military)

Cheryl D. Mills, of the District of Columbia
Deputy Assistant to the President and Deputy Counsel to the President (eff. 1/20/97)

- 2 -

James Steinberg
Deputy Assistant to the President for National Security Affairs and Deputy National Security Advisor (eff. 12/23/96)

Kathleen Mary Harte Wallman, of Massachusetts
Deputy Assistant to the President for Economic Policy and Chief of Staff and Counselor to the National Economic Counsel (eff. 1/20/97)

The following Senior Staffers have received new titles and also appear on White House Managements new list. Shall we prepare new commissions?

Rahm Israel Emanuel, of Illinois
Senior Advisor to the President for Policy and Strategy and Executive Assistant to the Chief of Staff [for Policy] (eff. 1/20/97)

Thomas F. McLarty, III, of Arkansas
Counselor to the President and Special Envoy to the Americas (eff. 1/20/97)

Douglas B. Sosnik, of North Carolina
Counselor to the President (eff. 1/20/97)

FF

January 28, 1997

MEMORANDUM FOR TODD STERN

FROM:G. TIMOTHY SAUNDERS
Executive Clerk

SUBJECT:White House Staff Commissions

The following White House Staff commissions are ready for signature:

Erskine B. Bowles, of North Carolina
Chief of Staff to the President of the United States of America

Sylvia M. Mathews, of West Virginia
Assistant to the President of the United States of America and Deputy Chief of Staff

FF

TIM:

This is a very interesting appointment. Pursuant to P.L. 104-232, of 10/2/96, Gaines is the least Senior member of the Commission and will be bumped from the Commission effective 12/31/99. BUT the law also states that effective 12/31/01 the commission shall consist of only that member who is chair. How does this effect Gaines appoinment as chair in 1997?

Dave

FF

February 5, 1997

MEMORANDUM FOR TODD STERN/PHIL CAPLAN

FROM:DAVID KALBAUGH

SUBJECT:Paul Craig Commission

Paul Craig was appointed by Order on 1/30/97, in order to attend a meeting of the Nuclear Waste Technical Review Board on 1/31/97. His commission has now been prepared and is ready for signature.

FF

February 6, 1997

MEMORANDUM FOR TODD STERN/PHIL CAPLAN

FROM:TIM SAUNDERS

SUBJECT:Janet Yellen - Cabinet Rank

We have been contacted by Michelle Jolin, Chief of Staff, CEA, who tells us that Ms. Yellen will have Cabinet Rank as Chair of CEA. The Presidents remarks in announcing her on 12/20/96 did not mention Cabinet Rank.

QUESTION:

Will Janet Yellen serve with Cabinet Rank as Chair of the Council on Economic Advisers?

YES _____NO _____DISCUSS _____

FF

February 7, 1997

MEMORANDUM FOR TODD STERN
PHIL CAPLAN

FROM: TIM SAUNDERS
Executive Clerk

SUBJECT: Foreign Service Appointments

Attached are the appointment documents for four foreign service promotion lists that were

confirmed by the Senate.

FF

February 10, 1997

MEMORANDUM FOR TIM SAUNDERS
EXECUTIVE CLERK

FROM: TODD STERN
ASSISTANT TO THE PRESIDENT AND STAFF SECRETARY

SUBJECT: Cabinet Rank for Janet Yellen

This is to advise you that following appointment, Janet Yellen will hold Cabinet Rank as Chair of the Council of Economic Advisers. This rank is accorded as a matter of the Presidents discretion and will terminate at the end of her tenure as Chair.

FF

February 10, 1997

MEMO FOR THE RECORD:

Phil advised Tim orally today that he had spoken with the COS who confirmed that Janet Yellen will have Cabinet Rank during her tenure as Chair of the CEA.

David Kalbaugh
Assistant to the Executive Clerk

FF

MEMBERS OF CONGRESS RECEIVING PRESIDENTIAL APPOINTMENTS

NAMERSGD FROM CONGRESSAPPOINTED

Les Aspin1/20/931/20/93
(Secretary of
Defense)

William S. CohenTerm of office expired1/24/97
(Secretary of Prior to appointment
Defense)

Mike Espy1/21/93, eff. 10:00 am.1/21/93
(Secretary of 1/22/93
Agriculture)

Edmund MuskieTerm of office expired5/8/80
(Secretary ofprior to appointment
State)

William SaxbeTerm of office expired1/4/74
(Attorney General)prior to appointment

FF

February 18, 1997

MEMORANDUM FOR TODD STERN
PHIL CAPLAN

FROM: TIM SAUNDERS

SUBJECT: Cabinet Rank for Charlene Barshefsky

As you know, Ambassador Kantor and his predecessors have held Cabinet Rank during their tenure of service as United States Trade Representative (USTR). However, in the Presidents remarks of 12/13/96, announcing his intention to nominate Ms. Barshefsky, the issue of Cabinet Rank is not addressed.

Is it your understanding that Ms. Barshefsky will hold Cabinet Rank once appointed as the USTR.

FF

February 18, 1997

MEMORANDUM FOR TODD STERN/PHIL CAPLAN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

The following White House Staff commissions are ready for signature.

Victoria Louise Radd, of the District of Columbia
Assistant to the President and Chief of Staff to the Chief of Staff(eff. 1/20/97)

Bruce Nelson Reed, of Idaho
Assistant to the President for Domestic Policy and Director of the Domestic Policy Council (eff. 1/20/97)

Gene B. Sperling, of Michigan
Assistant to the President for Economic Policy and Director of the National Economic Council (eff. 1/20/97)

Daniel K. Tarullo, of Massachusetts
Assistant to the President for International Economic Affairs (eff. 1/20/97)

Elena Kagan, of Illinois
Deputy Assistant to the President for Domestic Policy (eff. 1/5/97)

FF

TIM:

Attached is the "letter of responsibility" for UN Rep. Richardson. I know that these letters have been reviewed at the highest levels of the State Dept. and that we usually just have them signed and returned to State, but for some reason I feel uncomfortable doing so on this one without your OK. It mentions some dicey foreign policy issues (UN Funding etc.).

Do we need to show this to Staff Sec., or would this open a can of worms?

Please advise.

Dave
FF

February 20, 1997

MEMO FOR THE RECORD:

SUBJECT: Certificate of Commendation for Sara Emery

The certificate concept and lanaguage was approved by Todd Stern on 2/12/97. Language was drafted by Tim Saunders and Dave Kalbaugh, and edited by Phil Caplan. Caligraphy done by Rick Muffler on Medal of Freedom stock with gold Coat of Arms on 2/13/97, and framed by Frank Posey with blue border and gold frame.

The certificate was persented to Sara by the President in the Roosevelt Room on 2/14/97, after the taping of his radio address. Dick Emery was also in attendance.

David Kalbaugh
Assistant to the Executive Clerk

FF

February 20, 1997

MEMORANDUM FOR TODD STERN/PHIL CAPLAN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

Shall we are prepare commissions for the following White House staffers. They all appear on White Managements staff list of 1/24/97.

Lanny Davis
Special Counsel to the President

Adam Goldberg
Special Associate Counsel

William Marshall
Associate Counsel to the President

Karen Popp
Associate Counsel to the President

Also, Peter Erichsen, Associate Counsel to the President (detailee), has been serving at the White House for approximately one year. He has now filled the one year requirement for issuance of a commission to a detailee. We will prepare one for him with your approval.

FF

March 6, 1997

MEMORANDUM FOR TODD STERN/PHIL CAPLAN

FROM:DAVID KALBAUGH

SUBJECT:Bill Joy Commission

Bill Joy was appointed by Order on 2/26/97, at the request of PPO, in order to attend a meeting of the Advisory Committee on High-Performance Computing and Communications, Information Technology, and the Next Generation Internet on 21/27/97. His commission has now been prepared and is ready for signature.

FF
March 25, 1997

MEMORANDUM FOR TODD STERN/PHIL CAPLAN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

I.We are preparing commissions for the following White House staffers. Most appear on

White Managements staff list of 1/24/97.

Charles Ruff
Counsel to the President

Samuel Richard Berger
Assistant to the President of the United States of America for National Security Affairs

Ann Lewis
Assistant to the President and Deputy Director of Communications (eff. 1/13/97)

Brigadier General Donald Kerrick, United States Army
Deputy Assistant to the President for National Security Affairs (eff. 1/7/97) (He will be "designated" by the President as opposed to being "appointed" as he is active duty military)

II.The following have rather unique titles, as stated by White House Managements latest list. Ok to prepare commissions as stated?

Cheryl D. Mills, of the District of Columbia
Deputy Assistant to the President and Deputy Counsel to the President (eff. 1/20/97)

James Steinberg
Deputy National Security Advisor and Deputy Assistant to the President for National Security Affairs
(eff. 12/23/96) (Need name & State)

Kathleen Mary Harte Wallman, of Massachusetts
Deputy Assistant to the President for Economic Policy and Chief of Staff and Counselor to the National Economic Counsel (eff. 1/20/97)

- 2 -

III.The following Senior Staffers have received new titles and also appear on White House Managements new list. Shall we prepare new commissions?

Rahm Israel Emanuel, of Illinois
Senior Advisor to the President for Policy and Strategy and Executive Assistant to the Chief of Staff for Policy (eff. 1/20/97)

Thomas F. McLarty, III, of Arkansas
Counselor to the President and Special Envoy to the Americas (eff. 1/20/97)

Douglas B. Sosnik, of North Carolina
Counselor to the President (eff. 1/20/97)

John L. Hilley, of Virginia

Senior Advisor to the President and Director of Legislative Affairs

FF

March 14, 1997

MEMORANDUM FOR TODD STERN
PHIL CAPLAN
HELEN HOWELL

FROM: TIM SAUNDERS

SUBJECT: Appointment of Charlene Barshefsky

Attached is the commission of appointment for Charlene Barshefsky to be United States Trade Representative.

The commission for Ms. Barshefsky should not be signed until after the President approves S.J.Res. 5, the legislative waiver allowing for her appointment.

If the decision is made to send the commission to the President together with S.J.Res. 5, I would suggest that you include a note to the President explaining to him that the bill should be signed first.

FF

March 14, 1997

MEMORANDUM FOR TODD STERN
PHIL CAPLAN

FROM: TIM SAUNDERS
Executive Clerk

SUBJECT: Foreign Service Appointment

Attached is the appointment document for one foreign service promotion list that were confirmed by the Senate.

FF

March 25, 1997

MEMORANDUM FOR TODD STERN

FROM:G. TIMOTHY SAUNDERS
Executive Clerk

SUBJECT:White House Staff Certificate

Shall we prepare White House Staff Certificates for the following staffers. They are listed on White House Managements latest staff list:

Paul Busick
Special Assistant to the President for National Security Affairs

Donald Goldberg
Special Assistant to the President for Legislative Affairs (eff. 1/6/97)

Barry Toiv
Special Assistant to the President and Deputy Press Secretary(eff. 11/24/96)

FF
March 20, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:Appointment of Judicial Nominee

Attached for the Presidents signature is the appointment document for one judicial nominees who was confirmed by the Senate.

Merrick B. Garland, of Maryland
United States Circuit Judge for the District of Columbia Circuit

FF
March 31, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

The following White House Staff commission is ready for signature.

Karen Ann Popp,of North Carolina
Associate Counsel to the President

FF

April 4, 1997

MEMORANDUM FOR JODIE R. TORKELSON
ASSISTANT TO THE PRESIDENT FOR MANAGEMENT AND ADMINISTRATION

CC: TODD STERN
ASSISTANT TO THE PRESIDENT AND STAFF SECRETARY

FROM:G. TIMOTHY SAUNDERS
EXECUTIVE CLERK

SUBJECT:White House Staff Titles

The White House Management Staff list of 1/24/97, shows the staffers listed below with the following titles:

Cheryl Mills
Deputy Assistant to the President and Deputy Counsel to the President

James Steinberg
Deputy National Security Advisor and Deputy Assistant to the President for National Security Affairs

Todd Stern and I recommend that their commissions read as follows:

Cheryl Mills
Deputy Counsel to the President

James Steinberg
Deputy Assistant to the President and Deputy National Security Advisor

FF

April 7, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:Director of the Office of National AIDS Policy

In a Roosevelt Room ceremony on 4/7/97, the President announced that Sandra L. Thurman will be the new Director of the Office of National AIDS Policy (there was also a Press Office announcement -- both attached).

As you know, this is not a Presidential appointment authorized by law, but rather a White House Office position. Neither of Ms. Thurmans predecessors received a commission of appointment. Patsy Fleming, received a White House Office certificate dated 11/13/94, but Christine Gebbie received nothing.

Shall we prepare a White House certificate for Ms. Thurman?

FF

April 8, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

Shall we prepare commissions for the following White House staffers. Most appear on White Managements staff list of 1/24/97.

Charles Ruff
Counsel to the President

Samuel Richard Berger
Assistant to the President of the United States of America for National Security Affairs

Ann Lewis
Assistant to the President and Deputy Director of Communications (eff. 1/13/97)

Brigadier General Donald Kerrick, United States Army
Deputy Assistant to the President for National Security Affairs (eff. 1/7/97) (He will be "designated" by the President as opposed to being "appointed" as he is active duty military)

The following Senior Staffers have received new titles and also appear on White House Managements new list. Shall we prepare new commissions?

Rahm Israel Emanuel, of Illinois
Senior Advisor to the President for Policy and Strategy and Executive Assistant to the Chief of Staff for
Policy (eff. 1/20/97)

(Previously appointed as Assistant to the President and Director of Political Affairs - 1/20/93, Assistant to the President and Deputy Director of Communications - 7/6/93,

Thomas F. McLarty, III, of Arkansas
Counselor to the President and Special Envoy to the Americas (eff. 1/20/97)

(Previously appointed as Assistant to the President and Chief of Staff - 1/20/93, and Counsellor to the President - 7/17/94)

Douglas B. Sosnik, of North Carolina
Counselor to the President (eff. 1/20/97)

(Previously appointed as Deputy Assistant to the President for Legislative Affairs - 2/22/94, and Assistant to the President and Director of Political Affairs - 2/19/95)

John L. Hilley, of Virginia
Senior Advisor to the President and Director of Legislative Affairs

(Previously appointed as Assistant to the President for Legislative Affairs - 1/5/96)

Kathleen Mary Harte Wallman, of Massachusetts
Deputy Assistant to the President for Economic Policy and Chief of Staff and Counselor to the National Economic Counsel (eff. 1/20/97)

(Previously appointed as Deputy Counsel to the President - 11/15/95)

FF

April 10, 1997

MEMORANDUM FOR RICK MUFFLER

FROM:DAVID KALBAUGH

SUBJECT:White House Staff Certificate

Please prepare White House Staff Certificates for the following staffers.

Rear Admiral Paul E. Busick, USCG
Special Assistant to the President for National Security Affairs (Dated:

Donald F. Goldberg, of Ohio
Special Assistant to the President for Legislative Affairs (Date: 1/6/97, two hundred and twenty-first)

Barry J. Toiv, of Maryland
Special Assistant to the President and Deputy Press Secretary(Date: 11/24/96, two hundred and twenty-first)

Thanks.

FF

April 10, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

The following Senior Staffers have received new titles and appear on White House

Management's staff list. Shall we prepare new commissions?

Rahm Israel Emanuel, of Illinois
Senior Advisor to the President for Policy and Strategy and Executive Assistant to the Chief of Staff (eff. 1/20/97)

(Previously commissioned as: 1) Assistant to the President and Director of Political Affairs - 1/20/93; and 2) Assistant to the President and Deputy Director of Communications - 7/6/93)

Thomas F. McLarty, III, of Arkansas
Counsellor to the President and Special Envoy to the Americas (eff. 1/20/97)

(Previously commissioned as: 1) Assistant to the President and Chief of Staff - 1/20/93; and
2) Counsellor to the President - 7/17/94)

Douglas B. Sosnik, of North Carolina
Counsellor to the President (eff. 1/20/97)

(Previously commissioned as: 1) Deputy Assistant to the President for Legislative Affairs - 2/22/94; and 2) Assistant to the President and Director of Political Affairs - 2/19/95)

John L. Hilley, of Virginia
Senior Advisor to the President and Director of Legislative Affairs

(Previously commissioned as Assistant to the President for Legislative Affairs - 1/5/96)

April 21, 1997

FOR THE RECORD

SUBJECT: Appointment of Pete Peterson as Ambassador to Vietnam

Pete Peterson was nominated to be Ambassador to the Socialist Republic of Vietnam on 5/23/96. At that time, he was a sitting Member of the House of Representatives (Florida, 2nd District).

Questions arose regarding the "ineligibility clause" of the constitution, as to whether or not this ambassadorial post was being "created" during the time in which Peterson was elected.

In a letter to Jesse Helms, Chairman of the Senate Foreign Relations Committee, Counsel to the President Jack Quinn stated that: It is our opinion, and the opinion of the Office of Legal Counsel at the Department of Justice that creation of the Office of Ambassador is

vested in the President and that, based on the facts and circumstances of this case, the Office of Ambassador to Vietnam has not yet been created. If the Senate confirms Mr. Peterson, the President will not create the position of Ambassador to Vietnam until after noon on January 3, 1997. Therefore, so long as the Office is created at a time after Mr. Petersons term of office as a U.S. Representative has expired, he can be appointed to the Office of Ambassador.

However, Rep. Petersons nomination was returned to the White House (not confirmed) following the Senates sine die adjournment on 10/4/97.

Peterson was subsequently nominated again during the 105th Congress on 1/9/97, confirmed on 4/10/97, and appointed by the President on 4/11/97.

NOTE:The Congress also passed a possible restriction to the appointment of an Ambassador to Vietnam within the Dept. of Commerce, Justice, State Appropriations Act of 1996, P.L. 104-208, 9/30/96. To summarize, the bill states that no funds can be used to open or operate an embassy in Vietnam, or for personnel assigned to posts in Vietnam unless the President certifies within 60 days that Vietnam is cooperating fully in resolving POW/MIA issues. The President certified such on 12/3/6.

David Kalbaugh

April 15, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

The following White House Staff commission is ready for signature.

Donald H. Gips, of New Jersey
Chief Domestic Policy Advisor to the Vice President

PF

April 16, 1997

MEMORANDUM FOR MICHAEL MALONE

FROM: TIM SAUNDERS

SUBJECT: Pagers for Staff of Executive Clerks Office

Members of my staff must be "reachable" by myself and the Staff Secretarys Office -- Todd Stern -- at all times. There have been occasions in the past when Todd has been unable to reach members of my staff and has specifically asked why they do not have pagers.

Currently, only myself and David Kalbaugh have pagers. Thus, I would like to request that pagers be issued to Bill McCathran, Ed Thomas, and Sherman Williams.

FF
April 17, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:Executive Order Numbers/Camparisions

The following are the total number of executive orders issued during the first term of each of the following Presidents.

Reagan Executive Orders 1981-1985 213
Reagan Executive Orders 1985-1989

Bush Executive Orders 1989-1993 166

Clinton Executive Orders 1993-1996 200

President Reagan and President Clinton both issued 10 executive orders between January 20 - April 16 of their second terms.

FF
April 18, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

The following White House Staff commissions are ready for signature.

Samuel Richard Berger, of the District of Columbia
Assistant to the President of the United States of America for National Security Affairs

Ann F. Lewis, of Maryland
Assistant to the President and Deputy Director of Communications

Kathleen Mary Harte Wallman, of Massachusetts
Deputy Assistant to the President for Economic Policy and Chief of Staff and Counselor to the National Economic Counsel

FF
April 22, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commission

The following White House Staff commission is ready for signature.

Susan M. Liss, of Maryland
Chief of Staff to Mrs. Gore and Special Counsel to the Vice President

FF
April 22, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commission

The following White House Staff commission is ready for signature.

Charles F. C. Ruff, of the District of Columbia
Counsel to the Presidentof the United States of America

FF

Tim:

This EO does a number of things:

1. Determines and certifies that Burma has committed large scale repression of ..... against the Democratic opposition. I dont know if this is necessarily the wrong way to do this, but it does seem to muddle things up to do it this way as opposed to the normal PD.

2. Declares a National Emergency with respect to Burma (there is no message to Congress mentioned as required by 50 USC 1701 et seq, Dont no if Mac has mentioned anything to you about the message)

3. Delegates certain authorities to the Sec. State and Treasury under section 301 title 3. It seems ok, and does mention that the order be published in the FR as required (although EO are printed anyway).

The lang. in section 5 differs from other EOs with similar language (so please look at that).

Finally I am double checking with State to see if "Burma" is the correct name for the country. (It is sometimes called "Myanmar", although P.L. 104-208 calls it Burma)

dave

FF

Tim:

The number at my brothers house in Houston is (713)499-4985.

Dates: April 26-29

Ill be back in the office on Wednesday the 30th.

Thanks.

dave

FF

May 2, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commission

The following White House Staff commission is ready for signature.

Brigadier Gneral Donald L. Kerrick, USA
Deputy Assistant to the President for National Security Affairs

FF

May 6, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Certificates

The following White House Office certificates are ready for signature.

Rear Admiral Paul E. Busick, USCG
Special Assistant to the President for National Security Affairs

Donald F. Goldberg, of Ohio
Special Assistant to the President for Legislative Affairs

Barry J. Toiv, of Maryland
Special Assistant to the President and Deputy Press Secretary

PF
May 30, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Certificates

Shall we prepare White House certificates for the following staffers who appear on White House Managements latest staff list.

Marilyn Digiacobbe
Special Assistant to the President and Associate Director of Public Liaison

Jennifer Palmieri
Special Assistant to the President and Deputy Director of Scheduling

Cynthia Rice
Special Assistant to the President for Domestic Policy

Christopher Wayne
Special Assistant to the President and Deputy Director of Advance

May 30, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

Shall we prepare commissions for the following staffers who appear on White House Managements latest staff list.

Maria Echeveste
Assistant to the President of the United States of America and Director of Public Liaison (eff. 2/9/97)

Craig T. Smith
Assistant to the President of the United States of America and Director of Political Affairs (eff. 2/10/97)

Melanne Verveer
Assistant to the President of the United States of America and Chief of Staff to the First Lady (eff. 3/20/97)

Emily Bromberg
Deputy Assistant to the President and Deputy Director for Intergovernmental Affairs

Lyn Cutler
Deputy Assistant to the President for Intergovernmental Affairs (3/24/97)

Christopher Jennings
Deputy Assistant to the President for Health Policy (eff. 2/9/97)

Robert Benjamin Johnson
Deputy Assistant to the President and Deputy Director for Public Liaison (eff. 2/16/97)

Elena Kagan
Deputy Assistant to the President for Domestic Policy and Deputy Director of the Domestic Policy Council (eff. 1/5/97) (To replace commission with incorrect title)

Minyon Moore
Deputy Assistant to the President and Deputy Director of Political Affairs (eff. 3/3/97)

Dan Rosenthal
Deputy Assistant to the President and Director of Advance (eff. 1/19/97)

Marsha Scott
Deputy Assistant to the President and Chief of Staff for Presidential Personnel (eff. 3/20/97) (Currently holds commission as Deputy Assistant to the President for Political Affairs)

Karen Skelton
Deputy Assistant to the President and Deputy Director of Political Affairs (eff. 3/3/97)

Lanny Breuer
Special Counsel to the President
(eff. 2/18/97)

Michelle Peterson
Associate Counsel to the President
(eff. 2/9/97)

Robert Weiner
Senior Counsel
(eff. 2/17/97)

FFMay 1997

FOR THE RECORD:

SUBJECT: Transition Clinton 1 - Clinton 2

The Clerk held discussions with Todd Stern, Assistant to the President and Staff Secretary concerning the transition, the Clerk recommended that there NOT be a mass resignation of all Clinton political appointees. Todd Stern agreed, and no mass resignation was requested.

David Kalbaugh

FF
May 14, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commission

The following White House Staff commission is ready for signature.

Charles W. Burson, of Tennessee
Counsel to the Vice President

FF
May 20, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commission

The following White House Staff commission is ready for signature.

Cheryl Mills
Deputy Counsel to the President

FF
May 20, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS
DAVID KALBAUGH

SUBJECT:Recommendations for Congressional Space Medal of Honor

NASA Administrator Daniel Golden has recommended that Lt. Col. Edward H. White II and Roger B. Chaffee receive the Congressional Space Medal of Honor. Both White and Chaffee died in the January 27, 1967 Apollo fire while training for the first Apollo space flight (along with Gus Grissom who received the Medal posthumously in 1978).

The medal has been awarded 10 times since its establishment by public law in 1969.

President Clinton has presented it twice; to James Lovell in July 1995, and to Shannon Lucid in December 1996 (both Oval Office ceremonies).

NASA has submitted draft citations. If approved medals, which are provided by NASA, would need to be engraved.

FF

May 20, 1997

Tim:

The terms of office for members of this Commission is "life of the commission." With your approval, I will instruct State to leave off the "subject to the conditions/POP language" usually on the commission.

Also, how in the world did the OLC/Counsels office allow the Chairman language to get through without, at least, some sort of statement?

Dave

FF

May 28, 1997

MEMORANDUM FOR TODD STERN

FROM: TIM SAUNDERS
Executive Clerk

SUBJECT: Foreign Service Appointments

Attached are the appointment documents for five foreign service promotion lists that were confirmed by the Senate.

FF

May 6, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions and Certificates

Shall we prepare White House commissions and certificates for the following staffers who appear on White House Managements latest staff list.

Emily Bromberg
Deputy Assistant to the President and Deputy Director for Intergovernmental Affairs

For Certificates:

Marilyn Digiacobbe
Special Assistant to the President and Associate Director of Public Liaison

Thomas Freedman
Special Assistant to the President for Policy Planning [Domestic Policy]

Jennifer Palmieri
Special Assistant to the President and Deputy Director of Scheduling

Cynthia Rice
Special Assistant to the President for Domestic Policy

Jake Siewert
Special Assistant to the President [for Economic Policy]

Richard Socarides
Special Assistant to the President and Senior Advisor for Public Liaison

Christopher Wayne
Special Assistant to the President and Deputy Director of Advance

Paul Weinstein
Special Assistant to the President and Chief of Staff to the Domestic Policy Council

FF
June 2, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Certificate

NSC is requesting that Toby Gati be given a White House Staff certificate. She was a Special Assistant to the President for National Security Affairs from 3/15/93, through 9/16/93.

She is currently Assistant Secretary of State for Intelligence and Research (appointed 11/3/93).

FF

June 12, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

The following commissions are ready for signture.

Rahm Israel Emanuel, of Illinois
Senior Advisor to the President for Policy and Strategy and Executive Assistant to the Chief of Staff

Douglas B. Sosnik, of North Carolina
Counsellor to the President

John L. Hilley, of Virginia
Senior Advisor to the President and Director of Legislative Affairs

Craig T. Smith
Assistant to the President of the United States of America and Director of Political Affairs

FF

June 12, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commission

The following commission is ready for signature.

Christopher Charles Jennings, of Ohio
Deputy Assistant to the President for Health Policy

FF
June 13, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commission

The following commission is ready for signature.

Melanne Verveer
Assistant to the President of the United States of America and Chief of Staff to the First Lady

FF
June 13, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

The following commissions are ready for signature.

Emily Dena Bromberg
Deputy Assistant to the President and Deputy Director for Intergovernmental Affairs

Lynn Germain Cutler
Deputy Assistant to the President for Intergovernmental Affairs

Robert Benjamin Johnson
Deputy Assistant to the President and Deputy Director for Public Liaison

FF

June 16, 1997

MEMORANDUM FOR RICK MUFFLER

FROM:DAVID KALBAUGH
Deputy Executive Clerk

SUBJECT:White House Staff Certificates

Please prepare a White House Staff Certificates for the following staffers.

Marilyn DiGiacobbe, of New Jersey
Special Assistant to the President and Associate Director of Public Liaison
(Date: March 20, 1997, the 221st)

Jennifer M. Palmieri, of California
Special Assistant to the President and Deputy Director of Scheduling
(Date: March 9, 1997, the 221st)

Cynthia A. Rice
Special Assistant to the President for Domestic Policy
(Date: February 26, 1997, the 221st)

Christopher Wayne, of California
Special Assistant to the President and Deputy Director of Advance
(Date: February 20, 1997, the 221st)

Toby Trister Gati, of New York
Special Assistant to the President for National Security Affairs
(Date: March 15, 1997, the 217th)

FF
June 16, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

The staffers mentioned below are listed by White House Management as holding the following titles. The titles are somewhat unique, do you have any objections to having them prepared?

Jake Siewert
Special Assistant to the President
(He works within the office of Economic Policy but his title does not reflect his area of responsibility)

Richard Socarides
Special Assistant to the President and Senior Advisor for Public Liaison

Paul Weinstein
Special Assistant to the President and Chief of Staff to the Domestic Policy Council

FF

June 17, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

The following commissions are ready for signature.

Elena Kagan
Deputy Assistant to the President for Domestic Policy and Deputy Director of the Domestic Policy Council (To replace commission with incorrect title)

Minyon Moore
Deputy Assistant to the President and Deputy Director of Political Affairs

Dan Rosenthal
Deputy Assistant to the President and Director of Advance

Marsha Scott
Deputy Assistant to the President and Chief of Staff for Presidential Personnel

Karen Skelton
Deputy Assistant to the President and Deputy Director of Political Affairs

Lanny Breuer
Special Counsel to the President

Michelle Peterson
Associate Counsel to the President

Robert Weiner

Senior Counsel

FF

June 26, 1997

MEMORANDUM FOR TODD STERN

FROM:DAVID KALBAUGH
DEPUTY EXECUTIVE CLERK

SUBJECT: Judicial Nominations

Doug Band, Counsels Office, is requesting that the attached judges be nominated TODAY. As you will see, I have not attached the Presidents decision memos. Doug Band advises that they have been signed, but are still with the President. He is asking that the nominations go forward without submision of the decision memos.

FF

April 10, 1997

MEMORANDUM FOR RICK MUFFLER

FROM:DAVID KALBAUGH

SUBJECT:White House Staff Certificate

Please prepare a White House Staff Certificate for the following staffers.

Richard L. Siewert, Jr., of Massachusetts
Special Assistant to the President
Dated: 2/2/97 (two hundred and 21st)

Richard Socarides, of New York
Special Assistant to the President and Senior Advisor for Public Liaison
Dated: 2/23/97 (two hundred and 21st)

Paul J. Weinstein Jr., of New York
Special Assistant to the President and Chief of Staff of the Domestic Policy Council
Dated: 2/23/97 (two hundred and 21st)

PF
July 1, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

The following commissions are ready for Presidential signature.

Maria Echeveste, of New York
Assistant to the President of the United States of America and Director of Public Liaison (eff. 2/9/97)

Thomas F. McLarty, III, of Arkansas
Counsellor to the President and Special Envoy to the Americas (eff. 1/20/97)

PF
July 3, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Certificates

The following commissions are ready for Presidential signature.

Marilyn DiGiacobbe, of New Jersey
Special Assistant to the President and Associate Director of Public Liaison

Jennifer M. Palmieri, of California
Special Assistant to the President and Deputy Director of Scheduling

Cynthia A. Rice
Special Assistant to the President for Domestic Policy

Christopher Wayne, of California

Special Assistant to the President and Deputy Director of Advance

Toby Trister Gati, of New York
Special Assistant to the President for National Security Affairs

Richard L. Siewert, Jr., of Massachusetts
Special Assistant to the President

Richard Socarides, of New York
Special Assistant to the President and Senior Advisor for Public Liaison

Paul J. Weinstein Jr., of New York
Special Assistant to the President and Chief of Staff of the Domestic Policy Council

FF
July 7, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commission

The following commission is ready for Presidential signature.

Lanny J. Davis, of Maryland
Special Counsel to the President

FF

PHYSICIANS TO THE PRESIDENT WHO WERE COMMISSIONED OFFICERS

Bush Administration

Burton J. Lee III, M.D. - Appointed "Physician to the President", 4/17/89

Reagan Administration

John E. Hutton, Jr. - Appointed "Physician to the President", 1/2/87

Dr. T. Burton Smith - Appointed "Physician to the President", 1/2/85

Dr. Daniel A. Ruge - Appointed "Physician to the President", 1/22/81

Carter Administration

None

Ford Administration

None

Nixon Administration

Dr. John Lungren - Appointed "Medical Consultant to the President of the United States" 2/13/69

Dr. Victor deLuccia - Appointed "Medical Consultant to the President of the United States" 2/13/69

FF
July 14, 1997

MEMO FOR THE RECORD

SUBJECT: Federal Reserve Board Nominations

On July 10, 1997, we received Bob Nash cover memos for two nominations to the Federal Reserve Board. Roger Walton Ferguson, of New York (for the 1st. Fed. District in Boston) and Edward M. Gramlich, of New York (for the 5th Fed. District in Richmond).

An obvious problem with these nominations was that the Federal Reserve District these individuals were to represent did not match the States that they were to be nominated from (i.e. New York is not within either the 1st or 5th Federal Reserve Districts). (Note: We also already had the one individual that the law allowed for representing the 2nd Fed. District that New York falls within (Alan Greenspan).

In a review of our records, David Kalbaugh determined that in 80+ years of precedent no one had ever been nominated from one State, but slated to represent a district that the State was not within.

The Executive Clerk brought this to the attention of Presidential Personnel (Doug Sheorn)and the White House Counsel's Office (Associate Counsel to the President, Peter Erichsen) and attempted to bring to their attention the precedent for the State of the nominee and the Fed. Districts they represent to match.

Tim then explained the situation to Phil Caplan, who then had a conference call with Peter Erichsen and Patsy Thomasson Following this, Tim briefed Todd Stern, Assistant to the President and Staff Secretary and John Podesta, Deputy Chief of Staff. John Podesta, Todd Stern, and Phil Caplan all immediately grasped the potential problems these nominations posed.

The following day, we received new cover memos in which the States and Fed. Districts matched (Roger Walton Ferguson, of Massachusetts, for the 1st Fed. District in Boston, and Edward J. Gramlich, of Virginia, of the 5th Fed. District in Richmond). The nominations were delivered to the Senate on July 11, 1997.

David Kalbaugh
Deputy Executive Clerk

July 15, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Certificate

Shall we prepare a White House certificate for the following staffer:

Sean Maloney

Special Assistant to the President and Deputy Staff Secretary

FF

July 21, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:Appointments to Presidents Committee on Critical Infrastructure Protection

On 7/14/97, the President, by Order, appointed Janet Reno, Donald Gips, and General Kerrick to the Committee in order for them to attend a meeting the same day. Their commissions have now been prepared and are ready for signature.

FF

July 28, 1997

MEMORANDUM FOR RICK MUFFLER

FROM:DAVID KALBAUGH

SUBJECT:White House Staff Certificate

Please prepare a White House Staff Certificate for the following staffer.

Sean Patrick Maloney, of New York
Special Assistant to the President and Deputy Staff Secretary
Dated: 7/8/97 (two hundred and twenty-second)

FF

August 4, 1997

MEMORANDUM FOR TODD STERN/PHIL CAPLAN

FROM:TIM SAUNDERS

SUBJECT:Appointment of Nominees

Attached for the Presidents signature are two commissions for individuals confirmed by the Senate on Thursday:

Thomas E. Scott - U.S. Attorney for the Southern District of Florida

Jose-Marie Griffiths - Member of the National Commission on Libraries and Information Sciences

FF

August 11, 1997

MEMORANDUM FOR TODD STERN/PHIL CAPLAN

FROM: TIM SAUNDERS
Executive Clerk

SUBJECT: Foreign Service Appointment

Attached is the appointment document for one foreign service promotion list that was confirmed by the Senate.

FF

August 14, 1997

MEMORANDUM FOR TODD STERN/PHIL CAPLAN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions and Certificates

Shall we prepare a White House Commissions for the following staffers:

Paul Begala
Counsellor to the President

Sidney Blumenthal
Assistant to the President for Communications

Mickey Ibarra
Assistant to the President for Intergovernmental Affairs

Ann Lewis
Assistant to the President and Director of Communications

Thurgood Marshall, Jr.
Assistant to the President and Cabinet Secretary
(NOTE: Kitty Higgins was appointed as Assistant to the President for Cabinet Affairs)

Stephanie Streett
Assistant to the President and Director of Scheduling

Michael Waldman
Assistant to the President and Director of Speechwriting

Deputy Assistants

James A. Dorskind
Deputy Assistant to the President and Director of Correspondence

Patricia Solis Doyle
Deputy Assistant to the President and Director of Scheduling for the First Lady

Commissions (Contd)

Fred DuVal
Deputy Assistant to the President for Intergovernmental Affairs

James Edmonds
Deputy Assistant to the President and Deputy Director of Speechwriting

Roberta Greene
Deputy Assistant to the President and Deputy Chief of Staff to the First Lady

Judith Ann Stock
Deputy Assistant to the President and Social Secretary

Virginia Cantor
Associate Counsel to the President

Dimitri Nionakis
Associate Counsel to the President

Robert Schroeder
Associate Counsel to the President

Michael Waitzkin
Special Associate Counsel to the President

Shall we prepare a White House Certificates for the following Special Assistants:

Jose Cerda
Special Assistant to the President for Crime Policy

James Covey
Special Assistant to the President for National Security Affairs

Marie Therese Dominguez
Special Assistant to the President and Associate Director of Presidential Personnel

Jeffrey A. Forbes
Special Assistant to the President and Staff Director for Legislative Affairs

- 3 -

Certificates (Contd)

Jay Footlik
Special Assistant to the President and Associate Director of Public Liaison

Anne Luzzatto
Special Assistant to the President for National Security Affairs

Gary Samore
Special Assistant to the President for National Security Affairs

Thomas Shea
Special Assistant to the President and Associate Director of Presidential Personnel

Daniel Wexler
Special Assistant to the President and Associate Director of Public Liaison

FF

August 7, 1997

MEMORANDUM FOR TODD STERN/PHIL CAPLAN

FROM:TIM SAUNDERS

SUBJECT:Appointment of Nominee

Attached for approval is a commission for one nominee who was confirmed by the Senate on Thursday, July 30, 1997:

George A. Omas, of Mississippi
Commissioner of the Postal Rate Commission

FF
August 11, 1997

MEMORANDUM FOR THE RECORD

SUBJECT: LINE ITEM VETO

This is the first use of the LINE ITEM VETO by a President. It was done in the form of "special messages" (see attached letters and cancellations for details -- two sections were canceled from the Tax Bill, H.R. 2014, and one section was canceled from the Budget Bill, H.R. 2015). At the time the special messages were signed, the Congress was in a summer recess. That being the case, the specials messages were done in the form of letters to the Speaker and President of the Senate with attachments. (This format was cleared by Bob Damus, General Counsel, OMB. However, Justice insisted on adding the last sentence, "This letter constitutes a special message under section 1022 of the Congressional Budget and Impoundment Control Act of 1977, as amended." Bob Damus and the Clerk felt this was unnecessary but conceded to Justices concerns.)

The four letters were signed by the President on 8/11/97, in an Oval Office ceremony beginning at 12:30 pm (remarks attached). The letters were delivered by Ed Thomas to the Speaker of the House (delivered to Robin Carle, Clerk of the House at 3:06 pm) and to the President of the Senate (delivered to the Secretary of the Senate Gary Sisco at 3:13 pm)

(receipts attached). Again, the Clerk worked with Bob Damus in determining that the letters should be delivered to the Clerk of the House (not the Speakers office) and the Secretary of the Senate (not the President of the Senates office), as specified in the Line Item Veto Act.

The Clerk also worked with OMB (Sarah Richardson) to ensure that the "special messages" were published in the next days issue of the Federal Register, as specified in the Line Item Veto Act -- a task made unnecessarily difficult by the bureaucratic intransigence of the staff of the Office of the Federal Register.
The Clerk finally contacted staff at the Office of the Federal Register and "strongly suggested" that they be as cooperative as possible with OMB in ensuring that the "special message" be published in the next days Federal Register, as required by law. They were indeed published the next day.

David Kalbaugh
Deputy Executive Clerk

FF

September 4, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Certificate

The following certificate is ready for signature:

Sean Patrick Maloney, of New York
Special Assistant to the President and Deputy Staff Secretary

FF

September 5, 1997

MEMORANDUM FOR THE HONORABLE BRUCE A. LEHMAN
Commissioner of Patents and Trademarks

Pursuant to the Constitution and laws of the United States, including section 3347 of title 5, United States Code, you are directed to perform the duties of the office of Chairperson of the National Endowment for the Humanities.

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:Air Force Chief of Staff Commission

The following commission is ready for signature:

Gen. Michael E. Ryan, USAF
Chief of Staff, United States Air Force

FF
October 6, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commission

The following commission is ready for signature:

James A. Dorskind
Deputy Assistant to the President and Director of Correspondence

FF
October 21, 1997

MEMORANDUM FOR TODD STERN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commission

Per your request, the following commission is ready for signature:

Michael Waldman, of New York
Assistant to the President and Director of Speechwriting

FF

October 21, 1997

MEMORANDUM FOR TODD STERN/PHIL CAPLAN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions and Certificates

Shall we prepare a White House Commissions for the following staffers:

Virginia M. Apuzzo
Assistant to the President for Management and Administration

Meredith Cabe
Associate Counsel to the President

Audrey Tayse Haynes
Deputy Assistant to the President and Director of the White House Office of Womens Initiatives and Outreach

(NOTE: This title differs from Betsy Myers who was appointed as Deputy Asst. to the Pres. and Director for Womens Initiatives and Outreach)

Ellen Lovell
Deputy Assistant to the President and Advisor to the First Lady for the Millennium Program

Capricia Marshall
Deputy Assistant to the President and Social Secretary

Stacie Spector
Deputy Assistant to the President and Deputy Director of Communications

Karen Tramontano
Deputy Assistant to the President and Counsel to the Office of the Chief of Staff

Shall we prepare a White House Certificates for the following staffers:

Lael Brainard
Special Assistant to the President for Economic Policy

Michael Cohen (Detailee with 1 yr of White House Service)
Special Assistant to the President for Education

Thomas Freedman
Special Assistant to the President for Policy Planning

This list is in addition to an earlier list presented to you on 8/14/97 which is still outstanding.

FF

October 30, 1997

MEMORANDUM FOR TODD STERN/PHIL CAPLAN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

The following White House Staff (VP Staff) Commissions are ready for signature:

Eli Attie
Senior Communications Director for the Vice President

Kay Casstevens
Director of Legislative Affairs for the Vice President

L. Maurice Daniels
Director of Political Affairs for the Vice President

FF

November 3, 1997

FOR THE RECORD:

PRESENTATION OF MEDALS OF HONOR

In general, the Medal is presented by the President in a White House ceremony.

Our records indicate that throughout the Carter, Reagan, and Bush Administrations, the President, in the vast majority of cases, presented the Medal in a White House ceremony (although we have one example in 1980 where it seems that the President did not make the presentation).

Although, during the Viet Nam era, the President presented approximately fifty percent of the Medals of Honor that were awarded. There were many cases were presentation was made by the service Secretaries or the Vice President. Although I can not attest to the reasons why this was done, it could easily have been due to the very large number of medals that were awarded during this era (i.e. not enough time for the President to make all the presentations). See list prepared by Tom Jones that lists the medals awarded from 1964-1968 for exact number for that time period.

David Kalbaugh
Deputy Executive Clerk

FR
November 17, 1997

MEMORANDUM FOR TODD STERN/PHIL CAPLAN

FROM: TIM SAUNDERS
Executive Clerk

SUBJECT: Foreign Service Appointments

Attached are the appointment documents for four foreign service promotion lists that were confirmed by the Senate.

FR

November 24, 1997

MEMORANDUM FOR TODD STERN/PHIL CAPLAN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

The following White House Staff Commissions are ready of signature:

Virginia M. Apuzzo, of New York
Assistant to the President for Management and Administration

Paul Edward Begala, of Texas
Counsellor to the President

Sidney Blumenthal, of Illnois
Assistant to the President for Communications

Mickey Ibarra, of Ohio
Assistant to the President and Director of Intergovernmental Affairs

Ann F. Lewis, of Maryland
Assistant to the President and Director of Communications

Thurgood Marshall, Jr., of Virginia
Assistant to the President and Cabinet Secretary

Stephanie Susan Streett, of Arkansas
Assistant to the President and Director of Scheduling

FFDecember 11, 1997

MEMORANDUM FOR RICK MUFFLER

FROM:DAVID KALBAUGH
Deputy Executive Clerk

SUBJECT:White House Staff Certificate

Please prepare a White House Staff Certificates for the following staffers.

Michael Cohen, of Maryland
Special Assistant to the President for Education Policy
Dated: 7/1/96, (two hunderd and twentieth)

Jose Cerda III, of Illinois
Special Assistant to the President for Crime Policy
Dated: 4/28/97 (two hundred and twenty first)

Marie Therese Dominguez, of Virginia
Special Assistant to the President and Associate Director of Presidential Personnel
Dated: 4/13/97 (two hundred and twenty first)

Jeffrey A. Forbes, of Minnesota
Special Assistant to the President and Staff Director for Legislative Affairs
Dated: 3/24/97 (two hundred and twenty first)

Anne R. Luzzatto, of the District of Columbia
Special Assistant to the President for National Security Affairs
Dated: 3/24/97 (two hundred and twenty first)

Thomas A. Shea, of New Jersey
Special Assistant to the President and Associate Director of Presidential Personnel
Dated: 5/28/97 (two hundred and twenty first)

Daniel Wexler, of Virginia
Special Assistant to the President and Associate Director of Public Liaison
Dated: 6/22/97 (two hundred and twenty first)

FF

December 12, 1997

MEMORANDUM FOR TODD STERN/PHIL CAPLAN

FROM:TIM SAUNDERS

SUBJECT:White House Staff Commissions

The following commisions for White House staffers are ready for signature:

Patricia Solis Doyle
Deputy Assistant to the President and Director of Scheduling for the First Lady

Fred DuVal
Deputy Assistant to the President for Intergovernmental Affairs

James Edmonds
Deputy Assistant to the President and Deputy Director of Speechwriting

Roberta Greene
Deputy Assistant to the President and Deputy Chief of Staff to the First Lady

Ann Stock
Deputy Assistant to the President and Social Secretary

Virginia Cantor
Associate Counsel to the President

Dimitri Nionakis
Associate Counsel to the President

Robert Schroeder
Associate Counsel to the President

Michael Waitzkin
Special Counsel to the President

FF

POSSIBLE RECESS APPOINTMENTS

Richard Fisher, as Deputy United States Trade Representative

Paul Igasaki, Member and Vice Chair, Equal Employment Opportunity Commission

Orson Swindle, Member of the Federal Trade Commission

Mozelle Thompson, Member of the Federal Trade Commission

Nancy Soderburg, Alternate US Representative for Special Political Affairs for the UN and Alternate Representative of the US to the Sessions of the General Assembly of the UN
(2 Recess Appointments)

FF

December 19, 1997

MEMORANDUM FOR PHIL CAPLAN

FROM:G. TIMOTHY SAUNDERS
Executive Clerk

SUBJECT:Special Assistant to the President for Agricultural Trade and Food Assistance: Appointment of Carl Whillock

The position of Special Assistant to the President for Agricultural Trade and Food Assistance is a statutorily authorized position within the EXOP for appointment by the President (authorized by law -- P.L. 99-198, 12/23/85; P.L. 99-260, 3/20/86; SEE ATTACHED AUTHORITY SHEET).

As a White House Staff certificate would merely designate Mr. Whillock as a Special Assistant to the President, I feel it might be insufficient in this instance.

We would thus recommend that a standard appointment memo be prepared by Presidential Personnel requesting the appointment of Mr. Whillock as Special Assistant to the President for Agricultural Trade and Food Assistance, as authorized by statute. Previous appointees to this position have been appointed in this manner (see attached examples; although Carl Whillock's immediate predecessor, Marion Berry, was neither commissioned nor did he receive a White House Office Certificate).

If approved, we would then prepare a commission for Carl Whillock as Special Assistant to the President for Agricultural Trade and Food Assistance.

FF

December 22, 1997

MEMO FOR THE RECORD

SUBJECT: Appointment of Federal Judges

Question: When does a judge need to resign from another position or from certain types of clubs/organizations in order to be appointed?

28 USC 453, states that each justice or judge of the United States shall take their judicial oath or affirmation BEFORE performing the duties of office.

In the opinion of the Clerk and from Sheila Joy, DOJ, it would be best if the judge would resign from all previous positions, clubs and organizations BEFORE appointment.

Sheila Joy advised that ther were many instances of judges waiting to disinvest from potentially conflicting investments until after appointment but before the oath.

David Kalbaugh
Deputy Executive Clerk

FF

December 23, 1997

MEMORANDUM FOR TODD STERN/PHIL CAPLAN

FROM:TIM SAUNDERS

SUBJECT:Commission for Christine Miller - Federal Claims Court

Ms. Miller was recess appointed by order on 12/10/97. Her commission has now been prepared and is ready for signature.

FF

December 31, 1997

MEMORANDUM FOR TODD STERN

FROM:G. TIMOTHY SAUNDERS
Executive Clerk

SUBJECT:Recess Appointment Commissions

The attached commissions are for individuals recess appointed by order on 12/16/97. The commissions have now been prepared and are ready for signature.

FF

TO:Melanne Verveer
Elena Kagan
FROM:Jennifer Klein
DATE:6/5/97
RE:Title IX Meeting

Attached please find the memo prepared by the Department of Education on the policy options we are considering for the Title IX anniversary. I have not distributed it because it has not yet been cleared by the Department, but I thought it would be helpful to you for this afternoons meeting.

As you can see, the Department does not recommend issuing an Executive Order prohibiting discrimination in federally conducted education programs on the basis of sex. They are concerned that: (1) we will not know before June 17 (the date of the event) which programs will be affected; and (2) we should not issue an order on sex discrimination but not on discrimination based on race and national origin. As Elena and I discussed, I have raised the possibility of doing an Executive Order directing federal agencies to compile a list of programs that would be covered unless there were a persuasive reason not to include them. We should discuss this, as well as their second concern, further at the meeting.

SEPTEMBER 17, 1997

MEMORANDUM FOR TODD/SEAN

FROM: TIM SAUNDERS

SUBJECT: Title IX Reports

We are now receiving these reports from the agencies in response to the President's memo of June 17, 1997, regarding Title IX enforcement.

Per conversation with Jennifer Klein, recommend these be staffed to Jennifer, Elena Kagan, and Maria Echaveste.

September 30, 1997

MEETING WITH BIPARTISAN CONGRESSIONAL LEADERS ON TOBACCO

DATE:Wednesday, October 1, 1997
LOCATION: The Diplomatic Room
TIME:11:15-12:15
FROM:Bruce Reed
John Hilley

I. PURPOSE

To fulfill your commitment to meet with the bipartisan leadership of Congress to launch an effort to enact federal tobacco legislation. This will be an opportunity to demonstrate that this is a priority in your agenda and that you will reach out across party lines to advance this critical public health initiative.

II. BACKGROUND

The Administration is in a strong position to push tobacco legislation through Congress over the next year. Your announcement earlier this month united the public health community for the first time and attracted bipartisan support from the nations Attorneys General and many members of Congress.

Nevertheless, any tobacco bill will have to make its way through a tangle of overlapping committee jurisdictions and agendas. At least six committees in the Senate and four in the House can lay claim to some piece of this legislation, and dozens of members in both parties have a longstanding interest in tobacco from the standpoint of reducing teen smoking or protecting tobacco farmers. Republicans in particular recognize the political potency of the your plan, and are very nervous about being set up for failure in an election year.

The first step must therefore be to reassure the leadership and key committee chairs like Rep. Bliley that the Administration is indeed serious about passing a bipartisan bill, and not just looking to sandbag them in an election year. This meeting is an important opportunity to set the right tone: you are eager to work together to pass bipartisan legislation as early as possible next year, and we are ready to work in a collaborative fashion to get it done.

Our next step should be for representatives of the Administration (including the Vice-President, Erskine Bowles, Secretary Shalala, Secretary Glickman, John Hilley, and Bruce Reed) to meet with the key players in both parties over the remaining weeks of this session, to offer the Administrations expertise and to try to marshal bipartisan coalitions in both houses to prepare bills for introduction in January. It is too early to tell which members are in the best position to lead that effort. (Bliley is a key House Republican; Waxman and Fazio are important House Democrats; Hatch, Lugar, McCain, Jeffords, Mack, Campbell and several Republican moderates may be helpful in the Senate; Conrad, Lautenberg, Kennedy, and others are strong Senate Democrats.) Ideally, we can lay the groundwork for a center-out coalition in the Senate, along the lines of Hatch-Kennedy or the Breaux-Chafee group, and work closely with Bliley, Waxman, and others in the House.

Senate committees have held several hearings on tobacco over the past three months. Secretary Shalala testified before Jeffords committee last week. The House may hold hearings in late October and early November.

The goal should be to forge a bipartisan vehicle you can endorse in January, and to make that the central focus of next years State of the Union.

Opponents of the legislation will make three types of arguments to slow it down. First, Nickles and others have criticized the Administration for failing to submit full legislative language to Congress and blamed the Administration for any delay in passage of a bill. Second, some will use the complexity of the issue as an excuse to go slow -- perhaps moving only selected portions a bill, and that only after lengthy hearings. Finally, opponents of legislation may focus on flashpoints such as farmers, restrictions on class action suits, or legal fees.

The strongest response to these expected attacks is to rise above partisan bickering, and stress the urgency of solutions that will protect Americas children. Your strong history of leadership on smoking issues will allow you to deploy this strategy effectively and gain public support in any future disagreements with Congress.

III.PARTICIPANTS

Pre-Brief:
The President
The Vice President
Secretary Glickman
Secretary Shalala
Secretary Rubin
Erskine Bowles
Bruce Reed
Rahm Emanuel
Dan Tate
Elena Kagan
Bruce Lindsey
Ron Klain
Chris Jenning

Brief:
Please see attachment.

IV.PRESS PLAN

The meeting is closed to the press. The members of Congress will have an opportunity to meet the press outside the White House following the event.

V.SEQUENCE OF EVENTS

You will make remarks and recognize the Vice President, Speaker Gingrich, Senator Daschle and Representative Gephardt for statements.

VI. REMARKS

Please see attachment.

PARTICIPANTS Attachment

The President
The Vice President
Secretary Glickman
Secretary Shalala
Secretary Rubin
Erskine Bowles
Bruce Reed
Rahm Emanuel
Dan Tate
Elena Kagan
Bruce Lindsey
Ron Klain
Chris Jennings
Don Gips

Senator Tom Daschle
Representative Newt Gingrich
Representative Dick Gephardt

Senator Richard Lugar (R-IN), Chair, Senate Committee on Agriculture
Senator Tom Harkin (D-IA), Ranking Democrat, Senate Committee on Agriculture
Senator John McCain (R-AZ), Chair, Senate Committee on Commerce
Senator Orrin Hatch (R-UT), Chair, Senate Committee on Judiciary
Senator Patrick Leahy (D-VT), Ranking Democrat, Senate Committee on Judiciary
Senator Jim Jeffords (R-VT), Chair, Senate Education and Labor Committee
Senator Edward Kennedy (D-MA), Ranking Democrat, Senate Education and Labor Committee
Senator Daniel Inouye (D-HI), Ranking Democrat, Senate Committee
Senator Frank Lautenberg (D-NJ)
Senator Kent Conrad (D-SD)
Senator Don Nickles (R-OK)

Representative Bob Smith (R-OR), Chair, House Committee on Agriculture
Representative Tom Bliley (R-VA), Chair, House Committee on Commerce
Representative Henry Hyde (R-IL), Chair, House Committee on Judiciary
Representative John Conyers (D-MI), Ranking Democrat, House Committee on Judiciary
Representative Henry Waxman (D-CA)
Representative Vic Fazio (D-CA)
Representative Scott McInnis (R-CO)

REMARKS Attachment

* Thank you for coming to talk about this vital issue for Americas future. (Acknowledge Gingrich, Gephardt, Nickles, Daschle, Bliley) This is an issue that touches on many aspects of American life -- our health, our economy, our laws, and our children -- and I want to acknowledge the hard work of so many of you in this room on this issue. In particular, I want to thank the Vice-President for his very important contribution. You are all here because of the critical role you will play as we work to pass legislation together. It is complicated, but Im confident we can put politics aside and get this done.

* You and I are here because this is a crucial issue for Americas future. Three thousand kids start smoking everyday, and it shortens the lives of one thousand of them. As Ive said before, this is not about money, and it shouldnt be about politics. It should be about trying to reduce this problem of teen smoking. Interestingly, today is the day that the childrens health provisions in our Bipartisan Balanced Budget Agreement go into effect. I hope that we can work together again in that same bipartisan fashion to reduce teen smoking and advance the public health.

*Two weeks ago, I outlined the most significant elements I thought should be contained in a bill. That we reduce teen smoking with tougher penalties, that we not hamstring FDA authority to regulate tobacco, that we make some changes in the way tobacco is marketed, that we make more progress on other health goals like cancer research and second hand smoke. Finally, and this is very important to me, that we protect farmers and their communities.

*This should not be a partisan issue. Im going to put it at the top of my agenda for the next year, and I hope you will join me in making bipartisan legislation to reduce teen smoking a top priority for all of us in 1998.

*This bill will go through many committees and it affects many people and many states. It is not going to happen by fiat, but after you hold hearings, and work through the difficulties of legislation. And Im sure we will have our differences. But this is too important for us not to get done. And it cant wait until we all agree on every word. We should work together and try to move ahead.

*Ive said what I believe is most important here. Ive asked several members of my administration -- led by the Vice-President and my Chief of Staff Erskine Bowles, along with Secretary Shalala, Secretary Glickman, and Bruce Reed-- to work side by side with you to get this done.

*But I asked you here not just to tell you what I think about the issue but to hear what you think-- how we can work together, how we can get this done. So Ill ask Vice-President Gore to give some of his thoughts, and Id like to hear what directions you are going to take on tobacco legislation, where the problems might be and how we can work together.

QUESTIONS AND ANSWERS

Q. Why dont you submit legislation on tobacco?

A. Were happy to offer Congress our expertise and any other help in translating our principles into bipartisan legislation. I dont think there is any doubt where I stand. The five principles I set out in my plan are very clear. This is the first time I can remember Congress asking us to write the bill -- I recall a somewhat different reaction when we sent up legislation on health care. Members should introduce legislation, hold hearings and move for votes and I will play as constructive a role as possible.

Q. When should a bill pass?

A. It is at the top of my agenda for the coming year. There is nothing more important than saving thousands of children from taking up smoking. Three thousand are starting everyday.

Q. Will negotiations include industry?

A. The industry is a piece of this, but there isn't a need to negotiate with them.

Q. What is the role of the Vice-President?

A. The Vice-President will take a leadership role in the legislation and in building support for our plan.

Q. Will you support limits on liability?

A. Ive said repeatedly that a cap on liability wouldnt be a deal breaker for us. But if were going to do that, we should make sure were passing a strong comprehensive plan to cut teen smoking.

M E M O R A N D U M

TO: BRUCE REED, ELENA KAGAN

FROM: TOM FREEDMAN, MARY L. SMITH

RE: TOBACCO BILLS

DATE: JULY 9, 1997

SUMMARY

Below is a list of bills, in reverse chronological order, that were introduced in both the 104th and 105th Congress that relate to tobacco. (The list was compiled by performing a Nexis search for any legislation that contains the words "tobacco" and "cigarettes.")

Many of the bills relate to topics that are already covered in the proposed settlement agreement such as bills regarding restrictions on advertising and bills aimed at reducing youth smoking.

We have not examined the details of every bill, but there are a few bills that relate to topics that are not covered by the proposed settlement that look interesting:

1. Bills to create conversion funds for farmers. S.804 by Sen. Bradley on 5-15-95; S.598 by Sen. Bradley (D-NJ) on 3-22-95.
2. Bills to disallow deductions for advertising expenses for tobacco products. H.R. 1323 by Rep. McHale (D-PA) on 41-15-97; H.R. 2962 by Rep. McHale (D-PA) on 2-06-96; S. 596 by Sen. Harkin (D-IA) on 3-22-95.
3. A bill to create a tobacco accountability board. H.R. 1881 by Rep. Waxman (D-CA) on 6-12-97. The board would investigate all matters relating to the tobacco industry including (1) any efforts to conceal research relating to the adverse health effects caused by tobacco; (2) any efforts by tobacco manufacturers to mislead the public; (3) any efforts to sell tobacco to children; and (4) any attempt to circumvent regulations of tobacco.
4. A bill to regulate the advertising of tobacco over the Internet. S. 2184 by Sen. Lautenberg (D-NJ) on 10-01-96.

NOTE:

In cases where there is an overlap in topics, the proposed Hill legislation often uses different methodology than does the proposed settlement. For instance, S. 828 proposed by Senator Durbin seeks to reduce youth smoking by 20% in the second year after enactment while the proposed settlement seeks to reduce the level by 30% only in the fifth year after enactment. Let us know if you would like us to pursue any of these comparisons or perform any additional research.

DATE INTRO
BILL NO.
SPONSOR
STATUS
DESCRIPTION OF BILL

6-27-97
S. Res. 104

Sen. Harkin (D-IA)
referred to committee
Resolution to state the sense of the Senate regarding the tax status of payments made as a result of the recent tobacco liability settlement. Under the settlement, any payment by the tobacco manufacturers is counted as a "normal and necessary" business expense and is therefore tax deductible, thereby potentially requiring taxpayers to subsidize up to $147 billion of the settlement payment. This resolution seeks to prohibit parties to the agreement from claiming tax deductions for these payments.

6-25-97
H.R. 2034
Rep. Bishop (D-GA); 13 cosponsors
referred to committee
A bill to amend section 1926 of the Public Health Service Act to encourage states to strengthen their efforts to prevent the sale and distribution of tobacco products to individuals under the age of 18.

6-24-97
H.R. 2017
Rep. Bishop (D-GA); no cosponsors
referred to committee
A bill to amend section 1926 of the Public Health Service Act to encourage states to strengthen their efforts to prevent the sale and distribution of tobacco products to individuals under the age of 18.

6-12-97
H.R. 1881
Rep. Waxman (D-CA)
referred to committee
Tobacco Accountability Act: A bill to establish the Tobacco Accountability Board. The Board will investigate all matters relating to the tobacco industry including (1) any efforts to conceal research relating to the adverse health effects caused by tobacco; (2) any efforts by tobacco manufacturers to mislead the public; (3) any efforts to sell tobacco to children; and (4) any attempt to circumvent regulations of tobacco.

6-06-97
H.R. 1826
Rep. Elizabeth Furse (D-OR)
referred to House Agriculture Committee
A bill to increase deficit-reduction assessments for participants in the Federal price support program for tobacco and to extend the period during which such assessments will be collected.

6-03-97
S.828
Sen. Durbin (D-IL); Cosponsors: Sen. Lautenberg (D-NJ), Sen. Harkin (D-IA)
referred to Committee on Commerce
No Tobacco for Kids Act: Directs HHS to conduct annual surveys to determine the number of children who used each manufacturers tobacco products. Requires each manufacturer to make specified annual reductions in child tobacco use, and provides penalties based on total consumer use for failure to meet such requirements. Sets forth performance standards for new manufacturers. Directs that specified amounts of fiscal year penalties shall go to a

Tobacco Enforcement and Education Fund in the Treasury, with any excess to go to the Treasury.

6-03-97
S.826
Sen. Lautenberg (D-NJ); Cosponsors: Sen. Durbin (D-IL), Sen. Kerry (D-MA)
referred to Senate Environment and Public Works Committee
Smoke Free Environment Act of 1997: A bill to amend the Public Health Service Act to protect the public from health hazards caused by exposure to environmental tobacco smoke.

6-03-97
H.R. 1772
Rep. Waxman (D-CA); no cosponsors
referred to committee
No Tobacco for Kids Act: A bill to provide for the reduction in the number of children who use tobacco products.

6-03-97
H.R. 1771
Rep. Waxman (D-CA); 2 cosponsors
referred to committee
Smoke-Free Environment Act of 1997: A bill to amend the Public Health Service Act to protect the public from health hazards caused by exposure to environmental tobacco smoke

4-24-97
S.643
Sen. Durbin (D-IL); 3 Cosponsors
referred to Committee on Agriculture
Tobacco Subsidy Reduction Act of 1997: Amends the Federal Crop Insurance Act to prohibit the CCC from providing federal crop insurance or reinsurance for tobacco. Amends the Agricultural Market Transition Act to prohibit the Secretary of Agriculture from providing noninsured crop disaster assistance for tobacco.

4-24-97
H.R. 1438
Rep. Degette (D-CO); 43 cosponsors
referred to committee
Tobacco Subsidy Reduction Act of 1997: A bill to prohibit the Federal Government from providing insurance, reinsurance, or noninsured corp disaster assistance for tobacco.

4-17-97
H.R. 1364
Rep. Johnson (R-CT); 12 cosponsors
referred to committee
Child Health Insurance and Lower Deficit Act of 1997: A bill to provide grants to States to provide uninsured children with access to health care insurance coverage and to amend the IRS Code of 1986 to increase the excise taxes on tobacco products for the purpose of funding such grants and reducing the deficit.

4-15-97
H.R. 1323
Rep. McHale (D-PA); 34 cosponsors

referred to committee
Tobacco Advertising Tax Reform Act: A bill to amend the IRS Code of 1986 to disallow deductions for advertising expenses for tobacco products.

4-09-97
H.R. 1263
Rep. Pallone (D-NJ); 40 cosponsors
referred to committee
Child Health Insurance and Lower Deficit Act: A bill to amend the Public Health Service Act to provide access to health care insurance coverage for children and to amend the IRS Code of 1986 to increase the excise taxes on tobacco products for the purpose of offsetting the Federal budgetary costs associated with such insurance coverage.

4-08-97
S.527
Sen. Lautenberg (D-NJ); 5 cosponsors
referred to Committee
Tobacco Disclosure and Warning Act of 1997: A bill to prescribe labels for packages and advertising for tobacco products, to provide for the disclosure of certain information relating to tobacco products.

4-08-97
S.526
Sen. Hatch (R-UT); 23 cosponsors
In Committee.
A bill to amend the IRS Code of 1986 to increase the excise taxes on tobacco products for the purpose of offsetting the federal budgetary costs associated with the Child Health Insurance and Lower Deficit Act.

4-08-97
H.R. 1244
Rep. Meehan (D-MA); 5 cosponsors
referred to committee
Tobacco Disclosure and Warning Act of 1997: A bill to prescribe labels for packages and advertising for tobacco products and to provide for the disclosure of certain information relating to tobacco products.

2-13-97
H.R. 768
Rep. LaHood (R-IL); 34 cosponsors
referred to committee
A bill to restrict the FDA from penalizing retailers for face-to-face tobacco sales that are in accordance with State law.

2-13-97
H.R. 762
Rep. Hansen (R-UT); 5 cosponsors
referred to committee
Youth Protection from Tobacco Addiction Act of 1997: A bill to restrict the advertising and promotion of tobacco products.

2-04-97

H.R. 516
Rep. Baesler (D-KY); no cosponsors
referred to committee
Youth Smoking Prevention Act of 1997: A bill to establish the Federal Authority to regulate tobacco and other tobacco products containing nicotine as a condition to the receipt by a State of the Federal preventive health and health services block grant.

1-23-97
S.201
Sen. Ford (D-KY); no cosponsors
Referred to committee
Tobacco Products Control Act of 1997. A bill to provide for the establishment of certain limitations on advertisements relating to, and the sale of, tobacco products, and to provide for increased enforcement of laws relating to underage tobacco use.

1-09-97
H.R. 410
Rep. Gordon (D-TN); 29 cosponsors
referred to committee
A bill to prohibit the use of any tobacco or tobacco product as a sponsor of an event of the National Association of Stock Car Automobile Racing, its agents or affiliates, or any other professional motor sports associations by HHS or any other instrumentality of the Federal Government.

10-01-96
S. 2184
Sen. Lautenberg (D-NJ); no cosponsors
referred to Senate Commerce, Science and Transportation Committee
Tobacco-Free Childrens Internet Act of 1996: a bill to require the Commissioner of the Food and Drug Administration to issue regulations limiting the advertising of cigarettes and smokeless tobacco over the Internet.

9-26-96
H. Con. Res. 223
Rep. Greene (R-UT); no cosponsors
referred to House Economic and Educational Opportunities Committee
Expresses the sense of the Congress that addiction to nicotine should not be considered a disability for purposes of specified provisions of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973

9-27-96
H.R. 4245
Rep. Fox (R-PA); no cosponsors
referred to House Commerce Committee
Tobacco Youth Access Act: a bill to restrict the access of youth to tobacco products.

8-02-96
H.R. 3954
Rep. Fox (R-PA); no cosponsors
referred to committee
Control of Youth Access to Tobacco Act: A bill to restrict the access of youth to tobacco

products.

7-16-96
H.R. 3821
Rep. Hansen (R-UT); 8 cosponsors
referred to committee
Youth Protection from Tobacco Addiction Act of 1996: A bill to restrict the advertising and promotion of tobacco products.

7-10-96
H.R. 3779
Rep. Oberstar (D-MN); 16 cosponsors
referred to committee
Tobacco Medicaid Recovery Act of 1996: a bill to amend title XIX of the Social Security Act to reward states for collecting Medicaid funds expended on tobacco-related illnesses.

6-19-96
S. 1892
Sen. Lautenberg (D-NJ); 6 cosponsors
referred to Senate Finance Committee
Tobacco Medicaid Recovery Act of 1996: a bill to reward states for collecting Medicaid funds expended on tobacco-related illnesses

2-06-96
H.R. 2962
Rep. McHale (D-PA); 22 cosponsors
referred to House Ways and Means Committee
A bill to amend the Internal Revenue Code of 1986 to disallow deductions for advertising expenses for tobacco products.

11-16-95
H.R. 2653
Rep. Charlie Rose (D-NC); no cosponsors
referred to House Agriculture Committee
Tobacco Amendments Act of 1995: A bill to amend the Agricultural Adjustment Act of 1938 and the Agricultural Act of 1949 to improve the operation of the Government flue-cured and burley tobacco programs.

11-06-95
H.R. 2585
Rep. Schroeder (D-CO); 26 cosponsors
referred to committee
Smokeless Tobacco Consumption Reduction and Education Act of 1995: A bill to amend the IRS Code of 1986 to increase the excise taxes on smokeless tobacco to an amount equivalent to the tax on cigarettes and to use the resulting revenues to fund a trust fund for programs to reduce the use of smokeless tobacco.

9-28-95
H.R. 2414
Rep. Baesler (D-KY); 3 cosponsors
referred to House Commerce Committee
Youth Smoking Prevention Act of 1995: a bill to establish the Federal authority to regulate

tobacco and other tobacco products containing nicotine.

9-26-95
S. 1295
Sen. Helms (R-NC); 3 cosponsors
referred to Senate Commerce, Science and Transportation Committee
A bill to prohibit the regulation of any tobacco products, or tobacco sponsored advertising, used or purchased by the National Association of Stock Car Automobile Racing, its agents or affiliates, or any other professional motor sports association by HHS or any other instrumentality of the Federal government.

9-20-95
S. 1262
Sen. Ford (D-KY)
referred to Senate Commerce, Science and Transportation Committee
Tobacco Products Control Act of 1995: a bill to provide for the establishment of certain limitations on advertisements relating to, and the sale of , tobacco products, and to provide for the increased enforcement of laws relating to underage tobacco use.

9-07-95
H.R. 2283
Rep. Payne (D-VA); 23 cosponsors
referred to House Commerce Committee
A bill to prohibit the regulation of the sale or use of tobacco or tobacco products by HHS.

9-06-95
H.R. 2265
Rep. Funderburk (R-NC); 53 cosponsors
referred to House Commerce Committee
A bill to prohibit the regulation of any tobacco products, or tobacco sponsored advertising, used or purchased by the National Association of Stock Car Automobile Racing, its agents or affiliates, or any other professional motor sports association by HHS or other instrumentality of the Federal Government.

8-07-95
S. Res. 159
Sen. Bradley (D-NJ); 11 cosponsors
referred to Senate Finance Committee
A resolution to express the sense of the Senate regarding the role of tobacco in leading to addiction, disease, and premature death among children and teenagers, and the role of increased excise taxes in reducing tobacco use by children and teenagers.

8-04-95
S. 1123
Sen. Bingaman (D-NM); no cosponsors
referred to Senate Environment and Public Works Committee
A bill to limit access by minors to cigarettes through prohibiting the sale of tobacco products in vending machines and the distribution of free samples of tobacco products in federal buildings and property accessible by minors.

6-15-95
H.R. 1853

Rep. Meehan (D-MA); 9 cosponsors
referred to House Science Committee
Freedom from Nicotine Addiction Act of 1995: A bill to amend the Federal Food, Drug, and Cosmetic Act to require the reduction and eventual elimination of nicotine in tobacco products.

5-15-95
S. 804
Sen. Bradley (D-NJ); no cosponsors
referred to Senate Finance Committee
Tobacco Consumption Reduction and Health Improvement Act of 1995: A bill to amend the Internal Revenue Code of 1986 to increase the excise taxes on tobacco products, and to use a portion of the resulting revenues to fund a trust fund for tobacco diversification.

4-06-95
H.R. 1455
Rep. Stark (D-CA); 13 cosponsors
referred to the House Ways and Means Committee
Tobacco Health Tax and Agricultural Conversion Act of 1995: A bill to amend the IRS Code of 1986 to increase the tax on tobacco products.

3-22-95
S. 598
Sen. Bradley (D-NJ); cosponsor: Lautenberg (D-NJ)
referred to Senate Finance Committee
Tobacco Consumption Reduction and Health Improvement Act of 1995: A bill to amend the Internal Revenue Code of 1986 to increase the excise taxes on tobacco products and to use a portion of the resulting revenue to fund a trust fund for tobacco diversification.

3-22-95
S. 597
Sen. Lautenberg (D-NJ); 2 cosponsors
referred to Senate Finance Committee
Medicare/Medicaid Solvency Act: A bill to insure the long-term viability of the Medicare, Medicaid, and other federal health programs by establishing a dedicated trust fund to reimburse the government for the health care costs of individuals with diseases attributable to the use of tobacco products.

3-22-95
S. 596
Sen. Harkin (D-IA)
referred to Senate Finance Committee
A bill to amend the Internal Revenue Code of 1986 to disallow deductions for advertising and promotional expenses for tobacco products.

1-23-95
H.R. 636
Rep. Kildee (D-MI)
referred to House Economic and Educational Opportunities Committee
The Tobacco Workers Equity Act: A bill to amend section 207(m) of the Fair labor Standards Act of 1938 to eliminate the partial overtime exemption for employees that perform services necessary and incidental to the sale and processing of green and cigar leaf tobacco.

00*MEMORANDUM FOR THE DIRECTOR AND DEPUTY DIRECTOR

THROUGH:Joshua Gotbaum

FROM:Health Division Staff

SUBJECT:Status of Tobacco Legislation

Little Progress to Date; Senate Finally Organized to Move Forward
No substantive legislative action has taken place in either chamber to date, but that may finally be about to change. The Senate Republicans firmed up their plans this week for constructing a bill and getting it to the Floor (see Attachment A for an AP story, which describes how Sen. McCain and his Commerce Committee will be in charge). By contrast, the House remains disorganized on tobacco legislation. The next two weeks will be important in the Senate for finding out if the new McCain-centered structure works; the House will apparently be waiting for the Senate to act, so little is expected in the next two weeks in the House.

Myriad DPC Working Groups Consulting with Hill, Developing Policies
DPC staff are working hard to assist Sens. McCain, Chafee & Harkin, Conrad, Ford & Robb, and Rep. Fazio, while simultaneously running an interagency policy process on myriad tobacco topics (e.g., liability, youth lookback penalties, marketing restrictions, licensing of retailers, etc.) OMB staff have been monitoring the DPC meetings and some of the Hill sessions, intervening most actively on funding levels in the draft bills. Josh and HD staff participated in a meeting with Kennedy staff last Thursday on public health funding priorities, and will discuss these same issues with Chafee & Harkin staff early this week.

5 Principles Plus the Budget Priorities
The Administrations goals remain to achieve tobacco legislation that is consistent with the five principles the President announced last September plus the tobacco-financed items (e.g. class size, child care, medicaid outreach, R&D, etc.) in the Budget. On spending items where the Budget was vague (e.g., public health spending, farmers, etc.), we have remained flexible, figuring that if some spending in this area is necessary to get tobacco legislation enacted, we will try to spend what must be spent as wisely as possible.

Tobacco Litigation -- the Documents Play a Wild Card Role
One explanation for the Republicans slow and cautious pace is that the landscape of the issue keeps changing as various tobacco suits wend their way through the courts. Most of the current uncertainty comes from the Minnesota case, as it did previously in the Florida, Mississippi, and Texas settlements. As new documents are released through the trials, the calculus as to whether to grant liability relief to the industry changes, making it that much harder for the Senate to act quickly.

Will This Ever Become Bipartisan?
If tobacco legislation is to be enacted, it must be bipartisan, but most of the Administrations work to date has been with Republicans (e.g., Sen. McCain) or Democrats (e.g., Sens. Conrad, Robb & Ford, Rep. Fazio) separately, though there are continuing efforts to work with Sens. Chafee & Harkin. It is not clear if a bipartisan consensus will emerge during the next two weeks as the Senate Commerce Committee hearing and mark-up process proceeds. At this point, it does not appear likely.

This memo gives a thumbnail sketch of Senate and House actions to date and next steps, then lists the issues that DPC and OMB are following. The next memo we send will include some details about the Administration positions on those issues.

Senate:

*Actions to Date -- several comprehensive1 With comprehensive defined as a bill with sections on revenues, spending (public health, state grants, child care/education, farmers, cessation, and international), liability, FDA authority, marketing restrictions, youth penalties, and licensing1 bills have been introduced, including Conrads S. 1638, Kennedys S. XXXX and its revenue-raising companion, S. XXXX, , Hatchs S. XXXX, and McCains S. 1414/5 (which are the Settlement reduced to legislation language). Jeffords S. XXXX is more limited, focusing on the public health issues within the Senate Labor Committees jurisdiction The Ford (S. 1310) and Robb (S. 1582) bills focus exclusively on tobacco growers. The Conrad bill has the most co-sponsors with 25; McCain/Hatch/Jeffords has the most of the Republican bills at XXX. A group of Senators (Lautenberg, Wyden, xxxx) have indicated the international tobacco policy and spending provisions that any comprehensive bill will need to take, though their proposal has not been prepared in legislative language.

*Prospects -- The main focus this week will be Sen. McCains Commerce Committee, which will be conducting hearings on Thursday, March 12, much of the testimony coming from other Senators on behalf of the bills they have introduced. As it turns out, while the Senate Republicans now have a process, they dont have an agreed-upon bill. McCains own bills (s. 1414/5) are basically the Tobacco Settlement entered into legislative language rather than the result of much judgement, and he will be mixing and matching portions of the original Tobacco Settlement with the other introduced bills to find out what combination will command a majority on his Committee.

The other two main Senate Committee events currently scheduled are Jeffords mark-up of his S. XXX, planned for Wednesday, March 11, and Campbells mark-up of the Indian portions of McCains and Hatchs bills in Senate Indian Affairs on Wednesday as well. Given that McCain has just been empowered to mark-up comprehensive tobacco legislation, Jeffords may or may not end up marking up on Wednesday.

Sens. Harkin, Chafee, Graham, and possibly Lugar will soon be introducing the only bipartisan proposal (specs, not a bill), probably this week, and will probably testify at the Senate Commerce Committee hearing on Thursday.

House

*Actions to Date: Rep. Fazio is modifying Sen. Conrads bill for introduction in the House, and his bill will apparently be endorsed by the House Democratic leadership. His staff have consulted with DPC on suggested changes, and various technical and policy modifications (e.g., increase the amount of funding for class size) have been forwarded. Separately, Rep. Blilely has been active by collecting and then releasing tobacco industry documents, and by conducting several hearings.

*Prospects: Fazio has not indicated when he might move on Conrad, though it could be this week.

DPC Activities -- Policy Development Meetings and Hill Assistance Simultaneously

*Agency working groups, most of them chaired by Elena Kagan, have been working for 3-4 weeks to define consensus Administration positions on the myriad Tobacco Settlement topics for which detailed positions were not developed last fall. Once a position is determined, the Administration would use it as a reference point when commenting on proposed legislation, and in some cases is drafting specs which are then being shared with members staff as they are crafting their proposals. Work on several topics is nearing completion:

A) youth lookback penalties;
B) drafting revenue provisions so they are not categorized as excise taxes;
C) FDA regulatory authorities, especially regarding nicotine, and
D) collection/release of industry documents regarding marketing to teens, etc.

And work continues on several other areas:

E) Liability relief;
F) minority issues;
G) advertising & marketing restrictions;
H) antitrust relief
I) licensing of retailers, distributors, and manufacturers
J) smuggling

The focus of DPC work with the Hill this week is to provide Sen. McCains office with some requested materials on FDA regulatory authority, teen lookback penalties, and how write revenue provisions so they raise the amount of funds in the Budget and are categorized as miscellaneous receipts instead of excise taxes, thus allowing a Committee other than Finance or Ways and Means to mark-up tobacco legislation.

DPC staff are also beginning to work with Jeffords staff on various topics, and will continue working with Kennedys staff as they prepare Democratic amendments to Jeffords bill to use at Wednesdays scheduled mark=up. The Kennedy staffs plan is to show that the Jeffords bills spending on public health activities is lower than the Settlement, as well as lower than in the Conrad bill.

DPC staff have asked OMB to help explain the Administrations priorities on spending, especially on public health, to Chafee & Harkins offices and to Rep. Fazios staff. We will continue to avoid writing down specific figures for those items, instead provide ranges of spending that could be acceptable while generally doing what we can to: a) get a deal and b) fund the Budgets priorities (e.g, class size, child care), etc,. tolerating what spending on farmers it takes to get tobacco-state dem senators supportive of tobacco legislation.

We have detailed information about many of the tobacco topics mentioned above, but to get this memo to you in a timely fashion, we have not described them all there. We have attached a draft summary funding chart which indicates the approximate funding levels contained in the Conrad, Jeffords, Kennedy, Hatch, and McCain bills, compared with the Budget. We plan to send you some follow-up information on the youth lookback penalties and ways the various bill make funds available to states (with lots of strings, some strings, no strings attached) later this week. Please let us know if there are additional topics upon which you would like detailed information.

Attachments

cc: Deich, Glauthier, Chow, Kieffer, Anderson, Murr, Cogswell, Rhinesmith, Schwartz, White

FFATTACHMENT A

Senate to speed up tobacco legislation work

By LAURIE KELLMAN
The Associated Press
03/06/98 4:45 PM Eastern

The Associated Press

WASHINGTON (AP) -- Frustrated by Congress' plodding work on tobacco policy, Senate committee chairmen next week will seek to fold various proposals into one bill.

In a meeting this week, chairmen fed up with the complex issue's slow pace through Congress' committee system scrapped their March 16 deadline for their own bills, said Senate Commerce Committee Chairman John McCain, R-Ariz.

"Some of the senators there were unhappy because we have these needs but there's no motion," McCain said Friday in an interview. "This is such an unwieldy process."

So he will hold a hearing Wednesday in which the chairmen and top Democrats of the half-dozen panels overseeing tobacco policy will suggest ways to refine his bill to ratify a landmark settlement with tobacco companies.

In addition, the committee will hear from health groups, the tobacco industry and the administration before it begins to finalize the bill March 25. McCain has said the measure is unlikely to come to the Senate floor for a vote before Congress recesses for Easter.

But consolidating ideas in the Senate alone would not improve Congress' chances to enact a national tobacco policy this year. The House is lagging behind the Senate in work on tobacco legislation, notwithstanding House Speaker Newt Gingrich's comment this week that he expects Congress to pass some form of tobacco policy this year.

Passing such legislation would require lawmakers to bridge vast gulfs on numerous issues, particularly how to spend tobacco industry money that would be paid to the government under a settlement or cigarette tax.

Senior House Republicans say such funds should be used for a tax cut. In contrast, Senate Budget Committee Chairman Pete Domenici, R-N.M., one of the chairman who will testify before McCain's committee, contends the money should be used to save Medicare.

The Clinton administration, meanwhile, has said funds from a tobacco settlement should be used for programs to discourage children from taking up smoking.

But McCain said his "least worry" is the funding issue, "because unless you get a bill, there's not going to be any money."

The Senate has several tobacco bills pending and Environment and Public Works Chairman John Chaffee of Rhode Island is expected to introduce his version early next week. But McCain said any other Senate tobacco bill "doesn't matter" under the new plan.

"There's one bill that's going to be considered on the floor of the Senate, and that's the Commerce Committee bill," he said.

Under the June settlement between the tobacco industry and state attorneys general, tobacco companies would pay $368 billion over 25 years and curb their advertising practices while the attorneys general would drop 40 state lawsuits and the industry would be protected from most other lawsuits as well.

To become law, the settlement must be passed by Congress and signed by Clinton. Tobacco companies have threatened to challenge in court any alternative that forces them to curb their advertising on the grounds that it would violate their First Amendment free speech guarantee.

NLWJC – Kagan

Hard Drive – Folder 10

CLINTON ADMINISTRATION OUTLINES TOBACCO SETTLEMENT
REVIEW PROCESS

Today, during the signing of the Drug-Free Communities Act, President Clinton reiterated his commitment to a rigorous public health review of the proposed settlement. The President also announced that Secretary of Health and Human Services Donna E. Shalala and Domestic Policy Advisor Bruce Reed will lead the comprehensive analysis.

Public Health Review

As President Clinton said today, the Administrations preliminary analysis will be conducted by four interdepartmental review panels. Each panel will include representatives from the Domestic Policy Council (DPC) and the Department of Health and Human Services (HHS). Where appropriate, each of them will also include representatives of other federal agencies, such as the Departments of Treasury, Justice, Labor, Agriculture, Veterans Affairs, Interior, and Defense, the General Services Administration, and the Environmental Protection Agency. The four panels will focus on four key areas:

Regulatory Issues. The regulatory panel will primarily review the elements in the proposed settlement affecting FDA jurisdiction. The panel will also examine issues surrounding environmental tobacco smoke.

Program and Budget Issues. The program and budget panel will look at proposed uses of settlement funds, including the anti-smoking advertising campaign, grassroots programs, smoking cessation, and any issues that involve research on nicotine, tobacco and health, and smoking cessation.

Legal Issues. The legal panel will examine issues around liability, enforcement, compliance, and the disposition of tobacco industry documents.

Industry Issues. The industry issues panel will examine the settlements proposed targets, penalties and incentives; evaluate potential international impacts of the settlement; and conduct an economic analysis.

President Clintons Plan to Reduce Youth Tobacco Use

On August 23, 1996, President Clinton announced the nation's first-ever comprehensive program to protect children from the dangers of tobacco and a lifetime of nicotine addiction. The Presidents program was launched with the publication of the Food and Drug Administration's (FDA) final rule on tobacco and children, and with FDA's initiation of a process to require tobacco companies to educate children and adolescents -- using a national multi-media campaign -- about the dangers of cigarettes and smokeless tobacco. The first provisions of the rule -- making 18 the age for the purchase of tobacco products nationwide and requiring photo IDs for anyone under age 27 -- became effective February 28, 1997. The Presidents comprehensive and coordinated plan is intended to reduce tobacco use by children and adolescents by 50 percent in seven years. This ambitious initiative will work to accomplish this objective while preserving the availability of tobacco products for adults. The proposed tobacco settlement will be evaluated within this framework to evaluate whether it meets the Presidents objectives.

Working Toward Our Fundamental Goal

As the President has said, protecting the public health -- and particularly our childrens health -- is and has always been our primary concern. We know that nearly 3,000 young people become regular smokers each day, and nearly 1,000 of these children and adolescents will die early from their use of tobacco products. We must do everything in our power to dramatically reduce smoking by young people because they deserve a life free from the disease that comes with using tobacco.

FF

You will also be announcing that Bruce Reed and Secretary Shalala will be overseeing the Administrations tobacco settlement review process. HHS and the White House have convened four working groups -- Regulatory Issues (chaired by Elena Kagan); Program and Budget Issues (chaired by Chris Jennings); Legal Issues (chaired by Elena Kagan); and Industry Performance and Accountability (chaired by Bruce Reed). You will be announcing that you have asked a review team to focus on public health questions, outline the working groups, and announce that Secretary Shalala and Bruce Reed will host a number of White House meetings with leading health experts and Members of Congress over the next several weeks to benefit from their expertise.

*

Youth Tobacco Roundtable
Roosevelt Room
1:05 p.m. - 1:50 p.m, Friday, June 5, 1998

Meeting requested by Ron Klain.
Briefing prepared by Toby Donenfeld and Satish Narayanan.

EVENT

You will meet with approximately 40 tobacco-free kids in grades 8 -12 to discuss the need for the Senate to act quickly to pass comprehensive tobacco legislation. The format is similar to the tobacco forums you hosted around the country, in that you will engage these young people in a discussion about the dangers of tobacco and ways young people can work to discourage their peers from smoking. This event is pool press.

LOGISTICS (As of this writing, subject to change)

*Bruce Reed and/or Elena Kagan, Ron and Toby will brief you in your West Wing office prior to the event on the latest debate in the Senate and discuss Q & A with you.
You will enter the Roosevelt Room and be seated on a stool surrounded by kids.
*You will deliver brief opening remarks and moderate a discussion with the kids.
*You will close the discussion and depart.

YOUR ROLE/CONTRIBUTION

This event provides you with the opportunity to call on Congress to act quickly and pass comprehensive tobacco legislation to reduce youth smoking. You will also have an opportunity to hear about the activities these young people are undertaking to fight against youth tobacco use.

ATTACHMENTS

*Draft talking points for you. (These will be provided to you on cards on Friday)
*List of attendees and short biographies.

*List of possible questions for the participants. (These will be provided to you on cards on Friday)
*Talking points on the Gramm marriage tax penalty amendment. (Additional Q & A and talking points will be provided to you on paper or verbally in the briefing tomorrow).
FFDRAFT

TALKING POINTS FOR YOUTH TOBACCO ROUNDTABLE

FRIDAY JUNE 5, 1998

Im here today to talk about the importance of keeping Americas children tobacco-free. Each and every day, tobacco companies spend $13 million to convince you to start smoking. And far too often, all that cash and effort works -- and lure kids into a lifetime of addiction.

Each and every day, 3,000 kids become regular smokers. And only 600 will ever be able to quit.

Each and every day, more than 1,000 Americans die from smoking. Thats almost as many deaths as the number who died when the Titanic sank -- and smoking deaths are a disaster we know how to avoid.

Too many people have lost their lives because of tobacco habits they picked up as kids, but -- when it comes to your generation -- its not too late for us to change course and avoid the icebergs of tobacco and the deadly disease it causes. Thats why the President and I have unveiled a comprehensive plan to stop young Americans from smoking before they start.

Today, I am calling on Congress to act quickly to pass comprehensive tobacco legislation, reduce youth smoking, and give all of Americas kids a brighter, smoke-free future. The coming weeks are a historic window of opportunity for protecting Americas children. Congress should pass comprehensive tobacco legislation now -- before that window is shut -- and stops the breeze of change.

Next week, the Senate will vote on whether to end the debate -- and begin to decide the fate of our children. The time for talk is over -- the time for action has come. I applaud the work the Senate has already done, but urge them to act quickly while we have the momentum, and not let this historic opportunity pass us by.
FFYOUTH TOBACCO ROUND TABLE PARTICIPANTS

You will meet with approximately 40 kids ages 9-18 primarily from the Washington, D.C. metropolitan area. Below is a brief synopsis of the anti-tobacco programs they are involved in within their community. In addition, two of the regional Tobacco-Free Kids annual award winners will be in the group. A brief biography of their activities is included below.

School Without Walls -The majority of the students (approximately 20) are from the Washington D.C. School Without Walls in grades 9-12. These students participated in the George Washington University Coalition for a Smoke- Free Youth as a class project. Throughout this project they take part in information sessions and workshops on the dangers

of smoking and the effects of smoking on the body.

Students Oppose Smoking -This is a group of 8-12 grade student smokers and non-smokers from Montgomery County, Maryland who are dedicated to curbing the problem of teen tobacco use. They have made several proposals to reduce teen smoking in the Montgomery County school system. For example, they have proposed that the schools provide pulmonary function machines in health rooms to show the damage inflicted by smoking and second-hand smoke. In addition the students would like there to be more anti-tobacco laws in their community and in their school and they want the laws and the consequences to be posted in their schools. They would also like to start tobacco cessation programs during school hours with trained counselors that can work with students.

Tobacco Free Childrens Project -This is a project being conducted throughout the D.C. School System. The students participating in this project have been lobbying the Metro Transit Authority to provide space on all buses for posters, essays and paintings of anti-tobacco messages for youth. Additionally, they are providing their classmates with information on the consequences of smoking using information from adults who have been smoking. In the future they plan on creating a web-site with a focus on anti-tobacco information for youth.

1998 Tobacco-Free Kids Regional Award Winners

Deanna Durrett -Deanne is the Campaign for Tobacco-Free Kids 1998 South Region Youth Advocate of the Year. She is 16 years old and a 10th Grade student at Louisville, Kentuckys Sacred Heart Academy. She has testified before the Kentucky House of Representatives Health and Welfare Committee and lobbies regularly to gain support for stronger tobacco control policies. In addition she also is a leader in helping other teens voice their opinions on youth tobacco use. She also works with the Alcohol Beverage Control Board in "sting" operations to make tobacco less accessible to teens.

Amanda Tunnell -Amanda is 16 years old and in 10th grade. She is the Campaign for Tobacco-Free Kids 1998 Central Region Youth Advocate of the Year. Amanda became involved because her mother was suffering from second hand smoke in restaurants and other public areas. In addition she was a strong force in pushing a bill that allowed Oklahoma cities to license tobacco retailers and provide stiff fines for retailers selling tobacco to minors.

PF

QUESTIONS FOR YOUTH TOBACCO ROUNDTABLE

*Why do you think kids smoke? Why did you decide to smoke or not to smoke?

*What kinds of things do you think make kids want to smoke?

*What have you been doing to discourage kids from smoking? And what do you think the best ways to keep kids from smoking?

*Do you see a lot of advertisements for cigarettes? Where do you see them?

*If you wanted to buy cigarettes, do you think it would be easy?

*How easy do you think it is to quit smoking or chewing tobacco?

*Do you think that if the price of the pack of cigarettes went up, that fewer kids would smoke?

*How many of you have tried to stop other kids from smoking? How?

*What made you decide to be so active in keeping kids from smoking?

*Many of you are working for stronger anti-smoking laws. What kinds of laws and why are you pushing for them?

*I understand that we have two of the regional winners of the Tobacco-Free Kids here with us today who have been active in their community. Would you like to tell us about your activities?

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Tobacco Review Meeting
West Wing Office
12:30 p.m. - 1:00 p.m., Wednesday, September 10, 1997

Meeting requested by Ron Klain.
Briefing prepared by Toby Donenfeld.

EVENT

You will meet with Bruce Reed, Kevin Thurm, Deputy Secretary of HHS and others to discuss the White House review of the proposed tobacco settlement. Bruce Reed and Secretary Shalala are expected to recommend to the President that he outline principles he would support in a legislative plan, rather than specifically addressing the proposed settlement. Bruce and others will explain the key issues which they will recommend to the President and discuss some of the issues that remain to be resolved. (The President is scheduled to be briefed on Friday).

Participants
Bruce Reed, DPC
Elena Kagan, DPC
Kevin Thurm, Deputy Secretary of HHS
Bill Corr, Chief of Staff at HHS
Ron Klain
Don Gips
Toby Donenfeld
Note: Secretary Shalala very much wanted to be at this meeting but is traveling today. She requested a phone conversation with you.

CONSENSUS ISSUES
The following issues have been agreed to by the White House review group:
("They," referred to below, are the participants in the White House review process).

*FDA Authority. Ensure full FDA authority to regulate tobacco and nicotine. Take out the provisions in the settlement requiring the FDA to wait 12 years to regulate nicotine and

require FDA to submit a formal rulemaking and prove that there will be no contraband sales of tobacco. They support codifying FDAs authority to regulate tobacco, using a "reduced risk standard," rather than a safety and effectiveness standard.

*Cut Tax Break for Industry. Remove the $50 billion tax break Congress put in the budget agreement.

*Take care of Tobacco Farmers. They support any side agreement the tobacco industry makes with U.S. tobacco farmers to continue to buy a certain amount of tobacco from U.S. farmers for years into the future. Support using money from the settlement to buy out farmers or offer or economic assistance to effected communities.

*No cap on punitive damages for future wrongdoing. The proposed settlement provides a cap on punitive damages for past and future wrongdoing. They would strongly oppose a cap on future wrongdoing by the tobacco industry. Note: They would not take a position on the ban of class-action lawsuits.

*Significantly strengthen the look-back penalties. (Unsure by how much).
They feel strongly that the look-back penalties for not meeting targets in youth smoking should be severe and are working on how much more the penalties would cost and how they would be calculated. In the settlement, the industry would be capped at $2 billion per year on penalties and get a 75% rebate for good faith effort. They strongly oppose the cap and the rebate.

OUTSTANDING ISSUES

*Disclosure of Documents
The settlement includes the enactment of a three federal judge panel to review disputed claims of privileged industry documents. This panel would be the exclusive avenue of resolution for the release of documents, removing a judges discretion in individual court cases. There would also be no appeal of the panels decision. The White House review participants would insist that the regular disclosure of documents through the discovery process in litigation be retained in addition to the three judge panel.

Congressman Waxman and others have suggested that the industry should abrogate its attorney-client privilege and turn over all its documents before a settlement is made. (Obviously, this would be a deal-breaker for the industry).
Although many believe that the industry has been using the attorney-client privilege to shield itself from releasing damaging information, the White House efforts to strengthen this portion has been difficult because the Department of Justice is strongly opposed to the waiving of "attorney-client" privilege. (The DoJ believes that waiving the attorney-client privilege in this case could open itself up to similar challenges in other cases in the future).

*How Much Money?
As you know, the proposed settlement is estimated to cost the industry $368 billion, which would result in an increase of approximately 62 cents per pack of cigarettes. Staff at the Department of Treasury has said that due to the overwhelming support of the proposed tobacco settlement by Wall Street, they believe an increase in the cost to the industry is warranted. Senator Kennedy and others are believed to support a settlement cost in the range of $800 billion ($1.50 per pack increase). However, the industry may just simply walk away from the deal if they believe the cost becomes too great.

The DPC will bring a chart to the meeting tomorrow to outline the spectrum of the cost of the settlement.

Meeting
West Wing Office
5:15 p.m. - 5:30 p.m., Wednesday, September 10, 1997

Meeting requested by Rick Gonzales and Toby Donenfeld.
Briefing prepared by Toby Donenfeld.

EVENT

You are meeting with Congressman Henry Waxman to discuss the tobacco settlement. Waxmans staff indicated that the Congressman would like to discuss the policy and political issues surrounding the proposed tobacco settlement and how he sees this issue playing out in the House.

We understand that Congressman Waxman has the following recommendations regarding the proposed tobacco settlement:

1) Full disclosure of all industry documents before any deal.
The Administration position thus far has been that it would be impossible to negotiate such a deal with the industry. Also, the Department of Justice is opposed to waiving the Attorney-Client privilege, which Waxman would support.

2) Strengthening the penalties for not meeting reductions in youth smoking.
The Administration review participants agree and will recommend to the President significant increases in penalties and a major commitment to pursuing companies who dont meet the targets.

You may want to ask Waxman if he has any suggestions for exactly how he would strengthen the penalties.

3) $1.50 to $2.00 per pack increase.
Many public health groups believe that in order to bring down youth smoking rates, a large increase in the cost of a pack of cigarettes ($1 - $2) is necessary.

You may want to ask Congressman Waxman if he believes that increasing the total cost of the settlement or adding on an excise tax would be the better avenue to pursue to achieve this goal.

FYI: (This information has not been confirmed and should not be mentioned to Congressman Waxman). As we understand it, Congressman Waxman may be working with David Kessler, Attorney General Skip Humphrey and others to design an alternative or supplement to the settlement. If he is doing that, he will likely bring up his plan with you.

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.

PP

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 burely 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 Lugars 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

August 26, 1998

MEMORANDUM FOR ERSKINE BOWLES

FROM: Elena Kagan

SUBJECT: Tobacco

Attached is a one-pager to give to the Attorney General. As you can see, I have labeled the proposed agreement the "Scruggs Proposal"; if you would prefer me to describe it differently, please let me know.

Two further thoughts occurred to me as I was writing up the one-pager. First, we must figure out whether our trade obligations prevent us from entering into certain kinds of agreements to protect farmers (e.g., an agreement by the companies to buy a set amount from American farmers). Second, we should consider whether the punitive damage set-off suggested by Scruggs will lead states to adopt laws prohibiting the award of punitive damages against tobacco companies, thus providing the companies with the protection they long have wanted against punitive damages.

August 22, 1998

MEMORANDUM FOR THE PRESIDENT

THROUGH: Erskine Bowles

FROM: Bruce Reed
Elena Kagan

SUBJECT: Tobacco Idea

Dick Scruggs called us yesterday with an idea for how to achieve our goals on tobacco without legislation. We have discussed this idea with Erskine, and all of us believe that it is very interesting. If you agree that Scruggss suggestion is worth pursuing, Erskine will take the steps necessary to do so. Until he does, we should not raise this idea with anyone else.

Scruggs proposes that the federal government enter into a consent decree with the tobacco companies to settle our claims for Medicare costs. As a matter of mechanics, we probably would do this by filing two documents simultaneously with a court: a complaint against the companies and a proposed settlement agreement.

Under Scruggss proposed consent decree, the companies would make the payments called for in the June 20th settlement agreement -- i.e., $368 billion plus capped industry-wide lookbacks. About $200 billion of this amount would go to states settling their own suits against the companies, with the remainder going to the federal government. Any state that wished to continue its suit against the companies could do so, but the states share of the money then would revert to the federal government. Scruggs had no view on whether the states should have to use some portion of their money for specified purposes (e.g., child care). He did note that the federal government would have to leave the full $200 billion with the states, rather than seek to recapture its usual share of Medicaid recoveries.

In addition to containing these monetary provisions, the consent decree would require the companies to drop their legal challenge to the FDA rule and to accept the FDAs assertion of jurisdiction over tobacco products. The decree also would mandate that the companies adhere to all the youth access and advertising restrictions contained in the June 20th settlement agreement.

The consent decree of course could not give the companies the liability protections contemplated in the June 20th agreement; for that, an act of Congress is necessary. Scruggs suggests, however, that the decree contain some kind of set-off or credit for punitive damages. Under the scheme he proposes, a company could subtract from its required payment to a state any punitive damages awarded against the company in that states courts, up to the full amount of the required payment. Scruggs believes that the states will go along with this provision, even though it appears to put everything they get out of the settlement at some risk (at least if their courts award punitive damages).

Scruggs also proposes that the consent decree give the settling companies some kind of

protection against new entrants to the tobacco market (or existing companies with tiny market shares). This protection, according to Scruggs, is necessary to alleviate the fear of the companies that agreeing to this settlement will allow new companies to undercut them. Although Scruggs is uncertain about precisely how to provide this protection, he suggests that the FDA agree to regulate settling companies somewhat differently from other companies -- for example, by agreeing not to ban products manufactured by settling companies, but retaining authority to ban products manufactured by all others.

Erskine and we believe that as outlined here and putting aside all legal questions, the settlement is deficient in two respects. First, the settlement does not include any protection for farmers. We could solve this problem by insisting that the companies agree to purchase a set amount of tobacco leaf each year from American farmers. Second, the settlement seems slightly underfunded. We need to get something -- even if not much -- more than the original $368 billion (perhaps the $428 in Senator Hatchs bill) to sell this settlement as a huge victory.

Even more important, we will have to address a number of legal issues before we can enter into this kind of settlement. First, we will have to figure out a legal way of giving about $200 billion in settlement monies to the states; this provision potentially conflicts with the federal governments obligation to place legal awards in the U.S. Treasury for later appropriation by Congress or with the federal governments obligation to recoup a portion of state Medicaid recoveries. Second, we will have to find a sure way to protect the FDA rule; the settling companies agreement to drop their suit is insufficient if other parties (e.g., retailers, advertisers, other manufacturers) can continue the suit, or bring a very similar suit the next morning. Third, we will have to inspect very closely any proposals to give a competitive advantage to settling companies, in light of both our antitrust policies and our regulatory objectives.

All that said, we think this approach presents us with an exciting opportunity. According to Scruggs, key Wall Street analysts have told him that the industry might well be interested in this kind of deal. (Scruggs claims not to have talked with industry officials.) We think you should give Erskine the go-ahead to send out some feelers.

*December 30, 1997

Health Division
Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Route to: Deputy Director
Director

Through:Richard Turman
Barry Clendenin

Subject: Tobacco Settlement Spending: FDA & CDC Alternative Spreads - - Decision Needed

From:Jim Esquea & Marc GarufiACTION:
Decision
Signature X
Comment
As requested Information

Phone: 202/395-4925
Fax: 202/395-3910
Room: NEOB #7025Needed By:
Date: / /
Time: : am/pm

Copies to:
Josh Gotbaum, Barry Anderson, Joe Minarick, HD Chron, HPS Chron, HPS, TR, M. Miller

Post this Document on HD Intranet? NO

Following up on the tobacco meeting this morning, we have modified the table to address the format suggestions (Attachment A).

We consulted with Josh and also recommend changing the split of the additional $300 million for FDA and CDC (which favored FDA in this mornings table) to one that starts out with a bigger increase for prevention and phases in the FDA increase over three years (Attachment B).

The Tobacco Settlement envisions a comprehensive FDA licensing program for tobacco, which the Administration has not fully evaluated. Because a licensing system would be expensive, the settlement proposes $300 million annually for FDA tobacco enforcement. Given that a comprehensive FDA tobacco/licensing system would take several years to fully implement and that the Administration has not come to a consensus on this issue, we recommend phasing in the FDA increase of $250 million over three years, while providing funding for HHS/CDC smoking prevention programs in the earlier years. This would allow us to fund a part of a Tobacco Settlement line, "HHS Grants to Reduce Tobacco Use," that we were not able to fund in the Attachment A version.

Josh spoke with Elena Kagan about moving the funds from FDA to HHS/CDC, and she expressed concern about not "fully funding" the FDA consistent with the Tobacco Settlement recommendations. Our recommended phased in approach (Attachment B) would eventually increase FDA enforcement activities to levels consistent with the agreement AND also fund activities that were recommended in the Settlement but were not funded in our "Modified Settlement Uses" table of this morning.

Please let us know by c.o.b if you concur with our phased in approach for total FDA tobacco funding and we will let Elena Kagan know. Also we will then be able to work with Barry Anderson and HHS to get these numbers into MAX.

Note also that Elena Kagan advised Josh that she and Bruce Reed wanted the table to be presented in the Budget in real terms only. In an effort to assuage some of that concern, we have added a stream of numbers showing the per pack equivalent in real terms to the table.

Attachments

*Memorandum for: Bruce Reed, Elena Kagan

From:Cynthia Rice

Date:April 20, 1997

Re:Events to Promote the President's $600 Million
Welfare to Work Transportation NEXTEA Plan

Presidential Event

At a White House event, the President would announce pilot grants to 25 states to develop welfare to work transportation plans. He would underscore the importance of transportation to the success of welfare reform by introducing a former welfare recipient who gets to her job every day because of a federally funded transportation pilot project. He would promote his plan to provide $600 million in welfare to work funds (part of his NEXTEA transportation bill) by receiving endorsements from a bipartisan group of governors and members of Congress. He would direct Secretary Slater to hold a series of regional meetings in collaboration with other Cabinet Secretaries around the welfare to work transportation issue.

Attending the event would be:

*A former welfare recipient who can get to her job in the suburbs because of a federally-funded pilot project (probably someone assisted by the HUD Bridges to Work project in Baltimore or Chicago).

*Governors of both parties who a) are receiving welfare to work pilot grants and b) will endorse the welfare to work portion of the President's NEXTEA transportation bill.

*Members of Congress who have proposed legislation funding welfare to work initiatives (i.e., Senators Specter and Santorum).

White House Briefing

A briefing at the White House would be held for organizations concerned about welfare reform to describe the welfare to work proposal in NEXTEA and the training and employment opportunities it provides for welfare recipients.

PR

Vice Presidential/Cabinet Events

Louisville, Kentucky

The Vice President could attend a ceremony launching the renovation of the Nia Travel and Employment Center, a model transportation, job training, and development project located in an Empowerment Zone.

East Cleveland, Ohio

Secretary Shalala could attend a ribbon-cutting ceremony at the Windermere RTA/Head Start

Transit Center, the first phase of a complex that will include the renovation of the Hayden bus garage, the Windermere Transit Station, and a Head Start Center. The project is located in East Cleveland, which has an unemployment rate of 10.9% and a 94% minority population.

Regional Meetings

The Department of Transportation could hold a series of meetings in May and June that focus on the issue of transportation as part of welfare reform. The meetings would highlight best practices for local officials.

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January 30, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

Health Care -- Medicare Commission Update: Your Wednesday event highlighting the need to dedicate a portion of the budget surplus to the Medicare trust fund was extremely well received by the Democrats and even by Senator Breaux. Professor Uwe Reinhardt effectively validated the economic need and rationale for the dedication of these revenues for this purpose. While the event went very well, it also highlighted the fact that the Medicare Commission has yet to formally acknowledge the need for these revenues. In addition, it is important to note that Democrats on the Medicare Commission, with the exception of Senator Kerrey, remain extremely disturbed about Senator Breauxs lack of responsiveness to their concerns about his current proposal. Following this weeks Commission meeting, Senator Kennedy delivered a scorching critique of Senator Breauxs premium support proposal and other elements of the Chairmans mark, including provisions that increase the age of eligibility to 67 and require beneficiaries to pay copayments for home health services. We are working with HHS, OMB, and key White House advisors to develop options around the Commission for your consideration. These include the development of principles of reform, a strategy to work with the Commission to improve its current proposal and shape it into an acceptable package, or the development of your own counter-proposal.

Education -- Reaction to ESEA 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.

Education -- Ed-Flex: The Senate Health, Education, Labor and Pensions Committee marked-up and reported out an Ed-Flex bill last week, on an 11-0 partisan vote. The bill would give authority to waive selected federal education requirements to states that have

academic standards, assessments, school report cards and a mechanism for intervening in failing schools. No Democrats were present at the session, which occurred shortly after several key votes in the impeachment trial. Kennedy, Dodd, Harkin, Reed and other committee Democrats (except Wellstone) reluctantly supported a similar version of this bill last year and expect to ultimately vote for it again when it comes to the floor. They and we would much prefer to address Ed-Flex as part of ESEA reauthorization, and we expect it will be taken up in that context regardless of the fate of this separate bill. Sen. Lott has made Ed-Flex a top priority, and has indicated that the Senate will take it up shortly. Republicans hope to score a quick, bipartisan victory with a strong local control message. DPC is working with Sen. Democrats to develop a series of amendments that will attempt to (1) strengthen the accountability provisions in the underlying bill, particularly by including all of the accountability provisions in your State of the Union Address; (2) counter the Republican message with an amendment that would also authorize the Class Size Reduction initiative for the full seven years as your originally proposed, and (3) ensure that Ed-Flex is revisited as part of the ESEA reauthorization by sunsetting this provision when ESEA reauthorization is complete.

Crime -- National Instant Check System (NICS): On Thursday, the U.S. District Court of D.C. denied the NRA's motion for a preliminary injunction to block the FBI from retaining records on gun purchasers as part of the NICS. As you know, the FBI's policy of temporarily retaining certain records is intended to ensure the integrity and effectiveness of the NICS while protecting the privacy of gun purchasers.

Crime -- Gun Show Directive: In response to your November 6, 1998 directive, the Treasury and Justice Departments are ready to submit a joint report to you with their recommendations on gun shows. The report will be released as part of next week's radio address. 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 later 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 gun show-related investigations 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. During the radio address, you will announce that your FY 2000 budget includes $24 million in new funds to hire over 120 additional ATF agents to bolster firearms enforcement. The new agents will be used to support investigations at gun shows, the arrest of violent criminals and gun traffickers, illegal attempts to buy firearms, and to expand the Youth Crime Gun Interdiction Initiative from 27 to 37 cities. The budget also includes an additional $5 million for U.S. Attorneys to increase firearms prosecutions.

Welfare Reform/Community Empowerment -- Implementation of FY 99 Initiatives: Last week, to complement your announcement of FY 2000 budget initiatives related to welfare to work, three agencies also announced grant competitions for FY 1999 funding for three of your initiatives. The Department of Labor announced the availability of $240 million in FY 99 Welfare-to-Work competitive grants, with priority for projects focusing on non-custodial parents or long-term welfare recipients with disabilities, substance abuse problems, limited English proficiency, or domestic violence (this is the third round of competitive grants). HUD announced the first competition for 50,000 welfare-to-work housing vouchers, which are available to housing authorities who collaborate with their welfare and workforce partners to provide assistance to help families get or keep a job. And, HHS announced the first grant competition under the Individual Development Account demonstration program you signed into law in October (at the Microenterprise event on February 5th, you will announce that your new budget includes $20 million for IDAs, which doubles the FY 99 funding level).

Welfare -- NYC Food Stamp and Medicaid Case: This week, Judge William H. Pauley III of Federal District Court in lower Manhattan issued an injunction directing the New York City to allow "all persons applying for food stamps, Medicaid and cash assistance . . . to apply for such benefits on the first day that they visit a Job Center" and to revise its training

and procedures to insure that workers are following federal law. The city must submit a corrective action plan by February 10. As you know USDAs preliminary investigation found the city did violate federal law; HHSs investigation is still on-going.

Children and Families --Budget Initiatives: This past week, the Vice President and the First Lady hosted a series of events to announce new budget initiatives relating to children and families: (1) the Vice President unveiled that your FY 2000 budget will include a $607 million increase in Head Start, which would be the largest Head Start increase ever enacted and serve 42,000 additional children; (2) the First Lady announced that your budget will include $300 million over five years to provide enhanced support to children who emancipate from foster care, turning 18 without being adopted or permanently placed (a new Medicaid eligibility option and greater support for vocational and life skills training); (3) the First Lady announced that your budget will include $67 million in new dollars for childhood asthma research, surveillance, and management; (4) the First Lady announced $40 million to provide freestanding childrens hospitals -- for the first time -- with Federal financing for graduate medical education; and (5) the Vice President and the First Lady met with the womens groups and pro-choice advocates to announce that your FY 2000 budget will include an historic $25 million increase for Title X family planning services, as well as $25 million dollars for the United Nations Population Fund (the UNFPA).

Summaries of Leadership Bills

S. 7 -- The Public Schools Excellence Act: Senate Democrats have introduced the Public Schools Excellence Act (S. 7), which includes our school modernization and class size reduction proposals and an after-school initiative incorporating 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.

S. 2 -- ESEA Reauthorization: Senate Republicans also introduced a bill (S. 2) to extend ESEA. 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.

S. 5 -- The Drug Free Centuries Act: In lieu of an omnibus crime bill, the Senate Republican leadership introduced an anti-drug bill, the Drug Free Centuries Act. The bill has four titles: international supply reduction, domestic law enforcement, demand reduction, and funding for federal counter-drug enforcement agencies. Overall, the bill does not contain many new proposals, but is intended to augment and complement many of the drug interdiction programs and funding increases enacted in last years FY 99 omnibus appropriations act. To this end, the bill increases funding and establishes earmarks for specific Customs, Coast Guard, DEA, Treasury and Defense counter narcotic operations and

equipment. Moreover, the bills provisions on international supply reduction borrow significantly from the Administrations international crime bill introduced last year.

On the domestic front, the bill increases the number of border patrol agents to 15,000 and contains modest prevention proposals including a $10 million drug-free teen drivers incentive grant program and $5 million DEA drug-free families grant program. While the bill does not contain many changes to criminal penalties, it includes a controversial proposal to establish greater parity on cocaine sentencing by significantly lowering the threshold amounts of powder cocaine necessary to receive mandatory federal sentences (from 500 grams to 50 grams for a 5-year sentence, and from 5 kilograms to 500 grams for a 10-year sentence).

S. 9 -- The Safe Schools, Safe Streets, and Secure Borders Act of 1999: S. 9 is an omnibus crime bill introduced by the Senate Democratic leadership, similar to legislation introduced at the end of the last Congress. The Democratic bill contains a two-year extension for many programs authorized in the 1994 Crime Act, including COPS, the Violent Offender Incarceration/Truth-in-Sentencing programs, VAWA, and drug courts. The legislation incorporates a scaled-back version of the Democratic juvenile crime bill including provisions on the federal prosecution of juveniles as adults; grants for states to incarcerate violent youths; prevention programs for at-risk youth; and a number of Administration-supported firearms measures including a prospective ban on gun ownership for violent juveniles ("juvenile Brady") and an expansion of the Youth Crime Gun Interdiction Initiative. The bill also contains provisions to assist victims, including a model bill of rights for crime victims in the federal system. In addition, the bill contains numerous Administration-sponsored provisions on money laundering, international crime and hate crimes.

HR. 358 -- Patients Bill of Rights: The Senate Leadership reintroduced the Daschle-Kennedy Patients Bill Of Rights, which is the companion to the Ganske-Dingell bill. They included very few changes, and chose not to modify the old remedy / enforcement provision. They believe that they want to start the process with as strong a bill as possible and then negotiate off of it.

S. 10 -- The Health Protection and Assistance for Older Americans Act: This bill incorporates three major initiatives including: (1) your long term care initiative, (2) your Medicare buy-in, and (3) the reauthorization of the Older Americans Act, which you explicitly endorsed last year. Obviously, these initiatives will be broken out into separate bills when and if the legislative process commences. However, this bill reflects the Democrats growing belief that they need to particularly emphasize their sensitivity and responsiveness to issues of importance to older Americans.

S. 17 -- the Child Care ACCESS Act: The Democratic Leadership bill on child care is called the ACCESS Act -- Affordable Child Care for Early Success and Security. It largely mirrors your FY 2000 budget request on child care, although it is more expensive, mainly because it makes the Child and Dependent Care Tax Credit (DCTC) refundable for low-income families. The bill adopts our proposals for $7.5 billion over five years for enhanced child care subsidies for low-income families and greater tax relief through the DCTC for middle-income families. Also, it incorporates your call to expand after-school programs by tripling to $600 million the 21st Century Learning Program. Similar to our budget, the bill provides tax relief through the DCTC for parents who stay at home with their young children, but, unlike our proposal, makes this tax relief refundable, as well. To improve child care quality and promote early learning, the bill provides $2 billion over five years for States and $2.5 billion for communities, while your budget includes $900 million over five years

for States to invest in quality improvements and $3 billion over five years for communities to promote school readiness. Finally, to boost private sector investment in child care, the bill adopts your proposed tax incentive for employers who offer child care services, but, unlike our proposal, also includes $400 million over five years to create challenge grants in which communities that generate funds from the business sector could receive matched federal dollars.

S. 18 -- the SAFER Meat and Poultry Act (Safe and Fair Enforcement and Recall): Senator Harkin has again introduced the food safety bill we supported last year that gives USDA much-needed leverage in regulating food processors and handlers. The SAFER Meat and Poultry Act, one of the Democratic Leaderships Initiatives, would: (1) require processors and handlers to notify the USDA about contaminated meat and poultry products; (2) authorize USDA to conduct mandatory recalls of unsafe products; (3) clarify and reinforce the USDAs authority to refuse or withdraw inspection of plants that violate safety standards or procedures; and (4) give the USDA the power to assess civil fines for violations. Currently, the USDA can respond to food safety violations only by bringing criminal actions or withdrawing inspections; and all recalls are done on a voluntary basis and no civil penalties are available.

S. 74 -- Paycheck Fairness Act: The Paycheck Fairness Act, an equal pay measure the Administration supported last year, is also included in the Democratic Leadership Initiative. The legislation, introduced by Senator Daschle, includes three major provisions:

Increased Penalties for the Equal Pay Act (EPA). The legislation adds full compensatory and punitive damages as remedies, in addition to the liquidated damages and back pay awards currently available under the EPA. The proposal would put gender-based wage discrimination on equal footing with wage discrimination based on race or ethnicity, for which uncapped compensatory and punitive damages are already available.

Non-retaliation provision. The bill would prohibit employers from punishing employees for sharing salary information with their co-workers. Currently, many employers are free to take action against employees who share wage information

Training, Research, and Pay Equity Award. The bill provides for increased training for EEOC employees on wage discrimination; more field research on equal pay; and the establishment of a national award to recognize model employers.

S. 11 -- Campaign Finance Reform: At Senator Feingold's suggestion, the Democratic Leadership introduced campaign finance reform legislation (S. 11) modeled on the bill that passed the Senate in 1993. The legislation includes a ban on "soft money," voluntary spending limits, anti-bundling provision, and reduced-price television time. In order to maintain the aura of bipartisanship around McCain-Feingold, the Democratic Leadership decided to use the 1993 bill. Senator Feingold's staff believes there is greater momentum in the House for passage of bipartisan campaign finance reform and have adopted a "House first" strategy.

S. 20 -- Brownfields And Environmental Cleanup Act of 1999: This bill (S. 20), whose author is Senator Lautenberg, is based on legislation introduced in prior Congresses is in part based on EPA's current "brownfields" program. The legislation would: 1) provide grants to local and state governments to evaluate brownfields sites. These evaluations would inform interested parties about what is required to clean up sites, and which types

of reuse would best suit the properties; 2) furnish funds to state and local governments to establish and capitalize low interest loan programs for cleanups. These funds could be loaned to prospective purchasers, municipalities, and other parties; 3) limit the potential liability of innocent property buyers. So long as purchasers or landowners have made reasonable inquiries about possible contamination, they would be exempt from liability under federal Superfund law, as would owners of contiguous properties who did not cause or contribute to the release and exercised appropriate care.

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March 27, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

Health Care -- Update on our organ donation effort:. We have just received a report that there has been a significant but still inadequate increase in organ donation rates (a six percent increase as opposed to one percent over the past two years) as a result of the Administrations recently implemented regulation to increase organ donations. We believe this success will be augmented as public attention to this increases, as the number of public figures -- including retired NFL football star Walter Payton -- have developed conditions that require organ transplants. There is great interest in the organ donation advocacy community for you to highlight this problem sometime in the next three weeks. You could announce a $5 million grant program and some major private sector commitments from AFL-CIO, the UAW, Aetna Health Plans, and Kaiser Permanente at such an event to coincide with National Organ and Tissue Donor Awareness Week.

Health Care -- Actions to prevent the inappropriate use of physical restraints in institutional settings: On Thursday, Senators Lieberman and Dodd announced their plan to introduce the Freedom From Restraint Act of 1999, which prohibits hospitals and mental health facilities participating in the Medicare and Medicaid program from imposing physical restraints except upon the written order of a physician and only when necessary to ensure the physical safety of the patient or of other patients. (In 1987, legislation was enacted to prevent inappropriate physical and chemical restraints in nursing homes.) This legislation was inspired by a series of cases in Connecticut during October of 1998 in which several mentally ill children residing in psychiatric institutions died after being inappropriately restrained by facility staff. However, we have received reports of similar abuses nationwide. In addition to indicating your initial support for this legislative effort, we have directed HHS to expedite a regulation that administratively extends these protections to acute care, psychiatric, rehabilitation, long term care, and childrens hospitals participating in the Medicare program, program and intermediate care facilities for the mentally retarded, and institutions of mental disease participating in the Medicaid program. The only facilities we believe require explicit new statutory authority are hospices and residential care facilities for children. If there is interest, we may want to have you highlight this regulation when it becomes final later this summer.

Health Care -- Update on Medicare: Despite the failure of Republicans to attract any Democrats beyond Senators Breaux and Kerrey to their Medicare amendment (criticizing your surplus policy and supporting the Breaux-Thomas proposal), it is clear that Senator Daschle and the moderate Democrats need and strongly desire an alternative Medicare plan. In contrast, the House Democrats have little or no appetite for a serious Medicare reform proposal. Our meeting with the House Democratic leadership on Wednesday made it clear that they view any policy that could be defined as reform with grave suspicion. The challenge of developing a politically viable policy is to balance the need for credible reform with

the equally challenging need to not totally alienate our Democratic base. Interestingly, both proponents and opponents of reform are increasingly wary of placing traditional provider cuts on the table. As the Medicare trustees report will no doubt show when it is unveiled next Tuesday, projected Medicare spending has significantly declined and incoming revenues have significantly increased. These trends will no doubt significantly push out the solvency date of the Medicare program and will also decrease any appetite for traditional provider reductions as Congress will be responsive to provider complaints that they have already made a major contribution to the health of the trust fund. The inability to attract much support for provider savings will make it difficult to find offsetting savings to pay for a prescription drug benefit, thus placing event greater pressure to look towards the surplus to make a significant contribution towards the cost of any such benefit. Immediately following the release of the trustees report, NEC / DPC will request the actuary to do a series of cost estimates for Medicare policy reform options that we are contemplating for your review. We anticipate that in the interim we will work with Senator Daschle and his moderate Democrats to determine their definition of serious and acceptable reforms.

Children and Families -- Child Care: With the strong leadership of Senator Dodd, the Senate passed an amendment to its budget resolution increasing mandatory funding for the child care block grant by $5 billion over five years, off-set by a reduction in the tax cut. This action is a significant demonstration of bipartisan support for boosting funding for child care subsidies, which your budget does by $7.5 billion over five years. The amendment also includes a non-binding provision stating that any child care tax relief for child care (i.e. expansion of the CDCTC), must benefit all working families (i.e. by making the credit refundable) and assist stay-at-home parents who care for an infant. After a motion to table the amendment was defeated, it won by voice vote. The twelve Republicans voting with the Democrats were Senators Abraham, Campbell, Chafee, Collins, Dewine, Frist, Hatch, Jeffords, Roberts, Snowe, Specter, and Warner.

Education -- Ed-Flex. Both the Senate and House have now appointed conferees to work out differences in the two bills. This week, 205 members of the House -- overwhelmingly Democrats -- voted in favor of a motion to direct conferees to eliminate the Jeffords-Lott class size provision that would allow local districts to spend already appropriated class size funding for special education. The Senate Democrats have 31 of the 34 signatures they are seeking on a letter recommending a veto of the Ed-Flex bill if the Jeffords-Lott provision is not dropped. OMB is preparing a letter from Jack Lew to the conferees to convey that your senior advisors would recommend a veto if the class size provision remains in the bill and to reiterate support for strengthened accountability to ensure that waivers lead to increased student achievement. Secretary Riley will also send a letter to the conferees echoing those concerns and providing additional detailed comments about the House and Senate bills.

Education -- Charter schools and desegregation: An op-ed by Clint Bolick in the Wall Street Journal this week attacked Bill Lann Lee for "waging a war" against charter schools through Justice Department civil rights investigations into a few proposed charter schools in Louisiana communities under desegregation orders. The editorial criticized Justice Department efforts to either block the creation of charter schools or require additional steps to create diverse student populations, and suggested that pro-charter school Democrats shouldn't support Lee's nomination. The Justice Department has conducted a number of investigations to ensure that charter schools comply with existing desegregation orders or consent decrees.

This week, we discussed and rejected sending an immediate White House response to Bolick's op-ed -- mostly because of a belief that this could hurt rather than help Lee's confirmation, and to some extent because we are still reviewing how to handle and communicate the Administration's civil rights enforcement policy for charter schools. At an Education Department conference last week, it became clear that there is some concern among the charter school community that rigid enforcement of desegregation orders could block the creation of charter schools in predominantly minority neighborhoods that might reverse desegregation efforts by leading minority parents to take their children out of more integrated schools. There are also concerns that desegregation orders could be used by recalcitrant school districts to block the creation of charter schools. Meanwhile, the Justice Department and Education Department Office of Civil Rights are concerned that some charter schools could indeed reverse desegregation efforts, and the Education Department has developed draft guidance to be disseminated nationally on these issues. DPC, WH Counsel's office, Justice and Education Departments will meet next week to discuss this guidance, and the issues raised in it.

Education -- Mayoral control of Detroit Schools. The Michigan legislature has passed a bill that gives Detroit Mayor Dennis Archer 30 days to appoint a reform board to oversee the Detroit schools. The seven member board will be comprised of six Detroit residents appointed by the Mayor and the State Superintendent who will hold the seventh spot as Gov Engler's appointment. None of the current school board members can be appointed to the reform board. Once the board is in place for five years, Detroit residents will be allowed to vote on whether to retain the reform board. The proposal was highly controversial. It exacerbated racial tensions and was viewed by many as an attempt by a white governor and white legislature to oust a school board elected by a city that is 75 percent black. Earlier versions of the proposal would have had the entire reform board appointed by Engler or replaced the school board with a monitor appointed by Engler. Both Engler and Archer favored the proposal that eventually passed giving control over the reform board to Archer. The present school board will be retained as an unpaid advisory board.

Tobacco -- Medicaid Recoupment: As you know, the Senate supplemental appropriations bill contains Senator Hutchisons bill to waive federal claims to tobacco settlement funds without a commitment from the states to spend the federal share to prevent youth smoking, protect tobacco farmers, improve public health, or assist children. The House bill contains no such provision. Legislative affairs tells us that the House leadership is intent on keeping controversial riders out of the supplemental bill and that may help us eliminate the tobacco provision from the bill, but as you know the provision has strong support from the states. We had conversations with both Governor Carper and his staff this week who told us that given the Senates overwhelming rejection of Specters alternative, the best they could sell to other governors would be "sense of the Congress" type language that the tobacco settlement funds should be used for health, children, and tobacco farmers with a report to Congress in a couple of years on how the funds were spent. Carpers staff noted that a veto threat over this particular provision would strengthen our hand (this provision was one of many cited in the Senate SAP saying senior advisers recommend a veto of the bill). Public health advocates are going to use this two week recess to have constituents meet with appropriations conferees and other key players in their districts and urge the provision be dropped.. The advocates urge us to be more public in our support of an alternative, and to try to get the state Attorneys General to do so as well. In the meantime, Rep. Waxman, Dingell, Rangel and John Lewis introduced a bill in the House this week that is similar to Senator Specters amendment but has an even stronger federal role. The Waxman bill requires states to spend 25 percent of tobacco settlement funds on tobacco control and farmers and 25 percent on other health activities, as did Specters, but it also

requires a portion of the tobacco prevention funds to go to a federal fund for a national education campaign and efforts directly at minority tobacco use (rather than have all such funds be spent by the states). The bill would also direct USDA to enact regulations to put in place purchase guarantees for tobacco product manufacturers to ensure they continue to purchase domestically grown tobacco.

Tobacco -- Florida Teen Smoking: Cigarette smoking in Florida declined in every grade since the state began its anti-smoking campaign last year, according to a study released this week. The state-sponsored survey found cigarette use declined 19 percent among middle school students and 8 percent among high schoolers. Florida spent $71 million of its tobacco settlement dollars on this campaign last year (about 13 percent of the total), a third on a counteradvertising campaign and the rest on community and school based programs. Nine out of ten youth surveyed were aware of the edgy advertising campaign, dubbed the "truth" campaign by teens who helped develop it (the CDC has made many of these ads available to other states who want to air them). Theres currently a big fight in Tallahassee over the programs funding levels for next year -- while the Governors budget contained $61.5 million, the Republican House appropriated no funds and the Democratic Senate included $50 million.

Workforce Investment Act Rule: In early April, the Department of Labor will publish an interim final rule to implement the Workforce Investment Act (WIA) you signed last August to reform the nations job training system. The rule provides guidance to states and communities to help implement key provisions of the law including the development of a network of comprehensive One-Stop Career Centers that provide a single point of entry to a wide range of employment services for job seekers and employers. When the program is fully implemented, DOL expects that there will be at least 2,500 such One-Stop centers. Currently there are about 1,000 state and local variations of one-stops, but none of them are as comprehensive as what is envisioned under WIA. The rule will also implement Individual Training Accounts to provide individuals with access to quality job training of their choice. Consistent with the goal of consolidating and streamlining job training programs, the new regulation is approximately half the length of the old rule it replaces. DOL has coordinated with other federal agencies in developing this rule, and has consulted broadly with state and local government, key Congressional committees, and other stakeholders. While states have until July 2000 to fully implement the Act, a handful of states are expected to file their state plans shortly. We will work with DOL to identify any potential announcements.

Welfare Reform -- Economist article: We thought you might like to see the attached Economist article highlighting the Welfare to Work Partnerships success and chronicling how welfare reform "has worked better than anyone dared hope." The article notes that there are challenges ahead -- particularly in large cities where caseloads are falling more slowly -- and mentions some of your welfare to work budget initiatives.

NOTE TO Elena: Unfortunately, the picture accompanying the actual Economist article is not as upbeat as the article (shows a woman and her kids who appear to be living in one small room). We can either send this, or use the Lexus version without the picture. Weve provided both so you can choose.

Welfare Reform -- Urban Caseloads: You sent us a note saying we should do more to strengthen welfare to work efforts in cities with slower caseload declines. We wanted to report on two efforts now underway. The Department of Labor just launched a two-year technical assistance initiative to help 10 large cities (Boston, Houston, Detroit,

Philadelphia, Chicago, Los Angeles, New York, Seattle, New Orleans, and Minneapolis) develop strategies to move hard-to-employ welfare recipients into good jobs, with an emphasis on job retention and advancement and ensuring close coordination between the welfare and workforce systems. Teams from these cities are meeting together for the first time next week. The Welfare to Work Partnership has a targeted effort in 30 cities with high poverty rates and large concentrations of welfare recipients, including Atlanta, Baltimore, Chicago, Los Angeles, Miami, New Orleans, New York, Philadelphia, and Washington, D.C. In August, the Partnership is holding a major convention in Chicago for delegations from these cities; this could be a good opportunity to mark the third anniversary of the welfare law and Eli Segal hopes you will participate.

You also asked whether the slower rate of caseload decline in some cities is related to unemployment. In general, those cities with slower rates of caseload decline did have higher unemployment rates. For example, El Paso, Los Angeles, New York, and Philadelphia had the slowest caseload declines and three of the four had central city unemployment rates above 7% in August 1998 when the caseload decline was measured (Philadelphias rate of 5.9% was also well above the national average of 4.5%). However, Baltimore and Cleveland had high unemployment, but also had somewhat greater caseload declines.

Welfare -- Food Assistance: You asked what we could do to ensure that families obtain food assistance, in light of reports that more working families are seeking help from private food banks. We are working to address these issues on two fronts: first to ensure states follow the food stamp law and provide assistance to all eligible individuals who seek assistance; and second, to develop and implement new initiatives to make the food stamp program more accessible to working families.

We have taken numerous steps in recent months to ensure states follow the food stamp law. USDA has launched investigations of state and local practices, including an inquiry in New York City which found local welfare offices were not allowing individuals to apply for food stamps on their first visit to the office. (USDA has issued a formal warning and will impose penalties if these practices are not changed. Meanwhile, a U.S. District Court judge has issued an injunction and has required the city to provide a corrective action plan, which remains sealed.) At the same time, USDA issued formal guidelines to every state reminding them of their obligations to ensure that applicants are aware of their right to file an application for food stamps, process applications in a timely manner, and continue food stamp benefits when TANF benefits are denied or terminated.

In addition to these enforcement actions, we are working with USDA and others to develop and implement efforts to make food stamps more available to eligible families. Historically, individuals with earned income who are eligible for food stamps have been about half as likely to obtain them as individuals receiving cash assistance. There are several possible reasons for this. First, individuals with earnings are eligible for far less in food stamps and they may decide the amount is not worth it. For example, the monthly food stamp allotment for a family of three with a $300 weekly income and $500 monthly rent is $40. When the same family reaches weekly earnings of $342, the household is no longer eligible. Second, families need to follow somewhat cumbersome procedures to report their earnings to the food stamp office and it is often difficult for working families to get to this office during open hours.

We are currently working with USDA and OMB to devise administrative proposals to help address these and other potential barriers and we will provide you with an analysis of our options soon. While some of the options under consideration can be implemented through

regulation, they may cost several hundred million dollars. In order to ensure we maintain our commitment to saving the surplus, we must enact other regulations saving a comparable amount -- a requirement OMB imposes on an agency-by-agency basis (e.g., USDA savings must pay for new USDA costs). These regulatory offsets could be difficult to obtain.

In addition to possible administrative actions, we will be working to enact the proposals in this years budget to increase funds for food stamp outreach (the budget contains $3.5 million to provide a 50 percent federal match for activities including media campaigns and distributing informational materials at various community locations such as shelters, senior centers, and churches) and to provide $60 million for eligibility for an additional 15,000 legal immigrants who become elderly after their pre-1996 arrival. (The Agricultural Research Act restored benefits to those elderly as of 1996, as well as children, people with disabilities, and refugees.)

Drunk Driving -- .08 BAC studies: The Department of Transportation is planning to release three studies next week on the effects of lowering the illegal blood alcohol concentration (BAC) from .10% to .08%. Two of the three studies show that .08 BAC laws have a deterrent effect on drinking and driving, particularly in conjunction with other drunk driving laws and programs such as administrative license revocation (where police immediately suspend the driver's license of a driver arrested for DWI). The third study which looked at .08 BAC in a single state (NC) found no statistically significant impact of the law in drunk driving crashes.

(1) Nationwide study: This study looked at the effects of illegal per se BAC laws (.08 BAC and .10 BAC) and administrative license revocation (ALR) laws in all 50 states over a 16-year period. The study estimated that .08 BAC laws resulted in 275 fewer fatalities in the 16 states with .08 BAC laws in effect in 1997, and estimates that an additional 590 lives could have been saved in 1997 if all 50 states had .08 laws.

(2) Eleven-state study: This multi-state study analyzed the impact of .08 BAC and ALR laws and found that .08 BAC laws were associated with significant reductions in alcohol-related fatalities in five of the 11 states studied (VT, KS, NC, FL, NM). Two other states (VA, CA) registered reductions following the adoption of both .08 BAC and ALR laws. The remaining four states (UT, OR, ME, NH) experienced slight decreases or increases in their alcohol-related fatalities that were not considered statistically significant.

(3) North Carolina study: This study found little separate effect of a .08 BAC law in North Carolina even though the state recorded a modest reduction alcohol-related deaths during the study period. North Carolina has an aggressive enforcement program, with the .08 law just one of the steps they have taken to help decrease in drunk driving deaths. The finding of this study conflicts with the 11-state study cited above, which indicates a positive impact of the .08 BAC law in the state in reducing alcohol-related deaths.

The three independent studies were commissioned by the National Highway Transportation Safety Administration (NHTSA). On a related note, the GAO is preparing to release in June a review of a number of .08 BAC studies, including the three listed here. The GAO report was required under the omnibus transportation bill signed last year. The GAO review will criticize the methodologies used in earlier NHTSA studies, but generally confirm the soundness of the new studies. The GAO will conclude that .08 BAC laws can be effective in reducing alcohol-related deaths in combination with other laws, particularly ALR. However, the alcohol industry is likely to use the GAO report to discredit the previous DOT studies

on .08 and the need for a national .08 standard.

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April 17, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

Children and Families -- Child Care: To dissuade budget conferees from deleting the Dodd-Jeffords amendment to boost child care subsidy funding by $12.5 billion over ten years, the two senators this week offered a motion to instruct the conferees to include the funding increase. The motion won with strong bipartisan support (66-33) adding 10 Republicans to the 12 who had previously voted for Dodds child care amendment. The final budget agreement includes specific mention of raising child care funding, though it reduces significantly the amount Dodd and Jeffords sought -- the agreement calls for $3 billion over 10 years in new subsidy funding and $3 billion over 10 years in enhanced child care tax relief. We will now turn our attention to working with the Senate Finance Committee, which has jurisdiction over child care subsidy and tax issues; fortunately, the Committee includes four Republicans who voted for the Dodd-Jeffords measure (Senators Jeffords, Hatch, Chafee, and Grassley).

Education -- National Teacher of the Year: On Monday, you are scheduled to announce the National Teacher of the Year in a ceremony in Presidential Hall. Your remarks will focus on the importance of high-quality teachers and challenging young Americans to become teachers. After your remarks, you will present Andrew Baumgartner with the 1999 National Teacher of the Year award. Baumgartner has taught for 22 years and is currently teaching kindergarten in Augusta, Georgia.

Education -- ESEA: On Monday, staff from DPC and the Department of Education will meet with civil rights advocates including Hugh Price, Wade Henderson, Bill Taylor and others as part of an ongoing effort to reach a compromise on a social promotions policy. We also continue to reach out to relevant constituents and met with representatives from the National Education Association and the American Federation of Teachers on Friday. If you do not participate in the class size study announcement (see below), you will announce the ESEA bill on April 28.

Education - Ed-Flex: On Monday, Secretary Riley sent conferees a letter threatening a veto over the Senate Republican provisions to weaken class size. It is possible the the House will consider the conference report on the "ed flex" bill next week.

Education - Class-Size Study: On April 29 at the National Press Club Senator Patty Murray, representatives from the NEA, and other leaders plan to announce the most recent findings of Project STAR -- the Tennessee study that has tracked the performance of a control group of students against others who were in smaller classes in grades K-3. So far, the findings show that: students in smaller classes in the early grades were taking college entrance tests (ACT, SAT) slightly more frequently than their peers in larger classes; the gap

between college entrance test-taking --between minority and less well off children on one hand, and other children -- was substantially reduced among students in smaller classes; and SAT and ACT test scores among students who had been in smaller classes in the early grades were no different than test scores among students in larger classes. Senator Murray and others will argue that this is a good finding -- that normally when more students take college entrance tests, test scores go down. Senator Murray's office and NEA have requested your participation in the release of the study, but we are waiting to see if stronger additional data becomes available from the researchers comparing the performance of students in smaller vs. larger classes on high school graduation rates, completion rates of advanced placement and other challenging courses, and gradepoint averages.

Education -- Florida School Reform bill: On March 24, the Florida House passed an education reform bill reflecting policies that Governor Bush considers his top legislative priorities. The House bill includes: annual testing in grades 3-10; a prohibition on social promotion; ratings for public schools; tougher standards for teacher certification and extra money for those who score well; monetary rewards for excellent and improving schools; freedom from regulations for the top-rated schools; changes to fix failing schools; and -- most controversially -- a program to allow students attending failing schools to either attend a better-rated public school or use a state voucher to attend a private school (including religious schools). The bill is still under consideration in the Florida Senate and on Tuesday, the Senate voted to limit the voucher provision to the lowest-performing students (bottom quartile) in failing schools. The Florida Senate is expected to approve its plan by the end of next week. The bill would make Florida the first with a statewide offering of tuition vouchers. We are preparing a memorandum for you that goes into more detail on this proposal.

Tobacco -- Billboards: As part of the state tobacco settlement, tobacco companies agreed to remove their outdoor and transit advertising by Friday, April 23 -- although the settlement does not prohibit smaller signs that are placed inside or outside retail establishments or billboards at adult-only events. The companies also agreed to keep paying for the space after taking down their billboards until their leases expire so that states and tobacco-prevention groups can display anti-tobacco ads. Preliminary estimates from HHS conclude that the value of this anti-tobacco advertising could be as high as $100 million. To support efforts to replace tobacco industry billboards with tobacco-prevention messages, CDC, FDA, and the National Cancer Institute (NCI) have been working together to provide technical assistance and the bulk printing of a select set of billboards. Thirty-nine states are expected to put up tobacco-prevention billboards, with 26 using the CDC/FDA selected ads and the remaining 13 states choosing to do their own. April 23rd coincides with the NATO summit, which may prohibit White House involvement, but we are hoping Secretary Shalala can do an event, perhaps in Boston.

Welfare -- Illegitimacy Bonus Rule: This week HHS published a final regulation defining how it will distribute $100 million a year in bonuses to states that reduce the percentage of children born out of wedlock. Up to five states and three territories may qualify for bonuses of up to $25 million each. This bonus was included in the 1996 welfare reform law. The statute makes clear that bonuses will go only to states that simultaneously reduce both out of wedlock births and abortions. Nationwide trends are moving in the right direction -- preliminary 1997 data show that the out-of-wedlock birth rate has declined for three years in a row after rising for 20 years, although the percentage of births to unmarried women, on which the bonus will be based, has remained at just over 32 percent in recent years after many years of increases. We will work with HHS to identify appropriate announcement possibilities once they know more about the outcome of the competition.

Welfare -- Legal Immigrants Benefits: This week, Sen. Moynihan and Rep. Levin introduced a bill to restore health, disability and nutrition benefits to certain legal immigrants. The bill includes our $1.3 billion proposal to restore SSI and Medicaid to immigrants arriving after 1996 who become disabled, furnish food stamps to those in the U.S. by 1996 once they become elderly, and to provide states the option to provide Medicaid or CHIP to children and pregnant women who arrive after 1996. The Moynihan/Levin bills food stamp and SSI restorations are more expansive than ours (the bill does not contain any offsets) but its Medicaid/CHIP proposals are identical. We are currently completing the legislative language for our proposal and will begin seeking bipartisan sponsors shortly.

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May 8, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

Tobacco -- Legislative Update: Although Senator Lott vacillated somewhat in the press this week, it appears he still intends to bring the McCain bill to the Senate floor on May 18th. We hope to begin talks shortly to develop an agreed upon managers amendment as well as an amendment strategy for the floor. We have spent this week in internal meetings preparing for these negotiations in order to nail down our position and strategy on issues related to price, lookback penalties, smuggling, an antitrust exemption, preemption of local suits, environmental tobacco smoke, attorneys fees, and international tobacco control.

The Commerce Committee released their report this week, along with a revised bill that incorporated several of our proposed technical corrections. In response to their request for assistance in restructuring the bill so that it could operate effectively whether or not the industry consents, we met with Senator McCains staff and provided them with proposed revisions that separated out all the provisions requiring the consent of participating manufacturers -- as well as the benefits they are seeking, such as the liability cap -- into a single stand-alone title. The other titles would apply to all manufacturers, whether they consent or not, and include advertising restrictions originally included in the FDA rule but not the broader ones that raise constitutional difficulties (those would be put in the separate title). McCains staff appeared receptive to these changes, and they are considering including them in a managers amendment.

We also met with Senator Hatch to assess his interest in these proposed structural changes, hoping that they could give him a way to leave his mark on the McCain bill constructively. While he expressed some interest in the proposal, he also reiterated concerns he raised during the Judiciary Committee hearing on smuggling -- namely, that the McCain bill would result in increased smuggling and would bankrupt the companies.

Tobacco -- Scoring: Through staff conversations, OMB has learned that the Joint Tax Committee is going to score the price per pack increase in the McCain bill at $2, instead of the $1.10 estimated by Treasury. We attribute this difference to Joint Taxs more conservative assumptions about the amount of industry payments that will be passed through to price, smuggling and coverage of tobacco products other than cigarettes. We have asked OMB to draft a proposal which would ensure that as the volume of cigarette sales fall due to reduced smoking rates, the price would not rise accordingly.

Tobacco -- House Activity: Representatives Hansen, Meehan, and Waxman announced that they would introduce a bipartisan comprehensive tobacco legislation which would raise the price of cigarettes by $1.50 over three years, reduce youth smoking by 80% over 10 years (compared to 60% in McCain), contain very strong company specific penalties (but no

industry-wide penalties), provide full FDA authority to regulate tobacco under the existing drug and device titles, and have strong protections against environmental smoke. The proposal would raise approximately $500 billion over 25 years, with 10% of spending for public health and education programs, 35% for the states, and 55% for federal debt reduction. The proposal does not provide any assistance to farmers. Drs. Koop and Kessler endorsed the bill.

Health Care -- Medicare and Abortion Coverage: Recently, a provider sponsored organization (PSO), which is a member of the Catholic Health Association (CHA), was informed by a Health Care Financing Administration (HCFA) regional office that it could not participate in Medicare unless it agreed to provide abortion services for Medicare beneficiaries. Although a little known fact, Medicare does provide reimbursement for those limited occasions when a disabled Medicare beneficiary is pregnant and seeks an abortion. The CHA requested that we attempt to find an exception for PSOs that object to providing the service on religious/moral grounds. Senator Nickles is also placing great pressure on HHS to develop a formal position. He is reportedly drafting legislation that would apply the Hyde Amendment to Medicare if we conclude that Hyde does not have the statutory reach to apply to Medicare. (HHS initial review has concluded that Hyde does not apply, but we are having White House lawyers review this analysis.) Even if Hyde does not apply, we believe we may have found a way to respond to CHA's request. Specifically, PSOs that have "conscience clause" policies could be exempt from providing abortion services; beneficiaries in these plans could go to a physician that billed Medicare directly for the service. Unfortunately, Senator Nickles is not likely to accept this option, even if CHA does. He clearly sees this as an extremely attractive election year issue. Ironically, however, since the Hyde amendment has a rape or incest exception, our approach -- which would not require that these PSOs reimburse for any abortion -- is more responsive to and consistent with the CHA position. We have a working group from DPC, Council's office, OMB, and HHS reviewing legal, policy and strategic options. You will receive an options memo on this issue shortly.

Health Care -- Genetic Discrimination Update: Senator Jeffords, Chairman of the Senate Labor and Human Resources Committee, has indicated his intention to produce a bipartisan bill -- likely with Senator Dodd -- that prohibits insurers from accessing and inappropriately utilizing genetic coding information. This is consistent with your challenge to Congress to pass legislation to bar both insurers and employers to use genetic information in a discriminatory fashion. The Senator's announcement was as surprising as it is welcome; we will be sending Administration witnesses to testify at the Labor Committee's hearing on this subject within the next two weeks. While it will take work, we believe this Committee activity has every real chance of making a significant contribution toward passing this bill either as a free standing measure, as part of a patients bill of rights bill, or as part of a broader medical records/privacy initiative.

Child Care -- Democratic Working Group: House Democrats have formed a Child Care Working Group led by Congressman Fazio and have begun work on a child care bill that they plan to introduce in the next several weeks. We are meeting with the Members and staff next week to review their bill, but we expect it to include most of the elements of your proposal (including subsidies for families, tax credits for families and businesses, quality improvements, and after-school programs) as well as a tax credit to help parents who stay at home. We will continue to work with them and use the introduction of the bill to generate new momentum for child care legislation; however, it seems likely that the group intends to craft a comprehensive and expensive proposal that will give them an opportunity to champion child care throughout the Fall rather than a bill that has a chance of passage

during this legislative session.

Child Care -- Kids Count: We participated in a panel discussion and release of the Annie E. Casey Foundation's KIDS COUNT Databook, annual publication tracking the status of children in the United States. This year, the report highlights the need for safe and affordable child care, particularly for the 10 million children who grow up in low-income working families, and concludes that ensuring adequate child care is crucial to the success of welfare reform.

Welfare Reform -- Federal Hiring Initiative: The federal agencies continue to make progress on their commitments to hire welfare recipients. The total number of hires increased by 22 percent in the past month, from 3,688 in March to 4,494 in April. Treasury hired almost 400 people in the past month and has already hired more than double its commitment through the year 2000. DOD hired an additional 200 people in the past month.

Crime -- Uniform Crime Report: Next weekend (May 15-17), the FBI will release its preliminary estimate of the number of crimes reported to law enforcement in 1997. These figures indicate that crime is down 4% from the previous year -- and down for the 6th year in a row. A significant decline in the number of murders and robberies (9% each) helped fuel an overall drop of 5% in violent crime; property crime fell 4%. All regions of the country and cities of all sizes reported declines in the number of serious crimes.

Crime -- COPS: On Thursday, the COPS Office announced $32.8 million in funding to hire 463 additional officers and deputies. The grants will go to 138 law enforcement agencies nationwide, bringing the total number of officers funded under the COPS Program to over 73,000.

Drugs -- Republican Plan: Following up on last week's "deployment ceremony," the Speaker's Task Force for A Drug-Free America declared this week "Drug-Free Schools and Campuses Week" and highlighted the following items: (1) a House-passed resolution expressing the sense of the House that Americans must remain committed to combat the sale and use of illegal drugs to children; (2) the drug-free student loans provision included in the Higher Education bill; and (3) legislation introduced by Representative Mica that authorizes a demonstration program for the voluntary drug testing of teens applying for driver's licenses, and an incentive grant program to combat drugged driving. As you know, in October of 1996 you signed a directive on this issue, and former Transportation Secretary Pena and Director McCaffrey jointly recommended the creation of a demonstration program for pre-licensure drug testing; however, in the FY 1998 transportation appropriations, Republican appropriators barred DOT from using its funds such an initiative. Since then, we have been working to identify alternative funding within the Justice Department for demonstrations in Arizona and Florida.

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May 15, 1998

MEMORANDUM FOR THE PRESIDENT

FROM:Bruce Reed
Elena Kagan

RE:DPC Weekly Report

Tobacco -- Legislative Update: On Monday, the Senate will begin consideration of the McCain bill. We have spent this week negotiating with Senators McCain and Hollings to develop an agreed upon managers amendment as well as an amendment strategy for the floor.

On Thursday, the Finance Committee marked up those sections of the McCain bill that are within its jurisdiction. The Committee adopted a Conrad amendment raising the per pack price from $1.10 to $1.50, adopted a Nickels amendment to remove the child care authorization language, and struck language from the Committee mark which would have devoted revenues raised under the bill to health care related tax relief.

Tobacco -- Scoring: On Thursday, the Joint Committee on Taxation released their score of the McCain bill, estimating a per pack price increase of $1.89 in 2003 (adjusted for inflation), instead of $1.10 estimated by Treasury (in 1998 dollars). The Joint Tax estimate, however, is only $1.69 when viewed in terms of 1998 dollars. The differences in our analysis and Joint Taxs are attributable to a number of technical assumptions based on the expected volume of tobacco product sales. We assume that wholesalers and retailers will not add an additional markup to the $1.10 price increase, that states will not add new tobacco taxes (due to the large payments they will receive under the legislation), and that smuggling will be minimized through a system based on the current successful model for alcohol.

Tobacco -- House Activity: On Thursday, Representatives Hansen, Meehan, and Waxman introduced bipartisan comprehensive tobacco legislation which would raise the price of cigarettes by $1.50 over three years, reduce youth smoking by 80% over 10 years (compared to 60% in McCain), contain very strong company specific penalties (but no industry-wide penalties), provide full FDA authority to regulate tobacco under the existing drug and device titles, and include strong protections against environmental smoke. The proposal would raise approximately $500 billion over 25 years, with 10% of spending for public health and education programs, 35% for the states, and 55% for federal debt reduction. The proposal does not provide any assistance to farmers. The bill had 90 original cosponsors. 11 were Republican.

Health Care -- Breast Cancer Legislation: During the Senate Finance Committee mark up of the tobacco legislation, Senator DAmatos mastectomy amendment passed by a narrow 11 to 9 vote. This legislation requires health plans to allow women to stay in the hospital as long as is medically necessary following a mastectomy, to cover breast reconstruction, and to guarantee women a second opinion on breast cancer. It did not pass by an overwhelming

vote for a number of reasons. Some felt that tobacco legislation was an inappropriate vehicle for this legislation; some were concerned that this proposal just contains "body part mandates" rather than broader patient protections, such as assuring access to specialists, emergency care, and an external appeals process for patients to address grievances. Others argued that the DAmato legislation is designed to be a substitute for a more comprehensive patients bill of rights, such as the bill of rights recommended by your quality commission or the Dingell/Kennedy or Norwood legislation. While we generally support this legislation, we agree with the Democratic Leadership that it should be done in the context of the broader set of patient protections that you have been advocating. We do believe, however, that this issue will resonate with both the disability and the womens community. Therefore, we are tentatively scheduling an event with you to underscore the importance of the patients bill of rights to women and to unveil some type of report that underscores the need legislation.

Health Care -- Health Care Tax Deductions: The Senate Finance Committee also voted to reject Senator Roths proposal to dedicate a portion of the tobacco revenues to offset the cost of two health care tax deductions: a faster phase-in of the self-employed tax deduction ($5.5 billion over five years) and a deduction for those who buy in the individual health insurance market (about $12 billion over five years). The rationale for the Committees decision to reject these proposals mirrored our stated concerns. That the proposal was inappropriate in this context because it would undermine the potential to invest dollars from tobacco legislation in public health, research, and programs to benefit children. With regard to the proposal to allow deductibility for individual health insurance market, we underscored that such an approach is regressive, will not significantly increase the number of insured, could create an incentive for some employers to drop coverage, and is not advisable, particularly in the absence of broader reforms in the individual insurance market. Because there remains a real possibility that Republicans will insist on some type of tax proposal in the tobacco legislation, we have established a process to review options in this regard.

Elena should we delete this section? It was already briefly discussed in the first tobacco section.

Welfare Reform -- Vice President's Coalition Meeting: On May 19th the Vice President will hold the third meeting of the Welfare to Work Coalition to Sustain Success. The Coalition consists primarily of non-profit and faith-based organizations who are involved in helping welfare recipients succeed on the job through mentoring and other supports. This meeting will focus on connecting small businesses with the community-based organizations who can help them retain welfare recipients. The VP and SBA Administrator will facilitate a town-hall meeting in the OEOB, with 14 satellite sites around the country hosted by the SBA regional administrators and other federal partners. The panel will also include two Coalition members (such as the YMCA and Women's Missionary Union), at least one small business (possibly one of SBA's Welfare to Work award winners to be recognized as part of Small Business Week that begins on May 31st), and a former welfare recipient on the panel. Participants at each site will include representatives from small businesses, community-based organizations, and public agencies.

Welfare -- New Database Beginning to Find Parents Who Owe Child Support: Since it became operational in last October, the National Directory of New Hires, established by the welfare reform law, has identified 900,000 parents who owe child support. The database has information on new hires, as well as wage and unemployment insurance data for all workers. In all of the cases identified through the new database, states were unable to find the

absent parent using in-state data alone. Once these parents are found, states then follow up by using wage withholding to begin to collect the overdue payments. Database operations will greatly improve after October 1998, when HHS will have in place a national registry of child support orders, and will no longer have to rely on states to request information on individual child support orders.

Note: It would be good to get this item in this week, because HHS is testifying on the database before Shaw on Tuesday. (Its expected to be a friendly hearing.) HHS was planning to announce the 900,000 number below at the hearing, but theyll hold it if we want them to do so. Possible opportunities to announce the number are the signing statement for the child support felony bill or, if we hold off longer, a signing statement/ceremony for the child support incentives bill. (Maybe the number will be over 1 million by then.) Note: USA had a story on this number on April 24, but the number reported then was 700,000 matches. This is more up to date.

Crime -- Police Week: This week is Police Week, dedicated to honoring law enforcement officers around the country. On Wednesday night, the Attorney General participated in the annual candlelight vigil held on the Mall; on Friday, the Vice President will speak at the Peace Officers' Memorial to commemorate officers slain in the line of duty. In 1997, 159 law enforcement officers were killed in the line of duty. This represents an increase of almost 40% from the number killed in 1996 (116). By the end of the week, we expect Congress to pass two bills that are strongly supported by law enforcement and the Administration. One establishes a grant program to help local law enforcement agencies purchase bulletproof vests for their officers; the other helps fund counseling services for dependents of slain officers.

Crime -- Law Enforcement Technology: Next Tuesday, the Vice President will announce a partnership between the Departments of Energy, Justice, and Treasury to provide for the transfer of key technologies from the National Laboratories to federal, state and local law enforcement to be used to fight crime, drugs, and terrorism. Examples of these technologies, which will be on display in the Indian Treaty Room, include: a miniaturized gas chromatograph -- the size of a calculator -- which can analyze forensic evidence at the crime scene; and the "team leader" multimedia system, which enables law enforcement to simultaneously collect and transfer crime scene data as well as communicate with other team members and their command post.

Crime -- Missing Children: Next Thursday, the Justice Department will release a guide developed to give family members the information and tools they need to work with law enforcement to find their missing child. The guide was written by parents who have experienced the trauma of a missing child (including Patty Wetterling and Colleen Nick), with the assistance of law enforcement and youth service professionals. National Missing and Exploited Children's Day is May 25.

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May 22, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

Tobacco -- Senate Update: On Monday, the Senate began consideration of the McCain bill. Members filed approximately 100 amendments and debate has proceeded at a slow pace. The following amendments were considered:

*Faircloth amendment to impose a $250 per hour cap on attorney fees.. Rejected.
*Kennedy amendment to increase the price to $1.50 per pack phased in over three years. Rejected: 58-40.
*Ashcroft amendment to strike the $1.10 per pack price increase. Rejected: 72-26.
*Gregg-Leahy amendment to remove the $8 billion liability cap and other liability protections. Adopted 61-37.
*Gramm to eliminate the tax codes marriage penalty.
*Durbin amendment to increase the company-specific penalty and reduce the industry wide-penalty.
*Amendment to strike Senator Fords LEAF Act (and keep the Lugar farm provisions.)

Given the slow speed at which they are proceeding, it is currently unclear whether the Senate can wrap the bill up before the Memorial Day recess, or whether debate will continue after they reconvene in June. [THIS IS SUMMARY AS OF 4:00PM THURS; WILL NEED TO BE UPDATED.]

Tobacco -- MMWR Study: The Centers for Disease Control released on Thursday new statistics on teenage smoking patterns and addiction. The data found that: (1) teenagers find it difficult to quit smoking -- 86 percent of teens who smoke daily and try to quit are unsuccessful; (2) teenagers underestimate the addictiveness of nicotine -- 75 percent of teenage daily smokers who expect to quit are still smoking five years later; (3) casual smokers become hooked -- 42 percent of young people who smoke as few as three cigarettes per month go on to become regular smokers. Currently, 36.4 percent of high school students smoke.

Immigration -- H-1B visas: Last Wednesday, the House Judiciary Committee approved by a vote of 23-4 a bill, authored by Rep. Lamar Smith, increasing the cap on H-1B visas while making substantial reforms to protect qualified U.S. workers from being displaced or passed over in favor of temporary foreign workers to the program. Unfortunately, the Smith bill does not contain a training component. Prior to the mark-up, Secretaries Daley and Herman and the Attorney General sent a letter to Chairman Hyde indicating that the Administration would support the bill if it were modified to include a meaningful training provision and a more modest increase in the cap.

Last week, the Senate passed a similar bill that temporarily increases the cap and

authorizes money for increased training through Title IV of the JTPA, but does not include any meaningful reform of the H-1B program. OMB sent a Statement of Administration Position (SAP) that related if the final bill did not include meaningful reform of the H-1B program, the Secretary of Labor would recommend a veto.

Immigration -- INS Reform: Last Wednesday, Rep. Rogers introduced an INS restructuring bill that generally tracks the recommendations of the United States Commission on Immigration Reform. The bill was referred to the Judiciary Committee. INS has prepared draft legislation that would implement our restructuring plan, which we plan to have introduced soon after the Memorial Day break (possibly by Rep. Watt or Sen. Kennedy). Sen. Abraham has announced his intention to hold hearings starting in June on INS restructuring, though he has stated it is unlikely that a restructuring plan would be in place by the end of this Congress.

Crime -- COPS Event: Next Friday, we have an event tentatively scheduled to: 1) celebrate the milestone of the 75,000th cop funded under your COPS initiative; and 2) launch a new pilot project to target COPS funding toward distressed neighborhoods. The first phase of the pilot will fund more than 500 officers; the COPS office is currently finalizing the list of participating cities which they expect will include 10 large and 10 small cities across the country.
Crime -- Police bills: Last Friday, the Congress passed two bills strongly supported by law enforcement and the Administration. One bill creates a grant program to help local law enforcement agencies purchase additional bulletproof vests; the other helps fund counseling services for dependents of slain officers. We are working with Rahm Emanuel and Legislative Affairs to schedule a signing ceremony for these bills as part of the COPS event, or at some later date.

Drunk Driving -- .08 BAC: Last weekend, conferees to the highway bill agreed to include a new $500 million incentive grant program for states with .08 BAC laws instead of imposing sanctions on states that fail to pass .08 laws. MADD and others such as Senator Lautenberg and Representative Lowey were extremely disappointed with the outcome on the .08 issue. Conferees and committee staff are pushing hard to complete their work to allow the Congress to vote on the final bill prior to the Memorial Day recess.

Health Care -- Patients Bill of Rights Update: There were reports this week that Speaker Gingrich is trying to stop any patients bill of rights legislation from moving this year by stalling and diluting the efforts of his Republican task force led by Rep. Hastert. We have learned that Rep. Norwood shares our frustration and is quietly talking to Rep. Dingell about a possible discharge petition to bypass the House Republican Task Force and the Committees of Jurisdiction. We are extremely encouraged by these discussions and are pursuing this and other strategies to move this legislation. To increase momentum on this issue, you are scheduled to participate in an event next week to release a state-by-state analysis to illustrate how many Americans are not covered by state patient protection laws, even where they exist (125 million). This event will also highlight why the patients protections are so important to women -- women are larger consumers of health care than men and reports now confirm that complaints made by women are seen as less urgent than men and consequently, women are less likely to be referred to specialists. Nancy Dickey, the newly-appointed first women chair of the American Medical Association, is also scheduled to participate in this event.

Campaign Finance Reform -- Free TV Petition: Today, the Federal Communications Commission (FCC) will place into circulation a Notice of Inquiry (NOI), opening a proceeding on free

and discounted air time for candidates. The NOI is expected to pass within the month at which point it will become open for public comment. The FCC will conclude the NOI and submit a report to Congress by the end of the year. The recommendations of The President's Advisory Committee On the Public Interest Obligations of Digital Broadcasters will be included in the FCC's final report to Congress.

Education -- Bilingual Education: The House Subcommittee on Children, Youth and Families reported out a bill offered by Rep. Riggs that would replace the current bilingual and immigrant education programs with a block grant to states to help LEP students master English within two years. States would be required to cut off funds to any local program that does not meet the 2-year deadline for all students, and would be prohibited from exempting any students from state testing programs in English if the student has been in school for two years. Funds under this bill would be less effectively targeted to high need communities than in the current program. The bill also ends funding for teacher training. In addition, this bill would void existing compliance agreements between the Education Departments Office of Civil Rights and local school districts regarding the provision of services to LEP students, and would prohibit the Department of Education from entering into additional agreements until it proposes, and Congress ratifies, guidelines and compliance standards for Title VI. DPC staff have been working closely with other WH offices and the Education Department to develop a strategy for addressing the Riggs bill, and to prepare alternative legislation that could be introduced if appropriate, which fully reflects the principles for strengthening programs for LEP students you approved along with the decision to oppose the Unz Initiative. We will send you a more detailed status report on this issue this coming week.

Note to Elena: You may recall that we have been talking about linking any veto threat to the Riggs bill to the introduction of an alternative bill reflecting our anti-Unz principles--despite the wishes of the Hispanic Caucus that we threaten to veto but not propose an alternative. The bill that was marked up today is a new Riggs bill, including civil rights and testing provisions described above that were not included in the draft we had seen. I believe that the new Riggs bill may change our calculations about linking the veto threat and alternative legislation, because the civil rights provisions seem to be so objectionable on their own. Ive written the paragraph above to give us the room to consider this possibility, and hope that your final version will do the same.

Education -- Class Size: Congressional Democrats and the NEA, AFT and other education groups are upset that the agreement we reached with NGA on spending the state share of tobacco funds did not include your class size reduction proposal, and some fault us for walking away from this initiative. In response, we met with Sen. Patty Murray, the prime Senate sponsor, and agreed to look for ways to help keep this issue alive, including looking for offsets that would enable her to bring this to the floor for debate. Even though the chances of enactment are slim, our ability to mobilize the education groups behind our overall education agenda as we head into the Fall depends in part on continuing to press for funding for your class size proposal.

Education -- New Orleans Schools: Several weeks ago you expressed concern about a controversy involving the Education Departments Office of Civil Rights and the New Orleans schools, regarding the use of IQ tests for admission to the Benjamin Franklin High School, a selective magnet school. OCR has been working with the local school board to resolve a complaint about the use of IQ test cutoff score as an admissions requirement regardless of grades or other indicators of academic performance. The local school board has already agreed to halt that practice, and to develop a new approach that would still maintain high

admissions standards. The immediate controversy revolved around a decision by the local school board to rescind admission decisions that had already been announced for the next school year. OCR has told the board not to rescind its admissions decisions for the coming year, but instead to focus on developing new admissions criteria for the following school year. OCR understands the importance of working with New Orleans to resolve this in a fashion that enables the school to maintain high standards, and that does not undermine the Administrations commitment to high standards and testing.

Welfare Reform -- Welfare-to-Work Celebration: A series of activities are scheduled for May 27th to celebrate the success of the welfare-to-work effort, with a particular spotlight on the Welfare-to-Work Partnership and on the importance of job retention. As part of the celebration, you will join a small working meeting of CEOs from the Board of the Partnership and key Cabinet officials in the Roosevelt Room, where you will have a chance to congratulate these businesses for their extraordinary success in both hiring and retaining welfare recipients, and urge them to sustain their commitment. Over the last year, the Partnership has grown from 100 businesses to 5,000 today, and their business partners have hired 135,000 welfare recipients. In a recent survey of these businesses by the Wirthlin group, 75% found welfare recipients to be good, productive employees. United Airlines and others have found that the people hired off welfare have higher retention than other new employees.

Following the working meeting is an event in the East Room where you will be joined on the program by the VP, Eli Segal, Jerry Greenwald from United, and a welfare-to-work success story. At the event, you will announce the first round of Welfare-to-Work Competitive grants and the latest welfare caseload reductions, and you will challenge the Partnership to double the number of people hired by their business partners in the coming year. In the front row will be the success stories you met in Wichita and St. Louis, along with new success stories from United, UPS, and other companies. Other invitees include a group of Welfare-to-Work Competitive grant winners (from local governments, PICs, and non-profit organizations). In conjunction with the event, the Partnership will release a report called the Road to Retention, which profiles the retention successes of 16 large and small businesses. The Partnership will also release welfare-to-work PSAs.

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May 29, 1998

MEMORANDUM FOR THE PRESIDENT

FROM:Bruce Reed
Elena Kagan

RE:DPC Weekly Report

Tobacco -- Senate Update: When the Senate returns from recess, it is scheduled to return to the McCain legislation and resume consideration of an amendment by Sen. Durbin to increase look back penalties and an amendment by Sen. Gramm to devote most of the bills revenues to a tax cut for married couples with income of less than $50,000 per year (advertised as an elimination of the marriage penalty). The Gramm amendment would provide a significant tax cut to low- and middle- income people, but would require a 78 percent cut in spending for public health, medical research, farmers, and the states. We are still deciding whether to develop and/or support a smaller tax cut proposal. Such a proposal would take the pressure off Democrats to vote for the Gramm amendment and if passed, would enhance the attractiveness of the bill to Republicans; inevitably, however, the proposal would diminish the funds available for spending on health research and public health programs.

Tobacco --Tobacco Farmers: This week the Senate may begin consideration of those provisions of the tobacco bill relating to tobacco farmers. The legislation currently includes a provision drafted by Sen. Lugar that would buy-out all farmers from the quota program within 3 years at a cost of $18 billion, eliminating the government program and creating a free market in tobacco in its place. The legislation also includes Sen. Fords measure, which the Administration supports, to preserve the program and give farmers the option of being bought out, at a total cost of $28.5 billion spread over 25 years. USDA calculates that the Lugar approach would lead to dramatic increases in the amount of tobacco grown in the U.S., and a reduction in the cost of tobacco for companies. Last week, the Washington Post ran an article that included USDAs calculation that tobacco companies will save $800 million a year or $20 billion over the next 25 years if Lugar becomes law. In addition, OMB estimates that the Lugar provision would necessitate a 69% cut in the research and other public health programs called for in the McCain legislation. Armed with these numbers, public health groups like the Campaign for Tobacco-Free Kids have lobbied the Senate for the Ford measure. Procedurally, the next move is for both Sens. Ford and Lugar to try and strike the others measure from the bill. Along with USDA, we will continue to work with Sens. Ford, Robb, and Hollings to build support for their farmers provision and simultaneously seek to fashion a compromise that might garner significant Republican votes.
Welfare Reform -- State Reinvestment of TANF Savings: During your meeting with Welfare-to-Work Partnership Board members last week you stressed the importance of states reinvesting their welfare savings in child care, transportation and training. We will work with HHS to analyze state expenditure data for TANF and child care. Unfortunately, this data is not as timely as we would like. In the meantime, there is some encouraging information in the NGA Fiscal Survey of States released on May 27th. The report indicates that States are shifting the spending of their welfare funds from cash to work-related

supports. Comparing expenditures in 1996 with planned spending for 1998, the percent of welfare spending on cash assistance dropped 27 percent (roughly comparable with caseload declines), while spending on child care increased by 55 percent and spending on work activities increased 34 percent. Total welfare spending declined by 9 percent, but given caseload reductions, this actually represents increased spending per person.

Education -- Gov. Carpers Testing Program: Prior to your speech to the Delaware State Legislature, Gov. Carper related to you that Delawares testing program tests students against both state and national standards, by combining test items aligned with state standards with items from NAEP. He reiterated this point in a recent letter following up your trip. We have followed up with Gov. Carpers staff to get more information about the state testing program. While it is true that Delaware does have a "hybrid" testing program, it is more accurate to say that it tests students against national norms, rather than national standards. Approximately 25% of the items on the Delaware test are taken from the SAT 9 (the Stanford Achievement Test), and this is sufficient to tell how an individual student ranks compared to other students nationwide. It does not, however, provide information on student performance relative to national standards, such as those in NAEP. You may recall that the National Academy of Sciences is studying the feasibility of statistically linking state tests with NAEP, so that state tests could in fact test students against national standards. Preliminary indications are that the NAS report, due July 1, will indicate that few state testing programs will meet the technical requirements for this kind of linking.

Education -- GAO report on national testing: Next week the GAO will issue a report, requested by Rep. Goodling, on the relationship between the Education Department and NAGB in developing the tests, and the procedures for awarding contracts for test development. The report affirms that the Education Department has honored the requirements of the law which placed control of test development with NAGB. In addition, GAO stated it had no concerns with regard to contracting procedures. While we do not expect the report will alter Rep. Goodlings position, it does negate one set of arguments he had planned to utilize.

Education -- Adult Education: You recently asked what the Administration had accomplished with respect to Adult Education, literacy training and the GED, and whether we need to take additional steps. The Senate and House Workforce bills, which are expected to be passed by July 1, provide for the reauthorization of Adult Education programs. Your FY 1999 budget requests a $16 million increase in adult education for state grants, which funds local literacy, GED and adult education programs. It also includes a request for funds to develop model English as a second language programs for adults, since 40% of adult education participants are in such programs. The Education Department has also funded a PBS series, "Crossroads Cafe" that is a "Sesame Street" for adults learning English. The program is now shown in 35 states (and 50 countries) and will be expanded shortly. DPC will work with NEC and the Education Department to explore how we can best highlight the efforts we already have underway, and what additional steps would be appropriate.

Health Care -- Assisted Suicide Update: Next week we plan on releasing the Justice Department interpretation that concludes that the Drug Enforcement Agency (DEA) has no legal authority to prohibit physicians from prescribing drugs with the intention of hastening death. As you will recall, Senator Hatch and Congressman Hyde had requested that the DEA/Justice determine if there was any Federal authority to address Oregons assisted suicide law, which permits physicians to provide medications for the purposes of aiding in an assisted suicide. Consistent with your instructions, we will release this interpretation, but will also make clear that you maintain your longstanding position of

opposition to assisted suicide and remain open to workable legislative approaches that address this issue. We expect that Senator Hatch and Congressman Hyde will respond by introducing legislation that provides DEA the explicit authority to press charges against physicians who assist in suicide. As you know, we believe that a DEA approach is ill-advised. We will carefully roll-out the announcement of your position on this issue with both Members and interested organizations, such as the Catholic Health Association and the American Medical Association and will keep you advised of legislative developments.

Health Care -- HCFA Letter to Ravenswood Hospital in Chicago: Last week, 15 year old Christopher Sercye died of gunshot wounds just 35 feet from Ravenswood Hospital in Chicago, where friends had brought the young man for help. Hospital workers did not leave their posts and apparently would not even give police officers a stretcher to help the young man. In response, the Health Care Financing Administration sent out a letter to the President of Ravenswood Hospital on Friday stating that the hospital will lose its Medicare funding on June 19, 1998, unless the facility takes steps to ensure that the events that led to the tragic death of Christopher Sercye will not be repeated. You released a statement to highlight the Administrations strong action. In addition, your statement urges all hospitals to follow the recently released guidance by the American Hospital Association that advise hospitals to change any policies that prevent taking appropriate actions in a medical emergency.

Health Care -- Medicare Commission: Next Monday, the Medicare Commission will be holding another meeting to respond to its Members concerns that they have not had enough time to have intensive discussions about the major issues of benefits, costs, eligibility, administration, and financing. Senator Breaux, troubled about the perception of the Commissions irrelevance, has asked Sens. Lott and Daschle to open up the meeting with words of encouragement on the charge and the potential of this Commission. The Democrats, including our Commission members, are becoming increasingly nervous that the Commissions staff and Congressman Thomas are focusing much too heavily on highly speculative, numbers-driven policy and much too little time on how best to reform the Medicare program to respond to the delivery challenges it faces in the next century. We expect they will urge the Commission to dedicate as much time to program design as to program financing. Our members are increasingly seeking answers from us as to how comfortable we are in allowing them to engage in serious discussions about controversial policy reforms on benefits (including requiring higher cost sharing and more benefits like prescription drug coverage), eligibility age changes, income-related means-testing, and the possibility of putting new revenues on the table. In general, we believe that it would be constructive for the Commission to engage in general discussions on all of these issues with the exception of new revenues. We believe our members should only address the revenue issue only if it is determined that traditional saving approaches alone will be insufficient to satisfactorily address the programs financing challenges. We are working closely with Gene Sperling and the NEC to assure we have a coordinated message.

Health Care -- Long Term Care: Aging and disability advocates are increasingly pressing us to address the issues surrounding long-term care. The demographic changes in the population make clear that, in the absence of major new breakthroughs in cures and treatments, there will be an extraordinary increase in demand for services targeted to the nations aging and disability population. Because of cost and other limitations, both the public and private sectors have been slow to develop responses to this challenge. Although comprehensive solutions are politically and financially unrealistic, we believe that we should begin a series of targeted policy options to begin to address this problem. These could include, requiring FEHBP to offer (but not pay for) private long-term care policies,

educating Medicare beneficiaries that Medicare does not cover long term care and advising them of other options, developing policy options that provide more flexibility to States to provide home and community-based personal care options for Medicaid elderly and disabled eligibles, and developing possible tax incentive approaches that could potentially increase the purchase of private long-term care policies. We believe that you may want to take steps in this area relatively soon and capture at least part of an issue that has extraordinary political and policy dimensions.

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June 11, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

Tobacco -- Senate Update: The Senate passed two amendments to the McCain bill this week. The first, approved by a 52-46 vote, is a Craig-Coverdell amendment which authorizes about $2 billion per year for anti-drug efforts, creating another competitor for the diminishing pool of public health dollars. The amendment also includes a permanent prohibition on the use of federal monies for needle exchange and a program to allow education vouchers to students who have been the victims of school violence. A Democratic alternative to the Craig-Coverdell amendment, which spent less money and did not contain the permanent needle exchange ban or voucher provision, was defeated by a vote of 53-45.

The Senate also passed by a vote of 50-48 the Gramm tax-cut amendment. The Gramm amendment costs $16 billion over the first four years, an additional $30 billion in the next five years, and one-third of the funding under the bill after that. The amendment provides all couples with annual incomes below $50,000 a new tax deduction of $825 this year, rising to $3,300 in 2008, and would provide full deductibility of health insurance for the self-employed. The Senate rejected a less costly substitute offered by Senator Daschle by a vote of 55-43.

As a result of these votes, key groups have expressed concern over the diminishing dollars available for other purposes under the legislation. The Governors have drafted a letter objecting to the state financing section of the bill because the funding level has dropped below the $196.5 billion over 25 years originally contained in the bill to settle state suits (the same level contained in the June 20, 1997 settlement agreement with the Attorneys General). Public health groups such as the Campaign for Tobacco Free Kids, the American Cancer Society, and the American Heart Association, are concerned that funding will not be available for public health programs. Secretary Shalala, Erskine, and we met with them on Friday and explained that the bill would not move through the Senate without funding for tax cuts and anti-drug provisions, and have urged them to work hard over the next few days to achieve final passage.

Key amendments are still expected on hot-button issues such as attorneys fees, resolving the disputed proposal on farmers, as well as two Republican substitute bills. We are hopeful that the Senate will move on to final passage by the end of the week.

On Monday, you will be speaking to 200 high school Presidential scholars in the East Room, where you will have an opportunity to urge swift passage of the tobacco legislation.

Education -- National Testing: There are several new reports which support our efforts on national testing. First, GAO has confirmed in a letter to Goodling and Ashcroft, that the

Education Department already has sufficient authority to develop and conduct national tests, and does not require additional Congressional authorization. Second, on June 12 the National Academy of Sciences (NAS) will release an interim report on the Goodling-proposed study, required by the compromise legislation last fall, examining the feasibility of statistically linking scores from existing commercial and state tests to each other and to NAEP. The NAS has concluded that it is not technically feasible to compare student scores across different tests to each other or to the NAEP standards. This conclusion completely undermines Goodlings argument that existing tests could be used to accomplish the purpose of the national test. While both of these reports bolster the case for our testing initiative, they are not likely to dampen Goodling and Ashcrofts opposition. Earlier this week, they received assurances from Gingrich and Lott that an anti-testing rider would be added again to the Labor-HHS-Education Appropriations bill.

Crime -- Kids and Guns in Schools: On June 18, the National Parents' Resource Institute for Drug Education (PRIDE) will release their annual survey on teen drug use and violence for the 1997-98 school year. Over 154,000 students grades 6-12 were interviewed for the survey. While we have not yet seen the data on illicit drug use by teens, PRIDE has shared some of their findings with us on school violence. One key finding is that the percentage of students who reported carrying a gun to school decreased by over a third since the 1994-94 school year -- from 6% to 3.8% (3.8% represents nearly 1 million students). However, of those students who brought a gun to school, almost half did so 6 or more times; over half threatened to harm a teacher; and nearly two-thirds threatened to harm another student. Moreover, monthly drug use was very high for students carrying guns: 30% used cocaine; 32% used stimulants such as methamphetamine; and 31% used hallucinogens. In addition, the survey reaffirms the effectiveness of involving kids in after school programs and school activities. Students who did not bring guns to school were 53% more likely to be involved in after school programs and 34% more likely to be active in school activities such as band and sports than gun-carrying students.

Child Care -- House Legislation: On June 9, The First Lady and Secretary Shalala joined House Democrats as they unveiled a comprehensive child care bill that includes all the pieces of your child care initiative, as well as other proposals, such as a stay-at-home tax credit. The over $20 billion package will be sponsored by more than 100 Representatives. The proposal does not specify funding sources.

Health Care -- Patients Bill of Rights: On Wednesday, Larry Stein, Chuck Brain, and Chris Jennings met with Congressman Dingell to discuss the patients bill of rights. He informed us that he wants to work closely with the Administration should any serious discussions commence between Congressman Norwood and himself to develop a unified bill to be the vehicle for a discharge position. For the moment, Mr. Dingell believes (and Mr. Norwood and we agree) that he should stay strong on his state-court liability enforcement provisions and take the position that a "right is not a right without a remedy." The patients bill of rights advocates should be able to maintain their strong position on enforcement as long as CBO does not come out with a high estimate of the costs associated with this provision, which could be reported as early as next week. CBO staff are now informally advising us that they are getting more pressure on these costs estimates than was the case during the worst days of the Health Security Act. They are also telling us that the Republican leadership is insisting on reviewing their estimates before they are released.

Health Care -- Vice Presidents Announcement of the Quality Forum: Next Wednesday, the Vice President is scheduled to unveil a planning committee to establish "a quality forum", a

private sector entity designed to develop a plan to ensure the widespread availability of comparative information to hold health plans more accountable in providing high quality care. The "forum" was included in the final recommendations of the Quality Commission and you asked the Vice President to launch this process. In conjunction with this announcement, we are releasing a report that highlights the many shortcomings of the current system. For example, one study estimates that preventable errors in hospital care leads to 180,000 needless deaths each year, and 23 percent of tympanostomy tube insertions for children with ear infections were found to be inappropriate. Developing consistent information has great potential to improve health outcomes, increase confidence in the health care system, and save costs. We will cast this as the next logical step beyond the patients bill of rights to improve and monitor rapid changes in the health care delivery system.

Health Care -- FDA Commissioner: Should the tobacco legislation be adopted by the Senate early next week, we hope to announce the nomination of the new FDA commissioner --Jane Henney. Preliminary, informal calls have elicited neither major objections nor overwhelming support for this nomination. While Henney should be confirmed on her merits, this confirmation may be a challenge, particularly if Republicans portray her as a Kennedy choice and a David Kessler protg. One positive development is that Senator Domenici has agreed to accompany her on courtesy visits to Republican members of the Senate Labor Committee.

Health Care -- False Claims Act and Fraud and Abuse: Senator Bond and Senator Hollings are including in appropriations legislation language to water down the False Claims Act (FCA). Their action is in response to the hospital industrys criticisms that the Justice Department has enforced this Act far too aggressively. While there are some legitimate concerns related to enforcement, the Department is addressing these concerns through administrative actions. OMB, HHS, and DPC feel strongly that undermining the enforcement provisions of the FCA would be extremely counterproductive to our anti-fraud enforcement activities. We recently authorized a Justice Department letter recommending a Presidential veto, which received strong support from a Washington Post editorial. This may be an issue that we should push back extremely hard on to illustrate our strong commitment to fight fraud and abuse, the issue that most Americans--particularly seniors--believe is one of the primary contributors to an escalation of health care costs.

Housing/Welfare Reform -- Welfare-to-Work Housing Vouchers: On Tuesday, the Senate VA, HUD Appropriations Subcommittee provided $40 million for new incremental "self-sufficiency" housing vouchers targeted for people moving from welfare-to-work. The demonstration program would provide grants to seven sites -- New York City, Los Angeles, Cleveland, Miami-Dade, Anchorage, Charlotte, and Prince Georges County. While providing substantially less vouchers than the Administrations request -- 7,000 instead of 50,000 -- this is an important victory for the initiative. We hopeful that the House Subcommittee will fund more vouchers in the Senate, since Chairman Lewis has indicated interest in this program.

Welfare Reform -- Portland Shows Strong Evaluation Results: HHS is preparing to release an evaluation of Portland, Oregon's welfare reform program showing impacts on employment, earnings, and reduced welfare expenditures that are among the strongest for a large-scale mandatory program, comparable to those of the Riverside program. After two years, participants had 35 percent higher earnings, 11 percent higher employment levels, and received 17 percent lower welfare payments than those in the control group. These gains were sustained for two years and are expected to persist into the third year. Even in this high quality program, 41 percent of the participants were receiving welfare after two years

although this compares favorably with 53 percent for the control group. The study, by MDRC, tracked over 5,500 recipients from 1993 through mid-1996 and is part of HHS' seven site national evaluation of welfare-to-work strategies that began under the JOBS program.

Portland's program had a strong employment focus, with a particular emphasis on job quality. Compared to some other programs that emphasize taking any job, Portland participants were encouraged to look for and take "good jobs" -- full time, paying above the minimum wage, with benefits and potential for advancement. Follow-up results show that participants were more likely to be working in full-time jobs, at higher earnings and with employer-provided health benefits than those in the control group. While the program emphasized job search and job placement, a significant number of participants also participated in short-term education and training. The program had strong positive impacts both for those with few barriers to employment and those considered "harder to place". Participation in the program was required, and 21 percent of participants were sanctioned for failure to comply (in the mid-range of sanction rates in other programs). Families with children older than one were required to participate (compared to age 6 in the Riverside demonstration) and staff emphasized child care arrangements in their case management. Not surprisingly, the program had higher child care usage and costs than other programs, but this did not result in higher total program costs.

Welfare Reform -- New Jersey Family Cap Study: Secretary Shalala has sent you a memo on the New Jersey family cap policy, providing helpful background information regarding the Rutgers University evaluation that received considerable press attention last week. The press reports focused on evaluation findings that the family cap policy resulted in a "small but non-trivial" effect on abortion rates (an additional 240 abortions per year over what would be expected based on population trends in NJ). Both the state and HHS have pointed out serious methodological concerns with the Rutgers study and believe it is too early to draw conclusions about the family cap policy's impact on abortions. The report will be revised, but it is likely that researchers and interest groups of various kinds will continue to debate the implications of future research findings and of the policy itself.

New Jersey was the first state to receive a waiver, under the previous Administration, to implement a family cap policy. We granted waivers to 14 more states to test the policy. The federal welfare reform law left it up to states to decide whether to implement a family cap, and a total of 22 states have now adopted such a policy.

Welfare Reform -- Assisting the Disabled Return to Work: Last week, the House passed a bill sponsored by Reps. Bunning and Kennelly to implement an Administration initiative to move people on the SSDI and SSI rolls into the workforce by using a "pay for performance" approach. Currently, SSDI and SSI beneficiaries get rehabilitation services through state vocational rehabilitation agencies, which are reimbursed for their costs and have a mixed record of success. Under this bill, SSDI and SSI beneficiaries could choose their own public or private rehabilitation providers. Providers who successfully assist beneficiaries in leaving the rolls and returning to work would be paid a percentage of the disability benefits saved. These payments would continue only as long as the person remained off the rolls, up to a maximum of five years. Because providers would be rewarded for results rather than for their costs, this should encourage providers to have a continuing interest in their clients' long term success.

The bills fate in the Senate is uncertain. Senators Jeffords and Kennedy dont want to move it unless it is paired with their legislation to extend Medicare and Medicaid benefits to

those leaving SSDI or SSI. We have a number of problems with their initial proposal, including its complexity, its partial Medicaid benefit package, its cost to the Medicare trust fund, and its overall cost of $1 billion per year, and are working to develop alternatives to the Jeffords-Kennedy approach.

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June 19, 1998

MEMORANDUM FOR THE PRESIDENT

FROM:Bruce Reed
Elena Kagan

RE:DPC Weekly Report

Health Care -- Gores Family Conference: Next week, the Gores will be hosting their annual family conference on the subject of health. You and the Vice President will be announcing a new Executive Directive on childrens outreach and a multi-faceted national health initiative for older Americans, which includes: new preventive benefits for Medicare beneficiaries; a national Internet site for Medicare beneficiaries; and a new nationwide public/private Medicare council with over 80 organizations to ensure older Americans have the information they need to select health plans and to encourage prevention and wellness. To highlight the new Medicare preventive benefits, the First Lady will also announce a new public service announcement on osteoporosis, featuring her and Mrs. Gore. You will also renew your call to pass a patients bill of rights and reiterate your commitment to continue to push Congress to pass comprehensive, anti-tobacco legislation.

Drugs -- Drug Courts: In response to your interest in drug courts, we are working with Rahm Emanuel on preparing to time the release of Justice Department drug court grants for an event the week of July 6. Approximately 150 jurisdictions will receive $27 million in grants to help plan, implement, enhance, or evaluate drug courts. Some of the cities receiving grants include San Francisco, Omaha, Little Rock, Washington, D.C., and Atlanta. The drug court grants could be announced at the event to launch the national roll out of the youth anti-drug media campaign tentatively scheduled for July 9.

Drugs -- PRIDE Survey: On Thursday, the National Parents' Resource Institute for Drug Education (PRIDE) released the findings of its survey on teen drug use for the 1997-98 school year. The annual PRIDE report is a survey of 154,350 students grades 6-12. Overall, drug, alcohol, and tobacco use by teens dropped -- the first across-the-board declines since the 1990-91 school year. The key exception to the declines were students in the 12th grade, who reported slight increases in their use of cigarettes, cocaine, uppers, and downers. However, for the first time in the 11 years of the PRIDE survey, cigarette use by junior high students fell (from 32% in 1996-97 to 29% in 1997-98). Marijuana use among both junior and senior high students also fell from last year's levels (from 15% to 13%, and from 36% to 33%, respectively).

Drugs -- Pulse Check: On June 25, ONDCP will release Pulse Check, its biannual report on the use and distribution of illicit drugs in 30 cities. The information contained in Pulse Check is gathered from ethnographers, law enforcement officials, and drug treatment providers. Some of the report's key findings include: (1) methamphetamine has continued its spread eastward and is now considered an emerging drug in Baltimore, and Columbia, MD; (2) heroin use is stable or rising, with young users who snort or smoke the drug increasing

across the country; (3) crack is failing to attract new users, although powder cocaine use is rising among the affluent in a few areas; and (4) marijuana use is widespread, crossing economic and social groups. Director McCaffrey is planning to unveil Pulse Check with DEA Administrator Tom Constantine and NIDA Director Alan Leshner.

Crime -- Modified Assault Weapons: This week in the Senate Treasury-Postal FY 99 appropriations markup, we successfully fought off an attempt to undermine the Administration's recent decision to bar the importation modified assault weapons. Opponents of the Administration's decision had previously attempted to offer an amendment -- which was later withdrawn -- to grandfather more than a hundred thousand of these weapons into the country. To prevent such a broad-based amendment from passing, the Administration helped craft an amendment that passed to reimburse importers for a limited number firearms that were already in or en route to bonded warehouses (roughly 2,000-3,000 weapons). The weapons will then be destroyed.

Crime -- Drunk Driving/Zero Tolerance: As you know, the zero tolerance for underage drinking and driving provision you signed into law in 1995 required states to adopt this tough standard by October 1, 1998. On June 29, South Carolina will become the 50th state to enact a zero tolerance law. We would note, however, that Delaware's zero tolerance law does not fully comply with the federal standard and needs to be amended.

Education -- Teacher Education: Sen. Bingaman has proposed an amendment to the Higher Education Bill to be taken up by the Senate next week, that would impose new accountability requirements on teacher education programs. The bill would require teacher education programs to publish the pass rate for students on state teacher certification tests and would ultimately cut off student financial aid to students in programs with less than a 70% pass rate. The amendment has the strong support of the NEA, is opposed by the higher education community, and by Sens. Jeffords, Kennedy, Coats and Dodd. We have been working with Bingaman and Kennedy to try to find an approach that retains the strong accountability emphasis without penalizing students for the low quality of their program.

Education -- Charter Schools: The Senate Human Resources Committee will mark-up a bill to expand the charter schools program when the Senate returns from the July 4th recess. The House passed a similar bipartisan bill last summer, which you supported. We are working with Sen. Kennedy to bolster his support for this bill, and to ensure that it provides incentives both for the more rapid expansion of charter schools and for strong accountablity measures.

Welfare Reform -- U.S. Conference of Mayors Report: At its meeting in Reno on Friday, the USCM is releasing a report called "The Welfare Challenge Facing America's Cities." The report presents the results of a 125-city survey of mayor's views on welfare reform. The tone of the report is more positive than the report they released last June. They take a pragmatic view: while many mayors are concerned about the impact of welfare reform, they are working hard to facilitate the transition from welfare to work for their residents. They see some cause for optimism after the first 18 months, but also see the challenge of creating enough jobs and connecting people to those jobs. They cite concerns about adequate child care, transportation, skills training, and affordable housing near employment.

The report also estimates low-skills job gaps in many urban counties, based on projections

by Regional Financial Associates, an economic consulting firm. RFA compared the number of low-skilled job seekers with the projected growth in low-skill jobs over the next five years, and concluded that there could be two job seekers for every low-skilled job. Specifically, the number of welfare recipients needing jobs over this period could exceed the number of jobs available by 353,000.

Projecting job gaps is difficult, and it appears that this study, like most similar studies, ignores the fact that some welfare recipients are already working and that they can take advantage of turnover in the labor market--not just new jobs. While the magnitude of the gap is hard to validate, the study does underscore important regional variations. In areas such as Fort Worth, Las Vegas, Little Rock, Miami, Phoenix, and San Francisco, projected job growth exceeds the expected number of job seekers; in areas including Detroit, Providence, Newark and Cleveland, the projected ratio of low skill jobs seekers to jobs is at least 10 to 1.

Nevertheless, the implication is that we need to work hard to ensure that welfare recipients can access employment opportunities created by our growing economy. We are already spurring economic development in urban areas, through our Community Empowerment Fund, Community Development Financial Institutions, and a second round of Empowerment Zones. Our welfare-to-work transportation initiative and welfare-to-work housing vouchers will both go a long way to address this issue, as will the $3 billion in welfare to work grants we secured in the Balanced Budget Act and the Welfare to Work Partnerships successful welfare to work hiring efforts.

Welfare Reform -- Federal Agencies to Issue Guidance to States on Civil Rights and Welfare Reform: After meeting with civil rights leaders several months ago, Secretary Shalala agreed to issue guidance to states on how civil rights laws apply to welfare reform, particularly the new parts of the welfare law relating to work and the time limit. As a result, HHS, DOJ, EEOC, DOL, and other agencies have finished draft guidance that they will share in the coming weeks with civil rights groups, states, and advocates. We share HHSs view that a user-friendly guide for states and caseworkers would be useful at this time. However, we want to ensure that states understand that these requirements are not new, and not misinterpret the guidance as imposing new requirements.

The guidance does include our first interpretation of how states may run afoul of the law in issuing exemptions to the five-year time limit. Our civil rights experts are in agreement that our guidance should say that a racially neutral criterion that excludes a disproportionately greater number of minorities than non-minorities is permissible, so long as there is a substantial and legitimate justification for this criterion and there is no comparably effective alternative that excludes fewer minorities. We are working with HHS to ensure a smooth roll-out of this draft with the states.

Immigration -- Agricultural Guestworkers: On March 12th, the House Judiciary Subcommittee on Immigration approved legislation sponsored by Rep. Bob Smith (R-OR) that provides for a new pilot program for the employment of temporary foreign agricultural workers. The bill includes provisions that would weaken or eliminate many of the worker protections provided for in the existing program (the H2A program). In a letter to the subcommittee, the Secretary of Labor stated that if the bill were presented to you, she would recommend a veto. However, in response to concerns expressed by growers and members of Congress (including Sens. Wyden and Graham and Rep. Bishop) about inefficiencies in the current H2A program, we initiated an inter-agency process to develop a streamlined proposal. We anticipate that several of the regulatory reforms contained in this proposal will be in

place by the next growing season. Also, we intend to explore what substantive reforms we could effect to address the longstanding concerns by domestic farm workers that the H2A program does not adequately protect their interests.

Food Safety Initiative -- Senate Update: Of the Administration's proposed $96 million food safety initiative for USDA and FDA, we received only $16.8 million in the House Appropriations Committee and only $2.6 million in the Senate. On Monday, the Senate is expected to begin voting on the Agriculture bill. Sens. Leahy, Harkin, and Daschle are willing to work with us to offer amendments, but have indicated that they will only do so if we present an offset. On Thursday, we suggested an offset involving user fees which was rejected by Harkins staff. OMB is working to develop some other possible offsets. In order to highlight the problem of food safety and to shine light on some non-legislative solutions that the Administration has already undertaken, the DPC is working on a possible event for Wednesday. Because summer is the most dangerous time of year for food safety, we believe that the July 4th radio address may be a appropriate time to raise the budget and other food safety issues that are currently pending in Congress. In addition to your FY1999 budget, there are other legislative proposals involving food safety currently pending. These proposals include mandatory recall for meat and poultry, civil fines for violations, and increased FDA inspection authority for imported foods.

January 16, 1998

TO:MARIA ECHAVESTE
ELENA KAGAN

FROM:BILL WHITE
DIANA FORTUNA

SUBJECT:BACKGROUND ON DISABILITY APPOINTEE MEETING

DATE/TIME:Friday, January 16, 1998
3:00 - 4:00 PM

LOCATION:OEOB - Room 211

PURPOSE:To follow-up on the issues raised at Erskines meeting last year and to explore ways to better integrate disability into the Presidents initiatives.

BACKGROUND:The appointees would like to discuss the following issues:

Executive Order: Final draft is circulating with comments due by COB today. We should ask their input on roll-out. They will want a Presidential event and mention in the SOTU.

SOTU: The world will end if the President fails to mention disability.

Medicare: They will ask why didnt we include all people with disabilities into our Medicare Buy-In announcement last week. They will say this is a missed opportunity in their efforts to get people with disabilities (PWD) off the rolls. Answer: PWD will greatly benifit, especially those with pre-existing conditions such as epilepsy, MS, diabetes, etc, who meet the criteria in the 55-64 age bracket. Our proposal is self-financing; including all PWD would have cost.

IDEA: Serious concern about level funding for special education. (I have yet to figure out a good rationale for our decision.)

Job Training/Computer Tech Initiative: How can we include the disability community.

Child Care: Why no reference to disability in child care initiative. What about funding targeted to training child care workers on meeting the needs of kids with disabilities. Answer, we will be meeting with key advocates for children with disabilities next week. We believe there are several opportunities where kids with disabilities will/can benifit (training and early learning fund, research and evaluation fund, safety and health standards enforcement funds). This is the beginning of a process b/c we are proposing an initiative, not a specific piece of legislation.

Personal Assistant Services: Why doesnt our budget seriously address the issue of long term care and PAS. We are proposing a demo at HHS. We are sending Gingrich a letter on CASA saying...

NEXT STEPS: When can we meet with Erskine and waste his time. Answer, when you get new leadership. We should ask when is Marca stepping down as Chair of NCD?

PARTICIPANTS:Marca BristoChair, National Council on Disability
Andy ImparatoGeneral Counsel, National Council on Disability
Judy HeumannEducation, A/S Special Education
John LancasterPres Comte on Employment of People w/ Disabilities
Bob WilliamsHHS, DAS for Planning & Evaluation
Michael WintersDOT, Associate Administrator

January 16, 1998

TO:MARIA ECHAVESTE
ELENA KAGAN

FROM:BILL WHITE
DIANA FORTUNA

SUBJECT:BACKGROUND ON DISABILITY APPOINTEE MEETING

DATE/TIME:Friday, January 16, 1998
3:00 - 4:00 PM

LOCATION:OEOB - Room 211

PURPOSE:To follow-up on the issues raised at Erskines meeting last year and to explore ways to better integrate disability into the Presidents initiatives. The appointees feel that many high-level officials at the White House do not view disability issues as a priority for the President, although they feel that he himself is very sensitive to disability issues. The want a disabled person working on policy at the White House.

BACKGROUND:The appointees would like to discuss the following issues:

Executive Order: Final draft is circulating with comments due by COB today. We should ask their input on roll-out. They will want a Presidential event and mention in the SOTU.

SOTU: The world will end if the President fails to mention disability.

Budget-Medicare: They will ask why didnt we include all people with disabilities into our Medicare Buy-In announcement last week. They will say this is a missed opportunity in their efforts to get people with disabilities (PWD) off the rolls. Answer: PWD will greatly benefit, especially those with pre-existing conditions such as epilepsy, MS, diabetes, etc, who meet the criteria in the 55-64 age bracket. Our proposal is self-financing; including all PWD would have serious cost implications and driven the Medicare premium up from $300 to $500 per month. But we have work to do to eliminate work disincentives for PWD.

Budget-Return to Work: The appointees will ask why we arent doing more in our budget to encourage people with disabilities to leave the SSI/SSDI rolls and return to work, especially by providing them with health care. They may note we had two small health care initiatives in last years Presidents budget, but do not have any in the new budget. Answer: This issue is the focus of the executive order. Also, one of our health initiatives last year actually passed Congress, and we are continuing to carry our "ticket" proposal in the budget. There is Congressional action on this issue (Bunning?).

Budget-IDEA: Serious concern about level funding for special ed. (I have yet to figure out a good rationale for our decision) and rehabilitative services.

Budget-Child Care: Why no reference to disability in child care initiative. What about funding targeted to training child care workers on meeting the needs of kids with disabilities. Answer: We need to say that we have not done a great job on outreach to the disability community on child care. We will be meeting on Tuesday at 3:00 with key advocates for children with disabilities. We believe there are several opportunities where kids with disabilities will/can benefit (training and early learning fund, research and evaluation fund, safety and health standards enforcement funds). There is $5 million targeted to meeting the needs of kids with disabilities. This is the beginning of a process because we are proposing an initiative, not a specific piece of legislation.

Budget-Personal Assistant Services: Why doesnt our budget seriously address the issue of long term care and PAS. Why havent we engaged Gingrich on this subject. Answer: HHS has a working group on this issue that is working to develop a demo. We plan to work with Gingrich on this issue. This issue is difficult to address because of cost; ADAPTs bill (CASA) would cost about $12 billion.

NEXT STEPS: They probably will push to meet with Erskine.

PARTICIPANTS:Marca BristoChair, National Council on Disability
Andy ImparatoGeneral Counsel, National Council on Disability
Judy HeumannEducation, A/S Special Education
John LancasterPres Comte on Employment of People w/ Disabilities
Bob WilliamsHHS, DAS for Planning & Evaluation
Michael WinterDOT, Associate Administrator

01*MEMORANDUM

TO:ELENA KAGAN

FROM:TOM FREEDMAN, MARY SMITH, TANYA MARTIN, JULIE MIKUTA

RE:FEDERAL ENFORCEMENT OF CIVIL RIGHTS LAWS

DATE:AUGUST 1, 1997

SUMMARY

Attached is a brief description of the structure and legal authority of the civil rights offices across the federal government, the current status of the office and potential improvements that might be pursued as a part of the Race Initiative. The last section describes a process/timetable for potential next steps for the workgroup addressing administration of justice.

I.OVERVIEW OF FEDERAL CIVIL RIGHTS ENFORCEMENT

*Prior to the Civil Rights Act of 1957, the federal civil rights effort was limited to the enforcement of a few post-Civil War criminal statutes.

*Since 1957, Congress and the President have expanded greatly the Federal civil rights effort through the creation of additional substantive rights and additional enforcement agencies.

*The Civil Rights Act of 1964, the Voting Rights Act of 1965 and the Fair Housing Act of 1968 are among the initial pieces of legislation that were enacted to address barriers to equal opportunity in employment, voting, public accommodations, education and federal financial assistance.1Attached as Appendix A is a list of the relevant civil rights laws.1

A.Methods of Enforcement
Every government agency, department and commission is involved in some aspect of civil rights enforcement -- external or internal -- and in most cases, both:

*External - agencies are responsible for prohibiting discrimination by recipients of federal financial assistance (Title VI of the Civil Rights Act of 1964); moreover, some agencies have additional freestanding civil rights enforcement authority;

*Internal - Equal Employment Opportunity Commission (EEOC) regulations apply to all agencies in their own hiring activities.

While this memorandum focuses on external enforcement activities, information on internal compliance with civil rights requirements should also be gathered from agencies, as agency hiring practices and external enforcement of programs are often discussed in tandem.(see Section XIV).

B.Federal Agencies
The July 15 memorandum on the race initiative policy process, identified nine participating

agencies for the workgroup on the administration of justice. All nine, along with the U.S. Commission on Civil Rights, are discussed in this memorandum. Brief descriptions are provided of civil rights activities in other federal agencies.

*Agencies with broad overview.
These agencies have responsibility across the government for civil rights enforcement:
*U.S. Commission on Civil Rights -- civil rights monitoring and reporting
*Justice Department -- government-wide civil rights enforcement
*EEOC -- employment

*Agencies with principal responsibilities.
The U.S. Commission for Civil Rights identified the following agencies, along with Justice, as having principal responsibility for civil rights enforcement:
*Department of Education -- educational opportunity
*HHS, Office for Civil Rights -- health care; welfare
*HUD --housing
*Labor -- federal contracts

*Other agencies with civil rights enforcement activity participating in workgroup.
*Treasury -- fair lending
*Interior - Indian civil rights
*USDA - minority farmers

*Other agencies with civil rights enforcement activities:
Finally, there are a number of other agencies that have active civil rights issues including the Small Business Administration (Section 8/minority businesses); Commerce (minority business development); EPA (environmental justice); Transportation (road/transit system location and maintenance); and the FCC (broadcaster preferences).

II.U.S. COMMISSION ON CIVIL RIGHTS

A.Structure
The U.S. Commission on Civil Rights is an independent, bipartisan agency first established by Congress in 1957 and reestablished in 1983. It is directed to:

*Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, disability, or national origin, or by reason of fraudulent practices;

*Study and collect information relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice

*Serve as a national clearinghouse for information with respect to discrimination or denial of equal protection of the laws;

*Submit reports, findings, and recommendations to the President and Congress;

*Issue public service announcements to discourage discrimination or denial of equal protection of the laws.

B.Current Status

*In FY 1998, the Commission requested a budget of $11 million, an increase of $1.3 million over the 1997 level of $8.7 million.

*In July 1997, GAO reported the Commission lacks basic management and financial controls: key documents are lost or nonexistent; accurate cost data on programs or project is unavailable; and reports take so long to complete that published data is often outdated or inaccurate.

*The Citizens Commission on Civil Rights, which monitors civil rights enforcement, has also recently released a report critical of the U.S. Commission.

III.JUSTICE -- CIVIL RIGHTS DIVISION (CRD)

A.Structure
*Unless otherwise specified by law, the conduct of government litigation is reserved to the Department of Justice. CRD enforces a broad range of civil and criminal statutes and presidential executive orders. Although its initial focus was on voting and post-civil war criminal statutes, the Civil Rights Act of 1964 greatly expanded its authority.

*CRD can receive, investigate, and litigate complaints of discrimination in places of public accommodation, in school and colleges, in public facilities owned by State or local governments, in programs or activities receiving Federal financial assistance, and in employment.

FF*CRD has an office of Redress Administration (WWII internment/national origin), an office of Administrative Management, and 10 subject-matter sections:
*Appellate;
*Civil Rights Prosecution (criminal prosecutions e.g., hate crimes);
*Coordination and Review (coordination of enforcement activity of all federal agencies);
*Disability Rights (ADA);
*Education Opportunities (school desegregation);
*Employment Litigation;
*Housing and Civil Enforcement;
*Special Litigation (civil rights of institutionalized persons);
*Voting; and
*the Office of Special Counsel.

B.Process
The various sections of CRD have broad authority to receive, investigate, and litigate complaints of discrimination under the Constitution and civil rights laws. Alternatively, the sections can initiate litigation upon referral from the designated federal agency conducting investigations under the applicable civil rights law.

C.Current Status
*For FY 1998, CRD has requested a budget of $67.4 million, an increase of $6 million (8%) from FY 1997 level, to enhance prosecution of hate crimes and police misconduct, as well as for enforcement of the Americans with Disabilities Act.

*CRD started FY 1996 with 1,406 cases pending, received 366 new cases and terminated 406, ending the year with 1,366 cases pending.

*CRD started FY 1996 with 8,359 matters pending, received 4,358 new matters and terminated 4,177, ending the year with 8,720 matter pending.

*For FY 1998, Justice requested $7.5 million for the Community Relations Service, established by the Civil Rights Act of 1964, to provide assistance to communities in preventing and resolving disputes arising from discriminatory practices.

D. Possible Improvements
*Caseload improvements -- because of the vast jurisdiction of the CRD, its overall workload is affected by nearly every expansion of civil rights protections.

*Coordination -- improve data collection/dissemination among agencies.

IV. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

A. Structure
*The EEOC was created in 1964 to investigate employment discrimination charges relating to race, color, religion, sex, or national origin.

* Since that time, the EEOC has become responsible for administering additional laws: (1) the Equal Pay Act of 1963, (2) the Age Discrimination in Employment Act of 1967, (3) the Equal Employment Act of 1972, (4) Section 501 of the Rehabilitation Act of 1973, (5) the Americans With Disabilities Act (ADA) of 1990, and (6) the Civil Rights Act of 1991.

*EEOC carries out its mission through 50 field offices that receive, investigate, and resolve charges of discrimination in the private sector, and it coordinates these activities in the public sector.

*A 5-member commission heads the EEOC. The President appoints the members, with the consent of the Senate, for rotating 5-year terms. No more than 3 members can be from the same political party.

B. Process
*Plaintiff has 180 days to file a charge of discrimination with EEOC.

*EEOC investigates whether there is cause to believe discrimination occurred.
*However, even if EEOC investigation is not completed, 180 days after the charge is filed, a plaintiff can request a "right to sue" letter, which permits the filing of the case in federal court
*Plaintiff has 90 days to file complaint in federal court after receiving "right to sue" letter

*If the EEOC does investigate, then it either issues a "cause" finding or a "no cause" finding.
*"Cause" finding issued: EEOC encourages the parties to enter into conciliation procedures which either result in a settlement or if no settlement, the plaintiff is given a "right to sue" letter
*"No cause" finding issued: potential plaintiff is given a "right to sue" letter and the EEOCs determination of "no cause" is entitled to no deference in court

C.Current Status
*For 1998, the EEOC has requested a budget of $246 million, an increase of $6 million (2.65%) over the current level for 1997.

*During 1994, the EEOC issued 36,377 determinations following a full investigation, and 94.7% or 34,451 resulted in "no cause" findings in favor of the defendant. There were only 1,926 determination of "cause", a mere 5.3% of the total determinations.

*In 1994, the EEOC filed 347 substantive lawsuits, 26% involved sex discrimination, 21% involved age discrimination, 19% concerned race discrimination. The majority, 53% involved unlawful termination, 18% concerned discriminatory hiring.

*At one time the backlog was over 100,000 cases, but recently the Chairman testified before Congress that this backlog has been reduced to 75,000.

*In 1994, the EEOC stated that the average investigation of a claim took 328 days and that its backlog would take 18.8 months to clear.

D.Possible Solutions
*More funding for staff to address the backlog.

*Give the EEOC "cease and desist" authority, that is, authority to issue injunctions in cases of egregious violations.

*Give judicial deference to an EEOC determination of "cause" or "no cause," permitting only appellate review based on a "substantial evidence" standard of review.

*Encourage binding ADR on an accelerated schedule before EEOC does investigation.

*Criminalize job discrimination in the strongest cases, where there is profound damage and willful violations of the law with direct economic impact.

E.Solutions the EEOC Has Adopted Already
*In 1996, the EEOC adopted a national enforcement plan that sets priorities for the processing of charges and litigation on the national and local level. Priority is placed on class-action lawsuits, claims that involve allegations of company-wide discrimination, and those that are likely to develop key legal principles. The reforms mark a fundamental change for the agency because it no longer fully investigates every charge it receives.

*The EEOC beefed up its mediation strategy, using many volunteer mediators under the Administrative Dispute Resolution Act.

*The agency is also targeting high-profile cases to bring suit such as the Mitsubishi sexual harassment suit in Illinois.

V.DEPARTMENT OF EDUCATION -- OFFICE OF CIVIL RIGHTS (ED-OCR)

A.Structure
*ED-OCR is responsible for ensuring that no person is unlawfully discriminated against on the basis of race, color, national origin, sex, disability, or age in the delivery of

services or the provision of benefits in programs or activities of schools, and institutions receiving financial assistance from ED.2Civil rights enforcement for programs and services provided by schools of medicine, dentistry, nursing and other health-related schools remains with HHS.2

* Its enforcement authorities are rooted in five statutes: Title VI of the Civil Rights Act of 1964 (race/ethnic); Title IX of the Education Amendments of 1972 (sex); section 504 of the Rehabilitation Act of 1973 (disabilities); the Age Discrimination Act of 1975 and the Americans with Disabilities Act of 1990.

*ED-OCR has field staff in each of EDs regional offices whose activities include complaint investigations, compliance reviews, corrective action plan monitoring, enforcement litigation, policy development and program reviews. The majority of ED-OCR staff and resources are devoted to complaint investigations and compliance reviews.

B.Process
*ED-OCR conducts investigations and compliance reviews to ensure that federal assistance recipients adhere to nondiscrimination requirements. If a determination is made that a violation has occurred, an attempt is made to achieve voluntary compliance by the recipient.

* If ED-OCR cannot obtain voluntary compliance, it proceeds in one of two ways: it initiates an administrative enforcement proceeding seeking to terminate Federal financial assistance, or it refers the matter to the Department of Justice to seek injunctive relief in Federal Court.

C.Current Status
*For 1998, ED-OCR has requested a budget of $61.5 million, an increase of $6.5 million over 1997.

*In FY 1996, OCR received 4,828 complaints and resolved 4,886; it also initiated 146 compliance actions and resolved 173. By comparison, during FY 1991, OCR received 3,809 complaints and resolved 3,497 --- and initiated 41 compliance actions and resolved 22. During this same period FTEs have decreased from 820 in 1991, to 763 in 1996.

*OCR recently announced an investigation of complaints made against the admissions process at the University of California law schools following the implementation of Proposition 209.

D.Potential Improvements
*Reduce delay -- some education civil rights groups have complained to the Department about the speed of enforcement actions and delivery of the Elementary and Secondary School Survey data.

*Provide more proactive technical assistance/guidance to school districts/states.

VI.HEALTH AND HUMAN SERVICES -- OFFICE FOR CIVIL RIGHTS
(HHS-OCR)

A.Structure
*HHS-OCR administers numerous statutes that prohibit discrimination by providers of health care and social services: (1)Title VI of the Civil Rights Act of 1964; (2)Title IX of the Education Amendments of 1972; (3) section 504 of the Rehabilitation Act of 1973; and (4)

the Age Discrimination Act of 1975 which prohibit discrimination by recipients of Federal financial assistance based on race, color, national origin, sex, age and disability.

*HHS-OCR estimates that approximately 230,000 group and institutional providers of federally assisted services are subject to the nondiscrimination laws it enforces.

B. Process
*HHS-OCR relies on a compliance program that includes complaint investigations, compliance and other reviews, monitoring of corrective action plans, and voluntary compliance and other outreach activities.

*If a matter cannot be resolved voluntarily to the satisfaction of all parties, HHS-OCR may effect compliance by terminating Federal financial assistance, referring the matter to the Attorney General for enforcement proceeding, pursuing HHS administrative proceedings or invoking applicable State or local law.

C. Current Status
*The FY 1998 budget request for HHS-OCR is $20.5 million, a $1 million (5%) increase over the FY 1997 budget authority of $19.5 million.

*This $1 million increase will be used to help implement initiatives that address discriminatory issues involving immigration, inter-ethnic adoption, managed care, Medicaid waivers, nursing home care, home health care and welfare reform.

*The number of complaints received in FY 1993 (2,094) reflected an 82 percent increase over the FY 1987 level (1,148). This rise in complaints was, in part, attributable to large increases in the number of AIDS-related complaints and other 504 disability cases. These cases focus on protecting persons with AIDS against unlawful discrimination and ensuring that minorities have an equal opportunity to participate in federally assisted programs and activities designed to combat AIDS.

*In the North Carolina Law Review, Professor Sidney Watson criticizes HHS-OCR as being "ineffective in ending the health care discrimination caused by the myriad policies that disproportionately exclude minorities." Although numerous studies document the underutilization if health services by minorities, few studies have analyzed Title VI compliance by health-care facilities.

D. Potential Improvements
*Increase funding -- HHS-OCR is below its FY 1981 funding and FTE levels, while the number of complaints is increasing.

*Increase the availability of data on Title VI compliance by health care facilities

VII. HOUSING AND URBAN DEVELOPMENT
OFFICE OF FAIR HOUSING AND EMPLOYMENT OPPORTUNITY (FHEO)

A. Structure
*The majority of FHEOs civil rights responsibilities lie in its authority to enforce Title VIII of the Civil Rights Act of 1968 and the Fair Housing Amendments Act of 1988, which prohibit discrimination on the basis of race, color, religion, sex, disability, familial status or national origin in the sale or rental, provision of brokerage services, or

financing of housing.

*FHEO also enforces provisions of Title VI (race/ethnic), section 504 (disability), Section 109 (housing and community development), the Americans with Disabilities Act, and related executive orders to ensure nondiscrimination in federally assisted programs and activities relating to housing and urban development

*FHEOs fair housing duties include the administration of two programs: (1) the Fair Housing Assistance Program (FHAP) provides financial assistance to supplement the enforcement activities of State and local enforcement agencies to ensure the prompt processing of Title VIII complaints; (2) the Fair Housing Initiatives Program (FHIP) provides support to public and private organizations for the purpose of eliminating or preventing discrimination in housing and for enhancing fair housing opportunities.

B.Process
*FHEO investigates complaints received from any person who claims to have been injured by a discriminatory housing practice or believes that an injury is about to occur.

*Those Title VIII complaints that fall within the jurisdiction of a substantially equivalent State or local agency are referred to those agencies for initial processing.

*After investigation, FHEO issues a determination indicating whether reasonable cause exists to believe that discrimination has occurred.

*If reasonable cause is found, any of the parties may elect to resolve the matter in Federal court through a HUD referral to Justice. Otherwise, the matter is resolved through the HUD administrative process.

*FHEO also conducts investigations, and compliance reviews to enforce the provisions of civil rights laws applicable to federal assistance recipients. If a violation is found, HUD may refuse to approve an application for federal funds, or terminate funds of a current recipient.

C.Current Status
*The FY 1989 budget request for FHEO is $39 million, a $9 million (30%) increase over FY 1997.

*Of the amount requested, $15 million is for the FHAP (state/local enforcement) and $24 million is for the FHIP (public/private initiatives).

D.Potential Improvements
*Increase the number of state/local agencies qualifying as "substantially equivalent" under the FHAP program. The number decreased due to the implementation of more stringent requirements in the Fair Housing Amendments Act of 1988. In 1990, approximately 125 agencies were certified, by 1993 the number qualifying was 52.

*In 1994, the Civil Rights Commission found that in most cases HUD did not reach a conclusion as to just cause within the 100-day benchmark set by Congress. The average case-processing time in 1993 was 151 days.

VIII.DEPARTMENT OF LABOR (DOL)

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS (OFCCP)
OFFICE OF CIVIL RIGHTS

A. Structure
*The enforcement authority of OFCCP encompasses several statutes and Executive Order 11246, as amended, to ensure nondiscrimination in employment based on race, sex, religion, color, national origin, disability or veteran status by Federal contractors at 290,000 sites with a total workforce of 22 million people.

*OFCCP is also responsible for reviewing employers policies and practices for adherence to the Family and Medical Leave Act of 1993.

*The Office of Civil Rights that is charged with ensuring compliance with Title VI and other nondiscrimination provisions in programs receiving federal financial assistance from DOL, as well as handling internal EEOC compliance.

B. Process
The enforcement activities of OFCCP focus in primarily four areas:
*
conducting compliance reviews and investigating complaints,
*negotiating compliance agreements and letters of commitment, and monitoring subsequent compliance;
*providing technical assistance to contractors; and
*recommending enforcement actions by DOL or Justice.

C. Current Status
*In FY 1998, OFCCP requested a budget of $69 million, an increase of $10 million over FY 1997

*In 1998, OFCCP will conduct approximately 6,000 compliance reviews, 900 complaint investigations, and 4,100 other compliance actions.

*In FY 1998, the Office of Civil Rights requested a budget of $4 million, a decrease of $1 million from 1997.

D. Potential Improvements
*OFCCPs FY 1998 budget includes resources for a tiered-review process, which will reduce the paperwork burden on federal contractors and increase coverage of the contractor universe.

*Increase amount of compliance assistance provided to contractors

IX. TREASURY/COMPTROLLER OF THE CURRENCY (OCC)

A. Structure/Process
*As with all federal agencies, Treasury must enforce Title VI provisions that prohibit discrimination in programs and activities receiving federal financial assistance.

*The Community Redevelopment Act (CRA) regulates banks and other financial institutions to ensure that fair-lending practices are followed.

*The Office of the Comptroller of the Currency, an independent office within Treasury, responsible for regulating commercial banks, promulgates and enforces CRA regulations.

Treasury and Justice also pursue investigations against financial institutions that are violating fair-lending practices.

*Internal EEOC enforcement is part of Treasurys departmental management and administration function.

B.Current Status
*Line-item data on civil rights enforcement activities at Treasury was not provided in its FY 1998 budget.

*OCC has made enhanced CRA regulations and enforcement a priority.

X.INTERIOR - BUREAU OF INDIAN AFFAIRS (BIA)

A.Structure/Process
*The Indian Civil Rights Act of 1968 (ICRA) imposed restrictions on tribal governments similar to those found in the Bill of Rights.

*Other than habeas corpus actions, enforcement of ICRA takes place in tribal forums, tribal courts and Courts of Indian Offenses. Interior does not enforce or oversee enforcement of ICR. Exception: Tribes without their own courts can go to BIA courts for ICRA actions. The Office of Tribal Justice at DOJ reviews the administration of tribal justice across the federal government.

*Interior is also responsible for enforcing Title VI nondiscrimination requirements for all programs and activities that receive federal financial assistance.

B.Current Status
*BIA is working on a initiative to improve the way tribal courts provide services to tribe members.

C.Potential Improvements
*Enhance programs to strengthen tribal courts

XII.USDA - CIVIL RIGHTS ACTION TEAM

A.Structure
*Over the years, USDA has had a number of different offices responsible for Title VI and EEOC concerns at the agency.

*Title VI requires that programs and activities receiving funds from USDA be delivered free of discrimination. The Equal Credit Opportunity Act makes discrimination in USDA lending programs illegal as well.

*In December 1996, a group of black farmers demonstrated outside the White House calling for fair treatments in agricultural lending programs. The Civil Rights Action Team (CRAT) was appointed to report on civil rights issues across the agency and make recommendations for changes. Included in their report was a recommendation for a consolidated, visible Office of Civil Rights.

B.Procedure
*Currently, USDA has a civil rights policy office, civil rights enforcement (which is handled in regional offices), small & disadvantaged business office and a National Appeals Division.

*The CRAT report points out that the process for filing Title VI complaints at USDA is fragmented --generally, complaints are filed with the agency within USDA responsible for the program/activity at issue.

C.Current Status
*The budget requests for civil rights at USDA is not separately reported. The U.S. Commission on Civil Rights expressed concern that absence of specific funding for Title VI contributed to inadequate enforcement.

*The CRAT issued its report in February 1997, which documents the absence of adequate Title VI and EEOC enforcement at the agency.

D.Possible Improvements
*Implementation of centralized office for civil rights enforcement.

*Compilation and dissemination of reliable data on civil rights enforcement within USDA.

*Revision of regulations -- according to CRAT, the civil rights enforcement regulations have not been revised since 1973.

XIII.OTHER AGENCIES

In addition to enforcing Title VI protections for their programs and activities, these other agencies are also active on a variety of civil rights matters:

*
Small Business Administration -- provides assistance to Section 8 disadvantaged businesses, many of which are minority-owned.

*Commerce -- has programs to provide assistance to minority owned businesses.

*EPA -- pursues "environmental justice" cases. Minority communities have alleged that their communities are being used as dumping grounds for toxic substances, or are last priority for clean-ups of hazardous materials.

*Transportation -- complaints have been filed by communities alleging discrimination in the placement service delivery and maintenance of roads and public transit systems.

*FCC -- faces controversial issues around ensuring that minority broadcasters have access to wireless telephone, data-service, radio and other communication licenses.

XIV.POSSIBLE NEXT STEPS

*Initial planning meeting in early August with agency race initiative contacts and possibly

one person from the agencys civil rights office. Possible participants:

AgencyRace Initiative ContactOffice of Civil Rights
EducationLeslie ThorntonNorma Cantu
EEOC[Not listed by Cabinet Affairs]
HHSClay Simpson
HUDMercedez Marquez
LaborVirigina Apuzzo
JusticeDavid Ogden
InteriorDavid Montoya
TreasuryMichael Froman
USDAReba Evans

*Follow-Up Meetings by mid-September:
1.Agencies -- discuss preliminary recommendations for improvements

2.Outreach -- meet with groups monitoring civil rights enforcement for suggestions of possible improvements, such as:
*Citizens Commission on Civil Rights
*ACLU
*American Council on Education
*NAACP
*National Urban League
*National Council of La Raza
*National Asian-Pacific American Legal Consortium
*Urban Institute

3.Coordination Issues -- possible separate discussion with Justice on coordination of civil rights effort across the government.

*Feedback to agencies on improvement proposals in early October.

*Progress meetings on implementation of improvement proposals/ideas in Oct-Dec.

FFAPPENDIX A

Major congressional and presidential landmarks affecting civil rights enforcement are the:

*Equal Pay Act of 1963

*Civil Rights Act of 1964

*Voting Rights Act of 1965

*President Johnsons Executive Order 11246 in 1965

*Age Discrimination in Employment Act of 1967

*Title VIII of the Civil Rights Act of 1968

*Equal Employment Opportunity Act of 1972

*Title IX of the Education Amendments Act of 1972

*Rehabilitation Act of 1973

*Voting Rights Act Amendments of 1975

*Age Discrimination Act of 1975

*President Carters Reorganization Plan No. 1 and equal opportunity executive orders

*Voting Rights Amendments of 1982

*Civil Rights for Institutionalized Person Act of 1986

*Housing and Community Development Act of 1987

*Civil Rights Restoration Act of 1987

*Civil Liberties Act of 1988

*Fair Housing Amendments Act of 1988

*Americans with Disabilities Act of 1990

*Civil Rights Act of 1991

*Voting Rights Language Assistance Act of 1992

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Franklin D. Raines

FROM: Sally Katzen

SUBJECT: Heads-up on final Access Board Telecommunications Accessibility Guidelines

We are about to conclude review of final Architectural and Transportation Barriers Compliance Board (Access Board) guidelines intended to ensure that new telecommunications equipment can be accessed and used by individuals with disabilities. The guidelines, which apply only when the technology is "readily achievable," would require accessibility for all types of disabilities (including hearing, vision, movement, manipulation, speech, and interpretation of information).

The Telecommunications Act of 1996 tasked the Access Board to develop these guidelines given their expertise on disability access issues. However, the Federal Communications Commission (FCC) was given enforcement power, including the ability to use the Access Board guidelines in full or modified form.

Reaction to the guidelines is expected to be mixed. The guidelines are based largely upon the recommendations of a representative advisory committee containing broad industry representation as well as organizations representing the access needs of individuals with disabilities. Disability groups will view the guidelines as a major accomplishment. Industry, however, may raise concerns that the guidelines are overly burdensome and could restrict technological innovation because they apply to each product rather than the product line (e.g. each pager must allow for access for each type of disability rather than having just one product in the line be accessible for individuals with a particular disability). Since these guidelines have no force and effect of law unless and until they are adopted by FCC, there will be other opportunities to evaluate this issue.

Please let me know if you have any questions.

cc: Maria Echaveste
Rahm Emanuel
John Hilley
Ron Klain
Thurgood Marshall, Jr.
Ann Lewis
Sylvia Mathews
John Podesta
Bruce Reed

Gene Sperling
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Barbara Chow
Michael Deich
Larry Haas

Mr. Geoffrey R. Stone
The University of Chicago
5801 Ellis Avenue
Chicago, Illinois 60637-2786

Dear Mr. Stone:

Thank you for the letter of recommendation on behalf of Elena Kagan. Our administration appreciates your help in identifying quality candidates.

You speak highly of Ms. Kagan's qualifications and I have carefully noted your insights and support. I would like you to know that Ms. Kagan is being considered for this position and that I will keep your endorsement in mind.

On behalf of President Clinton, we welcome your views and hope that we can count on your continued support.

Yours truly,

Bob J. Nash
Assistant to the President and
Director of Presidential Personnel

MEMORANDUM

TO:BRUCE REED, ELENA KAGAN

FROM:TOM FREEDMAN, MARY L. SMITH

RE:FOOD SAFETY COUNCIL TALKING POINTS

DATE:SEPTEMBER 23, 1998

This memorandum provides talking points for the goals, both short-term and long-term, for the Presidents Council on Food Safety. In addition, the following attachments are included: (1) executive order establishing Presidents Council on Food Safety; (2) draft charter for Presidents Council on Food Safety; (3) draft agenda for public meeting for the strategic planning process on October 2; (4) draft remarks of Neal Lane to open October 2 public meeting; (5) draft report on the Joint Institute on Food Safety Research; and (6) a USA Today article dated September 16 which describes PulseNet, a database that permits states to compare quickly the genetic fingerprints of bacteria responsible for outbreaks.

I.FOCUS OF THE COUNCIL

A.What should the Council accomplish?

*The Council should establish a seamless, science-based food safety system. In doing this, the Council should have an overarching framework that incorporates the following principles:
*efficiency
*cooperation and coordination with states and localities as well as within the federal government. We already are cooperating with states through the states through the PulseNet system, which tracks the genetic fingerprints of bacteria in outbreaks (see attached article).
*prevention
*measurable outcome goals

*Concurrently with developing the overarching framework in order to develop a seamless food safety system, the Council should tackle specific issues such as prevention, inspections, and eggs. For instance, there has been some discussion about consolidating responsibility for eggs in one federal food safety agency. Currently, USDA and FDA both have responsibility for different aspects of eggs.

B.Scope of Council (issues we need to focus on and have answers for October 2 meeting)
1.Does the Council deal with more than microbial --yes
2.Does it include water, pesticides -- yes
3.What is going on with research -- Neal will give update in his opening remarks.

II.Short-Term Goals

A.Respond to the NAS study-- within 180 days from August 25 --so it will be February 25

B.FY2000 budget -- except that we are just going to do the unified budget for the food safety initiative for the FY2000 budget, we will do the "coordinated budgets" for the

entire food safety activities starting in FY2001

C.Joint Institute for Food Safety Research -- has to report back by October 3 (the day after the October 2 meeting) (see attachment)

III.Long-Term Goals

A.Strategic plan

IV.Miscellaneous Issues

A.Procedures of the Council -- How often will the Council meet, etc. See attached draft charter.

B.How the Council will obtain public input. There will be three additional public meeting to obtain input for the strategic planning process
*October 20, 1998 in Sacramento, California
*November 10, 1998 in Schaumburg, Illinois
*December 8, 1998 in Dallas, Texas

ACTIVITIES OF THE COUNCIL (with reference to executive order)

A.Comprehensive strategic plan. This plan is referenced in two sections of the executive order.

1.Section 2 states: "The purpose of the Council shall be to develop a comprehensive strategic plan for Federal food safety activities, taking into consideration the findings and recommendations of the National Academy of Sciences report "Ensuring Safe Food from Production to Consumption" and other input from the public on how to improve the effectiveness of the current food safety system. The Council shall make recommendations to the President on how to advance Federal efforts to implement a comprehensive science-based strategy to improve the safety of the food supply and to enhance coordination among Federal agencies, State, local, and tribal governments, and the private sector. The Council shall advise Federal agencies in setting priority areas for investment in food safety."

2.Section 3(a) states in pertinent part: "The Council shall develop a comprehensive strategic Federal food safety plan that contains specific recommendations on needed changes, including measurable outcome goals. The principal goal of the plan should be the establishment of a seamless, science-based food safety system. The plan should address the steps necessary to achieve this goal, including the key public health, resource, and management issues regarding food safety. The planning process should consider both short-term and long-term issues including new and emerging threats and the special needs of vulnerable populations such as children and the elderly."

B.Budget Activities. The Council will help coordinate the budget for food safety activities in two respects: (1) coordinated food safety budgets; and (2) a unified budget for the Presidents Food Safety Initiative.

1.Section 3(b) states in pertinent part: "[T]he Council shall advise agencies of priority areas for investment in food safety and ensure that Federal agencies annually develop coordinated food safety budgets for submission to the OMB that sustain and strengthen

existing capacities, eliminate duplication, and ensure the most effective use of resources for improving food safety."

2.The Council is also tasked with developing a unified budget for the Presidents Food Safety Initiative, which is a subset of all the food safety activities that are performed by the agencies.

*

March 3, 1998

FOOD SAFETY EVENT

DATE:March 4, 1998
LOCATION:Roosevelt Room
BRIEFING TIME:1:30 pm - 1:20 pm
EVENT TIME:1:45 pm - 2:45 pm
FROM:Bruce Reed

I.PURPOSE

To highlight the introduction of legislation in the Senate that you proposed to ensure the safety of imported fruits and vegetables, and to receive a progress report from USDA and HHS on the development of guidance on good agricultural and manufacturing practices.

II.BACKGROUND

You will be speaking to an audience of approximately 40 consumer advocates, food industry representatives, families, and Members of Congress.

You will be making the following announcements:

Challenge to Congress to Enhance FDA Oversight for Imported Foods. You will challenge Congress to pass the food safety legislation to be introduced by Senators Mikulski and Kennedy to require the FDA to halt imports of fruits, vegetables, and other food products from any foreign country with food safety systems and standards that are not equivalent to those of the United States. The legislation also will require the FDA to halt imports from countries or facilities that do not allow FDA inspections to occur. This legislation, which you proposed last fall, was previously introduced in the U.S. House of Representatives by Reps. Eshoo and Pallone. You have committed to providing approximately $27 million in your Fiscal Year 1999 budget to enable the FDA to dramatically expand its international food inspection force.

Agency Report on Guidance on Good Agricultural and Manufacturing Practices. You will announce that you have received a report from Secretaries Shalala and Glickman on the progress they have made in providing guidance on Good Agricultural and Manufacturing Practices to domestic and international growers, harvesters, handlers, and transporters of fresh fruits and vegetables as requested in a Presidential Directive on Oct. 2, 1997. This report outlines the progress made -- and the steps still to be taken -- to develop the voluntary guidance by October 1998. The guidance -- the first-ever specific safety standards for fruits and vegetables -- will address potential food safety problems throughout the production and distribution system and help ensure the sanitation and safety practices of all those seeking to sell produce in the U.S. market. The report also provides both short- and long-term plans for technical assistance, education, and outreach activities to support the implementation of the guidance.

III. PARTICIPANTS

Briefing Participants:
The Vice President
Secretary Shalala
Secretary Glickman
Bruce Reed or Elena Kagan

Event Participants:
The Vice President
Senator Barbara Mikulski
Gloria Doyle, Chevy Chase, MD, who became ill after eating imported raspberries.

Standing on stage, but not speaking:
Secretary Shalala
Secretary Glickman
Lead Deputy Commissioner, FDA Michael Friedman
Congresswoman Eshoo and other Members of Congress

IV. PRESS PLAN

Open Press.

V. SEQUENCE OF EVENTS

- The Vice President will make welcoming remarks and introduce Senator Mikulski.
- Senator Mikulski will make remarks and introduce Gloria Doyle.
- Gloria Doyle will make remarks and introduce YOU.
- YOU will make remarks and then depart.

VI. REMARKS

Remarks Provided by Speechwriting.

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MEMORANDUM

TO: BRUCE REED
ELENA KAGAN

FROM: TOM FREEDMAN
MARY L. SMITH
DREW HANSEN

RE:CHILD SAFETY IN COMMERCIAL AIRPLANES

DATE: JULY 18, 1997

SUMMARY

An estimated 10,000 children each day fly as "lap children," held in the laps of an accompanying adult instead of being secured in a separate seat by a certified Child Restraint System (CRS). These children are exposed to serious risk of injury or death in case of an accident or turbulence. Current FAA policy is to "strongly encourage," but not mandate, the use of a CRS for children under two years of age. The FAA has opposed a CRS mandate because of fears that the increased cost of buying an extra seat would lead many families to drive, leading to a net increase in injury and death, and because there are some technical problems with adapting existing CRSs to airplane use. Legislation pending in the House (H.R. 754 and 1141) and Senate (S. 398) would require the use of CRSs for children under two years of age.

PROBLEM

Children under two years of age have long been permitted to sit in their parents laps during air travel. An estimated 10,000 children per day travel in this manner. But safety experts say that an unrestrained child traveling in an adults lap runs a much higher risk of injury or death in case of air turbulence or a plane crash than a child secured by a separate child restraint system (CRS) on an adjacent seat. From 1978-1994, five children under two died in plane accidents who would have lived had they been in child seats. During the same period, ten injuries to children under two might have been prevented by the use of child seats.

Several recent incidents involving "lap children" have brought the matter to the publics attention. On July 19, 1989, United Airlines Flight 232 crashed in Sioux City, Iowa. Of the four unrestrained children on that flight, one was found in an overhead bin 15 rows behind the original seat, and one died from smoke inhalation in the ensuing fire. On July 12, 1994, a DC-9 flown by US Air crashed in Charlotte, North Carolina. There were 37 fatal injuries on the flight, including a 9-month-old unrestrained child who was hurled three rows from her mothers arms and died of massive head injuries. Air turbulence also poses serious risks to the unrestrained child. On a flight in June of 1995, an unrestrained child flew through the air during a patch of turbulence, but was caught by a fellow passenger. In 1990, a DC-10 encountered turbulence near Puerto Rico. The only injury on the flight was sustained by an unrestrained infant, who suffered a fractured skull.

The use of child restraint systems has prevented injury or death in several other airline

accidents. On July 6, 1996, the engine of Delta Flight 1288 exploded on the runway in Pensacola, Florida. Several passengers were killed instantly, but a 15-month-old suffered only a scratch on her neck because her parents had strapped her into a CRS in a separate seat. On September 6, 1992, a Piper PA-30 crashed at Broussard, Louisiana. Parts of both wings and both horizontal stabilizers were torn off before impact. A four-year-old boy and ten-month-old girl who sat in child restraint systems in the rear bench seat suffered serious injuries, but survived. Their father was killed.

PROPOSED SOLUTION

Many organizations, including the National Transportation Safety Board (NTSB), the Aviation Consumer Action Project, and the Association of Flight Attendants (AFA), have supported legislation that would mandate the use of child restraint systems on commercial aircraft. On February 12, 1997, the White House Commission on Aviation Safety and Security Bills, headed by Vice President Gore, recommended that "all infants and small children below the weight of 40 pounds and under the height of 40 inches be restrained in an appropriate child restraint system, such as child safety seats, appropriate to their height and weight." Bills to this effect were introduced in the 104th Congress by Rep. Lightfoot (R-IA, H.R. 1309) and in the 105th Congress by Rep. DeFazio (D-OR, H.R. 754 and 1141) and Sen. Murray (D-WA, S. 398). Copies of H.R. 754 and 1141 and S. 398 are attached.1H.R. 754 and S. 398 are almost identical; H.R. 1141 adds the provision that airlines would be prohibited from charging a price for the required additional seat that exceeds the lowest price charged by the carrier to any other paying passenger on the same flight. 1

POSSIBLE DIFFICULTIES WITH MANDATORY CRS LEGISLATION

1. Increased injury and death from travel diversion.

The FAA has refused to issue regulations mandating the use of child restraint systems because of fears that the increased cost to families of purchasing an extra seat would cause more of them to drive to their destination, leading to a net increase in injuries and fatalities.

A study by Apogee Research in 1990 found that the average cost of a trip to each family under mandatory CRS legislation would be $185, leading to a total additional expenditure of $252 million per year on airfare. Faced with this situation, Apogee predicted that 17% of families would forgo travel entirely or divert to another mode of travel, leading to a net increase of 1.6 fatalities, 4.8 serious injuries, and 218 minor injuries per year. The conclusions of this study were supported in broad outline by later studies by Windle and Dresner of the University of Maryland (1990) and in a briefing paper by McKenzie and Lee that was published by the Cato Institute (1990). Apogee conducted a second study for the FAA in 1993 coming to essentially the same conclusions. In the second study, however, Apogee contended that 95% of the safety gains of mandatory CRS legislation could be realized at low additional cost by requiring airlines to reserve empty seats next to parents with young children until the plane was absolutely full.2According to a July 3, 1997 article in the New York Times, many airlines will often reserve the seat next to a parent who does not buy a ticket for an infant. But these seats are not guaranteed on heavily booked flights. 2

Finally, a DOT-FAA study conducted pursuant to section 522 of the Federal Aviation Authorization Act of 1994 confirmed the results of earlier studies. The DOT-FAA study found that a CRS mandate could prevent an estimated five infant fatalities over ten years.

But the additional cost over ten years, assuming that the family pays full fare for every family seat, would be about $200 to each family, per family trip, leading to an additional cost to families of $109 million per year. In such a situation, 27% of families would still travel by air, 53% would not travel at all, and 20% would choose other modes of transportation. The shift to other modes of transportation would cause 82 more deaths among children and adults over ten years. Even if airlines responded to a mandatory CRS rule by lowering fares for infants or by some other marketing strategy, some travel diversion would still occur. The DOT-FAA study found that if carriers charged only 25% of the full fare, some families would still choose other forms of transportation, leading to a net increase of 17 child and adult deaths over ten years.

Instead of requiring CRS use, therefore, the FAA has embarked on a public education campaign strongly encouraging their use. In addition, Secretary Pea has asked carriers to establish incentives for parents to purchase seats for infants. Southwest Airlines, for instance, offers a discounted fare for children under two years of age.

But the results of these studies have been challenged by other organizations. The National Transportation Safety Board (NTSB), a longtime advocate of mandatory CRS legislation, has charged that the FAA studies are "based upon incomplete analysis."3Testimony of Barry Sweedler, Director of the Office of Safety Recommendations, National Transportation Safety Board, before the Subcommittee on Aviation of the House Committee on Transportation and Infrastructure, August 1, 1996, p. 2.3 The central contention of the NTSB is that airlines will not risk the revenue loss caused by entire families diverting to other forms of transportation, and will respond with innovations such as free seats for infants, group discounts, or special fares for traveling at off-peak times. In testimony before the U.S. House of Representatives on July 20, 1990, the Vice President of Operations for the Air Transport Association said that airlines would offer a special fare arrangement for families with infants "rather than risk the loss of one or more adult fares or perhaps an entire family unit." Even the DOT-FAA study concluded that there would be no net increase in infant fatalities if airlines charged 20% of the full fare, although travel diversion in this scenario would still lead to an additional 12.8 non-infant fatalities over ten years. Of course, if airlines chose not to charge to provide separate seats for infants in CRSs, there would be no net increase in deaths or injuries.

In response to the FAA studies, the Association of Flight Attendants (AFA) commissioned a study by Darryl Jenkins, a visiting scholar at the International Institute of Tourism Research at George Washington University, to re-examine the economic arguments on requiring CRS use. The AFA study contended that the FAA studies were based on incorrect modeling assumptions. According to the AFA study, the FAA studies did not have key data to determine price sensitivity, used an industry demand curve that unrealistically simplified a complex situation, did not take into account the price competition generated by low-fare carriers, and did not take into account the effects of income sensitivity. Basically, the contentions of the AFA study are 1.) that the airline industry is increasingly dominated by low-cost carriers, especially on frequently traveled routes, who are forcing prices down, and 2.) that the FAA studies incorrectly used "price elasticity" (who would choose not to fly if the cost increased) as a surrogate for "cross-elasticity" (who would switch into other modes of transportation, such as automobiles, if the cost of flying increased).

A key to resolving this dispute seems to be whether or not airlines are willing to follow the lead of Southwest Airlines and offer specially discounted fares for children under two years of age. The cuts in fares for children under two announced in the last two weeks seems to indicate that airlines are willing to cut fares to encourage families to buy a

separate seat for their young child. On July 2, 1997, American Airlines announced that children under two could ride in a separate seat for a fare of only 50% of the fare of the accompanying adult.4Because the FAA studies are based on full-fare data, a 50% discount from the fare of the accompanying adult could approach the FAAs 20% threshold for no net gain in infant fatalities from travel diversion. If the accompanying adult was traveling on a special reduced-price ticket, for instance, a 50% discount on such a fare could be a considerable markdown from the price of a full-fare ticket. 4 This policy was quickly adopted by United Airlines, Delta, Northwest, and Continental. Contrary to FAA assumptions, the new pricing policy would not lead to a loss of airline revenue but could even lead to a small net gain. Robert W. Baker, the Vice President of Operations of American airlines, said in the July 3, 1997 New York Times that American expected a modest increase in revenue as a result of the new fare.

2. Technical difficulties with CRS use in airplanes.

The second main argument against mandatory CRS legislation is that there are technical difficulties with using existing CRSs in airplanes. But even with these difficulties, children under two are always safer in an existing CRS than on the lap of an accompanying adult. The FAA currently recommends that children weighing under 20 pounds be restrained in a certified, rear-facing CRS, that children weighing between 20 and 40 pounds be restrained in a certified, forward-facing CRS, and that children weighing over 40 pounds be strapped in a regular lap belt. Margaret Gilligan, FAA Deputy Associate Administrator for Regulation and Certification, said last year in testimony before the House Subcommittee on Aviation that although the FAA is continuing their research on CRS design to achieve a greater safety margin, "no one contests our finding that children are better off in currently-marketed, approved CRSs [than in the lap of an accompanying adult]."5Margaret Gilligan, Testimony before the Subcommittee on Aviation of the House Committee on Transportation and Infrastructure, August 1, 1996, p. 5.5

A major study by the Civil Aeromedical Institute (CAMI) in 1994 also found that while current CRS designs were not perfect, they still provided more protection than sitting on the lap of an adult. An infant in a front-facing CRS, although still exposed to serious risks, was found to be safer than if he or she were held by an accompanying adult. The use of a rear-facing CRS, though, was found to be a "definite safety benefit."6Civil Aeromedical Institute, "The Performance of Child Restraint Devices in Transport Airplane Passenger Seats," OAM Report AM-94-19, September, 1994, p. 22. 6 However, both front- and rear-facing CRSs were found to be often difficult to install and inconvenient to other passengers and staff. A forward-facing CRS is sometimes too big to install in seats with fixed arm rests, and airline lap belts often do not suitably secure the CRS to the seat. In addition, the lap belt does not always protect the child from being thrown out of the CRS and hitting his or her head on the forward row seat. A rear-facing CRS often interferes with passage between seat rows and the recline motion of a forward row seat.

Because of these difficulties, many efforts are currently underway to develop a CRS that would be more suitable for airline use:

*The Society of Automotive Engineers (SAE), an ad-hoc group, is currently trying to develop a standard of compatibility between seats for cars and seats for airplanes.
*The FAA is working on developing new types of restraints for children and better ways to secure a conventional CRS to an airplane seat.
*The FAA is also developing a prototype "platform" for in-seat installation of a forward-facing CRS, which in preliminary tests has significantly increased the

effectiveness of forward-facing CRSs.
*Two projects are currently underway, one in the United States and one in Canada, to develop an airplane-specific CRS. Both prototypes have been tested at CAMI in both forward- and rear-facing positions, and both performed much better than any currently available CRS.

In short, the use of any certified CRS provides better protection than being carried on the lap of an accompanying adult, although a rear-facing CRS is generally preferable to a forward-facing one. Advances in technology for an airplane-specific CRS and for better installation of conventional CRS devices should lead to even greater safety benefits for young children.

CONCLUSION

The recent fare cuts by U.S. airlines for children under two years old, the proven safety record of existing CRSs in airplanes, and the ongoing development of better CRSs seem to remove many of the problems with mandatory CRS legislation. H.R. 754 and 1141 and S. 398 would follow the recommendations of the NTSB, the Gore Commission, and many other organizations by requiring children under two years of age to be restrained in a CRS in a separate seat, potentially preventing several injuries and fatalities among infants in the next ten years.

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Sally Katzen

SUBJECT:Heads Up on DOTs Airbag Cutoff Switch Final Rule

We expect to conclude review of the DOT final rule allowing dealers and repair shops to install on/off switches for airbags in existing vehicles. You may recall that this was one piece of the four-part approach announced by the President last December (the other pieces, all well received, included warning labels, depowering, and extending authorization for on/off switches for the front passenger seat in new vehicles that do not have back seats). The rule we are about to clear has already been the subject of several critical news stories, and will be a major news event when it is published.

This rule is in response to the fact that while airbags save lives, there is a real risk of serious injuries and fatalities in low-speed crashes where the drivers are short-statured people sitting too close to the steering wheel and/or the passengers are unbelted children riding in the front seat (instead of being belted in the back seat). Everyone agrees that the at-risk group (which also includes infants (under 1 year old) in rear-facing seats who must ride in the front seat and individuals with certain medical conditions) should be allowed to turn off their airbags. The issue has been whether others should be allowed to deactivate their airbags and the role that DOT would play as a gatekeeper. A coalition of auto manufacturers, insurance companies, and safety advocates has opposed any form of broad-based deactivation of airbags (by which they mean if there is not prior approval by DOT to install the switches). DOT, on the other hand, claims it cannot process all of the applications it will receive, and it would not want to be responsible if there were an accident while an application was pending.

The DOT rule would require the vehicle owner to sign a form certifying (under penalty of law) that at least one occupant in his/her vehicle falls into one of the risk categories. It would expressly state that the dealers only responsibility is to see that the form is filled out, not to verify the appropriateness of the box checked. It would be accompanied by an education campaign to seek and minimize misuse (i.e. do not turn off if you are not at risk). This is important because the rule is calculated to save the lives of approximately 11 drivers and 44 passengers each year over the next four years; however, if there is as little as one percent misuse (i.e., drivers turning off the switch if they are not at risk) it will offset all of the benefits to drivers.

The message on roll-out (which we recommend be low key and at the Department level) is important because this is an interim step -- the real solution lies in smart airbags for which an NPRM is being prepared. Please let me know if you have any questions.

cc:Maria Echaveste
Rahm Emanuel
John Hilley
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
Bruce Reed
Elena Kagan
Gene Sperling
Victoria Radd
Barry Toiv
Michael Waldman
Kathy Wallman
Michael Deich
Larry Haas

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Sally Katzen

SUBJECT:Heads Up on DOTs Airbag Cutoff Switch Final Rule

On October 6, 1997, we sent you a heads-up memo on a DOT final rule allowing individuals to obtain on/off switches for airbags in existing vehicles. Since then, DOT has given further thought to its role as "gatekeeper" and redrafted the final regulation to provide that individuals who want to have an on/off switch are to send the form to the government before the switch is installed. We are now ready to go and we understand that DOT will announce the rule next Tuesday. I have attached a copy of our October 6 heads-up memo to refresh your memory on the substance. Please give me a call if you have questions.

cc:Maria Echaveste
Rahm Emanuel
John Hilley
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
Bruce Reed
Gene Sperling
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Kathy Wallman
Michael Deich
Larry Haas

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NOT FOR FURTHER DISTRIBUTION

MEMORANDUM FORKen Apfel
Andy Blocker
Maria Echeveste
Kitty Higgins
John Hilley
Elena Kagan
Steve Kelman
Sylvia Mathews
John Podesta
Frank Raines
Doug Sosnick
David Strauss
Daniel Tarullo
Wendy White

FROM:Kathleen Wallman

SUBJECT:Draft Decision Memorandum Concerning Labor-Related Issues

COPY:Gene Sperling

DATE:February 12, 1997

I am sending you a draft of the decision memorandum that we discussed yesterday. I think that this draft should not be disseminated. In view of the time pressure, Gene has authorized me to share their preliminary draft prior to his review of it. I do not yet have two sections that Elena Kagan has graciously agreed to draft, but thought I should send around this portion to ensure that people agree that it properly reflects the nuances of yesterdays discussions. I will circulate another draft as soon as I am able that includes Elenas work.

I will consult with the Cabinet Departments, too. If there is anyone else in the White House who should see this draft whose name does not appear above, please alert me.

Please e-mail comments to me -- I am KM Wallman, not K Wallman -- or phone me at 65803. Thanks.

FFDraft 2/12/97 11:30 a.m.

MEMORANDUM FOR THE PRESIDENT

FROM:GENE B. SPERLING

SUBJECT:POSSIBLE POLICY ANNOUNCEMENTS RELATED TO LABOR ISSUES

DATE:FEBRUARY 12, 1997

On February 18, the Vice President will address the Executive Council of the AFL-CIO at its Winter Convention in Los Angeles. The NEC has met and deliberated the merits of several possible executive actions and possible announcements of legislative positions that are of interest to the AFL-CIO and that the Vice President could announce at the convention. Our recommendations are offered below.

In general, the AFL-CIO acknowledges the unlikelihood in the near term of significant legislative changes that would improve labor and employment laws. Indeed, they acknowledge that their legislative agenda will be largely defensive in the coming months and years. But, as exemplified here, they seek the Administrations expression of support, in both symbolic and concrete ways, for the principle that unions have been and still are valuable forces in the workplace.

1.Possible amendments to federal procurement regulations.

Federal law provides that the government should maintain a position of neutrality in labor disputes between unions and federal contractors. Nevertheless, under current federal contracting policies, contractors may be reimbursed for the costs of resisting unionization efforts and litigating against unfair labor practice charges, and remain eligible to receive new contracts.

To address what it perceives as the unfair "tilt" against unions that these federal contracting policies embody, the AFL-CIO has urged that the Administration direct the Federal Procurement Council, which operates under the auspices of the Office of Federal Procurement Programs within OMB, to initiate a notice and comment rulemaking to amend the Federal Acquisition Regulations (FAR) in three respects. We summarize the actions under consideration and the pros and cons of each. Since all three proposals go to the unions neutrality principle, and since some members of your NEC believed it important to consider their impact together, we summarize the Cabinet Departments recommendations at the end of this section rather than at the end of the discussion of each individual proposal.

a.Amend the FAR to cease reimbursement to contractors for costs incurred to defend against unfair labor practice allegations that are in litigation.

The Federal Acquisition Regulations (FAR) currently do not permit federal contractors to be reimbursed for the costs of defending criminal and certain civil proceedings brought by the government, as well as penalties resulting from those proceedings. In the case of civil proceedings, reimbursement is disallowed, however, only where a monetary penalty could have been imposed. Since the National Labor Relations Act does not include monetary penalties, the current regulations have often been construed to permit reimbursement of defense costs associated with unfair labor practice proceedings initiated by the General Counsel of the NLRB.

Proposal: Amend the FAR to make clear that any and all costs relating to defending unfair labor practice charges and complaints brought by the NLRB General Counsel are now allowable, both in evaluating bids for fixed price contracts as well as reimbursement for cost reimbursement contracts

Pro:Taxpayers dollars should not be used to "tilt the playing field" in favor of employers

against unions and employees. Eliminating this reimbursement will bring treatment of NLRB litigation costs in line with other kinds of litigation costs.

Con:No serious objections or downsides were identified, although a negative reaction from government contractors who have been permitted thus far to treat these costs as reimbursable is predictable.

b.Amend the FAR to cease reimbursement for costs incurred to try to persuade employees not to unionize.

The FAR currently provides that costs incurred by a contractor in maintaining satisfactory labor relations between the contractor and its employees, including costs of shop stewards, labor management committees, employee publications, and other related activities, are allowable costs. Under this provision, contractors have sought and been reimbursed for activities that undermine rather than promote satisfactory labor relations. On occasion, the costs that are being paid for by the taxpayers are for persistent anti-union organizing activity.

Proposal: Amend the FAR to provide that contractor costs incurred for activities related to influencing employees respecting unionization are specifically unallowable.

Pro:Taxpayers should not be subsidizing an employers efforts to defeat union organizing activities and that these activities are now designed, and do not have the effect of, "maintaining satisfactory labor relations." A number of other statutes explicitly prohibit the use of government funds to promote, assist, or deter union organizing activities, such as the Job Training Partnership Act, the National Community Service Act, Head Start, and Medicare. Accordingly, there is precedent for this kind of provision and auditors having to concern themselves with these other statutes have had to determine whether an employers labor relations costs were or were not allowable.

Con:Disallowing costs for employee meetings by contractors would be characterized by the business community as pulling the rug out from labor-management cooperation. They will argue that it will not be possible in practice to separate legitimate activities from anti-union persuasion. This provision will require auditors to make decisions about what costs are allowable that they are not well equipped to make. In addition, this provision will likely be viewed by the contracting community as an unnecessary and burdensome requirement not otherwise imposed in the private sector.

c.Amend the FAR to allow government contracting officers to consider, when deciding whether a contractor is a "responsible" contractor (a term of art under the existing FAR), the bidders record of labor and employment policies and practices.

The FAR provides that a prospective government contractor must be found to be a "responsible contractor" before being awarded a government contact. "Responsibility" requires that a prospective contractor be capable of performing the contract, that it has a satisfactory performance record, and that it has satisfactory "integrity and business ethics".

Under current practice, a prospective contractor may have engaged in egregious activities relating to labor or employment practices and still be eligible to receive federal contracts. These activities currently do not call into question any aspect of the prospective contractors responsibility. In some cases, the egregious activities may have

been adjudicated and found illegal, but more commonly, a contractor has no such finally adjudicated violations, and there are instead pending charges -- sometimes many of them -- that will take time to wend their way through the administrative process at the NLRB, the EEOC or through the courts. Sometimes the allegations are never adjudicated; for example, most unfair labor practice complaints are ultimately settled.

Proposal: Add to the FAR language indicating that the responsibility determination must take into account whether the bidder has "a satisfactory record of labor and employment policies and practices." (This language parallels the existing provision requiring "a satisfactory record of integrity and business ethics".)

Pro:The existing FAR already allows contracting officers to weigh the bidders "business ethics", its "integrity" and its "capability" to perform the contract. Factors that may be considered in assessing capability include "safety" and "energy/environmental considerations". Labor relations and employment conditions are and equally important and appropriate consideration, and the Administration ought to say so clearly in the FAR.

Con:Evaluating "satisfactory" labor relations and employment conditions is a qualitative judgment that contracting officers are not well equipped to make, especially where the disputed actions or conditions have not been adjudicated. Compliance will also be burdensome for contractors who will have to worry about meeting a non-quantifiable standard.

Positions: Labor recommends that you authorize all three actions. Commerce recommends that you authorize (a) ("defense costs") but not (b) ("persuading costs") or ("responsible contractor" amendments). Commerce believes that persuading costs will be too nettlesome to implement as a practical matter; contracting officers will not be able adequately to discern reimbursable activity from non-reimbursable activity. SBA urges that you authorize (a) but not (c). As to the responsible contractor amendments, SBA urges that the Procurement Council issue interpretive guidance indicating that labor and employment practices and policies should be taken into account, but that the FAR should not be amended. (This approach was explored with AFL-CIO, but was deemed by them inadequate to reach the goal since such interpretive guidance has no force of law.) OMB concurs with SBA. Treasury recommends that you authorize (a) and (c), but not (b) for the same difficulty of implementation reason offered by Commerce.

Recommendation: I recommend that you authorize all three initiatives. There is no disagreement as to (a). The second initiative is described by those who oppose it as difficult to implement, but not impossible. If we go forward with (a) and leave (b) undone, we will be subject to the reasonable criticism that we are continuing to allow the use of taxpayers money to underwrite anti-union proselytizing even though we have gone to the trouble to eliminate reimbursement of defense costs. The third initiative, the responsible contractor amendments, is a reasonable policy choice that puts the Administration clearly on record, through regulatory amendments that have the force of law, that a contractors practices and policies with respect to labor and employment are important considerations. Its practical effect will be to afford unions a "hook" in the regulations to present relevant information to contracting officers about truly egregious situations involving a pattern of abusive labor and employment practices.

_____ Agree_____ Disagree_____ Lets Discuss

2.Possible executive order encouraging the use of project labor agreements

Project labor agreements, also known as "pre-hire agreements," are specially negotiated agreements between a project owner or construction manager and one or more labor organizations. The agreements are reached at the outset of a project in order to ensure efficient, timely and quality work; establish fair and consistent labor standards and work rules; supply a skilled, experienced and highly competent workforce; and assure stable labor-management relations throughout the term of the project. These agreements have long been used for public and private construction projects that involve a large volume of work, extend over a substantial period of time, include a substantial number of contractors, and entail substantial costs. It is well established that these agreements are effective and may be lawfully used in both the private and public sector for construction industry projects.

Proposal: Issue an Executive Order that directs Executive departments and agencies authorized to implement or fund a project for the construction of a federal facility to determine on a project-by-project basis whether a project labor agreement will promote labor-management stability; advance the public interest in economical, efficient, quality and time project performance; and assist project compliance with applicable legal requirements governing health and safety, equal employment opportunity, and labor standards. The Executive Order would not require the use of a project labor agreement on any particular project.

Pro:Project labor agreements are useful and lawful, but federal agencies may not be aware of their availability and have not been using them in a significant way. Issuing an Executive Order would make clear that federal contracting agencies have this authority and should consider using such agreements in appropriate circumstances.

Con:No serious objections or downsides have been identified, although this action, in combination with other actions on the list of labor-related initiatives and announcements you authorize could send a signal as to the tone you intend to take on labor-management issues.

Positions: All of the agencies support issuance of an executive order that encourages but does not require the use of these agreements.

Recommendation: I recommend that you authorize issuance of the proposed executive order.

_____ Agree_____ Disagree_____ Lets Discuss

3.Possible linkage of flex time legislation to legislation that expands the FMLA

The two comp time bills currently being considered on the Hill -- both Republican-sponsored -- fail to address FMLA expansion, and provide fewer guarantees of employee choice and fewer protections against potential abuse than your flex time bill, which was sent to Congress last September.

Specifically, the bills do not exclude vulnerable workers; do not include special protections for workers whose employers go bankrupt; do not guarantee real choice for employees; among other shortcomings. The Ashcroft comp time bill in particular has provisions that would effectively eliminate the 40-hour week. The labor movement strongly opposes the Republican comp time bills, and finds these Ashcroft provisions to be particularly offensive.

With respect to FMLA, Democrats in both houses have introduced bills to expand the current law. Several bills are consistent with your proposal to expand FMLA for an additional 24 hours for the purposes of routine medical care for children and elderly parents or school related activities. Other Democratic bills would lower the threshold of FMLA applicability from 50 to 25 employees, a provision that was not included in your bill. Predictably, while most Republicans oppose FMLA expansion, the bills have support from womens groups and the labor movement. The Democratic legislative strategy is to try to add FMLA expansion to the Republican bills while criticizing their comp time components.

In light of this strategy, the labor movement has urged that the Administration threaten to veto any bill that does not (1) link FMLA expansion and flex time, and (2) improve the comp time provisions to provide real choice and real protections for employees (as in your flex time bill).

Proposal: Our proposal is different from what AFL-CIO is urging in that we think you should stop short of saying that you will veto any flex time bill that does not include FMLA expansion. Rather, we would establish as the Administrations position that there should be a link between FMLA expansion and any flex time legislation; that any flex time proposal should address our principles, as spelled out in your bill from last year (i.e., real choice for employees; real protection against employer abuse; and preservation of basic worker rights, such as the 40-hour work week); and that you will veto any comp time bill that does not address these flex time principles in a meaningful way.

Pro:This position would strengthen the position of congressional Democrats to improve the Republican bills. It would also be welcomed by constituency groups that view the Republican bills as a weakening of employee protection laws. Since this strategy does not threaten a veto if FMLA expansion is not in a final bill, the strategy does not lock you in to a veto of an otherwise acceptable flex time bill.

Con:AFL-CIO would prefer that you threaten to veto any bill that does not include an expansion of FMLA. Under this strategy, you might have to veto a comp time bill, although it would be one that falls far short of the family-friendly principles you have laid out.

Recommendation: I recommend -- along with the NEC members -- the proposal discussed above that you (1) express support for FMLA expansion and flex time and (2) threaten to veto a comp time bill if your principles are not addressed. I recommend that you not lock yourself into saying that you will veto any flex time bill that does not include FMLA expansion.

_____ Agree_____ Disagree_____ Lets Discuss

[Does Legislative Affairs want to offer a different recommendation?]

_____ Agree_____ Disagree_____ Lets Discuss

4.Position on Beck legislation aimed at limiting the use of union dues in political activity

[DPC (Elena) is writing this section of the memo]

Status and positions:

5.Restating last years veto threats on (i) TEAM legislation (ii) Davis-Bacon legislation and (iii) legislation to weaken OSHA.

Last year, you indicated you would veto the TEAM bill and the other two legislative proposals. It is proposed that the Vice President would restate your position in Los Angeles, with language that leaves room for improvements in TEAM legislation that you may conclude somewhere down the road that you may wish to sign.

Positions: There was consensus among the members of your NEC that restating your previous positions with carefully crafted language that does not prevent you from considering an improved TEAM bill would be the right path to take.

Recommendation: I recommend that we go ahead and restate your previous positions. The exact wording used will be vetted beforehand.

_____ Agree_____ Disagree_____ Lets Discuss

6.Welfare reform and minimum wage

[DPC (Elena) is writing this section]

FEBRUARY 8, 1996

MEMORANDUM FOR:CAPRICIA MARSHALL

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

As explained in our February 1, 1996 Memorandum to all staff of the Executive Office of the President, the House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its Travel Office investigation. In addition to the records identified in our February 1 Memorandum, the Government Reform Committee also seeks certain other records from your files. Please review your White House "records,"11For purposes of responding to the subpoena, please refer to the definition of "White House Travel Office matter" found in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve the following records:

All calendars and phone records, message slips or phone logs . . . made to or from any of the following individuals, from May 1, 1995 through November 30, 1995 regarding the White House Travel Office matter22For purposes of responding to the subpoena requests, please use the definition of the term "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). or the case of U.S. v. Billy Ray Dale:" Jane Sherburne, Jon Yarowsky, Natalie Williams, Miram Nemetz, Abner Mikva, Margaret Williams, Patsy Thomasson, John Podesta, Catherine Cornelius, Mark Gearan, Bruce Lindsey, David Watkins, Janet Greene, Betsey Wright, Webb Hubbell, Bill Kennedy, Jeff Eller, Neil Eggleston, Cliff Sloan, Mike Berman, Harry Thomason, Darnell Martens, Beth Nolan, James Hamilton, Susan Thomases, James Lyons, Roy Neel, John Gaughan, any employee of the Military Office,33See Attachment 2 for a list of all employees of the Military Office from January 20, 1993 through the present. Larry Herman, John Shutkin, any employee of KPMG Peat Marwick,44We are aware that at least the following KPMG Peat Marwick employees were involved in some aspect of the White House Travel Office matter: Larry Herman, Dan Russell, Leslie Casson, Carolyn Rawdon, Nicholas DiCarla, Charles Siu and John Shutkin. Billy Ray Dale, Barney Brasseaux, John Dreylinger, Ralph Maughan, John McSweeney, Robert Van Eimeren, Gary Wright, David Bowie, Pam Bombardi, Tom Carl, Stuart Goldberg, Lee Radek, Jamie Gorelick, Adam Rossman and David Sanford.

It is extremely important that staff members conduct a thorough search for responsive documents. Each Assistant to the President or Department head should ensure that his or her staff members conduct such a search. Please provide any responsive materials to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 12, 1996.

If you have any questions regarding the House subpoena, please call Special Counsel Jane

Sherburne (6-5116).

Attachment 2

MILITARY OFFICE OFFICE EMPLOYEES
JANUARY 20, 1993 - PRESENT

John Gaughan
Alphonso Maldon
AlanSullivan
Captain Jay Yakeley, USN
Captain Mark Rogers, USN
Colonel Hames Hawkins, USAF
Bobby Chunn
Joni Stevens
Commander Howard "Buzz" Couch, USN
Lieutenant Colonel Larry O. Spencer, USAF
Major Russell Cancilla, USA
Lieutenant Colonel John F. Schorsch, USA
Major Michael G. Mudd, USA
Commander Joseph Walsh, USN
Commander Richard Fitzpatrick, USN
Major John Wissler, USMC
Major Leo Mercado, USMC
Major Charles Raderstorf, USMC
Major Michelle Johnson, USAF
Major Darren McDew, USAF
Lieutenant Commander Wayne Justice, USCG
Lieutenant Commander Robert Walters, USCG
Lieutenant Commander June Ryan, USCG
YN1 Carol Schrader, USN
YN1 (AW) Ronald Wright, USN
Technical Sergeant Jon Sams, USAF
Staff Sergeant Keith Williams, USAF
Staff Sergeant John Otto, USAF
Technical Sergeant Jerome McNair, USAF
Sergeant First Class Edmund Carazo, USA
Sergeant Darryl Turner, USA

DRAFT--NOT FOR DISTRIBUTION--DRAFT--NOT FOR DISTRIBUTION--DRAFT

I. DEFINITION OF "CANCEL": The House offer recommends use of the word "veto" in applying the new authority to direct spending and tax benefits. However, the Department of Justice has indicated constitutional problems inherent in authorizing a President to "veto" pieces of a bill, following signature of the overall bill.
While use of the word "suspend" is the preferred way of avoiding a constitutional defect, "cancel" may be another option if particularly when it is appropriately defined. Following is a definition for use of the word "cancel" with reference to new direct spending and targeted tax benefits:

NEW LANGUAGE TO BE ADDED TO SEC. 4. DEFINITIONS.
(7) The term "cancel" means--
(A) with respect to "new direct spending," the suspension of legal entitlement to claim any benefits deriving therefrom and suspension of the authority to obligate the United States pertaining thereto; and
(B) with respect to "targeted tax benefits," the suspension of legal entitlement to claim any Federal tax deduction, credit, exclusion, preference or other tax benefit deriving therefrom.

II. LOCKBOX:

The lockbox language, in the Senate bill and included in the House offer, would require the President to: reduce the statutory discretionary spending caps to reflect rescissions of discretionary budget authority; and to eliminate from the PAYGO scorecard any positive balance that would otherwise have accrued from applying the item veto to new direct spending or tax benefits.

This is problematic, especially on the discretionary side, because the automatic lowering of spending caps, would make it very difficult to accommodate supplementals later in the year. In addition, the technical drafting of the lockbox language is unclear.

Suggested improvement in the lockbox mechanism: Provide that the rescinded or canceled amounts be placed in an "emergency reserve" to be available to offset emergency supplementals and other emergency legislation. Although such "emergency legislation" does not legally require offsets, the availability of these emergency reserves might facilitate supplementals and other emergency legislation when needed.

In addition, the following amendments would: (1) clarify the amount by which spending caps

are to be reduced; and (2) would delete the application of the discretionary lockbox to the outyears (application of lockbox to the outyears would create complications by changing previously negotiated caps before an appropriations cycle has even begun).

FOLLOWING IS THE CURRENT LOCK-BOX LANGUAGE WITH PROPOSED CHANGES:

(1) IN GENERAL.--Not later than 45 days of continuous session after the President rescinds an item in an appropriations Act or vetoes cancels an item in an authorization, revenue, or reconciliation Act, the President shall--

(A) with respect to appropriations Acts, reduce the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear by the amount by which the Act would have increased the deficit in each respective year the President reduced budget authority and outlays pursuant to authority provided under this Act; and

(B) with respect to a veto cancellation of direct spending or of a targeted tax benefit, reduce the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 by the amount by which the Act cancelled provisions would have increased the deficit in each respective year.

(2) EXCEPTIONS.--

(A) This subsection shall not apply if the rescinded item in an appropriation Act or the vetoed cancelled item in an authorization, revenue, or reconciliation Act becomes law, over the objections of the President effective due to enactment of a disapproval bill, before the President orders the reduction required by paragraph (1)(A) or (1)(B).

(B) If the rescinded item in an appropriation Act or the vetoed cancelled item in an authorization, revenue, or reconciliation Act becomes law over the objections of the President effective due to enactment of a disapproval bill, after the President has ordered the reductions required by paragraph (1)(A) or (1)(B), then the President shall restore the discretionary spending limits under section 601 of the Congressional Budget Act of 1974 or the balances under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reflect the limits and balances existing before the reduction ordered by the President in compliance with paragraph (1).

(3) EMERGENCY RESERVE ACCOUNTS.

(A) Any amount by which the discretionary budget authority and outlay limits described in paragraph (1)(A) are reduced shall be credited to a special account to be called "the Section 251 emergency reserve account," provided that such amounts may be used as provided in paragraph (C).

(B) Any amount by which the balances for the budget year and each outyear under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 have been reduced shall be credited to a special account to be called "the Section 252 emergency reserve account," provided that such amounts may be used as provided in paragraph (C).

(C) When making emergency designations under sections 251 or 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, the President and the Congress shall specify whether the requested emergency legislation is to be offset by amounts credited to a reserve account established under this paragraph.z

TO:John Hilley
Gene Sperling
Jack Lew
CC:Bruce Reed
Elena Kagan
FROM:Jennifer Klein
DATE:7/14/97
RE:Child Care Tax Proposals

As you continue your discussions about spending of the tobacco tax dollars, Bruce Reed asked me to send you descriptions of proposals to expand tax subsidies for child care.

1.Dependent Care Tax Credit

Currently, taxpayers may claim non-refundable income tax credits for eligible employment related expenses for dependent care. Eligible expenses include those for the care of a child under 13 or a disabled dependent or spouse. Eligible expenses are limited to $2,400 for one dependent or $4,800 for two or more dependents. The credit rate depends on income, with a 30 percent credit rate for those with adjusted gross income below $10,000. The credit rate is reduced with income, so that those with incomes over $28,000 have a 20 percent rate.

There are three options to expand the dependent care tax credit (DCTC).

(1) Make the DCTC refundable. The existing DCTC is non-refundable, meaning that taxpayers whose income tax liability is less than the credit do not receive the full benefit. As with the Earned Income Tax Credit, making the DCTC refundable would allow taxpayers with low tax liabilities to receive a check from the IRS for the amount by which the credit claimed exceeds their tax liability.

Treasury estimates the revenue cost of this proposal at around $4 billion for 1998-2002. The Joint Committee on Taxation last year estimated that it would cost about half of the Treasury estimate.

(2) Increase the maximum amount of eligible dependent care expenses to $3,600 for one dependent and $5,400 for two or more dependents.

(3) Change the AGI range over which the 30 percent credit rate declines to 20 percent.

2.Kohl Business Tax Credit

Senator Kohl proposed to allow firms to claim a tax credit for up to 50 percent of the cost of building, renovating, or operation child care centers, with a credit limit of $150,000 per year. The Joint Committee on Taxation estimated that the revenue cost of the Kohl proposal is $2.6 billion over 1998-2002 (but note that the Kohl proposal is not available for years after 1999, reducing its overall revenue cost). The credit could also be limited to construction, expansion, and renovation expenditures (since those are the capital costs that may difficult for firms to finance), most likely reducing the revenue cost to well below $1 billion for 1998-2002.

MEMORANDUM FOR ERSKINE BOWLES AND BRUCE REED

From:Sandra L. Thurman
Director, Office of National AIDS Policy
(202) 632-1090

Cc:Sylvia Matthews
Elena Kagan
Chris Jennings

Date:April 27, 1998

Re:Needle exchange debate and ONDCP

Attached is a press statement released by the authors of legislation that makes permanent the ban on federal support for needle exchange programs. You will note that Barry McCaffrey is cited as a supporting source.

I am concerend about the damage that is done when someone from this Administration so publicly contradicts established policy. It is certainly making it rather difficult to manage the issue.

Anything you can to do to insure that ONDCPs public statements are consistent with this Administrations policy (and are factually accurate) would be greatly appreciated!

March 31, 1997

STATEMENT ON DISTILLED LIQUOR ADVERTISING ON TELEVISION

DATE:April, 1997
LOCATION:Roosevelt Room
BRIEFING TIME:12:40 pm - 1:10 pm
EVENT TIME:1:10 pm - 1:30 pm
FROM:Bruce Reed
Rahm Emanuel

I.PURPOSE

To highlight your commitment to reducing youth alcohol use.

II.BACKGROUND

You will be sending a letter to Reed Hundt asking the Federal Communications Commission (FCC) to 1) explore the effects -- on children in particular -- of the distilled liquor industrys decision to end its 50-year voluntary ban on broadcast advertising; and 2) determine what actions the FCC can take in response to the lifting of the ban.

A bipartisan group of 26 Members of Congress also wrote to the FCC requesting that they open an inquiry into the effects of liquor advertising.

In November, 1996, the Distilled Spirits Council announced that it had ended its almost 50-year voluntary practice of refraining from broadcast advertising. Although the major networks and cable companies have thus far refused to accept distilled spirits advertising, a few companies have run liquor ads on television and radio since the announcement and other companies are presently preparing large advertising campaigns.

Chairman Hundt has opposed any move toward liquor advertising. In December, he challenged broadcasters to refuse liquor advertising, and indicated that "government action" might be appropriate if the broadcasters did not do so.

III.PARTICIPANTS

Briefing Participants:
Sylvia Mathews
John Podesta
Rahm Emanuel
Bruce Reed
Elena Kagan
Ron Klain
Mike McCurry

Carolyn Curiel

Event Participants:
The Vice President

IV.PRESS PLAN

Pool.

V.SEQUENCE OF EVENTS

The Vice President will make opening remarks.
The President will make remarks.
After responding to questions from pool, the President and Vice President will depart.

VI.REMARKS

Statement prepared by Carolyn Curiel.

March 31, 1997

STATEMENT ON DISTILLED LIQUOR ADVERTISING ON TELEVISION

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LOCATION:Roosevelt Room
BRIEFING TIME:12:45 pm - 1:10 pm
EVENT TIME:1:10 pm - 1:30 pm
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VI.REMARKS

Statement prepared by Carolyn Curiel.

MEMORANDUM

TO: BRUCE REED
ELENA KAGAN

FROM: TOM FREEDMAN
MARY L. SMITH
DREW HANSEN

RE: ALCOHOL MARKETING TO CHILDREN ON THE INTERNET

DATE: AUGUST 1, 1997

SUMMARY

Alcohol companies are currently engaged in a series of creative marketing efforts on the Internet, most of which seem to be targeted at children and adolescents. Home pages for beers and liquors offer games, contests, and virtual environments to attract younger Web surfers. These pages have no effective way to make sure that their visitors are over 21, and often do not even make a serious effort to warn younger readers away from the sites.

HOW ALCOHOL COMPANIES MARKET TO CHILDREN ON THE INTERNET

1. Games

Most alcohol sites on the web offer free games, with inevitable product tie-ins, to visitors. Many companies offer games that seem designed to appeal to young children. On the Jos Cuervo site (www.cuervo.com), the visitor is greeted with an opportunity to play "Beasts in a Blender," a game where the contestant must match three beasts to win. Other games on the Cuervo site feature J.C. Roadhog (potentially the Joe Camel of the late 1990s), the Cuervo mascot, in games such as the "Cuervo River Run," where the player moves J.C. Roadhog down a river, avoiding snakes and alligators and picking up Cuervo Gold bottles, salt shakers, and limes. Molsons (www.molson.com) makes "SRP," an interactive racecar game, available for download so that the visitor can "race" with other Molsons fans. Stolichanya Vodka (www.stoli.com) offers a game room that includes "Stoli Says," a Concentration-like game in which the player matches the mixed drink with the ingredients, and a virtual coloring book of a Stolichanya Vodka bottle.

Several alcohol companies introduce the visitor to more complex games of the kind that would appeal to adolescents, such as "mysteries" that the visitor must solve. Dewars (www.dewars.co.uk), for instance, urges the visitor to save disappeared multimillionaire Tommy Dewar by solving a set of four puzzles. Heineken (www.Heineken.com) offers the visitor a chance to play "Heineken Quest," a game in which the visitor accompanies "Sidney," the son of a millionaire, on a trip from Amsterdam to Australia. In each city, the player receives travel updates which present him or her with problems to solve to get to the next stage. Email messages are sent to the player when he or she has a new problem to solve. Of course, Heineken appears everywhere -- a day in Amsterdam is finished off by a quiet drink of Heineken in a local bar.

Another common type of game environment is the "virtual casino." Canadian Mist (www.canadianmist.com), for instance, offers access to the "Mist Arcade," where visitors

can play blackjack online. The Smirnoff site (www.purethrill.com) contains a casino where the visitor can play casino-style games.

2. Contests

Many sites offer contests with company-related merchandise as prizes. On the Budweiser site (www.budweiser.com), visitors are urged to submit a form predicting where Bud racecar driver "Ricky" will finish in his races. The Bacardi rum site (www.bacardi.com) has a contest to see who can build the best virtual sand castle. The weekly winner gets a bag of Bacardi gear. The Malibu Rum site (www.malibu-rum.com) boasts a "Surfin Safari" contest, in which entrants are urged to surf the Web to find the right answers to the contest questions. The contest, though, has only three questions: the first two are about surfing, and the third is "What two fruit juices, combined with Malibu Rum and creme de banana, make a Malibu Tropicale?"

3. Virtual Environments

Several alcohol companies attempt to create "virtual environments" on their Web sites for the visitor to explore. Malibu Rum introduces the visitor to a bright yellow page dotted with palm trees, and says "Welcome to the Malibu Beach Home! Were Ready to Start the Party!" A visit to "Cabana Cool" on the site is touted as an opportunity to relax at "a little poolside bar where you can discover island specialties...and let the bartenders in on your special trade secrets for making a Malibu drink that is ALWAYS the hit of the party." Bacardi offers "Club Bacardi," with an introductory scene of a nightclub with cartoon dancing girls, bartenders, and other guests. The homepage for Captain Morgans Rum (www.rum.com) is headed by a grinning pirate who presents "CyberShip 2: Voyage to the Bottom of the Net." The rest of the page is filled with pirate-theme messages like "Welcome Aboard, Swabbie!" and a chance to visit the "Yo Ho Ho Room." Rum isnt even mentioned until near the bottom of the page.

One of the more imaginative virtual environments on offer is Smirnoffs "Purethrill Hotel," where "nothing is as it seems." Playing on Smirnoffs popular, surreal ad campaign, the Purethrill Hotel places the visitor in an interactive world of shifting images and strange rooms to explore. The whole effect is much like that produced by "Myst," the popular home computer game.

AGE RESTRICTIONS ON ALCOHOL SITES

Age restrictions on alcohol sites range from small-print ("This site is not to be accessed unless you are 21 years of age of older. Thank you." (Cuervo)) to oblique ("Your visit to BUD ON-LINE is subject to The Legal Stuff." (Budweiser)) to tongue-in-cheek ("Remember, alcoholic beverages should be consumed in moderation and by persons of legal drinking age (21 in the U.S.) -- so if that isn't you, scram!" (Bacardi)).

Most sites will note on the "Age" section of contest entry forms that the contestant must be 21 or over, but there is no mechanism for ensuring that this is the case. In fact, I submitted a completely blank "registration" form to Canadian Mist to get into the casino, and instead of making me fill the form out again, they just linked me right into the blackjack area.

Some sites make the whole age requirement into a joke (see Budweiser and Bacardi above). Captain Morgans Rum has a hypertext link on "Avast! You Must be Twenty-one Years Old to

Enter This Site" (which doesnt even appear until halfway down the page). Following the hypertext link leads to a quiz to find out if you are legal or not: a set of ten true/false questions like "You think classic rock means the early Hootie" and "You are sitting on a phone book right now."

CONCLUSION

Alcohol companies appear to be engaged in an aggressive campaign to market beer and liquor to children through the Internet. Games, contests, and virtual environments provide younger Web surfers with an opportunity to engage with the companys images and marketing material, and even offer a chance for young visitors to win free bags of company merchandise. At this time, there is no way for companies to make sure that their viewers are over age 21, and most companies do not seem to take the age requirement at all seriously.

MEMORANDUM FOR ERSKINE BOWLES

FROM:Sally Katzen

SUBJECT:Heads-up on FDA Proposed Rule Requiring Alcohol Warnings on Pain Relievers

We are about to conclude review of a proposed FDA rule that will require alcohol warnings to be placed on all over-the-counter (OTC) drug products containing pain relievers (including aspirin, tylenol, and ibuprofin) labeled for adult use. The warning statements would advise consumers who drink at least three glasses of alcohol per day to consult a physician before using the product. FDA, following the recommendations of an advisory panel, has determined that data are sufficient to warrant an alcohol warning for these products; specifically, FDA found that individuals with a history of heavy alcohol use or abuse have increased risk of liver damage from the use of acetaminophen (tylenol) and an increased risk of gastrointestinal bleeding from the use of other pain relievers (including aspirin and ibuprofin).

FDA estimates that 600 manufacturers and distributers, many of which are small businesses, will be affected by the rule and that the costs of relabeling will run up to $50 million (one-time cost). To ease industry concerns, particularly small businesses, FDA proposes to allow "stick-on labeling" for certain products during the early stages of implementation to allow industry to deplete their existing stock.

Given the widespread use of these products and the potentially unfavorable reaction by industry, we expect this rule to get a lot of press. Please call me if you have any questions.

FFcc:Franklin D. Raines
Maria Echaveste
Rahm Emanuel
Thurgood Marshall, Jr.
John Hilley
Ann Lewis
Sylvia Mathews
Bruce Reed
Gene Sperling
Chris Jennings
Elena Kagan
Don Gips
Victoria Radd
Barry Toiv

Michael Waldman
Kathy Wallman
Josh Gotbaum
Larry Haas

MEMORANDUM FOR THE DIRECTOR
THE DEPUTY DIRECTOR

From: Barbara Chow

Subject: Weekly Report, through March 20, 1998

Date: March 23, 1998

Update on Education legislation:

Education Opportunity Zones legislation. Cleared, but awaiting WH approval of transmittal timing.

Class Size Reduction legislation. Should be cleared this week.

Student Loan Interest Rate. The Senate education HEA reauthorization bill adopts the House committee proposal that sets the student interest rate at the level of the Administrations proposal, but requires taxpayers to pay a 50 basis point add-on to lenders. We understand that Senator Kennedy will indicate he is not committed to this proposal. Kennedys staff have asked for help from the Administration in explaining the effects of a sequester and pressing the Budget Committee to work toward an acceptable resolution of the interest rate problem. The Raines letter to Chairman Kasich, alerting him to the potential for a sequester if the House committee provisions on the interest rate are enacted, is being widely circulated.

Barbara Chow and Ed Deseve met with Education officials and Sallie Mae on March 24 to discuss Sallie Maes capacity to serve as lender of last resort in the event students lose access to loan capital because lenders withdraw from FFEL. Sallie Mae committed to one-third of their excess capacity (175,000 to 200,000 loans, or about $800 million in volume), which suggests they could actually do more. ED and Sallie Mae still need to work out fees and other arrangements.

LABOR

Dislocated worker program net impact evaluation. HRD and OIRA met with DOL to follow up on DOLs efforts to address OMB concerns with its evaluation design. At the last meeting, OMB asked DOL to reconsider its approach, which would not permit any measure of the impact on employment and earnings of job search assistance, compared with training. DOL reports strong resistance among State and local programs to participation in any random assignment net impact evaluation, on grounds that (1) negative results would jeopardize high and rising funding; (2) creating a "no services control group" is extremely difficult in a one-stop system; and (3) denying services to needy dislocated workers is unethical. In response to OMB concerns, DOL has reconsidered its evaluation design, and now believes it will be able to obtain limited impact data on job search assistance in the 30 evaluation sites. Next steps are to meet with the NGA, NACo, and other interest groups to enlist their support for participation of local programs. Site selection and random assignment is expected to begin in September, with 30-month impact data available in 2003.

NEC job training and reemployment work group. HRD attend two meetings of this interagency workgroup, comprised of Labor, Education, Treasury, Commerce and CEA staff. The first

meeting explored a small business tax credit for employee training; the second discussed the Progressive Policy Institutes proposal for regional industry skill alliances. Treasury staff oppose a new employer training tax credit, on grounds that they are difficult to administer and subsidize current activity; however, they do support additional outreach to increase awareness and take-up of the Hope and Lifelong Learning credits. The group generally supports a $50 million regional skill alliance initiative (to be carved out of our dislocate worker request in 1999), which would provide competitive grants of $1-2 million each to help establish the alliance; identify industry skill shortages; and deploy existing training and education resources to address employer needs (no new training money is envisioned). DOL is drafting language to authorize such regional alliances that could be incorporated into a Kennedy-sponsored bill on the H1-B employment-based immigration program.

Environmental Tobacco Smoke. DPC (Elena Kagan) convened a meeting to address the Administration's position on the regulation of environmental tobacco smoke (ETS) or secondhand smoke. Attending were DOL, HHS, EPA, DOJ, and DOD, as well as OVP, OSTP, and OMB (OIRA, HRD, and HD). Administrator Browner and possibly Dr. Satcher of CDC will be testifying at a March 31st hearing on ETS. Most of the meeting was devoted to whether to except establishments in the hospitality industry--the industry where workers are at the highest risk for illness caused by ETS. Most of the tobacco settlement bills exempt the hospitality industry from regulation on ETS. However Senator Chafee (R-RI), Chairman of the Senate Environment and Public Works Committee which has jurisdiction over ETS, remains undecided on this issue. HHS feels strongly that there should be no exemption for the hospitality industry. OSHA appears somewhat gun-shy to take on the hospitality industry and noted that there was overwhelming opposition from the industry when OSHA proposed its indoor air quality standard. OSHA proposed that the Administration advocate a delayed implementation of regulations for the hospitality industry and work with the industry to meet compliance through instituting adequate ventilation systems or non-smoking policies. It was agreed that DOL, EPA, HHS, and DPC would raise this position to their principals and try to get agreement the week of the 23rd.

International Child Labor. NSC chaired a meeting with State, DOL, NEC and OMB on developing a position on trade and international child labor. Rep. Chris Smith (R-NJ) sponsored H.R. 2678, the International Child Labor Elimination Act of 1997, which the Administration has opposed, although it shares the bill's goal. The Administration objects to unilateral sanctions on assistance and trade finance which would be applied automatically, believing these are too blunt and instrument which could undercut our efforts to eliminate child labor and risk other foreign policy objectives. Although H.R. 2678 is not on the calendar, it may move after the Easter Recess. It was agreed that the Administration should develop an alternative to the Smith bill. NEC will coordinate work with the agencies.

Employment-Based Immigration: H-1B Meeting. NEC/DPC held a decision meeting on H-1B high tech worker shortage legislation. The H-1B program admits immigrants temporarily for employment in specialty occupations. DOL, DOC, INS, Treasury, OMB, OSTP, WH OPL, and WH Legislative Affairs attended the meeting. The meeting was prompted by Senator Kennedys scheduled announcement of his proposal to address the labor shortage. Discussion centered around whether the Administration should continue its current position on the IT labor shortage (i.e., train American workers and enact needed labor reforms, prior to entertaining a cap increase) or entertain an increase to the visa cap. The consensus decision was to align the Administration with Kennedy (not to endorse) given his bill promotes a short-term cap increase and a long-term training solution. The Administration

will use the bill as a starting point for negotiating an acceptable package.

Employment-Based Immigration: H-2A Meeting. DPC/NEC held a meeting to discuss H-2A administrative reforms in light of pending guestworker legislation. The H-2A program admits immigrants temporarily to perform agricultural work. USDA, DOL, OMB, and WH OPL staff attended the meeting. Approximately two years ago, DPC convened a similar group that developed and reached agreement on needed reforms to the H-2A program. Unfortunately, the group broke down and the reforms were never implemented. This meeting confirmed those agreements and placed H-2A reform back in an active status. DPC/NEC will convene further meetings to prioritize and implement the reform proposals.

Fair Pay Meetings. NEC/DPC held two meetings to discuss Administration options for the VPs announcements on Equal Pay Day (April 3rd). The first meeting, attended by EEOC, DOL, Treasury, DOC, DOJ, CEA, WH Womens Office, and OMB, focused on a NEC/DPC draft options memo which outlined various legislative and administrative proposals. Two issues were discussed at length: capped vs. uncapped damages for violations under the Equal Pay Act (EPA) (provision in Senator Daschles Paycheck Fairness Act - - S71), and collection of wage data for enforcement and informational purposes. Agencies were not in agreement on these issues.

After receiving official agency positions, NEC/DPC convened an internal EXOP meeting to discuss the options memo. The second meeting, attended by the Office of SLOTUS, WH Womens Office, CEA, and OMB, again centered on the damage provisions of the EPA and the collection of wage data. Agreement was reached on:

*supporting uncapped compensatory and punitive damages for violations under the EPA;
*evaluating the options for addressing problems with the current racial/gender data collected by EEOC;
*endorsing a modified version of Sen. Daschles bill (dropping the specific provision on collection of wage data); and,
*announcing administrative actions along side Daschles bill on Equal Pay Day.

*

March 21, 1997

MEMORANDUM FOR CHIEFS OF STAFF

FROM:RONDA JACKSON

SUBJECT:8:30 CONFERENCE CALL

1.If there are any Schedule C or appropriate career staff who are interested in working at AmeriCorps to help prepare for the Presidents Summit for Americas Future scheduled for April 27-29 in Philadelphia, please fax those names and phone numbers to Bibb Hubbard by the close of business today at 456.6704. Please call Bibb with questions at 456.2572.

2.The next Inter-Agency working group meeting will be held on Tuesday, March 25 from 11:30-12:30 p.m. in room 476 of the OEOB. Reports regarding this matter are due to Elena Kagan at the DPC at 456.1647 on Monday, March 24. If you have any questions, please call Anne McGuire at 456.2572 or Elena at 456.5584.

3.There will be a Chiefs of Staff breakfast on Tuesday, March 25 at 8:30 a.m. in the White House mess.

4.There will be an amplification call on Monday, March 24 at 11:00 a.m. The code for the call is 4590. Reports are due at 2:00 p.m. that afternoon. Please make sure that there is specific mention of how your agencys D.C. event went and what coverage it received.

5.There will be an Inter-Agency meeting for the Presidents Summit on Americas Future next Tuesday, March 25 at 11:00 a.m. Please make sure that you have a representative at the meeting.

6.There will be a conference call at 2:00 p.m. today for agency staff that are working on the implementation of the Government Performance Review Act (GPRA). The conference call number is 456.6766 and the code is 6666. If you have any questions, please contact William Halter at 395.3842.

*

March 14, 1997

MEMORANDUM FOR CHIEFS OF STAFF

FROM:RONDA JACKSON

SUBJECT:8:30 CONFERENCE CALL

1.As discussed at the COS breakfast, Agency plans on the Gleaning Initiative and points of contact for your agency on this initiative were due on, Tuesday, March 12 to Steve Silverman by 5:00 p.m. If you have not yet turned in your plans, please do so as soon as possible to Ronda Jackson via Lotus notes or fax at 456.6704. We are still missing DOD, FEMA. and Education.

2.The name of the contact person in your agency who will be coordinating the Presidents Welfare-to-Work Initiative was due yesterday. Please send via Lotus notes or fax to Ronda at 456.6704. We are still missing DOD, USDA, DOT and USTR.

3.Any programs or initiatives on Early Learning that your agency is planning are due March 24 at 9:00 a.m. to Pauline Abernathy via fax at 456.2878. Please send the name of the contact person in your agency who will be participating in the Inter-Agency Task Force on the Early Childhood Learning Conference to Elena Kagan as soon as possible. If you have any questions, please call Elena at 456.5584 or Anne McGuire at 456.2572.

4.Please send to us a list of any major announcements, executive actions, reports, significant regulations or grants that would tie into the Administrations major themes for Presidential announcements between now and the end of April. We need these as soon as possible. Please send via Lotus Notes to Ronda or fax at 456.6704.

5.Weekly reports were due yesterday. Please make sure your reports are in on time. We are still missing HUD.

6.Blue badges for Cabinet members Richardson, Daley, Alvarez, Slater, Cohen and Cuomo are ready. It was reported yesterday that staff could pick them up. This is not so. You must make an appointment with Chuck Easley at 395.6206 to have your Cabinet member come to take a picture and pick up their ID.

April 15, 1998

MEMORANDUM TO THE GANG OF FOUR

FROM:ANN LEWIS

SUBJECT:RELIGIOUS PRESS

James Dunn is a good friend of the President who has written a number of supportive letters. In his last letter he suggested that the President meet with a small group of religious writers -- this is the follow-up.

FF

April 15, 1998

MEMORANDUM TO BRUCE REED
ELENA KAGAN
MELANNE VERVEER

FROM:ANN LEWIS

SUBJECT:CWLA

In the enclosed letter David Liederman, head of the Child Welfare League of America, makes the following requests: that the White House develop a commission to study child and youth deaths and that we fly a childrens memorial flag over the White House on April 24.

I expressed to David my own negative reaction to the establishment of a commission; that I thought a better response to Jonesboro and other such tragedies was action -- but that I would check with the people who know about the policy. Regarding the flag, he says that a number of Governors will be doing this and suggests it is a way to remember the children and their families.

FF

April 15, 1998

MEMORANDUM TO PAM CICETTI

FROM:ANN LEWIS

Sister Charlotte Kerr is a good friend of Senator Barbara Mikulski and of mine. When I saw her last week at a reception for Barbara she asked me to pass this along to Mrs. Clinton.

February 26, 1997

MEMORANDUM FOR ELENA KAGAN
DEPUTY ASSISTANT TO THE PRESIDENT
FOR DOMESTIC POLICY

FROM: CHRISTOPHER RUHM

SUBJECT: CEA Efforts to Support Our Nations Youngest Children

Recently, considerable attention has been paid to the high payoffs from investments in children during the period before birth and the first 3 years of life. As part of the Federal Governments efforts to enhance the earliest years of life, the CEA is in the process of writing a "white paper" summarizing much of the available research examining the economic returns to a variety of investments in young children. The analysis will focus on benefit-cost analyses of existing investments, where these are available. Where reliable benefit-cost analyses have not been undertaken, we will summarize information on those economic aspects of the programs which can be obtained from existing demonstration projects, assessment efforts, and data analyses. This effort will expand on a paper the CEA released in 1995 that evaluated programs for children of all ages.

The CEA analysis will focus on five important inputs into the well-being of the very young: nutrition of the mother and child, medical care and environmental factors, time with adults, early education, and the direct and indirect effects of low incomes. After discussing the ways in which each of these factors affect our youngest children, we will examine the consequences of specific programs such as food stamps, WIC, Medicaid, housing programs, environmental policies, the Family and Medical Leave Act, Head Start, and direct income support (TANF/AFDC, Child Care Tax Credit, EITC, and Child Support).

00*MEMORANDUM

TO:ELENA KAGAN

FROM:TOM FREEDMAN, MARY SMITH, TANYA MARTIN

RE:FEDERAL ENFORCEMENT OF CIVIL RIGHTS

DATE:OCTOBER 5, 1997

I. SUMMARY

In your August 22, 1997 meeting with federal civil rights agencies, you asked each agency to provide a memorandum describing its structure and legal authority, fiscal status, current initiatives and potential improvements that might be pursued as a part of the Race Initiative. Summarized below are the memoranda received from EEOC, Education, HHS, Justice, SBA, and the US Commission on Civil Rights. With few exceptions, the agencies do not discuss potential improvements, but focus solely on on-going initiatives. The following agencies have not submitted the requested memoranda: HUD, Interior, USDA and Labor. We are contacting those agencies to ask them to submit memoranda.

This memorandum also includes a revised proposed timeline for handling this issue with all of the participaing agencies. However, we recommend focusing our initial efforts on the EEOC and U.S. Commission for Civil Rights given their broad responsibility for civil rights enforcement and the recent attention paid to backlog and productivity issues within those agencies.

Below are summaries of the key points in the agencies memoranda.

II.EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The EEOC was created in 1964 to investigate employment discrimination charges relating to race, color, religion, sex, or national origin. Since that time, the EEOC has also become responsible for administering laws prohibiting discrimination on the basis of age, gender, and disability. As a result of its reinvented administrative enforcement program, the EEOC managed to trim its claim backlog by 30%-- to 79,448 charges from an all-time high of 111,345 -- by the end of fiscal year 1996. As of the third quarter of 1997, the EEOC was continuing to resolve charges at a faster pace than they were being filed. The agency also tracks the amount of monetary benefits obtained for discrimination victims -- which totaled over $100 million for fiscal year 1997.

The number of FTEs has fallen from a high of 3,390 in 1980 to 2,680 today. This decline has occurred at the same time that enforcement obligations have substantially expanded to cover ADA and sexual harassment claims. Charges under the ADA, enacted in 1990, account for one quarter of the EEOCs caseload. Overall, the number of filings have increased from 62, 135 in FY 1990 to a projected 80,00 in FY 1997. The EEOC has requested a budget of $246 million for FY 1998, an increase of $6 million (2.65%) over the current level.

III.U.S. COMMISSION ON CIVIL RIGHTS (USCCR)

The U.S. Commission on Civil Rights is an independent, bipartisan agency first established by Congress in 1957 and reestablished in 1983. It is directed to investigate complaints, study and collect information, appraise federal laws and policies, serve as a national clearinghouse, submit reports and finding to the President and issue public service announcements. USCCR recently released a study, Funding Federal Civil Rights Enforcement, that found a gross disparity between agency resources and agency substantive responsibility, and urged action to increase resources to provide full and effective enforcement of anti-discrimination laws.

The workforce of the USCCR has decreased from over three hundred employees in the early 1980s to its current level of under one hundred. In its FY 1998 budget, the Commission requested an increase of $1.3 million -- but anticipates that, for the third consecutive year, it will be funded at $8.7 million. Note: In July 1997, GAO reported that USCCR lacks basic management and financial controls: key documents are lost or nonexistent; accurate cost data on programs or project is unavailable; and reports take so long to complete that published data is often outdated or inaccurate.

IV.JUSTICE -- CIVIL RIGHTS DIVISION (CRD)

The mission of the Civil Rights Division (CRD) of the Department of Justice is to serve as the chief civil rights enforcement agency of the federal government. Unless otherwise specified by law, the conduct of government litigation is reserved to the Department of Justice. CRD enforces a broad range of civil and criminal statutes and presidential executive orders and has certain coordination and public education responsibilities. CRDs general goals focus on police and official criminal misconduct; hate crimes; voting rights; employment, housing, credit and education discrimination; rights of the institutionalized; anti-discrimination in public services, programs and activities; and immigration-related unfair employment practices.

The Divisions FY 1997 budget is $62 million -- that funds a staff of 560 persons, including 250 attorneys. For the past three years, funding for CRD has remained flat. For FY 1998, CRD has requested a budget of $67.4 million, an increase of 8% over the FY 1997 level, to enhance prosecution of hate crimes and police misconduct, as well as for enforcement of the Americans with Disabilities Act. In order to maintain optimal vigorous enforcement, the Division estimates that a budgetary increase of approximately 20% would be required.

V.EDUCATION --OFFICE FOR CIVIL RIGHTS (ED-OCR)

ED-OCR enforces civil rights laws that prohibit discrimination on the basis of race, color, national origin, sex, disability and age among recipients of Federal education funds. ED.1Civil rights enforcement for programs and services provided by schools of medicine, dentistry, nursing and other health-related schools remains with HHS.1 The majority of ED-OCR employees (primarily attorneys and investigators) are organized into four enforcement divisions made up of 12 regional offices that are responsible for resolving complaints and conducting compliance reviews. Unlike complaints, compliance reviews target resources on compliance problems that appear particularly acute or national in scope -- e.g., tracking or targeting minority/disabled students away from honors/advanced classes.

ED-OCR has reached the limit of efficiencies and improvement to be gained from organizational and procedural reforms, and may well be losing ground as staff losses take its toll. While
ED-OCR loses staff -- its most vital resource, as civil right enforcement relies in large

measure on human presence and investigation -- its workload continues to grow. The number of FTEs has decreased from 820 to 724. At that same time the caseload has grown from 3,384 complaints filed and 32 compliance review initiated to 4,828 complaints filed and 146 compliance review initiated. For 1998, ED-OCR has requested a budget of $61.5 million, an increase of $6.5 million over 1997.

ED-OCRs recommendations for improved civil rights enforcement include presidential directives to evaluate nondiscrimination assurances by federal contractors; enforcement coordination on designated administration priorities, designing a cross-cutting decision-making process, sharing best practices and case targeting criteria, and improved public outreach -- such as a guide to federal civil rights agencies and a toll-free referral number.

VI.HEALTH & HUMAN SERVICES -- OFFICE FOR CIVIL RIGHTS (HHS-OCR)

HHS-OCR ensures that people have access to, and the opportunity to participate in and receive services from, all HHS programs without facing unlawful discrimination. Approximately 230,000 230,000 group and institutional providers are subject to the nondiscrimination laws HHS-OCR enforces. Major compliance actions and initiatives include: implementation of adoption non-discrimination requirements; reviews of minorities access to hospital inpatient and emergency room services (Title VI); racial and health status discrimination in the health care industry; the effect of managed care on access to services for minorities and individuals with disabilities; discrimination against persons with HIV/AIDS; ensuring that welfare reform programs are implemented in a non-discriminatory manner; and access to services for limited English proficient individuals.

The FY 1998 budget request for HHS-OCR is $20.5 million, a $1 million (5%) increase over the FY 1997 budget authority of $19.5 million. This $1 million increase will be used to help implement initiatives that address discriminatory issues involving immigration, inter-ethnic adoption, managed care, Medicaid waivers, nursing home care, home health care and welfare reform.

VII.U.S. SMALL BUSINESS ADMINISTRATION (SBA)

Historically, the Department of Justice permitted SBA to interpret the guaranty on SBA loans as financial assistance covered by Title VI. However, officials at Justice recently made a preliminary determination that exempts most SBA recipients from Title VI jurisdiction because Title V explicitly excludes "guarantees" in its definition of federal financial assistance. With the exception of three programs e.g., SBA-funded lending partners, all of SBAs financial assistance is rendered through guaranty programs.

SBAs civil rights office receives 30-40 external complaints annually, There is no backlog of pending cases. Complaints are transferred, when possible. Other agencies with larger enforcement mechanisms can process cases more cost-effectively. Also, SBAs only sanction is to withdraw its financial or guaranty assistance, it cannot provide any direct relief or remedy to the claimant. Once SBA assistance is withdrawn (or repaid), SBA loses jurisdiction over the matter. Those cases that are retained are investigated, and voluntary compliance negotiated, if possible, where discrimination has been found.

SBA has drafted a proposed "EO Guide for Small Businesses" to cover a variety of civil rights requirements. SBA suggests making the guide available to small businesses that are

not SBA recipients -- but would require funding to print sufficient copies.

VIII.PROPOSED FOLLOW-UP

*Follow-up contacts with agencies that submitted memoranda to request any specific ideas for improvements; contact agencies that have not yet submitted memoranda.

*Follow-Up Meetings -- October:
1.Agencies -- discuss preliminary recommendations for improvements

2.Backlog/Productitivy Issues --- in-depth meetings to request/suggest further proposals to remedy on-going problems in specific agencies e.g., EEOC and USCCR.

3.Outreach -- meet with groups monitoring civil rights enforcement for suggestions of possible improvements, such as:
*Citizens Commission on Civil Rights
*ACLU
*American Council on Education
*NAACP
*National Urban League
*National Council of La Raza
*National Asian-Pacific American Legal Consortium
*Urban Institute

4.Coordination Issues -- possible separate discussion with Justice on coordination of civil rights effort across the government.

*Feedback to agencies on improvement proposals in mid-late October.

*Progress meetings on implementation of improvement proposals/ideas in Oct-Dec.

MEMORANDUM

TO:BRUCE REED, ELENA KAGAN

FROM:TOM FREEDMAN, MARY L. SMITH

RE:TELEPHONE CRAMMING

DATE:MAY 5, 1998

SUMMARY

"Cramming" is the practice of billing local telephone customers for products or services they did not order.

I.BACKGROUND

*In April, Chairman Kennard told a congressional hearing that "cramming," the practice of billing local telephone customers for products or services they did not order, is likely to become the next big consumer issue in telecommunications. Unlike "slammers," who switch a consumers long-distance service without permission, "crammers" often arent even offering phone service, but their charges appear on phone bills anyway.

*By registering as telephone "common carriers," crammers can skirt most oversight by the Federal Trade Commission. Oversight then must be provided by the FCC, which deregulated billing and collection services by local phone companies in the 1980s and is being accused by lawmakers of lax enforcement of slamming and cramming.

*One consumer was charged after his 12-year-old daughter called a toll-free astrology line. Apparently, the company asked her to state her name, recorded it, and used it as "evidence" that the family ordered a voice mail service.

II.RECENT ACTIONS

*On April 23, the Senate Governmental Affairs Permanent Subcommittee on Investigations held a hearing on "slamming" -- the practice of witching a telephone customers long-distance service without the customers consent.

*At the Senate hearing, Senator Dick Durbin cited a new quarterly report from the National Fraud Information Center which found that "cramming" and "slamming" were the number one and number two sources of complaints, respectively, to the Center. The Center is a project of the National Consumers League (NCL). Slamming was the top consumer complaint to the Illinois attorney generals office in 1995, and the second most common complaint in 1996 and 1997.

*Senators Collins (R-ME) and Durbin (D-IL) have introduced a bill that would make intentional, repeated slamming a criminal offense. The bill allows the FCC to restrict practices companies may use to sign up unsuspecting customers for their services. The legislation also allow slamming victims to bypass a slammer and pay phone charges to their original carrier at that carriers rate. In addition, the bill increases civil penalties for slamming, imposes criminal penalties for the first time and requires all

telecommunications carriers to provide a summary of the number of subscriber slamming complaints against the carrier.

*In April, the General Accounting Office (GAO) issued a report that concluded: "We have found nothing in FCC practices that would effectively curtail unscrupulous individuals from entering the telecommunications industry."

*In April, the FCC filed its first cramming complaint against three Los Angeles-based companies and their officers under a recent statute that protects consumers from the 900-number pay-per-call industry.

*In March, the Illinois attorney general filed suit against eight alleged crammers.

*On April 27, FCC Chairman William Kennard announced that he was working with the industry to develop a voluntary code of best practices aimed at eliminating "cramming."

III.ACTIONS IN THE STATES

*Illinois is considering legislation to give consumers added protection against telephone "slamming" or "cramming." The bill bans the use of sweepstakes boxes as a way to switch or add phone service. It also mandates that consumers and businesses be notified within six days after a new phone service has been added or whether the service has been switched. There would also be a toll-free number which consumers could call to cancel or switch service.

November 7, 1997

Health Division
Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Route to: Josh Gotbaum

Through: Barry Clendenin
Richard Turman

Subject: Proposed Changes to Civil Rights Crosscut for Directors Review

From: Melany NakagiriACTION:
Decision
Signature
Comment
As requested Information X

Phone: 202/395-4925
Fax: 202/395-3910
Room: NEOB #7025Needed By:
Date: / /
Time: : am/pm

Copies to:
HD Chron , HPS Chron

Post this Document on HD Intranet?

Per our conversation earlier this afternoon, attached is the route slip and comments we are submitting to Susan Carr (the coordinator of the Directors Review Civil Rights Crosscut) suggesting that we move HHS Office for Civil Rights from the Overview and Presidential Initiatives Section (funding decisions) into the Other Enforcement Agencies Section of the paper (informational only). Susan will check with Michael Deich to see if he concurs with our decision.

As we mentioned earlier, Elena Kagan at DPC has been meeting with key civil rights enforcment agencies, including HHS, to ask what additional resources they would require to improve their enforcement activities. We have attached a memo from HHS Office for Civil Rights in response to Elenas inquiry. Elena may seek additional resources for the key civil rights enforcement agencies as a Presidential Initiative bid and may want to include additional resources for HHS Office for Civil Rights.

Attachments

September 8, 1997

MEMORANDUM FOR THE PRESIDENT

FROM:JIM DORSKIND

SUBJECT:WARD CONNERLY CORRESPONDENCE

The attached draft, which replies to two letters from Mr. Connerly, has been cleared by Sylvia Mathews, after seeking comment from, among others, Ann Lewis, Maria Echaveste, Elena Kagan, Cheryl Mills, and Minyon Moore.

Sylvia thought it best not to engage Mr. Connerly directly, but rather to let the Advisory Board address the merits of his concerns. Accordingly, the letter thanks Mr. Connerly for sharing his concerns and suggests that the Board will give them careful consideration.

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Sally Katzen

SUBJECT:Heads-up on HCFAs CLIA User Fee Final Rule

We are about to conclude review of a Health Care Financing Administration (HCFA) final rule that revises, for the first time since 1992, fees that laboratories pay for certification under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) (for example, the fees for smaller labs, including physician office labs, will increase $50 to $300 per lab, and for larger labs the fees will increase $1,000 to almost $7,000 per lab). Although this is a final rule, there will be a 60-day public comment period following publication, and the rule will not go into effect until January 1, 1998, after all the comments are received and any necessary changes made. The new fees are necessary to prevent CLIA program funding deficits that would otherwise reach $37 million by FY 2000. In addition, the revised fee schedule will result in more equitable funding of the program by requiring the larger labs, which perform more complex and a greater number of tests, to pay a larger percentage of the administrative costs.

While the new fees will come as no surprise to the laboratories, they will not be popular, particularly among the smaller labs. On the other hand, we have an Administration policy of promoting user fees, where appropriate, and the CLIA certification process provides value added to the industry and the public by improving the reliability and accuracy of testing. Please call if you have any questions.

cc:Maria Echaveste
Rahm Emanuel
Thurgood Marshall, Jr.
John Hilley
Ann Lewis
Sylvia Mathews
Bruce Reed
Chris Jennings
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Josh Gotbaum
Larry Haas

00*MEMORANDUM FOR ELENA KAGAN AND SALLY KATZEN

FROM:JULIE FERNANDES AND CECILIA ROUSE

SUBJECT:ASSESSMENT OF H-2A "IDEAS INVENTORY"

DATE:September 11, 1998

Attached is our assessment of the positions of USDA and DOL regarding the proposals put forth in DOLs "ideas inventory." The shaded boxes indicate important proposals for which there is agency disagreement and thus should be discussed at todays meeting. We have also attached a list of the current program requirements that includes definitions of the most important terms.

In order to better understand the agencies positions, it is useful to understand the underlying policy tensions. Growers see themselves as having a choice between three categories of workers: legal U.S. workers, illegal workers, and H-2A workers. Which category they draw from is almost exclusively determined by total cost. For example, if the total cost of hiring a U.S. worker (including wages, taxes, housing, etc.) is higher than the total cost of hiring an H-2A worker, the grower will hire the H-2A worker. Therefore, the total compensation offered by the H-2A program becomes the effective total compensation ceiling for U.S. workers. In addition, the presence of large numbers of illegal farmworkers distorts the labor market such that the growers response to an inability to find sufficient legal U.S. workers is to hire illegal workers, rather than increase wages or improve working conditions. Thus, though we may want to require fair wages and working conditions in the H-2A program, if the cost of using the program is too high, the growers will hire undocumented workers.

USDAs goal is to provide a steady, reliable source of farmworkers for U.S. growers. USDA believes that the domestic labor force can never completely satisfy the labor needs of agriculture, particularly during peak times, and therefore there will always be a need for temporary foreign agricultural workers. In a world in which the INS is increasingly cracking down on the employment of undocumented workers, the USDA (and the growers) would prefer that the foreign workers that they employ be authorized to work. Their goal is thus to set a wage (or total compensation) floor that is low enough that growers will readily use the H-2A program (rather than hire undocumented workers), but that is high enough to continue to attract existing U.S. farmworkers. However, they believe that an H-2A program that would set the wage (or total compensation) floor high enough to attract many more U.S. workers would drive growers into the illegal labor market.

DOL is concerned that a low wage (or total compensation) floor becomes a low ceiling for U.S. workers and therefore hurts these already impoverished workers. They are not as convinced that the domestic labor force could never satisfy growers needs at a reasonable wage; rather, they argue that agricultural wages have been kept artificially low because of the large presence of undocumented workers. Labor believes that if agricultural wages were allowed to rise, additional U.S. workers would be willing to work in agriculture. They also assert that we can do a better job of facilitating matches between workers and employers that would give domestic farm workers more stable employment and growers access to a steady supply of workers.

As you read through the following list of proposals, you will notice that in many areas (e.g., wages, housing, transportation) the issue is whether the proposal increases the total cost to the employer or shifts those costs to the government or the farmworker. USDA generally opposes reforms that would increase grower costs. The Labor Department generally opposes reforms that transfer costs to the government or the farmworker, and favors reforms that aim at improving labor conditions or wages for U.S. and foreign farmworkers. Because the focus is on total costs (with wages and housing being the most significant areas of concern) we cannot decide on individual reform components in isolation.

FFRequirements (and Definitions) under the Current H-2A Program

*Recruitment: The agricultural employer must engage in independent positive (i.e., active) recruitment of U.S. workers, including newspaper and radio advertising in areas of expected labor supply. Such recruitment must be at least equivalent to that conducted by non-H-2A agricultural employers to secure U.S. workers.

*Wages: Employers must pay H-2A workers the "adverse effect wage rate" (AEWR), the applicable prevailing wage rate, or the statutory minimum wage rate, whichever is higher. The AEWRs are the minimum wage rates which the DOL has determined must be offered and paid to U.S. and H-2A workers, and they are established for each state. The region- or state-wide AEWR for all agricultural employment for which H-2A certification is being sought, is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) for the region as published annually by the USDA.1Some 1998 AEWRs: California, $6.87; Florida, $6.77; Georgia, $6.30; Hawaii, $8.83; Kentucky, $5.92; and Ohio, $7.18.1 The AEWRs are designed to prevent the employment of these nonimmigrant alien workers from adversely affecting the wages of similarly employed U.S. agricultural workers.

*Housing: The employer must provide free and approved housing to all workers, both foreign and domestic, who are not able to return to their residences the same day.

*Meals: The employer must provide either three meals a day to each worker or furnish free and convenient cooking/kitchen facilities. If meals are provided, then the employer may charge each worker a certain amount per day for these meals.

*Transportation: The employer is responsible for the following types of transportation for workers: 1) After a worker has completed fifty percent of the work contract period, the employer must reimburse the worker for the cost of transportation and subsistence from the place of recruitment to the place of work; 2) The employer must provide free transportation between any required housing site and the work site for any worker who is eligible for such housing; 3) Upon completion of the work contract, the employer must pay return transportation to the workers prior residence or transportation to the next job.

*Workers Compensation Insurance: The employer must provide Workers Compensation or equivalent insurance for all workers, both foreign and domestic.

*Three-fourths Guarantee: The employer must guarantee to offer each worker employment for at least three-fourths of the workdays in the work contract and any extensions. In applying this guarantee and determining any additional wages due, the following facts must be established: 1) The beginning and ending dates of employment; 2) The number of workdays between the established beginning and ending dates of the guarantee period; and 3)The hours of worktime for the guarantee. The guarantee is then established by computing seventy-five percent of the established total hours of work time in the contract period. Note that the employer may not count any hours offered on such days in which the worker refused or failed

to work.

*Fifty Percent Rule: The employer must employ any qualified U.S. worker who applies for an available job until fifty percent of the contract period has elapsed.

*Tools and Supplies: The employer must furnish at no cost to the worker all necessary tools and supplies, unless it is common practice for the worker to provide certain items.

*Labor Dispute: The employer must ensure that the available job for which the employer is requesting H-2A certification is not vacant due to a strike or lockout.

*Certification Fee: A fee will be charged to an employer granted temporary alien agricultural labor certification. The fee is $100, plus $10 for each available job certified, up to a maximum fee of $1,000 for each certification granted.

*Farm Labor Contractors (Crewleaders): A farm labor contractor is an organization or entity that either supervises, recruits, transports, houses, or solicits farm labor other than the owner of the work site. Bona fide registered farm labor contractors may be eligible to apply for and receive H-2A certification, although they generally deal with domestic laborers. Farm labor contractors would be required, as employers, to provide all the minimum benefits specified by the H-2A regulations, including the three-fourths guarantee and the fifty percent rule.

Reform Proposal
WH
USDA
DOL

Worker Recruitment

Require "positive recruitment" of U.S. farmworkers by growers only in areas where DOL finds that there are a significant number of qualified workers willing to make themselves available for employment at the time and place needed.
Y
okay
DOL implemented this administrative change.

Count as "available" for employment only those U.S. workers who are identified by name, address, and SSN
Y
okay
DOL implemented this administrative change.

Post employers H-2A job orders on Americas job bank
Y
USDA would not oppose.
DOL proposal; requires job order simplification.

Strengthen the MSPA program of registering farm labor contractors to require bonding; allow H-2A employers to require bonding as a condition of employing a farm labor contractor.
Y
DOL and USDA agree to support this.

Allow H-2A growers to include a bonding requirement for FLCs they employ.
Y
DOL and USDA agree to support this (essentially the same as the previous proposal).

Eliminate the requirement that farm labor contractors must be used by H-2A growers if the use is the prevailing practice in the area.
N
USDA generally wants more flexibility for growers, however they are unlikely to strongly oppose DOLs opposition.
DOL strongly opposes because the goal is for the H-2A program to track prevailing practices in areas of labor protection.

Provide an exception from current program requirement to use FLCs for any FLC who has a demonstrated history of employing illegal workers or other serious labor abuses.
Y
USDA agrees.
DOL regulatory initiative.

Require use of FLCs as recruitment mechanism whenever use is "common" or "normal" (not prevailing) in an area.
N
USDA will likely oppose because grower regulations should involve the highest standard.
DOL generally supports prevailing practice. This is not likely an issue about which DOL will take a strong position.

Require payment of competitive rates for FLC services.

Employment Eligibility Verification

DOL work with Congress and other affected agencies to develop a reliable means of verifying individuals authorization to work as they are hired.
Y
USDA would likely agree because of their goal to decrease growers dependence on undocumented workers as long as growers had increased access to H-2A workers.

DOL agrees.

Create a national employment eligibility verification system so that employers can check on the legal status of domestic workers who are hired during the H-2A process.
Y
INS currently has a pilot program to do just that which we support and has encouraged growers to participate in the pilot.

Require growers using the H-2A program to use INS pilot employment eligibility verification system.
Y
USDA would likely agree as part of an overall package.
DOL would likely agree.

Growers only responsible for recruiting and hiring farm workers in the U.S. through the DOL-administered Registries (and contacting former employees); Registries are responsible -- and have only 14 days -- to locate, contact, verify employment eligibility, and refer U.S. workers to growers seeking foreign farm workers; failure to refer timely or to refer sufficient workers allows direct application for workers to Secy of State.
N
USDA likely supports this provision because it reduces the burden on employers.
DOL hates this provision because it leaves the burden of recruitment entirely to the Federal government.

Secy of State authorizes additional H-2A workers if Registry-referred workers fail to report; are "not ready, willing, able, or qualified" to do the work; or, abandon or are terminated from employment.
N
USDA likely supports this provision because it provides growers with quick access to H-2A workers if they have cannot recruit U.S. workers through the registry.
DOL would likely hate this provision because, again, it centralizes all recruitment through the Registry and absolves growers of any additional recruitment before applying for H-2A workers.

Pilot test new Registry of available U.S. farm workers; growers share responsibility for positive recruitment of U.S. farm workers.
Y
USDA would likely support a pilot of a mechanism to facilitate the hiring of U.S. workers for growers.
DOL supports a pilot of such a registry (as long as growers continue to share part of the responsibility for recruitment).

Require employers "positive recruitment" to include: providing an 800 contact telephone number and accepting "collect" calls from worker job applicants; contacting other potential employers to link a series of job opportunities; and developing a long-term recruitment plan to reduce dependence on foreign guestworkers.
N
USDA would likely oppose such positive recruitment measures because it increases the costs to employers.
DOL would likely support these measures, but are unlikely to require that they be part of a final package.

H-2A workers covered by the MSPA, but disclosure only required at time of visa issuance.
N
USDA likely supports this measure.
DOL supports having H-2A workers covered by MSPA but likely believes that the workers should be informed of their rights when recruited rather than at the time of visa issuance (which could be after the worker has incurred significant costs).

DOL rulemaking regarding possible consolidation of agricultural job orders in the Interstate Clearance System.
Y
USDA agrees.
DOL agrees

Productivity Standards

H-2A employers allowed to set minimum production standards after a "3-day break-in period."
?

Employer-established productivity standards and quality requirements should be permitted only if they are the prevailing practice among non-H-2A employers, are bona fide, objective, justifiable, fully disclosed and implemented on a fair and equitable basis.

USDA generally opposes any additional regulations or restrictions on growers and would therefore likely oppose this idea.
DOL would likely support this idea as it is aimed at protecting U.S. workers.

Experience (and related) Requirements

H-2A employers should be allowed to specify "agricultural experience" as a condition for hiring U.S. farm workers.

USDA would likely support because it ultimately gives the growers more flexibility in who they hire.

DOL would likely oppose arguing that it gives growers too much discretion for jobs that generally do not require substantial experience.

Disallow job qualifications, experience and reference requirements unless they are the prevailing practice among non-H-2A employers and are otherwise job-related and bona fide.

USDA would likely oppose for the same reasons that they would support specifying "agricultural experience."
DOL would likely support for the same reasons they would oppose specifying "agricultural experience."

Allow H-2A workers to move from one certified H-2A employer to another, with the final employer responsible for return transportation costs.
Y
This is current law.
According to DOL, this is current law.

Prohibit H-2A job orders that consolidate seasons and different crops.

USDA would likely oppose because consolidation would potentially decrease costs to growers by allowing them to group together and reduce the number of individual applications.
DOL would likely support because it protects U.S. farm workers by requiring growers to submit individual applications.

Prohibit use of the H-2A program in designated labor surplus areas.
N
USDA may not disagree in theory but would likely be concerned that the designation of a labor surplus areas would not necessarily reflect the short-term labor needs of particular growers with particular crops.
DOL would support this in theory, however it would likely have concerns about how areas are designated.

Wages and Costs

Revise H-2A regulations regarding the 3/4 guarantee to remove incentives to growers to overestimate the contract period.
Y
Agrees.
Agrees.

Consider applying the 3/4 guarantee incrementally during the contract period.
N
Oppose.
Opposes.

Eliminate the 3/4 guarantee

N
Doesnt like the 3/4 guarantee b/c wants growers not to have to pay workers if their crop is disappointing (less work in fact than they anticipated). However, they understand that this is a more generous rule than under the MSPA (the statute that governs non-H2A farmworkers) and thus agrees that this reform is no good.
Opposes the elimination of the 3/4 guarantee (b/c protects farmworkers by ensuring that the work that they are promised in the contract is provided, thus allowing them to make fairer judgments when choosing between jobs). However, not sure that 3/4 is a magic number.

Modify the 3/4 guarantee to allow H-2A growers to limit the contract period to "duration of crop activity" and terminate the contract period offered due to changes in market conditions.
N
Agree that effectively eliminates the 3/4 guarantee.
Agree that effectively eliminates the 3/4 guarantee.

Eliminate AEWR and instead require payment of 105% of prevailing wage for crop in the area.

Yes. They are in favor of eliminating the AEWR b/c it provides a wage higher than the prevailing wage for some H2A workers. USDA does not agree that the prevailing wage is depressed by the presence of illegals in the workforce, but does not object to a small sweetener to the prevailing wage to replace the AEWR (like the 105% proposed by Wyden)
No. The AEWR is calculated to compensate for the presence of illegals that depress the prevailing wage rate. It calculates the required wage as the state-wide average of all non-managerial farmworkers, thus dispersing the impact of illegals. If the wage is calculated based on 105% of prevailing, it will still be a depressed wage in those industries or areas where the presence of illegals is large. However, DOL agrees that the AEWR is a bit of an odd way to calculate, and that there is no magic to it.

They want some way to calculate the wage that compensates both for the presence of illegals (wage depression) and for the fact that growers do not pay H2A workers FICA/FUDA (approx. 8%). AEWR may not be magic, but 105% of prevailing does not even get the wage = to that of non-H2A workers.

Eliminate AEWR and require payment of the prevailing wage for the crop in the area.

USDA likes this option. They want the H2A wages to be the same as the prevailing wage in the crop and area. They dispute that wages are depressed b/c of the presence of illegals. In addition, they maintain that if the program requires a higher wage than what is being paid locally, the growers will not use the H2A program and will access the undocumented workforce.
Labor hates this idea, for the reasons above. The wage paid to H2A workers should be a fair wage -- defined as one that compensates for the wage depression caused by the presence of illegals. Labor believes that growers should have to go to the U.S. market first, offer a fair wage and good conditions, and if not successful, access an H2A market that compels them to pay a fair wage under good conditions.

Only require payment of federal minimum wage (not AEWR) as a "training wage" for

inexperienced workers during a training period (in the K).

Another way to undercut the AEWR that USDA likes.
Another way to undercut the AEWR that Labor hates.

Require increases in piece rates to reflect increases in the AEWR.
Y
USDA would likely not like. This would raise the total wage cost.
Labor would like. Most farmworkers are paid by the piece, so a conversion of the piece rate to the AEWR is consistent with their desire to keep or strengthen the AEWR.

Prohibit H-2A employers from increasing productivity requirements to offset increases in the AEWR
Y
USDA would likely not like b/c this would raise the total wage cost and require farmers to set productivity levels early in the season and not allow conditions to change expectations.
Labor would like this. It discourages the farmers from changing productivity levels in ways designed to keep the wage low.

Change AEWR methodology to set at 90th percentile of local market wage or 80th percentile of regional market wage.

They are generally opposed to any change that would increase the overall wage cost.
However, they may be open to setting the wage at some modest percentage higher than the local prevailing wage. Thus, though these numbers are high, there may be room to work here.
Labor is generally in favor of calculations that result in a higher wage, though they see no magic in the AEWR. The conflict with USDA would be over how high to set the percentile.

Apply AEWR to sheepherders.
?
Opposed. Sheepherders are different.
They want more for the sheepherders.

Disallow any wage deductions by H-2A employers that reduce earnings below the highest required wage.

USDA would favor changes along these lines. They want to consider total cost of employing an H2A worker and compare that to total cost of hiring a non-H2A worker (legal or illegal).
Oppose. Though Labor is open to discussions that take into account total cost to growers to use the program, they do not want the farmworker wages to be too low.

Prohibit H-2A employers from fixing uniform wage rates across large areas -- states or regions.
?

Reforms to the 50% rule as recommended by OIG.
Y
USDA agrees.
Labor agrees.

Modify existing 50% rule to only require hiring of local workers (that reside within commuting distance) but extend this obligation to the entire period of the contract.
N
Oppose. Blocks out of state U.S. crews from work.
Oppose. same reason.

Eliminate 50% rule except for workers referred through the registries unless there are other substantially similar job opportunities in the area.
Y
Would agree to apply the 50% rule only where equivalent jobs are not available in the area. This is currently the rule where the association in the employer. Also agrees that the 50% rule is good for U.S. workers.
Agrees.

H-2A workers should be covered under the State Unemployment Insurance System
Y
This could increase grower cost, but unlikely that they would oppose this.
Likely favor, though there is a question of whether this would only apply where U.S. farmworkers are covered under state law.

H-2A employers expressly authorized to pay hourly wage, piece rate, task rate, or "other incentive payment method, including a group rate," irrespective of the prevailing payment method.
N
USDA might like this b/c it gives flexibility to growers.
Labor will hate this, b/c they have asserted that the task rate is too variable to be susceptible to a prevailing wage determination. There are also likely problems with the "group rate."

H-2A employers are in compliance with the wage requirements if "the average of the hourly earnings of the workers, taken as a group," equals the required hourly wage.
N
USDA may like this, but fairness concerns weigh against it.
Labor will not like this b/c it allow the growers to pay some workers less than the required hourly wage.

Prohibit payment by "task rate" or other variable rate method of payment.
Y
May not like b/c like grower choice.
Would likely favor. Have spoken out against the task rate.

Protect earnings level when employers convert from a piece rate to an hourly rate.
Y
USDA likely would not oppose, b/c it only holds the rate the same.
Protecting wage rates would seem a good thing to Labor.

For employers converting from hourly rate to piece rate, set piece rate to assure earnings at least 30% above AEWR.

This is another way to sweeten the wage that USDA will likely oppose.
This is another way to sweeten the wage that DOL will like, but it is -- in a way -- difficult to defend (unless you assume that growers are setting piece rates at levels well

below the AEWR conversion).

H-2A workers apply for transportation reimbursement to the government (rather than the employer).

This is a shift of cost from the grower to the government. USDA will like this.
Labor does not like, for the same reason. However, as long as the cost to the grower remains the same for a U.S. worker (working under fair wages and good conditions) and an H2A worker, DOL will not fight if some overall costs are picked up by the government (as long as the cost is not coming out of their budget!).

H-2A workers may apply to the employer for transportation reimbursement, but employer not obligated to provide such reimbursement.
N
USDA may like this, b/c lowers cost for the grower. However, growers are used to paying transportation costs in this program. This cost is just part of the overall cost, and thus would go into the overall cost calculation (which, according to USDA, determines whether a grower will participate or hire illegals).
DOL will oppose. They want H2A workers to have transportation paid for. However, as noted, they may be amenable to a system that has the government assume some of this cost.

H-2A workers not eligible for transportation reimbursement if distance traveled is less than 100 miles.
?
This is part of the cost calculation. USDA may think that this is a small step in the right direction.
Labor would likely oppose as eroding the transportation guarantee. Not likely a big issue for either side.

Pilot program for transportation advances for U.S. farmworkers.
Y
USDA would likely be open to this.
DOL would also likely be open to this (a small pilot).

Require H-2A employers to provide travel advances to U.S. farmworkers.

Charge fee = FICA/FUDA taxes to finance certain program activities (housing; admin. costs; transportation)
Y
USDA is in favor. The question is how high is the fee.
Labor is not opposed to a fee that would fund certain activities. The question is how high is the fee (more than FICA/FUDA?)

Impose user fees that reflect the cost of the H-2A program.

First, we are not sure how to calculate this cost (particularly, the cost of housing).
Even if we could, USDA would be concerned that it would be too high (and thus cost prohibitive for growers to use). They are open, though, to a modest user fee.
As noted, Labor is also open to a user fee. However, it is not clear that they would want

to push for a fee that was a total reimbursement (making it cost neutral for the government). That would surely make it too expensive for growers to use.

Allow H-2A workers to opt out of the employer-provided meal plans.

Unclear how they would react to this.
Labor would likely think this is o.k., b/c under the current system the cost of meals is deducted from the farmworker wages. However, there is some concern about making sure that workers dont opt out and then not have adequate food for the harvest.

Require first time H-2A employers to maintain wages and working conditions previously offered.

USDA would oppose this as restricting grower flexibility.
Labor would likely favor, but it could be hard to administer.

Housing

Apply local or state (rather than federal) housing standards to housing provided by H-2A growers.

USDA would likely favor (local laws could give more flexibility) , but it is just a race to the bottom. They could be convinced that federal standards should apply in a federal program.
Labor would likely oppose. Would want federal standards to apply in this federal program. Also, would assume that federal standards are stricter.

H-2A employers permitted to charge workers up to fair market value for the cost of maintenance and utilities provided.

USDA likes as a way to reduce cost.
Labor would consider shifting some maintenance or modest utilities fees to the worker.

H-2A employers can charge workers reasonable amounts (up to $25 per week) for the cost of maintenance, utilities, repair and clean-up of housing provided.

Same
Same

H-2A employers can charge a security deposit (up to $50) to protect against "gross negligence or willful destruction of property."

USDA likes as a way to share some costs with farmworkers and make them responsible for taking care of grower-provided housing.

Labor in general would not like, b/c unnecessary under the current law (which allows for worker to pay for damage in some circumstances).

H-2A employers may require reimbursement (wage deduction) from responsible worker of reasonable cost of repairing damage to housing provided that is "not the result of normal wear and tear."
Y
According to DOL and USDA, this is current law.

Reduced user fee to H-2A growers providing housing.

This is just another way to think about total cost to growers. If we have a user fee, we have to think about what we want it to pay for.

H-2A employers may provide a "minimum housing allowance" in lieu of housing, unless (no earlier than 8 years after enactment) a state Governor certifies that there is not adequate farm worker housing available.

USDA would like as a cheaper way to meet the housing requirement. However, they may be open to the argument that this could result in stronly adverse impacts on local communities (migrant workers sleeping in parks, etc.)
Labor hates this. First, there is a shortage of affordable housing generally (which is particularly acute in rural areas). Second, it is unreasonable to expect a migrant worker from another country to be able to rent any housing on his own with a federal voucher.

H-2A employers may provide a "minimum housing allowance" in lieu of housing, but must also arrange for decent housing at the allowance level.

This option is really no different from the current system, except that the method of payment is a voucher, rather than directly paid for by the grower. Thus, to the extent that USDA does not like the current system (b/c the cost associated with providing housing is very high), they would not like this.
This is better than above, but does not address the fact of great shortages of decent, affordable housing in rural areas. Under this system, what happens if housing is not available? Labor would still like some kind of requirement that the employer provide for housing where it is not available.

Require growers to provide free housing to all U.S. farm workers (including local workers).

USDA would not like this additional cost burden on the growers.
Labor would like as an ideal, but unrealistic to add this additional burden on growers (unless heavily subsidized by the federal government).

Require H-2A growers to make their housing available for U.S. workers who arrive early.

Cant see the objection to this one.
Labor likely is in favor.

Enforcement

Extend to Wage & Hour the authority to debar violating employers who commit serious labor standards or H-2A program violations.
Y
USDA and DOL agreed to this during our earlier process. Will be part of upcoming rulemaking.

Issue final H-2A regulations.
Y
DOL has agreed to this.

Narrow DOL enforcement to only allow investigations only pursuant to a complaint.
N
USDA may like this, but not sure. It would be difficult for them to argue in favor of less enforcement, when there is so little already.
DOL would hate this. They need more not less enforcement money and tools.

Institute a 12-mo. statute of limitations on complaints

USDA likely would favor.
DOL may think this is o.k.

Provide a "reasonable cause" threshold for investigations.

USDA would likely favor.
DOL may want to reserve the right to do random inspections.

Limit penalties to certain types of violations.

Unclear what this recommendation means.

Institute a three-year and permanent debarment period for repeat violations.

USDA would likely favor.
DOL would likely favor, unless this is substantially less than current law.

Require hiring of former H-2A workers (where allowed) to offset disincentives to complain about labor violations.

USDA would oppose. This too greatly limits grower flexibility in hiring.
Not sure if DOL would see this as an effective tool to offset disincentives to complain

about labor violations.

Require disclosure of terms and conditions of employment to be given to workers in their native language in plain language.

Cant imagine opposition, unless it costs a lot.
Labor would likely favor.

More timely initiation and completion of DOL enforcement actions.

We are all in favor of timeliness.

Immigration Management

H2A worker ineligible for continued participation in the program if, during the prior 5 years, the worker violates the terms of admission to the U.S.

USDA would not likely have an opposition to this in theory.
DOL would not likely have an opposition to this in theory.

H2A workers admitted to the U.S. have 14 days after termination of employment contract to search for other legal work in the U.S.
Y
USDA would not likely have an objection.
DOL would not likely have an objection.

H2A workers admitted must be issued fraud-resistant identification/work authorization documents.
Y
USDA would not likely have an objection.
DOL would not likely have an objection.

An employer may file for extension of stay to employ an H2A worker already in the country and may legally employ such a worker from the date application is made.

USDA would likely support this idea because it provides growers with easy and quick access to H-2A workers.
DOL would likely oppose this idea because it would allow growers to get around the recruitment requirement.

AG study whether H2A workers timely depart the U.S. after period of authorized employment.
Y

Legalization for H2A workers who complete at least 6 months employment in the U.S. under the H2A program for 4 consecutive years in compliance with program requirements.
N
USDA would not likely oppose this idea. However, it does not advance their goals because they believe that growers need a ready supply of foreign workers to meet short-term labor needs. Once legalized these foreign farmer workers would likely move into other sectors of the labor market.
DOL is opposed because it a) it gives the employers additional leverage over the workers by empowering them to hold the promise of a green card out to the foreign worker and b)it undercuts our immigration policy.

Require withholding of percentage of H2A workers wages, deposited in accounts reclaimable within limited time period in home country, as incentive to repatriate.
N
USDA supports incentives to repatriate and if they believed that if this would work they would support it.
DOL would likely oppose this because 1) there is no guarantee that the workers would actually receive these wages and 2) there is no evidence that this amount of money would be an incentive to repatriate.

User fee offsetting FICA/FUDA advantage used as repatriation incentive
N
Same position as above.
Same position as above.

Require entry-exit control system for all H2A workers.
Y
If this were possible, USDA and DOL would support it. However, at this time INS is unable to operate an effective exit and entry control system on the land borders.

Other issues

Expand scope of the H2A program to include agricultural -- meat/poultry -- processing employment.

Secretary authorized to establish cap on number of H2A visas issued pursuant to application from "independent contractors, agricultural associations and such similar entities."
Y

USDA would likely support this as long as it was a high cap.
DOL supports this provision since 80% of all H-2A applications are from independent contractors or agricultural associations.

Comprehensive report by AG and Secretaries of Labor and Agriculture.
Y

All H2A employers non-wage practices and benefits should be subject to prevailing practice standards.

USDA will want more flexibility for growers.
DOL would likely favor tieing all practices and benefits to prevailing practice standards.

Assure that U.S. and H2A workers are truly allowed to choose their employer

Cap the number of visas available under the H2A program.

See above.
See above.

Administrative Processes

Consolidate DOL certification and INS petition approval into one process administered by DOL
Y

Consolidate responsibility within DOL in Wage & Hour for post-application examination and enforcement of employer compliance with H2A program requirements.
Y

Government -- not employer -- responsible for reimbursing transportation costs of eligible workers.
Y

Require employers H2A labor certification applications to be submitted 45 (rather than 60) days before the employer "date of need."
Y

Reduce lead time for employer applications to 30 (rather than 60) days before "date of need."
Y

Consistently meet 7 day deadline -- after initial receipt of employers labor certification application -- to give written notification to the employer of deficiencies precluding adjudication of the application.
Y

Consistently meet existing 20 day deadline -- prior to employers date of need -- to issue approved certifications
Y

After consolidation of certification and petition adjudication process in DOL, change the law to set deadline for DOL approval of employers application to 7 days before date of need.
Y

Reduce the deadline for employer-provided housing to be available for inspection to 15 (rather than 30) days before the date of need.
Y

Change the current labor certification to one based on employers attestations to comply with program requirements.
?
Unsure how this changes employer obligations.

NLWJC – Kagan

Hard Drive – Folder 11

To:Bruce Reed
Elena Kagan

From:Thomas L. Freedman
Mary L. Smith

Re:Reports on Domestic Violence/Violence Against Women

Date:July 20, 1998

Here are the three reports from the Department of Justice that Tom mentioned are close to being ready. None are particularly great. They are:

1.1998 Annual Report: Evaluation of the S.T.O.P. Formula Grants under the Violence Against Women Act of 1994. DOJ wants to get this report, prepared by the Urban Institute, to the Hill before the Violence Against Women Oversight Hearing, which has been postponed until the week of July 27. This report summarizes federal and state activities and accomplishments in the third year of implementing the STOP Violence Against Women Grants Program. Highlights from this report reflect the programmatic impact resulting primarily from 1995 STOP funds. Forty-two states have now set a minimum level of domestic violence training for police recruits, and a survey of state prosecutor agencies found that the majority provide training in domestic violence.

2.Batterer Programs: What Criminal Justice Agencies Need to Know. Plans to be released on July 27. Provides information to criminal justice professionals about batterer treatment programs in order to help them make referrals.

3.Legal Interventions in Family Violence: Research Findings and Policy Implications. Plans to be released on July 27. Summarizes articles on collaborative efforts between police and protection agencies; arrest policies; protection orders; battered women defense strategies; sentencing; batterer treatment; child sex abuse; and child testimony.

We might couple one of these reports with an endorsement of Bidens VAWA II bill -- except that the House has passed a bill, sponsored by Conyers, that we probably could not support.

November 18, 1997

BILL SIGNING CEREMONY FOR HR 867,
THE ADOPTION PROMOTION ACT OF 1997

DATE:Thursday, November 18, 1997
LOCATION: The East Room
TIME:1:40pm-2:20pm
FROM:John Hilley
Bruce Reed
Melanne Verveer

I.PURPOSE

To sign into law H.R. 867, the Adoption Promotion Act of 1997.

II.BACKGROUND

Todays bill signing of the Adoption and Safe Families Act of 1997 represents an enormous victory for your agenda to promote adoption and improve our nations child welfare system. As you know, the bill largely incorporates the Administrations proposals in this area, as outlined in your executive memorandum on adoption to members of your Cabinet (which you issued in a radio address on December 14, 1996.) See attachment #1. Also attached is a November 16, 1997 New York Times article on the signifigance of this legislation. See attachment #2.

In particular, the bill (1) makes clear that childrens health and safety are the paramount concerns of the public child welfare system; (2) clarifies the "reasonable efforts" standard; (3) speeds up court hearings for children in foster care and generally requires states to initiate proceedings to terminate parental rights after a child has been in foster care for 15 of the previous 22 months; (4) provides states with financial incentives to increase the number of children who are adopted; (5) reauthorizes the Family Preservation Program (staving off an expected battle next year) and increases its funding; (6) ensures health coverage for adopted children with special needs by requiring states to provide coverage through Medicaid or the new child health program; (7) expands HHSs authority to issue waivers to states for child welfare and foster care demonstration projects; and (8) breaks down barriers to adoption across state lines by prohibiting states from denying a suitable out-of-state adoption when no in-state adoption is available.

As you know, Representatives Camp and Kennelly sponsored an adoption bill, H.R. 867, that passed the House last spring, which you strongly endorsed. That bill included nearly all your recommendations and was generally well-received by child welfare advocates. Some advocates, however, urged the Senate bill sponsors -- Senators Chafee and Rockefeller -- to

include additional resources in their bill. The final bill includes certain additional investments (largely the reauthorization and expansion of the Family Preservation Program and the guarantee of health care coverage for special needs children who are adopted). It carries no pay-as-you-go costs in the initial years, but costs slightly more than $50 million over five years.

The bill sponsors -- Representatives Camp and Kennelly and Senators Chafee and Rockefeller -- were particularly significant to the success and strength of this legislation. Through many ups and downs in the past year, they kept together an impressive bipartisan coalition of advocates and members.

Olivia Golden, HHS Commissioner for the Administration on Children, Youth, and Families, will be presenting the 1997 Adoption 2002 Excellence Award to the recipient families and organizations tomorrow morning before the signing ceremony begins. A Presidential Directive was issued on December 14, 1996 to double, over the next five years, the number of children from the foster care system who are adopted or placed in other permanent placements. HHS, in response to the directive, prepared a report that proposed steps to establish annual awards to recognize states, local agencies, courts, private organizations, employers and others who are making key contributions to the effort. There are a total of 13 recommended awards, in six award categories. These awardees will be in the audience during the signing ceremony.

Ms. Sue Ann Badeau will be introducing you. She is a 20 year old girl that was adopted, along with her three siblings, by her foster parents. She is one of 19 adopted children in a family of 21 children. She is from Philadelphia, Pennsylvania.

III.PARTICIPANTS

Pre-Brief
The President
The Vice President
The First Lady
Secretary Shalala
Erskine Bowles
John Podesta
John Hilley
Ron Klain
Melanne Verveer
Bruce Reed
Elena Kagan
Janet Murguia
Jennifer Klein
Nicole Rabner

Event
The President
The First Lady
The Vice President
Secretary Shalala

Sen. John Chafee (R-RI)

Sen. Jay Rockefeller (D-WV)
Rep. Barbara Kennelly (D-CT)
Rep. Dave Camp (R-MI)

Sen. Larry Craig (R-ID)
Sen. Mike DeWine (R-OH)
Sen. Mary Landrieu (D-LA)
Rep. Sandy Levin (D-MI)
Rep. Carolyn Maloney (D-NY)
Rep. Connie Morella (R-MD)
Rep. James Oberstar (D-MN)
Rep. Clay Shaw (R-FL)

Representatives from child advocacy groups
The 1997 Adoption 2002 Excellence Award Winners
Children waiting to be adopted
Children that have been adopted and their families

IV.PRESS PLAN

Open Press

V.SEQUENCE OF EVENTS

1:10 p.m.The President, The First Lady, and The Vice President are briefed in the Map Room.

1:30 p.m.The President, The First Lady, and The Vice President proceed to Blue Room to greet guests:

Secretary Donna Shalala
Ms. Sue Ann Badeau
Brother/Sister of Sue Ann Badeau
Mr. Dave Thomas
Sen. Jay RockefellerRep. Barbara Kennelly
Sen. John ChafeeRep. Clay Shaw
Sen. Mary LandrieuRep. Dave Camp
Sen. Mike DeWineRep. James Oberstar
Sen. Larry CraigRep. Carolyn Maloney
Rep. Connie MorellaRep. Sandy Levin

Note: Upon conclusion of meet and greet, the Blue Room guests who are not speaking will be seated in the East Room.

Note: Sen. Rockefeller, Sen. Chafee, Rep. Kennelly, and Rep. Camp are seated on stage.

1:35 p.m.The President, The First Lady are announced to stage from Blue Room with The Vice President, Secretary Shalala, and Ms. Badeau.

Note: 15'x20' stage located at Gold Curtain, signing table, document to be signed provided by staff secretary.

The First Lady gives opening remarks and introduces Secretary Shalala.

Secretary Shalala gives remarks and introduces The Vice President.

The Vice President gives remarks and introduces Ms. Badeau.

Ms. Badeau gives remarks and then introduces The President.

The President gives remarks.

Upon conclusion of remarks, The President proceeds to Bill Signing Table to sign bill and invites Members of Congress and children on stage.

Note: Sean Maloney to provide document to be signed.

2:15 p.m.The President and The Vice President Depart.

The First Lady proceeds to the Blue Room for receiving line.

VI.REMARKS

To be provided by Speechwriting.

VII.ATTACHMENTS

1. Presidential Directive issued in December 1996

2. New York Times article on the significance of the bill.

May 14, 1997

NATIONAL PEACE OFFICERS MEMORIAL EVENT

DATE:May 15, 1997
LOCATION:West Grounds of the Capitol
BRIEFING TIME:12:00 pm - 12:30 pm
EVENT TIME:1:00 pm - 2:20 pm
FROM:Bruce Reed/Rahm Emanuel

I.PURPOSE

To honor the lives of officers who were killed in the line of duty in 1996 and their survivors, and to announce updates on the quick implementation of two of your recent gun directives. This is also an opportunity to demonstrate your commitment to combating juvenile crime and again challenge Congress to pass a comprehensive juvenile crime bill.

II.BACKGROUND

You will be attending for the fourth consecutive year the National Peace Officers Memorial Event sponsored by the Fraternal Order of Police (FOP). This event will honor the 116 officers who were killed in the line of duty in 1996, the fewest officers killed since 1959. The names of those fallen officers are being enshrined on the National Law Enforcement Officers Memorial in Washington, DC and were officially dedicated on Monday, May 12 in a candlelight vigil. In 1993 you attended the candlelight vigil. The National Law Enforcement officers Memorial was built in 1991 and bears the names of more than 14,000 federal, state and local law enforcement officers who have died in the line of duty.

In addition to honoring those that lost their lives, you will be making the following announcements:

*NEW "BRADY" FORMS-- You will announce that by today (May 15, 1997) the ATF will have sent out revised "Brady" forms (Form 4473) to all Federal Firearms Licensees. In response to the Empire State Building shooting by a foreign visitor, you asked Secretary Rubin to change the federal regulations and existing Brady form to better restrict gun access to foreign visitors and to tighten up residency requirements. The revised Brady form requires a prospective gun purchaser to make an affirmative statement that they reside in the State of the gun dealer, and-- in the case of noncitizens-- show secondary forms of identification to prove State residency, such as a utility bill or lease.

*CHILD SAFETY LOCKS
You will announce that consistent with your March 5, 1997 directive, all FBI and ATF agents-- nearly 13,000, or 20% of all federal law enforcement officers-- have now been provided child safety locks to prevent accidental or unauthorized use of their firearms. The remaining federal law enforcement officers will be provided with child safety locks no

later than October 15, 1997.

III. PARTICIPANTS

Briefing Participants:
Erskine Bowles
Rahm Emanuel
Bruce Reed
Elena Kagan

Event Participants:
Gil Gallegos, National President of the FOP
Karen Lippe, President of the FOP Auxiliary
Adolph South, Chaplin
Gloria Estefan, musical performer

Also Seated on Stage:
Attorney General Reno
Secretary Rubin
Under Secretary Ray Kelly
Director of the Marshalls Service Eddie Gonzalez
Tommy Motolla, President and CEO Sony Music
Emilio Estefan, husband of Gloria Estefan
Sharon Felton, President of
Wayne Munier, President of FOP Associates
Senator Thurmond
Senator Leahy
Senator Biden
Rep. Bart Stupak
Senate Sergeant of Arms Greg Casey
House Seargeant of Arms Bill Livingood
Gary Abrecht, Chief of the Capitol Police
Craig Floyd, Executive Director, Concerns of Police Survivors

Seated along the ropeline will be survivors of officers killed in the line of duty in 1996, and survivors of the DC officers slain this year.

(Participant Lists for Meet and Greet before and after event are attached.)

IV. PRESS PLAN

Open Press.

V. SEQUENCE OF EVENTS

- Upon arrival you will briefly meet with the FOP Executive Board and Auxiliary Committees.
- You, Gil Gallegos, Karen Lippe, and Chaplin Adolph South will be announced onto the stage and you will take your seat next to Attorney General Reno. (You will be accompanied by the FOP Executive Board until you reach the stage.)

- National Anthem will be sung by a police officer.
- Chaplin Adolph South will give the invocation.
- Karen Lippe, President of the FOP Auxiliary, will make welcoming remarks and introduce Gil Gallegos, National President of the FOP.
- Gil Gallegos will make remarks and introduce you.
- You will make remarks and then take your seat.
- Gil Gallegos will then introduce Gloria Estefan.
- Gloria Estefan will perform her song "Always Tomorrow."
- Gil Gallegos will make closing remarks.
- Gil Gallegos and Karen Lippe will then escort you off the stage. They will present you with a flower.
- You will proceed with Gil Gallegos and Karen Lippe to a wreath in front of the stage and you will place the flower in the wreath.
- You will then work a ropeline of survivors in the front row, then depart to holding tent.
- You will briefly meet with Gloria Estefan and her family and work associates.
- You will then depart.

VI.REMARKS

Remarks Provided by Jordan Tamagni in Speechwriting.

Participant List
First Meet and Greet - pre-event

Gil Gallegos, FOP National President
Bernard Teodorski, FOP Executive Board Member
Jerry Atnip, FOP Executive Board Member
Mel Beverlin, FOP Executive Board Member
Marty Pfeiffer, FOP Executive Board Member
Ray Franklin, FOP Executive Board Member
Kenneth Gorman, FOP Executive Board Member
Marcy Sigurdsen, FOP Auxiliary Committee
Linda Hennie, FOP Auxiliary Committee
James Pasco, FOP Executive Director
Karen Lippe, FOP Auxiliary President
Dennis Lippe, FOP Auxiliary Committee
Adolph South, FOP Chaplin
Kathleen Gallegos, Gilbert Gallegoss wife
Catherine Sedillo, Gilbert Gallegoss sister
Lmae Tull, FOP Auxiliary Committee
Janet Johnson, FOP Auxiliary Committee
Beverly Crump, FOP Auxiliary Committee
Charlotte Vardaman, FOP Auxiliary Committee
Jimmy Ienner, FOP photographer

Participant List
Second Meet and Greet - post-event
Thomas Mottola, President and CEO of Sony Music
Gloria Estefan, musical performer
Emilio Estefan, husband of Gloria Estefan
Gloria Fajardo, mother of Gloria Estefan

Frank Amadeo, manager for Gloria Estefan
Linda Shonning, assistant to Gloria Estefan
Bob Crayton, Sony Music Security
Patricia Kiel, Senior Vice President, Sony Music
Jimmy Ienner, FOP photographer

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April 6, 1999

EQUAL PAY EVENT AND ROUND TABLE

DATE:April 7, 1999
LOCATION:Presidential Hall
BRIEFING TIME:1:10 pm - 1:25 pm
EVENT TIME:1:30 pm - 2:30 pm
FROM:Bruce Reed, Mary Beth Cahill

I.PURPOSE

To announce a new wage data collection provision in the pending legislation which would strengthen enforcement of the Equal Pay Act and to meet with working women to highlight the issue of equal pay and to emphasize the need for Congress to pass this legislation.

II.BACKGROUND

This event is an opportunity for you to announce the new data collection provision for wages in the Paycheck Fairness Act, which is sponsored by Senator Daschle. In addition, it is an opportunity for you and the First Lady to hear first-hand from working women the problem of wage discrimination and issues of equal pay.

One of the panelists highlights the issue of "comparable worth," where a job in a female-dominated profession is "equivalent" to a job in a male-dominated profession but is paid less. This panelist is included because the Administration recently has been urged by Senator Harkin, Congresswoman Norton, the womens groups, and the unions to support Senator Harkins comparable worth legislation that requires companies to equalize wages between "equivalent jobs," which is defined in the legislation as jobs that may be dissimilar, but whose requirements are equivalent when viewed as a composite of skills, effort, responsibility, and working conditions. While we cannot support this legislation, in a compromise to the above persons and groups, we agreed to include a panelist that highlights the comparable worth problem, but not the solution proposed in the legislation. However, you should not use the words "comparable worth," and should merely emphasize that this womans story highlights the need for women to be paid equally with men.

Before beginning the roundtable, you will announce the following:

Paycheck Fairness Act with New Data Collection Provision

You again will urge Congress to pass legislation called "The Paycheck Fairness Act," introduced by Senator Daschle and Congresswoman DeLauro, to strengthen laws prohibiting wage discrimination. The legislation will be reintroduced with a new data collection provision added. The highlights of this legislation include:

*New Pay Data Collection Provision. This provision would require the EEOC to complete a survey of data currently available for use in enforcing federal wage discrimination laws and to identify additional data collections that would enhance enforcement of these laws. In addition, the provision would call upon the EEOC to issue a regulation, within eighteen months, to provide for the collection of pay information data from employers described by the race, sex, and national origin of employees.

*Increased Penalties for the Equal Pay Act (EPA). The legislation would provide full compensatory and punitive damages as remedies for equal pay violations, in addition to the liquidated damages and back pay awards currently available under the Equal Pay Act. This proposal would put gender-based wage discrimination on equal footing with wage discrimination based on race or ethnicity, for which uncapped compensatory and punitive damages are already available.

*Non-retaliation provision. The bill would prohibit employers from punishing employees for sharing salary information with their co-workers. Many employers are currently free to take action against employees who share wage information. Without the ability to learn about wage disparities, it is difficult for employees to evaluate whether there is wage discrimination.

*Training, Research, and Pay Equity Award. The bill would provide for increased training for EEOC employees to identify and respond to wage discrimination claims; research on discrimination in the payment of wages; and the establishment of an award to recognize and promote the achievements of employers in eliminating pay disparities.

Equal Pay Initiative
Previously, you have announced a new $14 million Equal Pay Initiative as part of your Fiscal Year 2000 budget. The Initiative includes $10 million for the EEOC to increase compliance with equal pay laws by providing training to EEOC employees to identify and respond to wage discrimination, increasing technical assistance to businesses on how to meet legal requirements, and launching an equal pay public service announcement campaign to inform employers and employees alike of their rights and responsibilities. The Initiative also includes $4 million for the Department of Labor, primarily for a program to assist contractors in recruiting and retaining qualified women in non-traditional occupations.
III. PARTICIPANTS

Briefing Participants:
Secretary Alexis Herman
Bruce Reed
Elena Kagan
Karen Tramontano
Jenny Luray
Nicole Rabner
June Shih

Event Participants:
The First Lady
Secretary Herman
Dr. Nancy Hopkins, Molecular Biologist, Massachusetts Institute of Technology
Sanya Tyler, Head Coach, Womens Basketball, Howard University

Carolyn Gantt, Retiree from District of Columbia Government
Patricia Higgins, Nurse, MetroHealth Medical Center, Cleveland, OH

IV.PRESS PLAN

Open Press.

V.SEQUENCE OF EVENTS

- YOU will enter the room where each of the roundtable participants will be seated.
- The First Lady will make remarks and introduce YOU.
- YOU will make brief remarks and take your seat at the roundtable.
- Secretary Herman will facilitate a brief introduction from each roundtable participant.
- YOU will invite the participants to speak by posing a question to each person.
- YOU will first call on Dr. Nancy Hopkins, a professor at the Massachusetts Institute of Technology, who spearheaded a study on the status of women professors there.
- YOU and the First Lady will pose questions to each of the participants, and Secretary Herman will conclude the panel discussion.
[*SEE ATTACHED SCRIPT]
- YOU will make brief informal closing remarks and depart.

VI.REMARKS

Provided by Speechwriting.

VII.ATTACHMENTS

-Sequence of panel speakers and suggested questions.
-Bios of panelists.
-NY Times article about the M.I.T. study.
-Newsweek article by George Will disputing that there is a wage gap.

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September 14, 1998

MEMORANDUM FOR THE CHIEF OF STAFF

FROM:ELENA KAGAN
SALLY KATZEN

RE:WYDEN-GRAHAM AGRICULTURAL GUESTWORKERS BILL

You are meeting with Senators Ron Wyden (D-OR) and Bob Graham (D-FL) on Tuesday afternoon to discuss their amendment to the Commerce, Justice, State (CJS) Appropriations bill, which would make significant changes to the current H-2A agricultural guestworker program. Sens. Wyden and Graham will ask you to support their legislation or to negotiate with them to arrive at a substitute version. We believe you should reject this approach, and instead urge Wyden and Graham to play a leading role in a broad bipartisan working group we have set up to discuss changes to the H-2A program. We make this recommendation because (1) Wydens and Grahams amendment has numerous substantive problems; (2) the amendment is opposed by many Democrats, as well as by Hispanic groups and the unions; and (3) the amendment stands little chance of going anywhere unless we support or negotiate off it.

Agricultural "guestworkers" are admitted on H-2A visas for temporary jobs. Under the current program, in order to hire H-2A workers, an employer must demonstrate to the Department of Labor (DOL) that (a) there are not sufficient U.S. workers able, willing, qualified, and available to perform the services; and (b) there will be no adverse effect on the wages and working conditions of similarly-employed U.S. workers. There are currently about 20,000 farmworkers in the H-2A program, out of a total of 1.6 million farmworkers (600,000 of whom are illegal immigrants).

In response to concerns expressed by growers that the H-2A program needs to be streamlined, the Department of Labor and the Justice Department (which handles the immigration aspects of the program) developed a set of regulatory reforms that we hope will go into effect by the end of January. Though some grower advocates were pleased with these reforms, they have continued to press for a legislative package that would fundamentally alter the way the program is operated.

On July 22, 1998, Senators Wyden, Graham and Gordon Smith (R-OR) introduced their bill to overhaul the H-2A guestworker program as an amendment to the Senate CJS Appropriations bill. 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. We set forth our detailed objections to the bill in an attachment to this memo.

The bill passed the Senate by a vote of 68 to 31. Since then, however, it has lost support among Senate Democrats, principally because labor and Hispanic groups have made clear their vehement opposition. The National Council of La Raza (NCLR) and the Mexican-American Legal Defense and Education Fund (MALDEF) have said that preventing the enactment of this bill is one of their chief civil rights objectives during this session of Congress. In addition, the United Farm Workers of America (AFL-CIO) has made clear its strong opposition, and John

Sweeney reiterated this opposition to John Podesta yesterday.

Further, the Wyden-Graham amendment has little support in the House -- from either Republicans or Democrats. Liberal Democrats in the House (and especially the Hispanic Caucus) oppose the bill because it would erode farmworker protections. At the same time, House Judiciary Immigration Subcommittee Chairman Lamar Smith and other Republican members of the House Judiciary Committee strongly oppose adding the measure to the CJS bill because it could lead to expanded immigration of low-wage farmworkers.

To respond to the criticisms of the H-2A program in a thoughtful manner (rather than through a hasty and flawed last-minute amendment to an appropriations bill), we have put together a broad bipartisan working group. The goal of that group, which will meet for the first time tomorrow afternoon, is to examine various policy proposals for H-2A reform and determine whether and where consensus can be reached. We would aim to develop and present a reform package to the Congress next year. Sens. Wyden and Graham, of course, would like action sooner.

Because of our serious substantive, procedural, and political concerns regarding the Wyden-Graham bill, we recommend that we continue strongly opposing the bill, including making it clear that we are prepared to veto it. In addition, in light of our commitment to address H-2A reform through a broad bipartisan process on the Hill over the course of the next few months, we do not recommend commencing any direct negotiations with Sens. Wyden and Graham about the specifics of their bill. Instead, we should urge Sens. Wyden and Graham to play an active role in our bipartisan working group.

If you believe it absolutely necessary to give Sens. Wyden and Graham something now, we could agree to report language in the appropriations bill directing the Department of Labor to develop a pilot "job registry program." This pilot would be a much narrower version of a proposal made in the Wyden-Graham bill: it would create a system for trying to match growers to farmworkers efficiently, but would not (as in their bill) eliminate the obligation of growers to try to recruit U.S. workers. This pilot project is a good idea, and Senator Kennedy supports it. John Sweeney, however, yesterday indicated his strong opposition to even this pilot program.

Substantive Objections to the Wyden-Graham Bill

*The bill would eliminate the current requirement that growers must conduct private market recruitment for workers, substituting a simple requirement to check a new and untested government-run "job registry"

At the core of the Wyden-Graham bill is the creation of a new "job registry" administered by the government. Under their bill, growers would need only to check this registry before employing H-2A workers. Thus, all responsibility for the recruitment of domestic farmworkers would shift to a new, untried, process for which the government and low-wage workers are entirely responsible. In addition, although this registry would take years to create and implement effectively, employers could begin to hire H-2A workers within 6 months of the enactment of the bill.

*The bill would erode U.S. worker wages

Under the current program, growers who employ H-2A workers are required to pay all their farmworkers the higher of the prevailing wage (equal to the average local wage for the crop) or an "adverse effect wage rate" (AEWR) (equal to the average statewide wage). The

use of the AEWR reflects the fact that foreign workers (both undocumented and H-2A guestworkers) can sometimes dominate a local labor market and depress the local prevailing wage: in such a case, using a statewide calculation (the AEWR) may be more appropriate. The Wyden-Graham bill caps the AEWR at 105% of the local prevailing wage. Our assessment is that this cap is not set high enough to compensate for the depression of wages in areas where there is a heavy reliance on foreign workers.

*The bill does not provide an adequate mechanism for housing foreign guestworkers

Current law requires growers who employ H-2A workers to provide them with free housing. The Wyden-Graham bill allows growers to provide a payment voucher in lieu of housing. Under this approach, the grower employing H-2A workers would have no obligation to assure that housing is actually available and could be obtained with the voucher.

We have two concerns with this provision. First, there are many areas (particularly in the West) where there simply is not an adequate supply of rural housing to meet the needs of farmworkers. Second, even if there is some housing available in the area, it is unrealistic to expect low-wage foreign migrant farmworkers to be able to secure housing on their own using a federal voucher. Thus, many workers will likely end up without housing, or will overcrowd any available rental housing.

*The bill would eliminate the requirement that growers guarantee part of the work offered to recruit U.S. and foreign workers.

Under current law, H-2A workers must be paid for at least 75% of the work contract period for which they were recruited, except when there is an "act of God." This "three-fourths guarantee" gives migrant workers some indication of their potential earnings and discourages employers from over-recruiting to secure a labor surplus and drive down wages. The Wyden-Graham bill would eliminate this work guarantee. This change would encourage growers to lure workers from hundreds or thousands of miles away with the promise of potentially high earnings without any obligation to fulfill any part of that promise. The change also could encourage growers to recruit more workers than they actually need to hedge against uncertainties.

*The bill would permit growers to withhold worker wages as an incentive to repatriate

The Wyden-Graham bill would permit employers to withhold 20% of the workers wages until the worker returns to his home country. According to the Department of Labor, the federal government does not, in any other circumstance, sanction the withholding of wages as an incentive toward future behavior. In addition, it is unclear whether many of these workers would be able to recover this money from their home countries. Finally, there is little evidence that these amounts would serve as a disincentive for workers who intend to stay in the U.S.

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FROM:ELENA KAGAN
SALLY KATZEN

RE:WYDEN-GRAHAM AGRICULTURAL GUESTWORKERS BILL

DATE:September 14, 1998

You are meeting with Senators Ron Wyden (D-OR) and Bob Graham (D-FL) on Tuesday afternoon to discuss their amendment to the Commerce, Justice, State (CJS) Appropriations bill that would make significant changes to the current H-2A agricultural guestworker program. Sens. Wyden and Graham will ask you to either support their legislation or work with them to improve it.

Background

Agricultural "guestworkers" are admitted on H-2A visas for temporary jobs. Under the current program, in order to hire H-2A workers, an employer must demonstrate to the Department of Labor (DOL) that (a) there are not sufficient U.S. workers able, willing, qualified and available to perform the services; and (b) there will be no adverse effect on the wages and working conditions of similarly-employed U.S. workers. Employers also are required to pay workers an "adverse effect wage rate" (AEWR), determined by the average wage paid to non-managerial agricultural workers in the state; provide free housing to workers outside the commuting area; reimburse workers inbound transportation if they complete half the contract, outbound also if they complete the contract; guarantee 3/4 of the hours of the contract; and hire any qualified U.S. worker who applies during the first half of the work contract. There is no cap on the number of H-2A visas granted. Out of the 1.6 million farmworkers in the United States, approximately 600,000 are unauthorized to work, and approximately 20,000 are in the H-2A program.

In response to concerns expressed by growers that the H-2A program needs to be streamlined, the Department of Labor and the Justice Department (which handles the immigration aspects of the program) developed a set of regulatory reforms that we hope will go in effect by the end of January. However, though some grower advocates were pleased with these reforms, they continue to press for a legislative package that would fundamentally alter the way the program is operated.

The Wyden-Graham Bill

On July 22, 1998, Senators Wyden, Graham and Gordon Smith (R-OR) introduced their bill to overhaul the H-2A guestworker program as an amendment to the Senate CJS Appropriations bill. Though we agree that the current program is in need of some reform, we strongly oppose the Wyden-Graham bill because it erodes protections for U.S. workers and shifts costs and risks from employers to workers and/or the government. For example, the bill:

*Eliminates the requirement that growers must conduct private market recruitment for workers, except through the proposed registry.

At the core of the Wyden-Graham bill is the creation of a new "job registry." Under their bill, growers seeking to employ H-2A workers would have no obligation to attempt to recruit

U.S. farmworkers except through this registry. Thus, all responsibility for the recruitment of domestic farmworkers would shift to a new, untried, process for which the government and low-wage workers are entirely responsible. This registry would take years to create, but H-2A workers could be hired within 6 months of the enactment of the bill. Further, because growers would no longer have an obligation to recruit domestically, they would be free to concentrate their worker recruitment efforts abroad.

*Erodes U.S. worker wages

Under the current program, growers who employ H-2A workers are required to pay their workers the higher of the prevailing wage (equal to the average wage for the crop in the local area), the federal, state or local minimum wage or an "adverse effect wage rate" (AEWR) (equal to the average statewide agricultural wage rate). Because foreign workers (both undocumented and H-2A guestworkers) can sometimes dominate a local labor market, this wage depression is often reflected in the local prevailing wage. The AEWR is intended to correct for this depressive effect by measuring farmworker wages on a statewide basis -- thus dissipating the impact of foreign workers on the wage.

Under the Wyden-Graham bill, the worker is required to be paid either the prevailing wage or the AEWR (capped at 105% of the prevailing wage). Our preliminary assessment is that 105% of the prevailing wage is not high enough to compensate for depression of wages where there is a heavy reliance on foreign workers.

*Does not provide an adequate mechanism for housing foreign guestworkers

Current law requires growers who employ H-2A workers to provide them with free housing. The Wyden-Graham bill allows growers to provide a payment voucher in lieu of housing, unless the State certifies that adequate housing is not available in the area. Under this approach, the grower employing H-2A workers would have no obligation to assure that housing is actually available and could be obtained with the voucher.

We have two concerns with this provision. First, there are many areas (particularly in the West) where there simply is not an adequate supply of rural housing to meet the needs of farmworkers. Second, even if there is some housing available in the area, it is unrealistic to expect low-wage foreign migrant farmworkers to be able to secure housing on their own using a federal voucher. Thus, many workers will likely end up without housing or be encouraged to overcrowd any available rental housing.

*Eliminates the requirement that growers guarantee any part of the work offered to recruit U.S. and foreign workers.

Under current law, H-2A workers must be paid for at least 75% of the work contract period for which they were recruited, except when there is an "act of God." This "three-fourths guarantee" gives migrant workers some indication of their potential earnings and discourages employers from over-recruiting to secure a labor surplus and drive down wages. The Wyden-Graham bill would eliminate this work guarantee. This change will encourage growers to lure workers from hundreds or thousands of miles away with the promise of potentially high earnings without any obligation to fulfill any part of that promise. This may also encourage growers to recruit more workers than they actually need to hedge against uncertainties.

*Permits growers to withhold worker wages as an incentive to repatriate

The Wyden-Graham bill permits employers to withhold 20% of the workers wages until the worker returns to his home country. According to the Department of Labor, the federal government does not, in any other circumstance, sanction the withholding of wages as an incentive toward future behavior. In addition, it is unclear whether many of these workers would be able to recover this money from the accounts in their home countries. Finally, there is little evidence that these amounts would serve as a disincentive for workers who intend to stay in the U.S.

Though the bill passed the Senate by a vote of 68 to 31, it has strong opposition from the Hispanic Caucus, Hispanic advocacy groups, labor unions, liberal Democrats in the House and many House Republicans. Because no one expected this bill to be offered as an attachment to the CJS Appropriations bill, many Members were unaware of precisely what the bill would do. Since the bills passage, both labor unions and Hispanic advocacy groups have been working to persuade Members that this bill is bad for farmworkers (who are overwhelmingly Hispanic). The National Council of La Raza (NCLR) and the Mexican-American Legal Defense and Education Fund (MALDEF) have cited preventing the enactment of this bill as one of their chief civil rights objectives during this session of Congress. Paul Yzaguirre, the President of NCLR, sent a letter to the President thanking him for his opposition to this bill. The United Farm Workers of America, AFL-CIO, also sent a letter to Secretary Herman strongly opposing the Wyden-Graham bill. Perhaps more importantly, House Republicans, led by House Judiciary Immigration Subcommittee Chairman Lamar Smith, strongly oppose adding the measure to the CJS Appropriations bill and have put the House Judiciary Committee on record in opposition.

In addition to our serious substantive concerns with the bill, we are strongly of the view that change of this magnitude should be the result of a thorough and careful process (including congressional hearings), rather than a last minute amendment to an appropriations bill. To that end, we have initiated (along with the Departments of Labor and Agriculture) a bi-partisan process with members of Congress to examine various policy proposals for H-2A reform and determine whether and where consensus can be reached. We believe that there is room for flexibility on several issues, including wages, housing, and repatriation. The first meeting of this group is scheduled for the afternoon of Tuesday, September 15. The objective of this process is to develop and present a reform package to the Congress next year.

Recommendation

Because of our serious substantive and procedural concerns regarding the Wyden-Graham bill, we recommend that we continue our strong opposition to their bill, including making it clear that we are prepared to veto it. In addition, in light of our committment to address H-2A reform through a bi-partisan process on the Hill, we do not recommend any direct negotiation with Sens. Wyden and Graham about the specifics of their bill.

However, because Sens. Wyden and Graham have invested a lot of time and personal prestige in their efforts to reform the H-2A program, we believe that they will only be satisfied if they do not walk away empty-handed. Therefore, we recommend that you offer, in exchange for their dropping their support for the amendment, that we would agree to report language directing the Department of Labor to develop a pilot registry program. This pilot would be much more narrow than that proposed in their bill. Significantly, rather than replacing the growers obligation to recruit U.S. workers, the goal of the pilot would be to determine how

effective such a registry could be at matching growers to farmworkers. You should also urge Sens. Wyden and Graham to work with us in the bi-partisan process to develop a real reform package during the next Congress.

August 26, 1998

DRAFT MEMORANDUM FOR THE VICE-PRESIDENT

FROM:GENE SPERLING
ELENA KAGAN

SUBJECT:STATUS OF H-1B LEGISLATION

Background

H-1B visas are temporary work visas that allow "highly skilled" immigrants (with a BA or equivalent) to work in this country for up to six years. Under current law, the number of H-1B visas is capped at 65,000 per year. During the last fiscal year, this cap was reached for the first time. This fiscal year the cap was reached in early May; as a result, no more visas can be issued until October 1.. The information technology (IT) industry strongly supports raising the annual cap to address what it maintains is a shortage of U.S. workers with IT skills. Others, including the Department of Labor and organized labor, challenge the industrys conclusions about a shortage and are concerned that the current H-1B program does not target its use to employers who are experiencing skills shortages.

Until last month there were two legislative vehicles for increasing the cap on the number of H-1B visas. On May 18, the Senate passed (78-20) an industry-backed bill sponsored by Senator Abraham (R-MI) that increases the cap on H1-B visas for three years and includes an authorization for additional scholarships. This bill does not, however, require companies to recruit or retain U.S. workers prior to hiring H-1B visa holders. In the House, late last spring, the Judiciary Committee approved (23-7) a bill sponsored by Rep. Lamar Smith (R-TX). The Smith bill also increases the cap for three years but differs sharply from the Abraham bill by including meaningful protections for U.S. workers. The Smith bill, however, failed to include any training component for U.S. workers.

Soon after the House committee vote, House Majority Leader Armey told Rep. Smith that he would not bring Smiths bill to the House floor unless Rep. Smith worked out a compromise with Sen. Abraham that pleased the high tech business community. Consequently, in mid-July Rep. Smith and Sen. Abraham produced a compromise bill (the Abraham/Smith proposal) which includes weak and limited protections for U.S. workers and a small training provision. In part due to a senior advisors veto threat, the compromise measure failed to gain sufficient support in the House prior to the August recess and Republican leaders decided to postpone House floor consideration until September.

Administration Position

We agree that it may be necessary in the short-term to increase the number of visas for temporary foreign workers, but that this must only be done in conjunction with additional efforts to increase the skill level of U.S. workers (funded through a modest H-1B application fee paid by employers) and meaningful reforms to the H-1B program to protect U.S. workers. This is because it has been a core Clinton/Gore priority that the most important way to widen the availability of skilled workers must be to improve the skills of U.S. workers and ensure that employers seek U.S. workers first. Training provides a long-term solution to skills shortages. The reforms would help target usage of the H-1B program to employers facing genuine skills shortages by requiring employers to attest to having attempted to recruit U.S. workers before applying for an H-1B worker and to having

not laid off a U.S. worker in order to hire an H-1B worker.

Despite our willingness to work with representatives from the business community and members of Congress to craft a bill consistent with our principles, the Senate passed the bill sponsored by Senator Abraham that did not include either a recruitment or a no lay-off attestation and weakened existing enforcement authority of the Department of Labor. As a result, the Administration strongly opposed the bill. In contrast, the Administration stated in a letter to Rep. Hyde that it would support Rep. Lamar Smiths bill, because it included meaningful reforms to the H-1B program, if it were modified to include a significant training provision.

While we met with both Senator Abraham and Rep. Smith independently on several occasions early this summer, they finalized their proposal without incorporating most of our suggestions. Their proposal does make significant progress (relative to the Abraham bill) because it includes a small application fee to fund training and requires firms that have a high percentage of H-1B workers (typically "job shops" that contract workers to other firms) to attest to having attempted to recruit U.S. workers before hiring an H-1B worker and to having not laid off a U.S. worker in order to hire an H-1B worker. Unfortunately, the reforms are too weak to adequately protect U.S. workers (largely because far too many employers would be exempt from the attestations) and the bill, as structured, would not generate sufficient funds for increased training opportunities for U.S. workers.

Given the problems with the proposal and the fact that we had less than 24 hours in which to review and respond to it before the House leadership threatened to bring it to the floor, we had no choice but to make a statement to the press (on August 1) that if the proposal were presented to the President his senior advisors would recommend that he veto it. To show good faith, the same day we also put forth a list of proposed changes (see attached) and made clear that if the proposal were modified consistent with these changes, we would support it. This list includes significant compromises on our part; e.g., (1) we would agree to exempt firms that have a small percentage of H-1B workers (such as Microsoft, Intel, and HP) from having to attest to recruiting U.S. workers before hiring an H-1B worker; and (2) we would agree that the H-1B reforms will sunset with the increase in the cap. In addition, we have shown flexibility on the exact structure of a provision to protect U.S. workers from being laid-off and replaced with H-1B workers (although we have insisted that the provision be meaningful). These compromises have generated some opposition from organized labor and their Congressional supporters.

Since releasing our list of proposed changes, we have been engaged in serious discussions with members of Congress (including Senator Abraham and Representative Lofgren), and representatives from the business community (such as Jerry Jasinowski of NAM and Wade Randlett of Technet) and organized labor (such as the AFL-CIO) in an attempt to reach a compromise that would include a more substantial training provision and stronger protections for U.S. workers. We are hopeful that a compromise can be reached before the end of the Congressional session. (The remaining issue on which we have not yet reached an agreement is that the Administration believes that all U.S. workers should have some additional level of meaningful protection against being laid-off so that an employer can hire an H-1B worker.)

Industrys Position

The business community has generally not opposed the Administrations requirement that any H-1B legislation must include a significant training provision. It has, however, argued

that the reforms would generate unnecessary and intrusive federal regulations. As a result, the community supports the Abraham/Smith proposal because it increases the cap on the number of visas for five years and would exempt a large percentage of companies from the worker protections.

In addition, while some within the business community described our list of changes to the Abraham/Smith proposal as "good faith and reasonable," others accused us of "raising the bar" on what needs to be included in an acceptable bill and of attempting to block efforts to increase the cap. In fact, our position has not changed: in order for the President to sign a bill that increases the cap, it must also contain both a significant training provision and meaningful reform to the H-1B program. The Abraham/Smith proposal does not meet that standard.

Organized Labors Position

Organized labor does not oppose an increase in the cap, as long as this increase is accompanied by strong worker protections and a meaningful training provision. Thus, it opposes the Abraham bill in the Senate and generally supports the Smith bill in the House (if it were modified to include a training provision). Organized labor opposes the Abraham/Smith proposal because the worker protections would only apply to a small number of companies, the training component is relatively small, and the H-1B reforms would sunset with the increase in the cap. Not surprisingly, its main concerns with our list of changes to the Abraham/Smith proposal are that (1) we would agree to exempt firms that have a small percentage of H-1B workers from having to attest to recruiting U.S. workers before hiring an H-1B worker (the concern is that this would exempt an unknown, and potentially large, number of firms from this worker protection); and (2) we would agree that the H-1B reforms will sunset with the increase in the cap (organized labor wants the reforms to be permanent).

PF

Talking Points -- H-1B Legislation

August 26, 1998

*We support attempts to increase the number of H-1B visas as part of a larger package that includes both additional training for U.S. workers and meaningful reform of the H-1B program that both protects U.S. workers and respects the good faith business judgments of employers.

*We want to pass a bill to increase the cap. At the same time, our goal is to help ensure that qualified U.S. workers have the opportunity to fill a job before a temporary foreign worker is hired and that U.S. workers not lose their jobs to temporary foreign workers. A substantial training component would help U.S. workers obtain the skills needed to fill these jobs and the kinds of reforms that we have advocated (like those included in the Smith bill) would effectively target H-1B visas to industries experiencing skill shortages.

*We agree that the reforms should be targeted at companies that are dependent on H-1B workers (primarily the "job shops"), but we also believe that all U.S. workers should have some additional level of meaningful protection that is not overly intrusive for employers.

*Although the agreement reached by the Republicans last month includes a training provision and limited protections for U.S. workers, it falls short in several respects. The training provision would not generate sufficient funds and the protections included some big loopholes that would have made it difficult to tackle abuses in the program.

*We have laid out specific suggestions for ways to improve the Abraham/Smith proposal that, if made, would cause us to give this proposal our full support. We have had a series of discussions with the bills sponsors in an attempt to reach an agreement. Our suggested changes generally increase the funding for training and strengthen the protections for U.S. workers in an attempt to achieve a reasonable, balanced bill that both protects U.S. workers and respects the good faith business judgments of employers.

FF

Q&A -- H-1B Legislation

August 26, 1998

Q:Why has the Administration not embraced the Republican compromise on H-1B legislation?

A:Although the Republican agreement includes a training provision and limited protections for U.S. workers, it fell short in several respects. The training provision would not generate sufficient funds and the protections included some big loopholes that would have made it difficult to tackle abuses in the program.

Q:Some Republicans and hi-tech executives claim that the Administration keeps moving the bar on what it would consider an acceptable bill. What has been going on?

A:Our position on this issue is unchanged: For the President to sign a bill that increases the cap on H-1B visas, it must contain both a significant training component and meaningful reform to the H-1B program to ensure that American companies do not lay-off U.S. workers and replace them with foreign workers.

The Republican agreement that was unveiled last month fell short in several respects. It watered down the training provisions and created some big loopholes that would have made it difficult to tackle abuses in the program.

We have laid out a very specific path to how to get our support on the legislation and have had a series of discussions with the bills sponsors in an attempt to reach an agreement. Our suggested changes generally increase the funding for training and strengthen the protections for U.S. workers in an attempt to achieve a reasonable, balanced bill that both protects U.S. workers and respects the good faith business judgments of employers.

Q:Would the President veto the Abraham/Smith compromise?

A:If the Congress passes the Abraham/Smith proposal in its current form, the Presidents senior advisors will recommend that he veto it. While the President is willing to sign a bill that raises the cap on H-1B visas, he also wants to make sure that we protect and provide training for U.S. workers. We want to work with the Congress to develop a balanced bill that addresses the growing demand for highly skilled workers.

July 30, 1998

Proposed Administration Revisions to H.R. 3736 (the July 29, 1998 version):

1.Require either a $500 fee for each position for which an application is filed or a $1,000 fee for each nonimmigrant. Fee to fund training provided under JTPA Title IV. In addition, a small portion of these revenues should fund the administration of the H-1B visa program, including the cost of arbitration.

2.Define H-1B-dependent employers as:

a.For employers with fewer than 51 workers, that at least 20% of their workforce is H-1B; and

b.For employers with more than 50 workers, that at least 10% of their workforce is H-1B.

3.The recruitment and no lay-off attestations apply to: (1) H-1B dependent employers; and (2) any employer who, within the previous 5 years, has been found to have willfully violated its obligations under this law.

4.H-1B dependent employers attest they will not place an H-1B worker with another employer, under certain employment circumstances, where the other employer has displaced or intends to displace a U.S. worker (as defined in paragraph (4)) during the period beginning 90 days before and ending 90 days after the date the placement would begin.

5.DOL would have the authority to investigate compliance either: (1) pursuant to a complaint by an aggrieved party; or (2) based on other credible evidence indicating possible violations.

6.Establish an arbitration process for disputes involving the laying-off of any U.S. worker who was replaced by an H-1B worker, even of a non-H-1B dependent employer. This arbitration process would be largely similar to that laid out in H.R. 3736 except that it would be administered by the Secretary of Labor. The arbitrator must base his or her decision on a "preponderance of the evidence."

7.Reference in the bill to "administrative remedies" includes the authority to require back pay, the hiring of an individual, or reinstatement.

8.There must be appropriate sanctions for violations of "whistleblower" protections.

9.Close loopholes in the attestations:

a.Strike the provision that "[n]othing in the [recruitment attestation] shall be construed to prohibit an employer from using selection standards normal or customary to the type of job involved."

b.Clarify that job contractors can be sanctioned for placing an H-1B worker with an employer who subsequently lays off a U.S. worker within the 90 days following placement.

c.Do not exempt H-1B workers with at least a masters degree or the equivalent from calculations of the total number of H-1B employees.

d.Define lay-off based on termination for "cause or voluntary termination," but exclude cases where there has been an offer of continuing employment.

10. Consolidate the LCA approval and petition processes within DOL, rather than within INS.

11. Broaden the definition of U.S. workers to include aliens authorized to be employed by this act or by the Attorney General.

12. Include a provision that prohibits unconscionable contracts.

13. Include a "no benching" requirement that an H-1B nonimmigrant in "non-productive status" for reasons such as training, lack of license, lack of assigned work, or other such reason (not including when the employee is unavailable for work) be paid for a 40 hour week or a prorated portion of a 40 hour week during such time.

14. Increase the annual cap on H-1B visas to 95,000 in FY 1998, 105,000 in FY 1999, and 115,000 in FY 2000. After FY 2000, the visa cap shall return to 65,000.

15. Eliminate the 7500 cap on the number of non-physician health care workers admitted under the H-1B program to make the bill consistent with our obligations under the GATS agreement.

July 22, 1997

MR. PRESIDENT:

Attached is a later version of the AIDS background memo you received last night in your briefing book. It has been slightly revised with input from DPC. Elena Kagan has requested that you see the version that reflects DPCs input, particularly as regards the following issue:

*Medicaid Expansion for HIV Infection -- The VP requested that HHS study and report on the feasibility of a demonstration project expanding Medicaid eligibility to HIV-infected persons who do not yet have full-blown AIDS. DPC advises that the contemplated demonstration project is feasible, limited to several sites, but it would not be budget neutral and would represent a break in the Administrations long-standing budget neutrality criteria in Medicaid waivers.

Phil Caplan
Sean Maloney

STATEMENT OF ADMINISTRATION POLICY

TO:ERSKINE BOWLES
RAHM EMANUEL
LARRY STEIN
JOHN PODESTA
SYLVIA MATHEWS
PAUL BEGALA
GENE SPERLING
SALLY KATZEN
BRUCE REED
ELENA KAGAN
KATIE MCGINTY
WESLEY WARREN
KERRI-ANN JONES
JEFF SMITH
MARTHA FOLEY
RON KLAIN
BILL MARSHALL
KEVIN MORAN

CC:ACTING DIRECTOR LEW
JOSH GOTBAUM
CHARLES KIEFFER

DATE:6/15/98
FROM:Kate Donovan, OMB Legislative Affairs
RE:FOR YOUR CLEARANCE -- Draft House Letter on
Agriculture Appropriations Bill, FY 1999

Attached is a draft House letter on the Agriculture Appropriations Bill, FY 1999.

Timing:House Full Committee markup tomorrow, Tuesday (6/16) at 1pm. Therefore, please call Kate Donovan at 5-4790 with comments or clearance by 9:30am Tuesday. Thank you.

STATEMENT OF ADMINISTRATION POLICY

TO:ERSKINE BOWLES
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WESLEY WARREN
MARTHA FOLEY
RON KLAIN
BILL MARSHALL
KEVIN MORAN

CC:ACTING DIRECTOR LEW
JOSH GOTBAUM
CHARLES KIEFFER

DATE:6/10/98
FROM:Kate Donovan, OMB Legislative Affairs
RE:FOR YOUR CLEARANCE -- Draft Senate Letter on
Agriculture Appropriations Bill, FY 1999

Attached is a draft Senate letter on Agriculture Appropriations Bill, FY 1999. Please note that the opening paragraphs constitute boilerplate language that was developed pursuant to the Bowles meeting held last week. If everyone is agreeable with the language, we will use it on other non-defense appropriations letters.

Timing:Senate Full Committee markup tomorrow, Thursday (6/11) at 2pm. Therefore, please call Kate Donovan at 5-4790 with comments or clearance by 9am Thursday. Thank you.

0.Wallmans Suggested Inserts and Edits to VPOTUS Remarks

Overall -- what process is contemplated to vet the remarks more generally with Assistants to the President?

Page 3 of draft -- the proposed "First . . ." needs to be updated to reflect developments

"First, were going to send a message to companies who want to do business with the federal government: how you treat your employees and how you treat unions counts with us. If you want to do business with the federal government, youd better get your house in order, youd better clean up your act. Because were going to start changing the rules to make it clear that part of having the kind of integrity and business ethics and performance capability that we expect of a federal contractor is having a satisfactory record of labor relations and employment practices and policies. This is important for all working people, and we mean it."

Background

It will be important not to over promise in this part of the remarks. We will be judged a year from now by whether this provision produced results by either affecting contract awards or causing federal contractors to improve their behavior. Implementation over the next several months will be laborious and will require careful attention. The audience will be listening for the Vice Presidents commitment to faithful and forceful implementation.

The audience will also be listening to hear the VPOTUS describe this change as protecting all working people, not just unions and their members.

The draft remarks treat this announcement as an Executive Order, but the change would require a notice and comment rulemaking. The final rule must reflect the comments received in the rulemaking, so the outcome cannot now be treated as a done deal in the remarks. It will be important for this part of the remarks to be vetted with Counsels Office and with the Vice Presidents Counsel to make sure that they feel comfortable that the remarks do not go so far as to jeopardize the durability of the final rule.

The proposed rule change would make "labor relations and employment practices and policies" part of two components of the "responsible contractor" determination in the FAR -- the business ethics and integrity test and the capability test. There is at least an argument that it is already part of the third prong of the responsibility determination -- past performance -- so the Vice President should say nothing that would suggest otherwise.

We have reached a conclusion as to how to propose the change to the business ethics and integrity test. We have not reached a conclusion about exactly how to propose the change to the capability test. With respect to the capability test, there is agreement about the concept that should be included, but disagreement as to exactly where in the existing rule the words should be added. Each of the two opposing views is strongly held. It need not be resolved for purposes of the Vice Presidents remarks, and we are still working on a solution.

Reimbursing Certain Labor Related Costs

Also on page 3 of the draft

"Believe it or not, under past practices, federal contractors can even get reimbursed for the costs of trying to persuade employees not to join unions, and for the cost of fighting unfair labor practices allegations. But were going to start changing those rules because thats not fair, and its not right."

Background

Same point as above regarding rules amendment, not executive order. Vetting as to language is important here, too.

Audience will be listening especially carefully for signs that Vice President will care about implementation, particularly of the rule change requiring an end to reimbursement of persuading costs. This is regarded as a difficult change in the federal procurement community -- difficult to figure out what should be reimbursed and what shouldnt.

Flex time remarks

The comment about "reluctant" to sign I think goes beyond where the policy discussions came out. [Jon Kaplan, can you please take a stab at language that says this should be linked in Adminstrations view, and we will veto any comp time bill that doesnt embrace flex time principles. I think that would be a more comfortable way to do it.]

Campaign finance remarks -- Beck legislation

John Hilley provided language to Dan Pink through Jon Kaplan. It would be important to adhere to his formulation.

Project Labor Agreements

No comments. Looks fine. Should be vetted with Counsels Office (Wendy White) since she has been drafting the executive order.

FLSA/minimum wage

This draft goes beyond where we should at this stage. The topic should not be raised at all because no decision has been finally made. It may be that Bruce Reed or Elena Kagan can provide something to say about general principles that doesnt put the decisional issue squarely on the table, but if not, this part of the remarks should be struck. The issue can be raised privately, however, with assurances that we are working toward an outcome that respects the principle that people should be paid a fair, living wage.

M E M O R A N D U M

TO: BRUCE REED, ELENA KAGAN

FROM: THOMAS FREEDMAN, MARY L. SMITH

RE: WORK AND FAMILY IDEAS

DATE: NOVEMBER 20, 1997

*Tax credits for those families who have chosen to have one parent stay at home and take care of their own children. (Idaho Statesman)

*Senator Dodd is attempting to craft a child-care bill that will likely include tax incentives for employers to help with child care, bigger child-care tax credits for families and larger block grants to the states. Five Republicans have committed to this effort: Orrin Hatch of Utah, James Jeffords of Vermont, Pat Roberts of Kansas, Olympia Snowe of Maine, and Arlen Specter of Pennsylvania.

*Expansion of HeadStart to reflect new research on the critical improtance of the ages zero to 3.

*Expanded tax credits for child care.
*Help for after-school programs for older kids.

*Smart Start early-childhood program: North Carolina program that offers new mothers stipends for diapers and baby food if they stay home with their newborns instead of rushing back to work.

*Expand the Family and Medical Leave Act so that parents can take time off for childrens medical appointments, teacher conferences (President at Child Care Conference)

*Flex time laws allowing workers to choose between receiving overtime in pay or in time off (President at Child Care Conference)

*Kohl bill that would provide tax credits to businesses that construct on-site child care (Bruce)

*Increase amount of money in child care development block grant to states (Bruce)

*expand dependent-care tax credit, which is available to two-parent families with two parents that work (Bruce)

*Chafee bill: KidCare Act. Among other things, it would:
*Increase the current child-care tax credit for families making less than $5,000, and increase the amount of pre-tax dollars employees can contribute to Dependent Care Assistance Plans
*Allow higher tax credits and greater pre-tax contributions for families who use accredited or credentialed child-care services, since they usually cost more
*Give child-care providers a larger tax deduction for educational expenses related to

achieving or maintaining accreditation

*Provide $50 million to create and operate technology-based training that uses distance learning, the Internet and satellite resources to help child-care providers nationwide to receive training, education and support

*Allow businesses a charitable deduction for donating educational equipment to nonprofit child-care providers and public schools

*Help employers who provide child care by implementing a tax credit for startup costs for child-care centers, professional development expenses, and costs related to achieving accreditation

*Establish a $260-million competitive grant program that would help states improve the quality of child care by doing such things as increasing the salaries of credentialed child-care providers; developing standards for the accreditation and credentialing of providers; offering scholarships to help providers pay for education and training, or for use on consumer-education efforts

March 12, 1997

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: BRUCE REED
ELENA KAGAN

SUBJECT: IDEAS

Health and Safety

1. Patients Bill of Rights/Quality Commission: The counsels office is almost done vetting our nominations for the Quality Commission, which will be charged with developing a Patients Bill of Rights. Announcement of the Commission can be combined with the release of a HHS regulation that would guarantee an expedited appeal whenever a plan proposes to deny care that a Medicare patient believes is urgently needed.

2. Medicare fraud legislation: We have finalized and are ready to announce a new and very good package of Medicare fraud and abuse initiatives. We can unveil this package in Saturdays radio address -- or if it doesnt fit there, we can look for another opportunity to make the announcement. At the same time, we can underscore our recent successes in prosecuting fraudulent health care providers.

3. Medical records privacy: We are working with HHS to develop legislation to ensure appropriate privacy protections for medical records. The subject is complex, but we have the discussions on a fast track. We are aiming to have legislation ready within a month.

4. Business endorsement of kids coverage: We are working on an event at which important representatives of the business community endorse our proposal to extend health care coverage for children. We think we can have this event ready sometime in April.

5. Executive order on unemployed workers: We are exploring whether we have legal authority to issue an executive order granting six months of health care coverage to unemployed federal workers (thus mirroring our budget proposal). We should know within a week or so whether this action is doable.

6. Classified research with human subjects: In response to recommendations of the Presidents Advisory Committee on Human Radiation Experiments, we have prepared (1) an Executive Order strengthening protections for human subjects of secret research; and (2) legislation expanding compensation for Cold War-era uranium miners. We can announce these policies and release a summary report detailing the Administrations full response to the Committees 18 recommendations. This is tentatively scheduled for release March 25, to provide news during the Presidents day off.

7. Tobacco Advertising: We are reviewing a proposal for the President to take action

responding to tobacco companies use of the internet and other fora to get around our tobacco regulation. We could use "Kick Butts" day to announce this proposal, but we should first get DOJ assurance that this proposal does not compromise our efforts to defend our tobacco regulation in court. We are also working on a response in case the federal judge in North Carolina rules against us. That ruling is expected in the next 5 weeks.

8. Seat Belt Study: The Department of Transportation will give the President a report in a week or so on ways to increase seat belt use. DOTs report is likely to include ideas for presidential challenges to states and business groups, as well as a proposal (consistent with our budget) to offer financial incentives to states to improve and enforce seat belt laws. We can release the report when the President meets with Big 3 auto executives. (It is possible that we could announce at the same event a bigger safety initiative: the addition of language to our NEXTEA proposal sanctioning states that dont have tough seatbelt laws. Secretary Slater is currently considering whether to support sending this language to Congress.)

9. Aggressive drivers/driver emergency number: DOT is working on a package of proposals to deal with aggressive drivers; we expect to get the package within 10 days. But DOT thinks the package will seem skimpy and that it may provoke safety advocates to say that the real problem is the speed limit. DOT has suggested as an alternative action creating a uniform emergency number for cellular phones. DOT thinks such an action can be ready by May.

10. Childrens Health EO: The DPC, NEC, CEQ, and OSTP are working on an executive order designed to ensure that the federal government considers the special needs of children when taking regulatory action. The executive order requires every agency to determine whether a regulation may impose disproportionate risks on children and, if so, to evaluate the specific effects of the regulation on children. Several agencies have raised serious last-minute objections, but we are hoping that we can work these out in the next few weeks.

11. AIDS Vaccine / Emerging Infections / Wiping Out Polio Worldwide: Our scientists are confident there will be an AIDS vaccine, but are very reluctant to promise one by a time certain. (Margaret Heckler made such a promise in the early 80s, and was ridiculed for it.) We are meeting with them again this week to press the question one more time. We have asked them to recommend steps the President could take to advance the search for an AIDS vaccine. OMB offered to find them more money, but they said that wouldnt make much difference. We are also working with them on the possibility of an initiative to combat emerging infections like ebola and malaria around the world. No one knows it, but our budget includes $20 million for the World Health Organization and other groups like Rotary International to wipe out smallpox worldwide.

Education

1. Testing in military schools: Announcement scheduled for tomorrow.

2. School construction event. Announcement scheduled for this Friday.

3. State School Officer Endorsements: The Chief State Schools Officers organization will endorse the Presidents testing proposal when he meets with them on Monday. We are also lining up endorsement letters from individual members.

4. California Endorsement of Testing Plan: Californias superintendent, Delaine Eastin, is

prepared to endorse our testing proposal, and a group of Silicon Valley high-tech executives are prepared to do so as well. This is scheduled for the Presidents visit March 24. Californias endorsement is very important, since the state has 10-15% of the countrys schoolchildren.

5. Advisory Panel for Education Tests: The Education Department is thinking about the appropriate structure and composition of a panel of teachers and other trusted educators to advise on the development of our 4th and 8th grade tests. (The Department may decide to use an existing, non-governmental group to perform this function.) We expect a decision in a few weeks.

6. Teacher of the Year: The President will meet with the Teacher of the Year and other outstanding teachers at the White House on April 18. He may be able to announce that the National Board for Professional Teaching Standards has selected additional master teachers.

7. Roundtable/Town Hall on Standards: The President could participate in a session with teachers, students, parents, and others to explain the standards associated with his 4th and 8th grade tests. The roundtable would demonstrate with concrete examples the kind of student work -- and the kind of teaching -- that reflects high standards.

8. Agency sponsorship of charter schools: We can set a process in motion for federal agencies -- for example, NASA or the NSF -- to sponsor charter schools in partnership with teams of teachers. We should keep this project small at the start and focus it on DC. It will probably take us three or four months to be ready to announce the first sponsorship.

9. Incentives for engineering: We are currently exploring whether we can take executive action (or should propose legislation) providing monetary incentives for students to take engineering courses. We will know more within a week.

Welfare

1. Welfare-to-Work Transportation Plan: We announced today our Access to Jobs proposal, which would allocate $600 million of NEXTEA funding to improve transportation systems so that welfare recipients and other low-income workers could get to work more easily. We are currently exploring whether we can take an executive action that would call further attention to these efforts. We should know in a week or two.

2. Child Support: We can announce new child support enforcement numbers, along with the submission of a new HHS report on child support enforcement and our submission of legislation (previously announced) to make it a felony to cross state lines to evade child support obligations. This is another possible radio address for this Saturday or the next.

3. Statutory Rape/Teen Pregnancy Prevention: DOJ should be ready sometime in April to release a report on statutory rape and its relation to teen pregnancy rates. We could do a radio address timed to coincide with the release of this report, discussing strategies to enforce statutory rape laws and decrease teen pregnancies.

4. Internet in welfare offices: We are currently exploring ways to increase the access of welfare offices around the country to internet, with its wide range of job databanks. Eli Segals organization may play some role in this effort. Gingrich is also interested. We will have a proposal within a week or two.

5. Welfare business group announcement: Eli Segal is planning a formal announcement of his organization in early April, preferably in Milwaukee -- where he would line up the support of a few hundred businesses, Mayor Norquist, Governor Thompson, and Mitch Fromstein, head of Manpower. This is tentatively scheduled for April 7.

Crime and Drugs

1. Hard Liquor Advertising: For years, the hard liquor industry has voluntarily agreed not to show liquor ads on TV. Some companies have now broken that agreement. In furtherance of his National Drug Control Strategy roll-out, the President could send a letter to the FCC requesting that they consider restrictions on hard liquor advertising on television during certain time periods.

2. Sex Offender Registry: The President could visit the National Center for Missing and Exploited Children in Arlington, Virginia where he would take a tour of facility and announce that the interim National Sex Offender Registration system -- which he directed the Attorney General to develop in the June 21, 1996 Radio Address -- is now up and running. He also would announce that he is signing an Executive Order instructing the Attorney General and the Secretary of Defense to ensure that sex offenders released from Federal and Military prisons are listed in the national registry. This is ready to go.

3. National Anti-Drug Media Campaign: The Presidents FY 98 Budget Submission includes $175 million for a national anti-drug media campaign directed towards our youth. We will not be able to expend any funds on this initiative until we enact the appropriation bill, but ONDCP can expend discretionary funds in its FY 97 budget to begin producing anti-drug ads. At a Rose Garden event, the President could kick off his Administrations anti-drug media campaign with one of the celebrities who has committed to appear in an ad. The President could also release a letter that he is sending to every network issuing his challenge that they match our contribution and begin dedicating more air time to anti-drug ads. ONDCP is currently reaching out to celebrities and sports figures such as Michael Jordan, Grant Hill, and Tiger Woods to tape anti-drug ads. This event should be ready sometime in April, and could coincide with the Chicago Bulls visit April 3.

4. Anti-Gang Prosecutor Event: The cornerstone of the Presidents Anti-Gang and Youth Violence Strategy is a $200 million anti-gang prosecution grant program. The President could meet with prosecutors from across the country in the Oval Office where they would thank him for his strong support in fighting gangs. The prosecutors -- Republican and Democrat -- would urge Congress to move quickly to pass the Presidents bill. We recommend April for this event.

5. After-school initiative event: To highlight his new after-schools initiatives in the Anti-Gang Bill, the President could visit a successful after-school program and meet with the kids helped by the program. That day, he also would announce that HHS is providing several million dollars in grants from its FY 97 appropriation for new after-school programs across the country. This event should occur after the anti-gang event described above.

6. Victims Constitutional Amendment: In June 1996, the President announced his support for a constitutional amendment for victims rights -- to guarantee victims the right to be notified, to receive restitution, receive reasonable protection measures, and to be heard

at sentencing and parole hearings. At a White House event, the President could: (1) urge Congress to pass the Amendment quickly; (2) receive a report from the Attorney General -- in response to his June 25, 1996 Directive -- outlining measures taken by the Justice Department to increase and improve Federal services and protections for victims of crime; (3) announce the creation of a Federal victim notification system; and (4) announce additional funding from the Victims Crime Fund -- which is larger than ever before -- that will be provided to victims services and shelters throughout the country. This could be a radio address for April 19, the third anniversary of the Oklahoma City bombing or during April 14-18, which is National Crime Victims Week.

7. Nanny checks: We could introduce legislation prepared by the Justice Department that would facilitate criminal checks for non-criminal purposes -- for example, a check on a potential nanny or schoolbus driver. But we oversold the Oprah bill a couple of years ago as a solution to this problem; if we do another big event, we will have to admit that our purported solution didnt do much of anything.

8. Ban on importation of gun clips: We are looking into the possibility of endorsing Sen. Feinsteins bill to close a loophole in the assault weapons ban by prohibiting the importation of 15-round magazines. We will have a recommendation later this week.

Family

1. Family leave executive order: We think we have legal authority to issue an executive order granting federal employees the additional family leave provided in our legislative proposal. We will have a final answer on this proposal within the week.

2. Child care centers: Ideas proposed to us last week on child care would be either ineffectual or prohibitively expensive. We are continuing to look for sensible policy initiatives.

Service Summit

1. Scholars Program: We announced last year a $1,000 scholarship for high school students who have performed outstanding service, with the federal government putting up $500 and a community or service organization (e.g., Lions, Elks, Kiwanis, Moose) putting up the rest. We can be ready any time to do an event inviting high schools that have obtained matching funds to submit names of candidates for the scholarship (perhaps in conjunction with a letter from the President to every high school principal).

2. Commitments/Adopt-a-School: We could announce "commitments" from the federal government to the service summit -- proposals for how the federal government can support service and voluntarism to help youth. We could be ready to make such announcements in 2-3 weeks if necessary. One possible commitment would involve agencies adopting schools -- offering literacy services, donating computers, doing career days, etc.

Environment

1. Brownfields: The EPA wants to roll out an expansion of the existing Brownfields pilot program in about two months. The Administration will also resubmit legislation creating a

new tax incentive and grant program to encourage the redevelopment of Brownfields.

2. Right-to-know law: EPA should be ready in about two months to issue a rule extending disclosure obligations under the right-to-know law to a number of additional industries -- probably including mining, hazardous waste handlers, and utilities.

3. Safe water regulations: EPA will propose regulations to require water utilities to provide information to consumers about what is in tap water. The proposal will not be ready until September or so.

April 16, 1997

CONFERENCE ON EARLY CHILDHOOD DEVELOPMENT AND LEARNING

DATE:April 17, 1997
LOCATION:The East Room
BRIEFING TIME:(Red Room)
EVENT TIME:pm
FROM:Bruce Reed/Elena Kagan

I.PURPOSE

To call attention to new scientific research on brain development in very young children and practical applications of these findings. This is also an opportunity to demonstrate your commitment to enhancing the development of young children and highlight the Administrations efforts to strengthen families.

II.BACKGROUND

You and the First Lady will be hosting two panel discussions, the Vice President and Mrs. Gore will be joining you for the afternoon session. During the morning session of the conference, leading researchers and child development experts will discuss the new research and what it means for parents and caregivers. The morning session will be broadcasted to approximately 100 satellite sites. The afternoon session will highlight model community efforts to support parents and enhance early childhood development. The First Lady will moderate the afternoon session.

This conference builds on the Administrations investment in children and families. The Administration has invested heavily in research to help us better understand the importance of the first few years of a childs life, including increasing the funding for NIHs childrens research by 25%, from $1.3 billion to $1.6 billion, between 1993 and 1997. In addition, the Administration raised funding for Head Start by 43% over the last four years and created the Early Head Start program to support families with children ages zero to three. Your FY 1988 Budget further increases participation to reach 122,000 more children in FY 1998 than when you first took office. The Administration also dramtically increased partipation in the WIC Supplemental Nutrition Program.

This conference is an opportunity for you to announce the following new policy announcements:

Improving the Quality of Child Care By Learning from the Military. Based on reports from child care experts that the military child care system is now the best in the country, you

will be issuing an executive memorandum directing the Secretary of Defense to use the Departments expertise to help improve child care across the nation. The memorandum urges the Department to consider: (1) creating partnerships with civilian child care centers in the community to help them improve quality; (2) providing training courses for civilian child care providers; (3) sharing the materials and models for worker training, accreditation and evaluation, facility design, financing, and other ingredients of the militarys success; and (4) working with States and local governments to enable military child care facilities to serve as training sites for welfare recipients moving from welfare to work.

Providing Health Coverage for Children. You will announce that your FY 1998 budget proposal includes a childrens health initiative that will extend coverage to up to 5 million uninsured children by the year 2000 by strengthening Medicaid for poor children, building innovative State programs to provide coverage for working families, and continuing health coverage for children of workers who are between jobs. Today, the Association of American Medical Colleges issued a letter of support for the Clinton Administrations childrens health proposal.

Importance of Early Education. The President recognizes that children must be nurtured and stimulated in the earliest years. That is why he is announcing two initiatives geared toward early learning.

*Expanding Early Head Start. The Department of Health and Human Services is requesting proposals for new Early Head Start programs to expand Early Head Start enrollment by one-third next year. Created by the Clinton Administration in 1994, the Early Head Start program brings Head Starts successful comprehensive services to families with children ages zero to three and to pregnant women.

*Giving Parents and Caregivers Early Childhood Tools. The Presidents America Reads Challenge is releasing "Ready*Set*Read" early childhood development activity kits. The kits offer suggestions to families and caregivers about developmentally appropriate activities for children ages zero to five. They will be distributed in May to early childhood programs across the country and to callers to the Department of Educations 1-800-USA-LEARN hotline.

Safe Start. The Department of Justice is establishing "Safe Start" to change the way law enforcement officers respond to children who are the victims of or witnesses to violence. The program will provide training on early childhood development to community police officers, prosecutors, probation and parole officers, school personnel and mental health providers. It will better prepare law enforcement officials to respond to young children exposed to violence and can help prevent todays children from turning into tomorrows criminals. The initiative is built on the successful partnerships between community police officers and mental health providers funded by DOJ in New Haven, Connecticut and three other communities.

III.PARTICIPANTS

Briefing Participants:
The First Lady
John Podesta
Bruce Reed
Elena Kagan

Melanne Verveer
Sarah Farnsworth
Carolyn Curiel

First Panel Participants:
The First Lady

IV. PRESS PLAN

Open.

V. SEQUENCE OF EVENTS

VI. REMARKS

Morning Panel: Opening and closing remarks prepared by Speechwriting.
Afternoon Panel: Closing Remarks prepared by Speechwriting

VII. ATTACHMENTS

- Participant list in speaking order.
- Fact Sheet on California Educational Standards.
- Statement from 200 CEOs.

October 22, 1997

THE WHITE HOUSE CONFERENCE ON CHILD CARE

DATE:October 23, 1997
LOCATION:The East Room
TIME:9:20 a.m. - 12:00 p.m.
FROM:Bruce Reed
Melanne Verveer

I.PURPOSE

To engage in a substantive discussion on child care with key policy-makers, experts, advocates, and community leaders.

Objectives for the Conference: (1) To call national attention to an issue that political leaders and policy-makers have traditionally ignored; (2) to prepare the way for a child care initiative in your next budget; and (3) to urge government and the private sector to address the significant challenge of ensuring that working families have access to safe, affordable child care.

II.BACKGROUND

The White House Conference on Child Care will bring together academic experts and economists; child care providers and advocates; religious, labor and business leaders; and parents. Several hundred additional people will attend sessions at three Federal agencies to watch the Conference proceedings by satellite and participate in working sessions with members of your Cabinet. The conference will also be broadcast live via satellite to more than 100 locations in at least 48 states. Mrs. Clinton will host a reception on the White House South Lawn at the conclusion of the conference for all those attending the White House and agency sessions.

The conference follows on a series of events that have included you, the First Lady, and other Administration officials, as well as years of involvement by you and the First Lady on child care. Recent events include your visit to a Head Start center in New Jersey; several appearances by the First Lady, including a visit to the Quantico Marine Base to view the military child care system, a round table discussion in Florida with business leaders involved in child care, and a speech at the University of Maryland; and numerous meetings with key constituencies hosted by members of the Domestic Policy team and the First Ladys staff.

Your opening remarks at the conference, however, will be your first opportunity to speak to the American people about this issue in a substantive way. In fact, you are the first President to address this issue seriously; focus group meetings with child care experts and advocates underscored the significance of your role in turning the nations attention to this issue and recasting it as one in which all Americans have a stake. Your remarks will address the importance of good child care for Americas working families, note past Administration accomplishments on this issue, announce several new policy initiatives and

indicate your intent to unveil a child care proposal this winter.

Topics for Discussion: The conference will address three critical child care challenges -- availability, affordability, and safety and quality. You will be present for the morning session, which will include opening remarks by you and the First Lady, the presentation of a short video, and a panel discussion moderated by you and the First Lady. This panel discussion will be divided into two parts. First, panelists will discuss why child care matters -- both to our childrens development and to the nations economy. Second, panelists will examine how well (or badly) we are meeting the challenge of ensuring that safe, affordable child care is available to working families.

The afternoon panel discussion will be anchored by the First Lady, the Vice President, and Secretary Riley. This discussion will examine successful child care models across the nation and consider the roles that states, business and labor leaders, the faith community, health care professionals, and others can play in addressing critical child care challenges.

At the tabs that follow in this book, you will find a suggested script for each of the panels and bios of the panelists.

Policy Announcements: You will announce your intent to introduce a child care initiative as a part of your next budget proposal. In addition, you will announce several other initiatives (described in more detail in the attached October 20 memorandum):

1) The appointment of a Child Care Working Group that will report to Secretary Rubin on the role that business should play in providing child care;

2) An outreach plan to make child care workers aware of possible eligibility for Pell Grants, and a new scholarship program, of at least $50 million per year, that will provide assistance to full- or part-time students who are working toward a Child Development Associate credential or another degree in child development and who agree to remain in the child care field for at least one year (this program will be modeled after Governor Hunts T.E.A.C.H. (Teacher Education And Compensation Helps) Early Childhood Project);

3) The transmittal of the "National Crime Prevention and Privacy Compact" to Congress, which will enable states to share criminal history information for limited other purposes, including background checks on child care workers; and

4) A strategy to expand access to and the quality of after-school programs through service activities, and the release of a "How-To Manual" describing how to integrate service and school-age care, identifying opportunities for children to learn through service, and highlighting programs that are currently using service to enrich out-of-school time.

III.PARTICIPANTS

Briefing Participants:

Bruce Reed, Melanne Verveer, Elena Kagan, Jennifer Klein, Nicole Rabner, June Shih

Event Participants:

Panel I (morning session moderated by YOU and the First Lady):

Ellen Galinsky, President and Co-Founder, Families and Work Institute.
Michelle Seligson, Founder and Director, National Institute on Out-of-School Time.
Secretary Robert Rubin, Secretary of the Treasury.
Secretary Donna Shalala, Secretary of Health and Human Services.
Governor James Hunt, Governor of North Carolina.
Valora Washington, Program Director, W.K. Kellogg Foundation.
Patty Siegel, Executive Director, California Child Care Resource and Referral Network.

Panel II (afternoon session moderated by the Vice President and Mrs. Clinton):

Major General John G. Meyer, Chief of Public Affairs United States Army.
Jane Maroney, State Legislator, State of Delaware.
Dr. Susan Aronson, National Board, Member of the American Academy of Pediatrics.
Bishop Joseph M. Sullivan, Vicar of Human Services, Diocese of Brooklyn.
Beatriz Otero, Executive Director, Calvary Bi-Lingual Multicultural Learning Center.
John J. Sweeney, President, AFL-CIO.
Doug Price, President,.FirstBank of Colorado.

Guests. The conference will be attended by approximately 150 guests, including: Members of Congress, Governors and other state and local officials, academic experts and economists; child care providers and advocates; religious, labor and business leaders; and parents. A complete guest list is attached.

VI.PRESS PLAN

Open Press.

V.SEQUENCE OF EVENTS

*YOU and the First Lady proceed to the Red Room for briefing;
*YOU and the First Lady proceed to the Blue Room for meet and greet with panelists from both the morning and afternoon panel discussions;
*YOU and the First Lady are introduced into the East Room;
*The First Lady makes remarks and introduces a 5-minute video on child care;
*Video is shown;
*Kathy Carliner (parent) introduces YOU;
*YOU make remarks;
*YOU and the First Lady lead a panel discussion on "The Challenge: Availability, Affordability, and Assuring Safety and Quality Child Care";
*YOU make closing remarks;
*The First Lady makes closing remarks;
*YOU depart;
*The First Lady hosts a lunch in the State Dining Room;
*The First Lady and Vice President moderate the second panel -- "Learning From What Works"; and
*The First Lady hosts a reception on the South Lawn.

VI.ATTACHMENTS

Conference Agenda
Panel Descriptions, Participant Bios, and Scripts
List of Participants

Remarks

Background

--Fact Sheets on Child Care

--Overview Memorandum

Articles

January 21, 1998

MEMORANDUM FOR THE PRESIDENT

FROM:Chris Jennings

SUBJECT:Waivers and the Childrens Health Insurance Program

cc:Bruce Reed, Gene Sperling, Jack Lew, Josh Gotbaum, Elena Kagan

This memo seeks your guidance on how much, if any, additional flexibility should be given to states in the Childrens Health Insurance Program (CHIP) through the use of 1115 waivers. Although waivers have been instrumental in modernizing and reforming welfare and Medicaid, questions have been raised about the feasibility and advisability of granting waivers for the new childrens health care program so soon after its enactment.

Despite acknowledging the great amount of flexibility given to the states in the new CHIP grant program, the Governors asked soon after the laws enactment if additional flexibility would be given through waivers. HHSs interim response was that it would be difficult to review and evaluate the merits of waiver proposals until we had some experience with the implementation of the new law. Your advisors agreed that this was the appropriate, initial response, but we also underscored that this was not necessarily our final position.

The National Governors Association (NGA) immediately responded by formally requesting that we affirm states ability to seek new CHIP grant program 1115 waivers. Since then, two other issues have been raised: (1) Will we approve new Medicaid 1115 waivers in the Medicaid option within CHIP, and (2) Will we allow states with current Medicaid 1115 waivers to expand those programs through CHIP (even though some have provisions below the CHIP minimums).

All of your advisors agree that the HHS Secretary does have the authority to grant waivers for CHIP, whether administered through a new non-Medicaid grant program or through Medicaid. They also generally agree that the CHIP waiver policy need not conform to existing waiver policy. However, they (HHS, OMB, Treasury, NEC/DPC) disagree on whether and under what circumstances HHS should approve waivers in CHIP.

Because HHS is holding state conferences this month on CHIP and the annual NGA conference is in February, it is important that we receive direction from you in short order on this issue. This memo, developed in collaboration with HHS and OMB, outlines these issues, provides policy options for your consideration, and summarizes where your advisors stand on these options.

BACKGROUND

Your Administration has given states unprecedented flexibility for their health care programs. Since 1993, we have granted 15 comprehensive Medicaid waivers that test approaches not allowed in Medicaid like experimenting with premiums and cost sharing for low-income populations, waiving benefits, and accelerating enrollment in managed care. States have also used waivers to expand coverage to millions of Americans. In addition, with the Administrations strong support, the Balanced Budget Act secured much greater administrative flexibility for the Medicaid program (e.g., eliminated the need for a waiver for a managed care program, repealed the Boren amendment, and reduced cost-based reimbursement requirements for community health centers). In so doing, we eliminated the need for many time-consuming waivers that we heretofore required from states.

The BBA also created CHIP, which has fewer Federal guidelines than any other health insurance program that the Government oversees. Unlike Medicaid, CHIP allows states that opt to expand through a new, non-Medicaid grant program to cap the number of children covered (i.e, no entitlement requirement); to limit programs to parts of the state; to not cover Medicaids EPSDT (Early, Periodic, Screening, Detection and Treatment) benefit; and to charge beneficiaries long-sought-after (although limited) cost-sharing. Alternatively, states may expand using the enhanced Federal match through the now more flexible Medicaid program. However, states choosing this option must follow Medicaid rules (e.g., no benefits changes or cost sharing).

Although extremely flexible, CHIP includes standards for accountability, benefits, and cost sharing limits; these were secured by you and Congressional Democrats. Accountability provisions include limits on the type of state contribution (e.g., no provider taxes and donations) and provisions to prevent "crowd out" (substitution of the new coverage for existing coverage). For the new non-Medicaid grant program, we developed a benefit standard that simultaneously ensures that it is valuable but provides great flexibility to states in benefits design. Cost-sharing is allowed in the grant program but limited to moderate premium and copayment schedules for those below 150 percent of poverty and to 5 percent of family income for those above 150 percent. As under current law, states electing the Medicaid option must follow Medicaid rules for benefits (including EPSDT) and cost sharing (for children, none is allowed).

Despite the flexibility in CHIP, some states have indicated that they want 1115 waivers. There are three types of waivers that states are seeking. First, several states want to waive provisions for non-Medicaid, CHIP grant programs (e.g., California wants to impose greater cost sharing above the CHIP limits). Second, others want to waive Medicaid provisions within CHIPs Medicaid option since states choosing the Medicaid option must use all Medicaid rules (e.g., Missouri wants to waive the Medicaid requirement to cover non-emergency transportation). Third, most states that already have Medicaid 1115 waivers want to expand those programs to more children to receive CHIPs higher matching rate even though some include provisions that are significantly below the new CHIP minimums (e.g., Arkansas has higher cost sharing requirements than allowed in CHIP). It is important to note that the provisions that states want most to waive are the benefits and cost sharing minimums we worked to secure before signing off on the budget agreement.

CONSENSUS RECOMMENDATION: DEFERRING NON-MEDICAID CHIP WAIVERS

Your advisors have achieved consensus on one of the major issues. For CHIP non-Medicaid grant programs, we believe the Administration should consider waiver applications only after a state has had at least a years worth of experience, followed by an evaluation of its childrens health insurance program. As we gain experience with the new CHIP grant

program, we will have a better understanding of what types of CHIP demonstrations are appropriate and will develop guidelines at that point.

We believe that deferring approvals for waivers of the already extremely flexible CHIP is advisable because this enables us to see how the program you signed into law last summer will work. Granting waivers now would place great pressure on us to weaken the accountability and benefits standards that we secured in the Balanced Budget negotiations that base Democrats and advocates think are too modest anyway. Having said this, waiver policy for CHIP may well be advisable after we have had time to learn about the programs strengths and weaknesses.

If you agree, we will inform Governors of this policy in a response to their letter. While we believe that Governors will be disappointed with this position, they will likely appreciate that our policy is temporary and that we open up the prospect for waivers soon after they implement their childrens health programs.

Decision

Agree on deferring non-Medicaid grant program waivers until plans in place for one year

Lets discuss

ISSUE: POLICY FOR MEDICAID WAIVERS

The other types of waivers, about which there is disagreement amongst your advisors, concern the Medicaid option within CHIP. We all agree that our Medicaid waiver policy should be modified to acknowledge the fact that the Congress did pass legislation that explicitly outlines new guidance on balancing the need for greater flexibility with the need for accountability. However, we differ on how our policy should be modified to reflect this policy change and, more specifically, the extent to which we would hold Medicaid waivers to the CHIP standard.

There are two questions. The first is whether we grant new waivers to states that expand CHIP coverage through Medicaid. States have indicated that they are interested in expanding coverage through the Medicaid option, but since the law allows no flexibility from Medicaid rules, they want waivers, particularly in the area of cost sharing. The second question is whether we allow states that already have Medicaid 1115 waivers to expand those programs, without change, to get the CHIP allotment and higher match. The following are the options proposed by your advisors.

OPTION 1 (HHS): Defer new Medicaid CHIP waivers (with minor exceptions) and allow expansions of existing Medicaid waivers if consistent with CHIP standards for non-Medicaid grant programs. HHS recommends that we apply the same policy for new Medicaid and non-Medicaid, grant program waivers. It would hold off on approving any new Medicaid waiver under CHIP until we have at least a years experience plus an evaluation. (The only exception would be for waivers for small, incidental provisions that have little or no effect on most children like Missouris desire to waive the Medicaid requirement for non-emergency transportation.) For states that have waivers already, HHS would allow them access to the new enhanced matching dollars only if they met CHIPs non-Medicaid grant program standards.

Although HHS/OMB have, in years past, approved a number of Medicaid waivers that have less generous benefits than even the new CHIP grant program, HHS believes the new law set a floor that we should not fall below. They fear that once we open the door to waivers, we will have a difficult time maintaining these standards. In addition, they are concerned that waiver negotiations will delay implementation of new programs in a number of states. Rapid implementation is one critical component to covering our target 5 million uninsured children.

If you choose this option, the Democrats and childrens health advocates will applaud our decision to respect the rules enacted in the widely praised new health insurance program for children. However, Governors who are hoping that we will allow some type of Medicaid waivers will surely react strongly and negatively to this policy.

OPTION 2 (NEC/DPC): Allow Medicaid CHIP waivers (new or old) if generally consistent with CHIP standards for non-Medicaid grant programs. This option would allow new waivers through the Medicaid option of CHIP if those waivers were consistent with the standards provided under the new CHIP grant model. In other words, states choosing the Medicaid CHIP option could waive Medicaid rules as long as the benefits, cost-sharing and other accountability provisions are in line with the CHIP grant program standards. Existing (old) Medicaid 1115 waiver programs could also receive the higher matching rate, but they too would have to meet CHIP standards; in a number of cases, this would mean they would have to strengthen some of their benefits/cost-sharing protections to access these additional dollars. Although a few states would have to reduce cost sharing requirements to comply with CHIP, we believe that the higher matching rate available under CHIP would be sufficient to offset these costs.

DPC/NEC believes that this option strikes an appropriate balance by maintaining the integrity of the CHIP program and the Balanced Budget Act and giving the new standards time to be tested. It also removes an important disincentive for states to use the Medicaid option in CHIP. Many states would prefer to use their already-in-place Medicaid programs because it is administratively simple. Moreover, having a seamless Medicaid program serving both poor and children of working parents has obvious advantages. However, allowing any new Medicaid waivers through CHIP will be criticized by our base Congressional Democrats, some Republicans, and advocates. They believe that their support for the flexibility in the non-Medicaid CHIP program was conditional on no new flexibility in Medicaid. The Governors would like this approach better than the HHS option, but they could be counted on to say that it is still not flexible enough.

Within this option, NEC/DPC also recommends that the Secretary have the authority to approve Medicaid CHIP waivers that may be modestly below those standards provided for in the new CHIP grant program. While we strongly believe that the CHIP standards should be the guiding principle for Medicaid waivers, we also recognize that it is unwise and unrealistic to treat the new laws standards as "lines in the sand" that can never be crossed regardless of a waivers merits.
One good example is in the area of cost sharing.

In both previous Medicaid waivers and our internal policy positions, we have allowed limited cost sharing that exceeds the CHIP grant program standards. Such cost sharing can appropriately increase beneficiaries cost sensitivity in using health services and decrease possible employer insurance dropping problems, since such a policy would more accurately mirror marketplace coverage. While we recommend providing this additional flexibility

authority, we also believe that waivers of the CHIP grant standards for children not be granted below 133 percent of poverty -- the level your Administration advisors had previously concluded (during the balanced budget discussions) achieved the balance between appropriate and excessive cost-sharing.

While some might point out that it is inconsistent to allow flexibility below CHIP standards for Medicaid and not the grant option, we believe that the advantages of this approach far outweigh
this criticism. First, the CHIP standards were designed for the grant program not Medicaid. Second, Medicaid waivers are quite variable and have never been publicly held by Democrats and advocates to the same standards as legislated changes to public programs. And thirdly, as described above, having an additional incentive to administer the childrens health program through Medicaid is desirable.

Giving HHS the authority to allow any cost sharing flexibility in Medicaid will likely anger base Congressional Democrats and some moderate Republicans. They will argue (as does HHS) that once we sanction higher cost sharing below 150 percent of poverty, decisions will be perceived as arbitrary, making it difficult to say no to states that demand even greater flexibility. We believe these are valid concerns and should be seriously considered. However, we are also well aware of states (such as Wisconsin) who will be requesting cost-sharing levels just under 150 percent (i.e., 143 percent of poverty) that we would find difficult to oppose on purely policy grounds.

OPTION 3 (OMB & TREASURY): Allow new CHIP Medicaid waivers if consistent with CHIP standards for non-Medicaid, grant programs, but allow existing Medicaid waivers to expand with no change. For states requesting new Medicaid waivers, OMB/Treasury agree with DPC/NEC option that the CHIP standards should guide approval of such waivers (also allowing for greater cost sharing for families no less than approximately 133 percent of poverty). This policy should be re-evaluated after states gain experience with their programs, at the same time the Administration is re-considering non-Medicaid, grant program waivers.

For states with waiver programs already approved (since the 1994 NGA waiver agreement), OMB and Treasury recommend that we recognize their history and different situation and not hold them to the CHIP standards. We anticipate that these 11 states will want to expand their current waiver programs under CHIP; OMB and Treasury think they should be permitted to do so with no changes. Although this option provides only a few more states with additional flexibility in cost-sharing or benefits under CHIP than the DPC/NEC option, it helps these states avoid significant coordination problems by sanctioning CHIP programs consistent with approved waiver programs. In addition, lower income children in these states might pay more in premiums than the higher income children newly eligible under CHIP. Waiver states will consider the Administration to have reneged if we dont permit them to carry their waivers to CHIP. This option excludes pre-NGA agreement waivers (e.g., Tennessee) since states have been held to a higher standard since then.

Allowing existing Medicaid waivers into CHIP unchanged will surely be noticed and strongly opposed by base Democrats and childrens advocates. They believe that some of the waivers that we have approved to date, such as Tennessee and Arkansas, have gone too far by allowing states to impose "excessive" cost sharing on low-income beneficiaries and waive EPSDT. Ironically, this policy may also be criticized by some Congressional Republicans, who think that many of our CHIP implementation decisions are steering states toward the Medicaid option. It would, however, be the most acceptable option to the NGA and the relevant (existing waiver) states.

Decisions

Medicaid Waivers

OPTION 1: Defer new Medicaid waivers in CHIP (with minor exceptions)
Allow existing waivers to expand through CHIP if consistent with CHIP standards for non-Medicaid, grant programs

OPTION 2: Allow new & existing Medicaid waivers in CHIP if consistent with CHIP standards for non-Medicaid, grant programs

OPTION 3: Allow new Medicaid waivers in CHIP if consistent with CHIP standards for non-Medicaid, grant programs
Allow existing waivers (post-NGA agreement) to expand through CHIP with no program changes even if they fall significantly below new CHIP grant standards

Lets discuss

Cost Sharing Flexibility

OPTION 1: Hold all Medicaid waivers to the cost sharing in CHIP for non-Medicaid, grant programs

OPTION 2: Authorize the Secretary to approve, within limits, Medicaid waivers in CHIP with cost sharing below CHIP standards for non-Medicaid, grant programs

Lets discuss
FF
STATES WITH MEDICAID 1115 WAIVERS (Chronological Order)

STATE
Approved
Eligibility Limit
Benefits for New Eligibles
Cost Sharing: New Eligibles

Arizona
10/82
Existing eligibles
Medicaid benefits
None

Oregon
3/93
People < 100% PL
Prioritized benefits
Premiums: $6 to 28
No copays or deductibles

Hawaii
7/93
People < 300% PL, plus assets test
No long-term care
Premiums: $142 - 168
Copays: $5

Maryland
10/93

10/96
Children 133-185% PL

Existing eligibles
No inpatient, outpatient, emergency room, some EPSDT; no long-term care
Medicaid benefits
Copay: $5

None

Rhode Island
11/93
Children < 250% PL
Medicaid benefits
Premiums: From 185-250% PL: $1.50 - $10.75
No copays or deductibles

Tennessee
11/93
People up to 400% PL, with enrollment cap
Medicaid benefits
Premiums: $14.25 to 475
Deductibles: $250 / $500
Coinsurance: 2 to 10%

Florida
9/94
People < 250% PL
Excludes some EPSDT, transportation, some long-term care and mental health
Premiums: $90 - 550 / mo
Deductibles: Up to $500
Copays: $10-200 or 20%

Ohio
1/95
People < 100% PL
Medicaid benefits
None

Massachusetts

4/95
People < 200% PL
Medicaid benefits
Premiums: Variable
Deductibles:$100 / $250 Copays: $5 / 10

Minnesota
4/95
Children < 275% PL
Medicaid benefits
Premiums: $4 to 104 / mo
No copays or deductibles

Delaware
5/95
People < 100% PL
Medicaid w/ small changes
None

Vermont
7/95
People < 150% PL
No transportation, long-term care
Premiums: Above 25% PL: $5 to $20 every 6 months
Copays: $3 for dental

Kentucky
10/95
Existing eligibles
Medicaid benefits
None

Oklahoma
10/95
Existing eligibles
Medicaid benefits
None

Illinois
7/96
Existing eligibles
Medicaid benefits
None

Alabama
12/96
Existing eligibles
Medicaid benefits
None

New York
7/97

Home relief pop.
Medicaid benefits
None

Arkansas
8/97
Children < 200% PL
No EPSDT, limited long-term care & mental health
Copays: $10 outpatient; 20% inpatient ; $5 for drugs

Italics indicated approved but not implemented. States above the line were approved prior to NGA 1994 agreement.

January 19, 1998

MEMORANDUM FOR THE PRESIDENT

FROM:Chris Jennings

SUBJECT:Waivers and the Childrens Health Insurance Program

cc:Bruce Reed, Gene Sperling, Jack Lew, Josh Gotbaum, Elena Kagan

This memo seeks your guidance on how much, if any, additional flexibility should be given to states in the Childrens Health Insurance Program (CHIP) through the use of 1115 waivers. Although waivers have been instrumental in modernizing and reforming welfare and Medicaid, questions have been raised about the feasibility and advisability of granting waivers for the new childrens health care program so soon after its enactment.

Despite acknowledging the great amount of flexibility given to the states in the optional CHIP grant program, the Governors began asking -- soon after the laws enactment -- if additional flexibility would be given through waivers. HHS interim response was that it would be difficult to review and evaluate the merits of waiver proposals until we had some experience with the implementation of the new law. Your advisors agreed that this was the appropriate, initial response, but we also underscored that this was not necessarily our final position.

The National Governors Association (NGA) immediately responded by formally requesting that we affirm states ability to seek waivers for the new CHIP grant program. Since then, two other issues have been raised: will we approve waivers for the Medicaid option within CHIP, and will we allow states with current Medicaid 1115 waivers to expand those programs through CHIP (even though some have provisions below the CHIP minimums).

All of your advisors agree that the HHS Secretary does have the authority to grant waivers for the CHIP program, whether it is administered through the new Title XXI grant program or through Medicaid. They also generally agree that the CHIP waiver policy need not conform to existing waiver policy. However, they (HHS, OMB, Treasury, NEC/DPC) disagree on whether and under what circumstances HHS should approve Medicaid waivers.

Because HHS is holding state conferences this month on CHIP and the annual NGA conference is in February, it is important that we receive direction from you in short order on this issue. This memo outlines background information on this difficult issue, provides you policy options for your consideration, and summarizes where your advisors stand on these options.

BACKGROUND

Your Administration has given states unprecedented flexibility for their health care programs. Since 1993, we have granted 15 comprehensive Medicaid waivers that test approaches not allowed in Medicaid like covering low-income families and accelerating enrollment in managed care. In addition, with the Administrations strong support, the Balanced Budget Act secured much greater administrative flexibility for the Medicaid program (e.g., eliminated the need for a waiver for a managed care program, repealed the Boren amendment, and reduced cost-based reimbursement requirements for community health centers). In so doing, we eliminated the need for many time-consuming waivers that we heretofore required from states.

The BBA also created CHIP, which has fewer Federal guidelines than any other health insurance program that the Government oversees. Unlike Medicaid, CHIP allows states expanding through a non-Medicaid grant program to cap the number of children covered (i.e, no entitlement requirement); to limit programs to parts of the state; to not cover Medicaids EPSDT (Early, Periodic, Screening, Detection and Treatment) benefit; and to charge beneficiaries long-sought-after (although limited) cost-sharing. In addition, states may expand using the enhanced Federal match through the now more flexible Medicaid program.

The primary areas of Federal oversight -- accountability, benefits, and cost sharing limits -- were secured by you and Congressional Democrats. Accountability provisions include limits on the type of state contribution (e.g., no provider taxes and donations) and provisions to prevent "crowd out" (substitution of the new coverage for existing coverage). For the new non-Medicaid grant program, we developed a benefit standard that simultaneously ensures that it is valuable but provides great flexibility to states in benefits design. Cost-sharing is allowed in grant programs but limited to Medicaid premiums and inflation-adjusted copayments for those below 150 percent of poverty (e.g., $19 per month premium and $5 copays) and to 5 percent of family income for those above 150 percent. As under current law, states electing for the Medicaid option must follow Medicaid rules for benefits (including EPSDT) and cost sharing (for children, none is allowed). It is important to note that, while most Republicans consider these benefit and cost sharing standards too generous, most base Democrats and advocates consider them too modest.

Despite the flexibility in CHIP, some states have indicated that they want 1115 waivers. There are three types of waivers that states are seeking. First, several states want to waive provisions for non-Medicaid, CHIP grant programs (e.g., California wants to impose cost sharing below 150 percent of poverty). Second, others want to waive Medicaid provisions within CHIPs Medicaid option (e.g., Missouri wants to waive the Medicaid requirement to cover non-emergency transportation) since states choosing the Medicaid option must use all Medicaid rules. Third, most states that already have Medicaid 1115 waivers want to expand those programs to more children to receive CHIPs higher matching rate even though many include provisions that are even below the new CHIP minimums (e.g., Tennessee has higher cost sharing requirements than allowed in CHIP).

CONSENSUS RECOMMENDATION: DEFERRING NON-MEDICAID CHIP WAIVERS

Your advisors have achieved consensus on one of the major issues. For CHIP non-Medicaid grant programs, we believe the Administration should consider waiver applications only after a state has had at least a years worth of experience and an evaluation of its childrens health insurance program. As we gain experience with the new CHIP grant program,

we will have a better understanding of what types of CHIP demonstrations are appropriate and will develop guidelines at that point.

We believe that deferring approvals for waivers of the already extremely flexible CHIP is advisable because this enables us to see how the program you signed into law last summer will work. Granting waivers now could place great pressure on us to weaken the accountability and benefits standards that we secured in the Balanced Budget negotiations that base Democrats and advocates think are too modest anyway. In addition, our use of waivers in the past has been to modernize out-dated programs, not to circumvent parts of the law that we want to change. However, in a year or two, we should be able to developed an informed, principled waiver policy that best meets the needs of the states and the children they serve.

If you agree, we will inform Governors of this policy in a response to their letter. While we believe that Governors will be disappointed with this position, they will likely appreciate that our policy is temporary and that we open up the prospect for waivers soon after they implement their childrens health programs.

Decision

Agree on deferring non-Medicaid grant program waivers until plans in place for one year

Lets discuss

ISSUE: POLICY FOR MEDICAID WAIVERS

The other types of waivers, about which there is disagreement amongst your advisors, concern the Medicaid option within CHIP. Although no one recommends that we simply extend our current Medicaid waiver policy, we differ on the extent to which we would hold Medicaid waivers to the CHIP standard. There are two questions. The first is whether we grant new waivers to states that expand CHIP coverage through Medicaid. States have indicated that they are interested in expanding coverage through the Medicaid option, but since the law allows no flexibility from Medicaid rules, they want waivers, particularly in the area of cost sharing. The second question is whether we allow states that already have Medicaid 1115 waivers to expand those programs, without change, to get the CHIP allotment and higher match. The following are the three options proposed by your advisors.

OPTION 1 (HHS): Deferring new Medicaid CHIP waivers (with minor exceptions) and allow expansions of existing Medicaid waivers if consistent with CHIP standards for non-Medicaid grant programs. HHS recommends that we apply the same policy for new Medicaid and non-Medicaid, grant program waivers. It would hold off on approving any new Medicaid waiver under CHIP until we have at least a years experience plus an evaluation. (The only exception would be for waivers for small, incidental provisions that have little or no affect on most children -- like Missouris desire to waive the Medicaid requirement for non-emergency transportation.) For states that have waivers already, HHS would allow them access to the new enhanced matching dollars only if they met CHIPs standards.

Although HHS/OMB have, in years past, approved a number of Medicaid waivers that have less generous benefits than even the new CHIP grant program, HHS believes the new law set a floor that we should not fall below. They fear that once we open the door to waivers, we will have a difficult time maintaining these standards. In addition, they are concerned

that waiver negotiations will delay implementation of new programs in a number of states. Rapid implementation is one critical component to covering our target 5 million uninsured children.

If you choose this option, we would probably have to announce the decision since deferring new Medicaid waivers within CHIP would be considered a policy change. Most Governors are assuming that we will allow some type of Medicaid waivers. Governors will surely react by being upset about this policy. On the other hand, the Democrats and childrens health advocates will applaud our decision to respect the rules enacted in Title XXI. It is not clear whether we need to announce any decision regarding our policy toward existing 1115 waivers, since we have not yet gotten a test case (none of these states has yet applied).

OPTION 2 (NEC/DPC): Allow Medicaid CHIP waivers (new or old) granted if consistent with CHIP accountability standards for non-Medicaid grant programs (and allow copayments down to 133 percent of poverty.) This option would allow new waivers through the Medicaid option of CHIP if those waivers were consistent with the standards provided under the new CHIP grant model. In other words, states choosing the Medicaid CHIP option could waive Medicaid rules as long as the benefits, cost-sharing and other accountability provisions did not go below the much more flexible CHIP grant program standards. Existing (old) Medicaid 1115 waiver programs could also receive the higher matching rate, but they too would have to meet CHIP standards; in a number of cases, this would mean they would have to strengthen some of their benefits/cost-sharing protections to access these additional dollars.

DPC/NEC believes that this option strikes an appropriate balance by maintaining the integrity of the CHIP program and the Balanced Budget Act by giving the new standards time to be tested. But it also removes an important disincentive for states to use the Medicaid option in CHIP. Many states would prefer to use their already-in-place Medicaid programs. Moreover, having a seamless Medicaid program serving both poor and children of working parents has obvious advantages that we would like to encourage -- not discourage. However, allowing any new Medicaid waivers through CHIP will be opposed by Congressional Democrats, some Republicans, and advocates. They believe that their support for the flexibility in the non-Medicaid CHIP program was conditional on no new flexibility in Medicaid.
FFWithin this option, NEC/DPC would also recommend that you authorize the HHS Secretary to approve Medicaid waiver programs that include cost-sharing provisions down to 133 percent of poverty, (rather than the CHIP 150 percent of poverty threshold). The 133 percent of poverty income threshold is consistent with our past internal position on this issue. We take this position because (1) the threshold is consistent with waivers we have approved in the past, (2) we think it is a fair cost-sharing amount that will appropriately increase beneficiaries cost sensitivity in using health services, and (3) we think it will likely decrease possible employer crowd out or substitution, since such a policy would more accurately mirror the marketplace. Finally, giving the Secretary flexibility to move in this area seems to us a simple recognition of the fact that we will be under overwhelming pressure to approve waivers that we would historically would have approved.

Approving a Medicaid waiver that contains lower standards for cost-sharing will anger Congressional Democrats (and perhaps some moderate Republicans) who will be troubled by going below the poverty threshold levels agreed to by the Congress. They will argue (as does HHS) that once we sanction going below 150 percent, we will be tempted to go even below 133 percent of poverty as states demand even greater flexibility. We believe these are valid concerns and should be seriously considered. However, we are well aware of states (such as Wisconsin) who will be coming in at cost-sharing levels just under 150 percent (i.e., 143 percent of poverty) that we believe we cannot say is bad public policy.

OPTION 3 (OMB & TREASURY): Allow new CHIP Medicaid waivers if consistent with CHIP standards for non-Medicaid, grant programs, but allow existing Medicaid waivers to expand with no change. For states requesting new Medicaid waivers, OMB/Treasury agree with DPC/NEC option that the CHIP standards should set a new floor for comprehensive coverage (and with cost-sharing for families above 133% of poverty). This policy should be re-evaluated after states gain experience with their programs, at the same time the Administration is re-considering non-Medicaid, grant program waivers.

For states with waiver programs already approved by the Administration (since the NGA agreement on waiver policy in 1994), OMB and Treasury recommend that we recognize their history and different situation and not hold them to the CHIP standards. We anticipate that these states will want to expand their current waiver programs under CHIP; OMB and Treasury think they should be permitted to do so with no changes. Although only a few states would require substantial changes in benefits or copayments to comply with CHIP, those states will consider the Administration to have reneged if we dont permit them to carry their waivers to the CHIP population. This approach would not permit states with waiver pre-NGA (e.g., Tennessee and Maryland) from expanding their programs under those waivers. (The Administration has held states to a higher standard since those waivers were granted.)

As with the previous option, most people assume that we will allow some type of Medicaid waiver, so there would be no need to announce this policy. However, allowing existing Medicaid waivers into CHIP unchanged will surely be noticed and opposed by Democrats and childrens advocates. Ironically, this policy may also be criticized by some Congressional Republicans, who think that many of our CHIP implementation decisions are steering states toward the Medicaid option. It would, however, be the most acceptable option to the NGA and the relevant (existing waiver) states.

Decisions

Medicaid Waivers

OPTION 1: No new Medicaid waivers in CHIP (with minor exceptions)

Allow existing waivers to expand through CHIP if consistent with CHIP standards for non-Medicaid, grant programs

OPTION 2: Allow new & existing Medicaid waivers in CHIP if consistent with CHIP standards for non-Medicaid, grant programs

OPTION 3: Allow new Medicaid waivers in CHIP if consistent with CHIP standards for non-Medicaid, grant programs

Allow existing waivers (post-NGA agreement) to expand through CHIP with no change

Lets discuss

Cost Sharing Flexibility

OPTION 1: Hold all Medicaid waivers to the cost sharing in CHIP (150% of poverty)

OPTION 2: Authorize HHS to approve waivers in CHIP with copayments down to 133% of poverty

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STATES WITH MEDICAID 1115 WAIVERS (Chronological Order)

STATE
Approved
Eligibility Limit
Benefits for New Eligibles
Cost Sharing: New Eligibles

Arizona
10/82
People < 100% PL
Medicaid benefits
None

Oregon
3/93
People < 100% PL
Prioritized benefits
Premiums: $6 to 28
No copays or deductibles

Hawaii
7/93
People < 300% PL, plus assets test
No long-term care
Premiums: $142 - 168
Copays: $5

Maryland
10/93

10/96
Children 133-185% PL

Existing eligibles
No inpatient, outpatient, emergency room, some EPSDT; no long-term care
Medicaid benefits
Copay: $5

None

Rhode Island
11/93
Children < 250% PL
Medicaid benefits
Premiums: From 185-250% PL: $1.50 - $10.75
No copays or deductibles

Tennessee
11/93
People up to 400% PL, with enrollment cap
Medicaid benefits
Premiums: $14.25 to 475
Deductibles: $250 / $500
Coinsurance: 2 to 10%

Florida
9/94
People < 250% PL
Excludes some EPSDT, transportation, some long-term care and mental health
Premiums: $90 - 550 / mo
Deductibles: Up to $500
Copays: $10-200 or 20%

Ohio
1/95
People < 100% PL
Medicaid benefits
None

Massachusetts
4/95
People < 200% PL
Medicaid benefits
Premiums: Variable
Deductibles:$100 / $250 Copays: $5 / 10

Minnesota
4/95
Children < 275% PL
Medicaid benefits
Premiums: $4 to 104 / mo
No copays or deductibles

Delaware
5/95
People < 100% PL
Medicaid w/ small changes
None

Vermont
7/95
People < 150% PL

No transportation, long-term care
Premiums: Above 25% PL: $5 to $20 every 6 months
Copays: $3 for dental

Kentucky
10/95
Existing eligibles
Medicaid benefits
None

Oklahoma
10/95
Existing eligibles
Medicaid benefits
None

Illinois
7/96
Existing eligibles
Medicaid benefits
None

Alabama
12/96
Existing eligibles
Medicaid benefits
None

New York
7/97
Existing eligibles
Medicaid benefits
None

Arkansas
8/97
Children < 200% PL
No EPSDT, therapies, long-term care
Copays: $10 outpatient; 20% inpatient ; $5 for drugs

Italics indicated approved but not implemented. States above the line were approved prior to NGA 1994 agreement.

January 19, 1998

MEMORANDUM FOR THE PRESIDENT

FROM:Chris Jennings

SUBJECT:Waivers and the Childrens Health Insurance Program

cc:Bruce Reed, Gene Sperling, Jack Lew, Josh Gotbaum, Elena Kagan

This memo seeks your guidance on how much, if any, additional flexibility should be given to states in the Childrens Health Insurance Program (CHIP) through the use of 1115 waivers. Although waivers have been instrumental in modernizing and reforming welfare and Medicaid, questions have been raised about the feasibility and advisability of granting waivers for the new childrens health care program so soon after its enactment.

Despite acknowledging the great amount of flexibility given to the states in the optional CHIP grant program, the Governors began asking -- soon after the laws enactment -- if additional flexibility would be given through waivers. HHS interim response was that it would be difficult to review and evaluate the merits of waiver proposals until we had some experience with the implementation of the new law. Your advisors agreed that this was the appropriate, initial response, but we also underscored that this was not necessarily our final position.

The National Governors Association (NGA) immediately responded by formally requesting that we affirm states ability to seek waivers for the new CHIP grant program. Since then, two other issues have been raised: will we approve waivers for the Medicaid option within CHIP, and will we allow states with current Medicaid 1115 waivers to expand those programs through CHIP (even though some have provisions below the CHIP minimums).

All of your advisors agree that the HHS Secretary does have the authority to grant waivers for the CHIP program, whether it is administered through the new Title XXI grant program or through Medicaid. They also generally agree that the CHIP legislation waiver policy need not conform to existing waiver policy. However, they (HHS, OMB, Treasury, NEC/DPC) disagree on whether and under what circumstances HHS should consider Medicaid waivers.

Because HHS is holding state conferences this month on CHIP and the annual NGA conference is in February, it is important that we receive direction from you in short order on this issue. This memo outlines background information on this difficult issue, provides you policy options for your consideration, and summarizes where your advisors stand on these options.

BACKGROUND

Your Administration has given states unprecedented flexibility for their health care programs. Since 1993, we have granted 15 comprehensive Medicaid waivers that test approaches not allowed in Medicaid like covering low-income families and accelerating enrollment in managed care. In addition, with the Administrations strong support, the Balanced Budget Act secured much greater administrative flexibility for the Medicaid program (e.g., eliminated the need for a waiver for a managed care program, repealed the Boren amendment, and reduced cost-based reimbursement requirements for community health centers). In so doing, we eliminated the need for many time-consuming waivers that we heretofore required from states.

The BBA also created CHIP, which has fewer Federal guidelines than any other health insurance program that the Government oversees. Unlike Medicaid, CHIP allows states to cap the number of children covered (i.e, no entitlement requirement); to limit programs to parts of the state; to not cover Medicaids EPSDT (Early, Periodic, Screening, Detection and Treatment) benefit; and to charge beneficiaries long-sought-after (although limited) cost-sharing. In addition, states have the choice of expanding the new childrens coverage benefit and its accompanying enhanced Federal match through the now more flexible Medicaid program or a new grant program, which provides for even greater benefits and cost sharing flexibility.

The primary areas of Federal oversight -- accountability, benefits, and cost sharing limits -- were secured by you and Congressional Democrats. Accountability provisions include limits on the type of state contribution (e.g., no provider taxes and donations) and provisions to prevent "crowd out" (substitution of the new coverage for existing coverage). For the new non-Medicaid grant program, we developed a benefit standard that simultaneously ensures that it is valuable but provides great flexibility to states in benefits design. Cost-sharing is allowed in grant programs but limited to Medicaid premiums and inflation-adjusted copayments for those below 150 percent of poverty (e.g., $19 per month premium and $5 copays) and to 5 percent of family income for those above 150 percent. [JEANNE: HOW DIFF. FROM MEDICAID?] As under current law, states electing for the Medicaid option must follow Medicaid rules for benefits (including EPSDT) and cost sharing (for children, none is allowed). It is important to note that, while most Republicans consider these benefit and cost sharing standards too generous, most base Democrats and advocates consider them too modest.

Despite the flexibility in CHIP, some states have indicated that they want 1115 waivers. There are three types of waivers that states are seeking. First, several states want to waive provisions for non-Medicaid, CHIP grant programs (e.g., Wisconsin wants to cover low-income adults JEANNE: THOUGHT THEYRE GOING TO MEDICAID?). Second, others want to waive Medicaid provisions within CHIPs Medicaid option (e.g., Missouri wants to waive the Medicaid requirement to cover non-emergency transportation) since states choosing the Medicaid option must use all Medicaid rules. Third, most states that already have Medicaid 1115 waivers want to expand those programs to more children to receive CHIPs higher matching rate even though many include provisions that are even below the new CHIP minimums (e.g., Tennessee has higher cost sharing requirements than allowed in CHIP).

CONSENSUS RECOMMENDATION: NO NON-MEDICAID CHIP WAIVERS YET

Your advisors have achieved consensus on one of the major issues. For CHIP non-Medicaid grant programs, we believe the Administration should consider waiver applications only after a state has had at least a years worth of experience and an evaluation of its

childrens health insurance program. As we gain experience with the new CHIP grant program, we will have a better understanding of what types of CHIP demonstrations are appropriate and will develop guidelines at that point.

We believe that deferring approvals for waivers of the already extremely flexible CHIP is advisable because this enables us to see how the program you signed into law last summer will work. Granting waivers now could place great pressure on us to weaken the accountability and benefits standards that we secured in the Balanced Budget negotiations that base Democrats and advocates think are too modest anyway. In addition, our use of waivers in the past has been to modernize out-dated programs, not to circumvent parts of the law that we want to change. However, in a year or two, we should be able to developed an informed, principled waiver policy that best meets the needs of the states and the children they serve.

If you agree, we will inform Governors of this policy in a response to their letter. While we believe that Governors will be disappointed with this position, they will likely appreciate that our policy is temporary and that we open up the prospect for waivers so soon after they implement their childrens health programs.

Decision

Agree on deferring non-Medicaid grant program waivers until plans in place for one year

Lets discuss

ISSUE: POLICY FOR MEDICAID WAIVERS

The other types of waivers, about which there is disagreement amongst your advisors, concern the Medicaid option within CHIP. Although no one recommends that we simply extend our current Medicaid waiver policy, we differ on the extent to which we would hold Medicaid waivers to the CHIP standard. There are two questions. The first is whether we grant new waivers to states that expand CHIP coverage through Medicaid. States have indicated that they are interested in expanding coverage through the Medicaid option, but since the law allows no flexibility from Medicaid rules, they want waivers, particularly in the area of cost sharing. The second question is whether we allow states that already have Medicaid 1115 waivers to expand those programs, without change, to get the CHIP allotment and higher match. The following are the three options proposed by your advisors.

OPTION 1 (HHS): No new Medicaid waivers (with minor exceptions) and allow expansions of existing Medicaid waivers only if consistent with CHIP standards for non-Medicaid grant programs. HHS recommends that we apply the same policy for new Medicaid and non-Medicaid, grant program waivers. It would hold off on approving any new Medicaid waiver under CHIP until we have at least a years experience plus an evaluation. (The only exception would be for waivers for small, incidental provisions that have little or no affect on children -- like Missouris desire to waive the Medicaid requirement for non-emergency transportation.) For states that have waivers already, HHS would allow them access to the new enhanced matching dollars only if they met CHIPs standards of accountability.

Although HHS/OMB have, in years past, approved a number of Medicaid waivers that have less generous benefits than even the new CHIP grant program, HHS believes the new law set a floor that we should not fall below. They fear that once we open the door to waivers, we

will have a difficult time maintaining these standards. In addition, they are concerned that waiver negotiations will delay implementation of new programs in a number of states. Rapid implementation is one critical component to covering our target 5 million uninsured children.

If you choose this option, we would probably have to announce the decision since deferring new Medicaid waivers within CHIP would be considered a policy change. Most Governors are assuming that we will allow some type of Medicaid waivers. Governors will surely react by being upset about this policy. On the other hand, the Democrats and childrens health advocates will applaud our decision to respect the rules enacted in Title XXI. It is not clear whether we need to announce any decision regarding our policy toward existing 1115 waivers, since we have not yet gotten a test case (none of these states has yet applied).

OPTION 2 (NEC/DPC): Medicaid waivers (new or old) granted if they are consistent with CHIP accountability standards for non-Medicaid grant programs (and allow copayments down to 133 percent of poverty.) This option would allow new waivers through the Medicaid option of CHIP if those waivers were consistent with the standards provided under the new CHIP grant model. In other words, states choosing the Medicaid CHIP option could waive Medicaid rules as long as the benefits, cost-sharing and other accountability provisions did not go below the much more flexible CHIP grant standards. Existing (old) Medicaid 1115 waiver programs could also receive the higher matching rate, but they too would have to meet CHIP standards; in a number of cases, this would mean they would have to strengthen some of their benefits/cost-sharing protections to access these additional dollars.

DPC/NEC believes that this option strikes an appropriate balance by maintaining the integrity of the CHIP program and the Balanced Budget Act by giving the new standards time to be tested. But it also removes an important disincentive for states to provide the CHIP option through the Medicaid program. Many states would prefer to use their already in place Medicaid programs. Moreover, having a seamless Medicaid program serving both poor and children of working parents has obvious advantages that we would like to encourage -- not discourage.

Within this option, NEC/DPC would also recommend that you authorize the HHS Secretary to approve Medicaid waiver programs that include cost-sharing provisions down to 133 percent of poverty, (rather than the CHIP 150 percent of poverty threshold). The 133 percent of poverty income threshold is consistent with our past internal position on this issue. We take this position because (1) the threshold is consistent with waivers we have approved in the past, (2) we think it is a fair cost-sharing amount that will appropriately increase beneficiaries cost sensitivity in using health services, and (3) we think it will likely decrease possible employer crowd out or substitution, since such a policy would more accurately mirror the marketplace. Finally, giving the Secretary flexibility to move in this area seems to us a simple recognition of the fact that we will be under overwhelming pressure to approve waivers that we would historically would have approved.

Approving a Medicaid waiver that contains lower standards for cost-sharing (JEANNE: WHAT IS THE ARGUMENT FOR MEDICAID AND NOT FOR CHIP GRANT PROGRAM?) will anger Congressional Democrats (and perhaps some moderate Republicans) who will be troubled by going below the poverty threshold levels agreed to by the Congress. They will argue (as does HHS) that once we sanction going below 150 percent, we will be tempted to go even below 133 percent of poverty as states demand even greater flexibility. We believe these are valid concerns and should be seriously considered. However, we are well aware of states (such as Wisconsin) who will be coming in at cost-sharing levels just under 150 percent (i.e., 143 percent of poverty) that we believe we cannot say is bad public policy.

OPTION 3 (OMB & TREASURY): Allow new Medicaid waivers only if consistent with CHIP standards for non-Medicaid, grant programs, but allow existing Medicaid waivers to expand with no change. For states requesting new Medicaid waivers, OMB/Treasury agree with DPC/NEC option that the CHIP standards should set a new floor for comprehensive coverage (and with cost-sharing for families above 133% of poverty). This policy should be re-evaluated after states gain experience with their programs, at the same time the Administration is re-considering non-Medicaid, grant program waivers.

For states with waiver programs already approved by the Administration since the NGA agreement, OMB/Treasury recommend that we recognize their history and different situation and not hold them to the CHIP standards. We anticipate that these states will want to expand their current waiver programs under CHIP; OMB and Treasury recommend they be permitted to do so consistent with waivers approved after the Administrations agreement with the National Governors Association. Only a few states [HOW MANY JEANNE?] would require substantial changes in benefits or copayments to comply with CHIP, but those states will consider the Administration to have reneged if we dont permit them to carry their waivers to the CHIP population. This approach would not permit states with waiver pre-NGA (e.g., Tennessee and Maryland) from expanding their programs under those waivers. (The Administration has held states to a higher standard since those waivers were granted.)

As with the previous option, most people assume that we will allow some type of Medicaid waiver, so there would be no need to announce this policy. However, allowing existing Medicaid waivers into CHIP unchanged will surely be noticed and opposed by Democrats and childrens advocates. Ironically, this policy may also be criticized by some Congressional Republicans, who think that many of our CHIP implementation decisions are steering states toward the Medicaid option. It would, however, be the most acceptable option to the NGA and the relevant (existing waiver) states.

Decision

OPTION 1: No new Medicaid waivers (with minor exceptions)

Allow existing waivers to expand through CHIP if consistent with CHIP standards for non-Medicaid, grant programs

OPTION 2: Allow new & existing Medicaid waivers if consistent with CHIP standards for non-Medicaid, grant programs

Authorize HHS to approve waivers with copayments down to 133% of poverty for new and existing Medicaid waivers [JEANNE: THIS SHOULD BE SEPARATE BOX AT END.]

OPTION 3: Allow new Medicaid waivers if consistent with CHIP standards for non-Medicaid, grant programs

Authorize HHS to approve waivers with copayments down to 133% of poverty for new and

existing Medicaid waivers

Allow existing waivers (post-NGA agreement) to expand through CHIP with no change

Lets discuss

FF

January 19, 1998

MEMORANDUM FOR THE PRESIDENT

FROM:Chris Jennings

SUBJECT:Waivers and the Childrens Health Insurance Program

cc:Bruce Reed, Gene Sperling, Jack Lew, Josh Gotbaum, Elena Kagan

This memo seeks your guidance on how much, if any, additional flexibility should be given to states in the Childrens Health Insurance Program (CHIP) through the use of 1115 waivers. Although waivers have been instrumental in modernizing and reforming welfare and Medicaid, questions have been raised about the feasibility and advisability of granting waivers for the new childrens health care program so soon after its enactment.

Despite acknowledging the great amount of flexibility given to the states in the CHIP grant program, the Governors began asking -- soon after the laws enactment -- if additional flexibility would be given through waivers. HHS interim response was that it would be difficult to review and evaluate the merits of waiver proposals until we had some experience with the implementation of the new law. Your advisors agreed that this was the appropriate, initial response, but we also underscored that this was not necessarily our final position.

The National Governors Association (NGA) immediately responded by formally requesting that we affirm states ability to seek waivers for the new CHIP grant program. Since then, two other issues have been raised: (1) Will we approve new Medicaid 1115 waivers in the Medicaid option within CHIP, and (2) Will we allow states with current Medicaid 1115 waivers to expand those programs through CHIP (even though some have provisions below the CHIP minimums).

All of your advisors agree that the HHS Secretary does have the authority to grant waivers for the CHIP program, whether they are administered through the new Title XXI grant program or through Medicaid. They also generally agree that the CHIP waiver policy need not conform to existing waiver policy. However, they (HHS, OMB, Treasury, NEC/DPC) disagree on whether and under what circumstances HHS should approve Medicaid waivers.

Because HHS is holding state conferences this month on CHIP and the annual NGA conference is in February, it is important that we receive direction from you in short order on this issue. This memo outlines background information on this difficult issue, provides you policy options for your consideration, and summarizes where your advisors stand on these options.

BACKGROUND

Your Administration has given states unprecedented flexibility for their health care programs. Since 1993, we have granted 15 comprehensive Medicaid waivers that test approaches not allowed in Medicaid like experimenting with premiums and cost sharing for low-income populations, waiving benefits, and accelerating enrollment in managed care. States have also used waivers to expand coverage to millions of Americans. In addition, with the Administrations strong support, the Balanced Budget Act secured much greater administrative flexibility for the Medicaid program (e.g., eliminated the need for a waiver for a managed care program, repealed the Boren amendment, and reduced cost-based reimbursement requirements for community health centers). In so doing, we eliminated the need for many time-consuming waivers that we heretofore required from states.

The BBA also created CHIP, which has fewer Federal guidelines than any other health insurance program that the Government oversees. Unlike Medicaid, CHIP allows states that opt to expand through a new, non-Medicaid grant program to cap the number of children covered (i.e, no entitlement requirement); to limit programs to parts of the state; to not cover Medicaids EPSDT (Early, Periodic, Screening, Detection and Treatment) benefit; and to charge beneficiaries long-sought-after (although limited) cost-sharing. Alternatively, states may expand using the enhanced Federal match through the now more flexible Medicaid program. However, states choosing this option must follow Medicaid rules (e.g., no benefits changes or cost sharing).

Although extremely flexible, CHIP includes standards for accountability, benefits, and cost sharing limits were secured by you and Congressional Democrats. Accountability provisions include limits on the type of state contribution (e.g., no provider taxes and donations) and provisions to prevent "crowd out" (substitution of the new coverage for existing coverage). For the new non-Medicaid grant program, we developed a benefit standard that simultaneously ensures that it is valuable but provides great flexibility to states in benefits design. Cost-sharing is allowed in grant programs but limited to low premium and copayment schedule for those below 150 percent of poverty and to 5 percent of family income for those above 150 percent. As under current law, states electing the Medicaid option must follow Medicaid rules for benefits (including EPSDT) and cost sharing (for children, none is allowed). It is important to note that, while most Republicans consider these benefit and cost sharing standards too generous, most base Democrats and advocates consider them too modest.

Despite the flexibility in CHIP, some states have indicated that they want 1115 waivers. There are three types of waivers that states are seeking. First, several states want to waive provisions for non-Medicaid, CHIP grant programs (e.g., California wants to impose cost sharing below 150 percent of poverty). Second, others want to waive Medicaid provisions within CHIPs Medicaid option (e.g., Missouri wants to waive the Medicaid requirement to cover non-emergency transportation) since states choosing the Medicaid option must use all Medicaid rules. Third, most states that already have Medicaid 1115 waivers want to expand those programs to more children to receive CHIPs higher matching rate even though many include provisions that are even below the new CHIP minimums (e.g., Tennessee has higher cost sharing requirements than allowed in CHIP).

CONSENSUS RECOMMENDATION: DEFERRING NON-MEDICAID CHIP WAIVERS

Your advisors have achieved consensus on one of the major issues. For CHIP non-Medicaid grant programs, we believe the Administration should consider waiver applications only

after a state has had at least a years worth of experience and an evaluation of its childrens health insurance program. As we gain experience with the new CHIP grant program, we will have a better understanding of what types of CHIP demonstrations are appropriate and will develop guidelines at that point.

We believe that deferring approvals for waivers of the already extremely flexible CHIP is advisable because this enables us to see how the program you signed into law last summer will work. Granting waivers now could place great pressure on us to weaken the accountability and benefits standards that we secured in the Balanced Budget negotiations that base Democrats and advocates think are too modest anyway. In addition, our use of waivers in the past has been to modernize out-dated programs, not to circumvent parts of the law that we want to change. However, in a year or two, we should be able to developed an informed, principled waiver policy that best meets the needs of the states and the children they serve.

If you agree, we will inform Governors of this policy in a response to their letter. While we believe that Governors will be disappointed with this position, they will likely appreciate that our policy is temporary and that we open up the prospect for waivers soon after they implement their childrens health programs.

Decision

Agree on deferring non-Medicaid grant program waivers until plans in place for one year

Lets discuss

ISSUE: POLICY FOR MEDICAID WAIVERS

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Although HHS/OMB have, in years past, approved a number of Medicaid waivers that have less

generous benefits than even the new CHIP grant program, HHS believes the new law set a floor that we should not fall below. They fear that once we open the door to waivers, we will have a difficult time maintaining these standards. In addition, they are concerned that waiver negotiations will delay implementation of new programs in a number of states. Rapid implementation is one critical component to covering our target 5 million uninsured children.

If you choose this option, we would probably have to announce the decision since deferring new Medicaid waivers within CHIP would be considered a policy change. Most Governors are assuming that we will allow some type of Medicaid waivers. Governors will surely react by being upset about this policy. On the other hand, the Democrats and childrens health advocates will applaud our decision to respect the rules enacted in Title XXI. It is not clear whether we need to announce any decision regarding our policy toward existing 1115 waivers, since we have not yet gotten a test case (none of these states has yet applied).

OPTION 2 (NEC/DPC): Allow Medicaid CHIP waivers (new or old) if generally consistent with CHIP standards for non-Medicaid grant programs. This option would allow new waivers through the Medicaid option of CHIP if those waivers were consistent with the standards provided under the new CHIP grant model. In other words, states choosing the Medicaid CHIP option could waive Medicaid rules as long as the benefits, cost-sharing and other accountability provisions are in line with the CHIP grant program standards. Existing (old) Medicaid 1115 waiver programs could also receive the higher matching rate, but they too would have to meet CHIP standards; in a number of cases, this would mean they would have to strengthen some of their benefits/cost-sharing protections to access these additional dollars.

DPC/NEC believes that this option strikes an appropriate balance by maintaining the integrity of the CHIP program and the Balanced Budget Act by giving the new standards time to be tested. But it also removes an important disincentive for states to use the Medicaid option in CHIP. Many states would prefer to use their already-in-place Medicaid programs because it is administratively simple. Moreover, having a seamless Medicaid program serving both poor and children of working parents has obvious advantages that we would like to encourage -- not discourage. However, allowing any new Medicaid waivers through CHIP will be opposed by Congressional Democrats, some Republicans, and advocates. They believe that their support for the flexibility in the non-Medicaid CHIP program was conditional on no new flexibility in Medicaid.

Within this option, NEC/DPC would also recommend that the Secretary allow limited exceptions to using the non-Medicaid CHIP standards for approving Medicaid CHIP waivers, particularly in the area of cost sharing. In both previous Medicaid waivers and our internal policy positions, we have allowed limited cost sharing above Medicaid mandatory eligibility threshholds (i.e., poverty for children ages 6 to 14, 133 percent of poverty for children less than age 6). Cost sharing can appropriately increase beneficiaries cost sensitivity in using health services and decrease possible employer crowd out, since such a policy would more accurately mirror marketplace coverage. Moreover, because we have historically approved cost sharing flexibility, we will be under overwhelming pressure to approve it in new waivers.

Approving a Medicaid waiver that contains lower standards for cost-sharing than those agreed to in the BBA will anger Congressional Democrats (and perhaps some moderate Republicans). They will argue (as does HHS) that once we sanction going below 150 percent, we will be tempted to impose cost sharing on poor people as states demand even greater flexibility. We believe these are valid concerns and should be seriously considered.

However, we are well aware of states (such as Wisconsin) who will be requesting cost-sharing levels just under 150 percent (i.e., 143 percent of poverty) that we believe is not bad public policy.

OPTION 3 (OMB & TREASURY): Allow new CHIP Medicaid waivers if consistent with CHIP standards for non-Medicaid, grant programs, but allow existing Medicaid waivers to expand with no change. For states requesting new Medicaid waivers, OMB/Treasury agree with DPC/NEC option that the CHIP standards should guide approval of such waivers (also allowing for cost-sharing for families above 133 percent of poverty). This policy should be re-evaluated after states gain experience with their programs, at the same time the Administration is re-considering non-Medicaid, grant program waivers.

For states with waiver programs already approved by the Administration (since the NGA agreement on waiver policy in 1994), OMB and Treasury recommend that we recognize their history and different situation and not hold them to the CHIP standards. We anticipate that these 12 states will want to expand their current waiver programs under CHIP; OMB and Treasury think they should be permitted to do so with no changes. Although only a few states would require substantial changes in benefits or copayments to comply with CHIP, those states will consider the Administration to have reneged if we dont permit them to carry their waivers to the CHIP population. This approach would not permit states with waiver pre-NGA (e.g., Tennessee and Maryland) from expanding their programs under those waivers. (The Administration has held states to a higher standard since those waivers were granted.)

As with the previous option, most people assume that we will allow some type of Medicaid waiver, so there would be no need to announce this policy. However, allowing existing Medicaid waivers into CHIP unchanged will surely be noticed and opposed by Democrats and childrens advocates. Ironically, this policy may also be criticized by some Congressional Republicans, who think that many of our CHIP implementation decisions are steering states toward the Medicaid option. It would, however, be the most acceptable option to the NGA and the relevant (existing waiver) states.

Decisions

Medicaid Waivers

OPTION 1: Defer new Medicaid waivers in CHIP (with minor exceptions)

Allow existing waivers to expand through CHIP if consistent with CHIP standards for non-Medicaid, grant programs

OPTION 2: Allow new & existing Medicaid waivers in CHIP if consistent with CHIP standards for non-Medicaid, grant programs

OPTION 3: Allow new Medicaid waivers in CHIP if consistent with CHIP standards for non-Medicaid, grant programs

Allow existing waivers (post-NGA agreement) to expand through CHIP with no change

Lets discuss

Cost Sharing Flexibility

OPTION 1: Hold all Medicaid waivers to the cost sharing in CHIP for non-Medicaid, grant programs (150% of poverty threshold)

OPTION 2: Approve Medicaid waivers in CHIP with copayments below CHIP standards for non-Medicaid, grant programs

Lets discuss

FF

STATES WITH MEDICAID 1115 WAIVERS (Chronological Order)

STATE
Approved
Eligibility Limit
Benefits for New Eligibles
Cost Sharing: New Eligibles

Arizona
10/82
People < 100% PL
Medicaid benefits
None

Oregon
3/93
People < 100% PL
Prioritized benefits
Premiums: $6 to 28
No copays or deductibles

Hawaii
7/93
People < 300% PL, plus assets test
No long-term care
Premiums: $142 - 168
Copays: $5

Maryland
10/93

10/96
Children 133-185% PL

Existing eligibles
No inpatient, outpatient, emergency room, some EPSDT; no long-term care
Medicaid benefits
Copay: $5

None

Rhode Island
11/93
Children < 250% PL
Medicaid benefits
Premiums: From 185-250% PL: $1.50 - $10.75
No copays or deductibles

Tennessee
11/93
People up to 400% PL, with enrollment cap
Medicaid benefits
Premiums: $14.25 to 475
Deductibles: $250 / $500
Coinsurance: 2 to 10%

Florida
9/94
People < 250% PL
Excludes some EPSDT, transportation, some long-term care and mental health
Premiums: $90 - 550 / mo
Deductibles: Up to $500
Copays: $10-200 or 20%

Ohio
1/95
People < 100% PL
Medicaid benefits
None

Massachusetts
4/95
People < 200% PL
Medicaid benefits
Premiums: Variable
Deductibles:$100 / $250 Copays: $5 / 10

Minnesota
4/95
Children < 275% PL
Medicaid benefits
Premiums: $4 to 104 / mo
No copays or deductibles

Delaware
5/95
People < 100% PL
Medicaid w/ small changes
None

Vermont
7/95
People < 150% PL
No transportation, long-term care
Premiums: Above 25% PL: $5 to $20 every 6 months
Copays: $3 for dental

Kentucky
10/95
Existing eligibles
Medicaid benefits
None

Oklahoma
10/95
Existing eligibles
Medicaid benefits
None

Illinois
7/96
Existing eligibles
Medicaid benefits
None

Alabama
12/96
Existing eligibles
Medicaid benefits
None

New York
7/97
Existing eligibles
Medicaid benefits
None

Arkansas
8/97
Children < 200% PL
No EPSDT, therapies, long-term care
Copays: $10 outpatient; 20% inpatient ; $5 for drugs

Italics indicated approved but not implemented. States above the line were approved prior to NGA 1994 agreement.

*MARCH 25, 1997

MEMORANDUM FOR BRUCE REED AND ELENA KAGAN

FROM:CYNTHIA RICE

SUBJECT: CHILD CARE IDEAS

The new welfare law increased child care spending by nearly $4 billion--a hard-won victory for the President. Generally, analysts agree that the new law provides enough funding for welfare recipients entering the workforce. Yet there is growing concern that working poor families will be short-changed as available subsidies are directed toward former welfare recipients. Even the Congressional Budget Office last December concluded that the new law is $1.4 billion short of the resources needed to maintain current child care programs for at-risk, working poor families and provide enough child care for newly working welfare recipients. In addition, there are persistent concerns about the quality of care most children receive in the typical child care setting.

Here are a few ideas for ways to address these problems.

*Make the Child and Dependent Care Tax Credit Refundable. Current tax law provides a tax credit for child care expenses of up to $2,400 for one child and $4,800 for two or more children. The credit is not refundable, however, meaning families with little or no income cant benefit. In August, the Joint Tax Committee concluded it would cost $2.1 billion from 1997-2002 to make the tax credit refundable; the Treasury Department estimate was inexplicably twice as high. The Blue Dog budget released last month made the credit refundable but paid for it by eliminating the tax benefit for families with incomes over $100,000.

*Endorse Senator Kohls "Child Care Expansion Act." Senator Kohls bill provides tax credits to private companies and institutions to encourage them to build quality child care centers on-site or near their companies. (Generally, child care centers are considered to be higher quality than family day care, which operate out of individual homes, because centers have to meet certain state staffing and safety rules.) His bill, introduced in January, was lauded in a recent edition of Working Mother magazine. It would provide a 50% credit for eligible activities up to $150,000 per year per business. The Joint Tax Committee estimates the cost to be $2.6 billion from 1997-2002.

*Endorse Republican Senator Pat Roberts of Kansas "Child Care Expansion Act." His bill, which has not yet been introduced, would: 1) Increase the amount of the Child and Dependent Tax Credit to $3,600 for one child and $5,400 for two. This would not help the lowest-income families since the credit would still not be refundable. 2) Provide matching grants of up to $50,000 for small businesses that work together to provide day care for their employees. 3) Expand the IRS rules to allow more parents to deduct home offices expenses from their taxes. This provision would allow an exception to the "exclusive use" rule permitting mixed use of space for business and personal purposes in the case of taxpayers who conduct home-based business while caring for dependents. 4) Encourage older Americans participating in federally-supported programs to provide child care services in their communities. A cost estimate for this bill is not yet available.

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March 5, 1998

MEMORANDUM

TO:Elena Kagan
FR:Nicole Rabner
RE:Upcoming Child Care Event

The purpose of this memorandum is to bring you up-to-date on the planning for Tuesdays child care event with the President in Connecticut.

The event will be two tiered: (1) a brief tour of a child care facility; and (2) a speech. The site -- the child care center at Housatonic Community College in Bridgeport, CT -- was identified both by Senator Dodds office and by the leading child care advocate in the State of Connecticut. The center is accredited and recently received a federal School-Readiness and Child Care grant to expand its facilities and provide tuition assistance. Following the brief tour, there will be a speaking program that we expect to include: the Mayor of Bridgeport, Senator Dodd, a parent, and the President. Dodd and Kennelly plan to travel to CT with the President, I understand.

The Presidents remarks will focus on his child care initiative, and include two policy announcements:

(1) Release of a new HHS report that summarizes State plans to administer the Child Care and Development Block Grant. This new report demonstrates both that there is need for increased investment in child care and that the States are doing innovative things with the resources they have (i.e. more investment is good, and investment to the States is sound).

(2) Issuing a Presidential Directive on Steps to improve federally-sponsored child care in the executive branch by (1) ensuring proper background checks of child care workers in federally-sponsored child care; (2) achieving 100 percent national accreditation of eligible, federally-sponsored child care; (3) exploring partnerships among federal agencies and with the private sectors to improve child care quality and affordability; and (4) ensuring that all federal workers have full information on child care benefits and options available to them.
***Still unresolved is whether the President should sign this directive in the context at this event or just signal in his remarks that he is issuing it on this day.

Also on this day, as weve discussed, the Childrens Defense Fund (CDF) will release a compelling state-by-state report that calls for greater investment in child care by describing state-set eligibility for subsidies through the block grant, long waiting lists, high co-payments and low reimbursement rates. The CDF data was collected differently from the HHS data (CDF by phone-based surveys of state child care administers; HHS by formal state plans), so some of the information will conflict, although HHS is working to resolve the differences as fully as possible. HHS plans to leak its report to Bob Pear on Monday for a story on Tuesday.

In terms of process, the directive is in OMB clearance (via Mac Reed) for comment by the agencies by COB tomorrow (Friday). Staff Secretary plans to circulate the directive around the West Wing tomorrow for any comment. I have attached the latest draft for your review. HHS and GSA are developing lists for heads up calls to MOC and/orCongressional staff to be made on Monday.

With respect to the HHS report, as I mentioned to you yesterday, we are working to develop a solid executive summary (which HHS seems incapable of doing) for release. Thankfully, Melissas office has taken over this project and we will work with them to finalize it.

By Monday morning, we will have drafts for you of (1) the executive summary of the HHS State Plans report; (2) the event one-pager; and (3) q&a.

Let us know if youd like to see anything sooner.

*

October 14, 1998

WHITE HOUSE CONFERENCE ON SCHOOL SAFETY

DATE:October 15, 1998
LOCATION:The East Room
BRIEFING TIME:12:15 pm - 12:35 pm
EVENT TIME:12:45 pm - 2:30 pm
FROM:Bruce Reed

I.PURPOSE

To bring together a broad coalition of youth violence experts and advocates, educators, elected officials, law enforcement, and prevention and intervention practitioners -- as well as communities across the country through the 600 satellite sites -- to help them learn more about how they can make their own schools and communities safer.

II.BACKGROUND

Although schools are generally safer today than they were just a few years ago -- and statistics show that students are safer sitting in a classroom than walking down a street -- there is still much more that we can do to improve school safety and security. In particular, the multiple shootings that took place in schools in Pearl, MS, Paducah, KY, Jonesboro, AK, and Springfield, OR, serve as painful reminders that no community is immune from senseless violence -- and that all communities must do their best to prevent such tragedies from ever occurring.

At the conference, you will unveil the first Annual Report on School Crime and Safety, prepared by the Departments of Justice and Education as you directed in your radio address after the Paducah shooting in December. The report is intended to give parents, principals and policy makers a yearly snapshot of school crime, as well as to provide information on what practical steps they can take to make their schools safer. [*KEY FINDINGS OF THE REPORT ARE ATTACHED.]

In your opening remarks you will announce the following new initiatives that address many of the problems identified in the Annual Report:

(1) A New Federal Response for Violent Deaths in Schools. You will propose a $12 million plan to create Project SERVE, a federal School Emergency Response to Violence effort, to help schools and local communities respond to school-related violent deaths, such as those that occurred last year in Jonesboro Arkansas, Paducah Kentucky, Pearl Mississippi and Springfield Oregon. Based on the experiences of these communities last year--and with input from local officials and educators in these and other communities-- the plan will enable the federal government to assist local communities in much the same way FEMA assists in response to natural and human-caused disasters.

(2) Targeted Resources for Schools with Serious Crime Problems. To help give the estimated 10% of schools with serious crime problems the tools they need to put the security of our children first, you will announce a new $65 million initiative to hire 2,000 community police and School Resource Officers to work in schools -- and to train police, educators and other members of the community to help recognize the early warning signs of violence.

(3) Reforms to Help Make All Schools Safe, Disciplined and Drug-Free. You will announce your plan for a significant overhaul of the nearly $600 million Safe and Drug-Free Schools and Communities Program. Under this proposal, schools will be required to adopt rigorous, comprehensive school safety plans that include: tough, but fair, discipline policies; safe passage to and from schools; effective drug and violence policies; annual school safety report cards; links to after school programs; efforts to involve parents; and crisis management plans.

(4) A Community-Wide Response to School Safety and Youth Violence. To help communities throughout the country promote a coordinated, comprehensive response to school safety, you will launch a new Safe Schools -- Safe Communities initiative designed to help 10 cities develop and implement community-wide school safety plans. A minimum of $25 million in discretionary grants from the Departments of Education, Justice and Health and Human Service -- or $1-3 million per site -- will be made available for this initiative.

You will also kick-off an MTV-sponsored, year-long media campaign on school and youth violence. Working with the Departments of Education and Justice, and the National Endowment for the Arts, MTV will distribute a Youth Action Guide that aims to engage youth in solutions to violence. In an earlier panel, the First Lady introduced one of the MTV media campaign segments.

III.PARTICIPANTS

Briefing Participants:
Bruce Reed/Elena Kagan
Marsha Scott
Melanne Verveer
Michael Cohen
Richard Socarides
Jose Cerda
Leanne Shimabukuro
Neera Tanden
Tanya Martin
Lynn Cutler

Presidential Panel Participants:
The Vice President
The First Lady
Jamon Kent, Superintendent of Springfield Public Schools, Springfield, Oregon
Police Commissioner Paul Evans, Boston, Massachusetts
Mayor Deedee Corradini, Pres. of the U.S. Conference of Mayors, St. Lake City, Utah
Liberty Franklin, National Boys and Girls Club Youth of the Year, Everett, Washington
Tony Earles, Professor Harvard School of Public Health
Joanna Quintana Barroso, Third Grade Teacher, Coral Way Elementary, Miami, Florida
Representative Bobby Etheridge

IV.PRESS PLAN

Open Press.

V.SEQUENCE OF EVENTS

- YOU will be announced into the room accompanied by the Vice President and the First Lady.
- The Vice President makes remarks and introduces YOU.
- YOU will make remarks.
- YOU will make remarks and then take your seat at the table.
- YOU will then moderate the discussion by calling on each individual.
- YOU, the Vice President, and the First Lady will have the option of asking follow up questions to each speaker.

[*SUGGESTED SPEAKING ORDER AND QUESTIONS ATTACHED.]

VI.REMARKS

Provided by Speechwriting.

VII.ATTACHMENTS

- Annual Report and Summary of Key Findings.
- Suggested Sequence of Events.
- Conference Agenda

FF

SUMMARY OF KEY FINDINGS OF THE ANNUAL REPORT

*Students less likely to be victimized but more likely to feel unsafe. Although the number of multiple homicide events at schools has increased since 1993 (from 2 to 6 -- and with 4 times as many victims), the overall school crime rate has actually dropped (from 164 crimes per 1,000 students in 1993 to about 128 such crimes in 1996). However, the percentage of students reporting that they felt unsafe at or on their way to school has increased.

*Most schools safer than community at large. While the overall level of school and non-school crime is about the same (about 3 million crimes in each setting), students are more than twice as likely to experience serious violent crime while out of school. And the very worst violent victimizations -- murders and suicides -- rarely occur in or near schools. Fewer than 1% of the 7,357 thousand children who were murdered in 1992-93 -- or 63 -- were killed at school.

*Serious crime and violence concentrated in a small percentage of schools. Only about 10% of public schools report serious or violent crimes to their local police departments. Nearly half -- or 47% -- of schools report less serious or non-violent crimes to police, and 43% report absolutely no crimes at all.

*Violence more likely in larger, urban schools and with older students. One third of large schools (1,000+ students) report serious violent crimes to police, compared with less than one tenth of small schools. Also urban schools are twice as likely as rural schools to report serious violent crimes, and middle and high schools are 4 times more likely than elementary schools to report such crimes.

*Fist fights and theft the most common crimes. Overall, physical attacks and fights without weapons are the crimes most often reported to police by middle and high schools. Theft is the most common school crime overall. In 1996, less than 10% of crimes against students were of a serious or violent nature.

*Fewer weapons in schools. About 6% of high school seniors -- less than in recent years -- are carrying firearms and other weapons to schools. Also, the percentage of seniors intentionally injured -- with or without weapons -- has not changed significantly over the past 20 years.

*Gang presence has nearly doubled. Between 1989 and 1995, the percentage of students reporting the presence of street gangs in their schools increased from 15% to 28% -- including large increases at urban, suburban and rural schools.

*Violence and drugs linked. Students who reported being the victims of violent crimes at schools were more likely to report the availability of drugs at school. The presence of gangs and guns is also related to school crime and the victimization of students.

*Teachers often crime victims. On average, 3% of teachers are the victims of violent crimes, and nearly 5% are the victims of theft.

*

May 29, 1998

TOBACCO STATEMENT

DATE:June 1, 1998
LOCATION:Rose Garden
BRIEFING TIME:10:15 am
EVENT TIME:10:45 am
FROM:Bruce Reed

I.PURPOSE

To call on the Senate to pass the McCain tobacco legislation by the end of the week.

II.BACKGROUND

You will urge the Senate to swiftly pass the McCain legislation when they return from recess next week. You have previously announced that you would be pleased to sign the McCain Managers Amendment into law because it meets your five principles for comprehensive tobacco legislation. This is an opportunity to reiterate the importance of enacting compre-hensive, tobacco legislation this year, and to comment on key amendments that are likely to be considered by the Senate next week. In particular, you will emphasize your support for Senator Fords LEAF Act, and urge Congress to break this impasse and pass a bill that provides strong protections to farmers and their communities.

III.PARTICIPANTS

Briefing Participants:
The Vice President
Erskine Bowles
Bruce Reed
Elena Kagan

Event Participants:
The Vice President
Erskine Bowles

IV.PRESS PLAN

Open Press.

V.SEQUENCE OF EVENTS

-YOU will be announced into the Rose Garden accompanied by the Vice President and Erskine Bowles.

- YOU will make remarks and then depart.

VI. REMARKS

Remarks provided by Speechwriting.

*

May 28, 1998

COPS EVENT

DATE:May 29, 1998
LOCATION:Rose Garden
BRIEFING TIME:10:00 am
EVENT TIME:10:30 am
FROM:Bruce Reed

I.PURPOSE

To announce a new initiative to hire more community police in high-crime, high-need neighborhoods by waiving the local match, and to highlight that the COPS Office has now funded over 75,000 police officers.

II.BACKGROUND

This event is an opportunity to highlight the success of the COPS program to date, and to launch a new COPS initiative that targets high-crime, high-need neighborhoods. Grants for the new initiative will provide 18 cities with $106 million to fund over 700 new community police officers. You will also announce $115.6 million for 553 communities across the country to hire an additional 1,748 officers under the regular COPS Universal Hiring Program (UHP). With these grants, the COPS Program will have helped to fund an increase of 75,000 more police on Americas streets.

*Putting resources in high-crime neighborhoods. While crime is coming down in cities of all sizes and in all regions of the country, some neighborhoods have not shared in the same level of progress enjoyed by the rest of the country. The pilot program launched today will provide full funding for new officers in these areas, by waiving the usual matching requirements. Each city receiving funds under this pilot program has a high per capita level of crime and poverty, either throughout the city or in certain neighborhoods. The cities will deploy their new officers to help meet the unique needs of their communities, such as combating gangs or targeting drug "hot spots."

Pilot cities receiving funds are: Chicago, IL; Hartford, CT; Camden, NJ; Bessemer, AL; Miami, FL; Flint, MI; Fresno, CA; San Bernardino, CA; Fort Pierce, FL; Monroe, LA; Baltimore, MD; Muskegon; MI; Greenville, MS; Buffalo; NY; McAllen, TX; Birmingham, AL; El Paso, TX; and Cleveland, OH.

*Hitting the 75,000 mark. The pilot will provide $106 million in funding for 18 cities to hire 738 community policing officers. In addition, the regular COPS UHP grants announced today will provide $115.6 million to 553 police departments to hire 1,748 officers. The hires will bring the total number of officers funded under the Clinton COPS Initiative to over 75,000 -- and put the COPS Initiative ahead of schedule to meet the Presidents pledge to provide 100,000 officers.

Since you signed the 1994 Crime Act, which authorized nearly $9 billion for the COPS program, the number of police departments engaged in community policing has increased from hundreds to over 10,000.

*Cutting crime rates to the lowest levels in a generation.
Earlier this month, the Justice Department released preliminary data showing that crime dropped in 1997 for an unprecedented sixth year in a row. Since 1993, violent crime has dropped by more than 15%, and murders are down by more than 25%.

Attending this event will be: Mayors and Police Chiefs from the cities receiving grants from the pilot program and representatives from national law enforcement organizations.

III.PARTICIPANTS

Briefing Participants:
The Vice President
Attorney General Reno
Bruce Reed or Elena Kagan
Lynn Cutler
Jose Cerda

Event Participants:
The Vice President
Attorney General Reno
Mayor Michael White, Cleveland, Ohio
Superintendent Terry Hillard, Chicago Police Department

Meet and Greet Participants:
Mayor Jim Patterson, Fresno, CA
Mayor Judith Valles, San Bernadino, CA
Mayor Joe Carollo, Miami, FL
Mayor Kurt Schmoke, Baltimore, MD
Mayor Michael White, Cleveland, OH
Mayor Quitman Mitchell, Bessemer, AL
Mayor Abe Pierce, Monroe, LA
Mayor Woodrow Stanley, Flint, MI
Mayor, Fred Nielsen, Muskegon, MI
Mayor Pro-Temp Phyllis Griggs, McAllen, TX

COPS-funded Police Officers:
Officer Thomas Harwood, Grant Park, IL
Officer Jamie Keneally, Boston, MA
Deputy Scott Dyke, Ottawa County, MI
Officer Chris Lonsford, Fontana, CA

IV.PRESS PLAN

Open Press.

V.SEQUENCE OF EVENTS

-YOU will briefly meet with Mayors receiving COPS grants and four police officers funded by the COPS Office.
-YOU will be announced into the room accompanied by the Vice President, Attorney General Reno, Mayor White, Superintendent Hillard, and uniformed police officers from the local area.
- The Vice President will make remarks and introduce Mayor White.
-Mayor White will make remarks and introduce Attorney General Reno.
-Attorney General Reno will make remarks and introduce Superintendent Hillard.
-Superintendent Hillard will make remarks and introduce YOU.
-YOU will make remarks and then depart.

VI.REMARKS

Remarks provided by Speechwriting.

*

January 6, 1998

ANNOUNCEMENT OF CHILD CARE INITIATIVE

DATE:January 7, 1998
LOCATION:East Room
TIME:2:30 p.m.
FROM:Bruce Reed
Melanne Verveer
Elena Kagan

I.PURPOSE

To announce the child care initiative in your FY 1999 budget and highlight your commitment to helping American families succeed at home and at work.

II.BACKGROUND

Your child care initiative of about $20 billion over five years is the largest single child care investment in our nations history. The initiative will help working families afford child care, improve the safety and quality of child care, promote early learning, and build the supply of good after-school programs.

At the White House Conferences on Early Childhood Development and on Child Care, you and the First Lady called together parents, experts, and advocates to discuss the importance of the earliest years of life and the challenge of ensuring that children get the care they need in those critical years and beyond. This initiative responds to what you heard at those conferences
-- that Americas working families, more than ever, are pressed to find safe, affordable care for their children. The child care initiative also builds on your record of providing opportunity to American families that includes: significant expansions of the Earned Income Tax Credit; an increase in the minimum wage; welfare reform; the Family and Medical Leave Act; childrens health insurance; and the $500 per child tax credit.

The child care initiative will:

*Double the number of children receiving child care subsidies to more than two million by the year 2003 by increasing the Child Care and Development Block Grant by $7.5 billion over five years.

*Help three million working families pay for child care by increasing their tax credits under the Child and Dependent Tax Credit (estimated at $5.2 billion over five years).

*Provide a new tax credit for businesses that provide child care services for their employees (estimated at $500 million over five years).

*Establish an Early Learning Fund to provide grants to communities to promote early childhood development and improve child care quality for young children, with an investment of $3 billion over five years.

*Provide after-school care for 500,000 children per year by expanding the 21st Century Community Learning Center program, which provides start-up funds to school-community partnerships to establish or expand before- and after-school programs for school-age children, through an investment of $1 billion over five years.

*Step up enforcement of state child care health and safety standards by establishing a Standards Enforcement Fund for state efforts to improve licensing systems and enforce standards, including by increasing unannounced inspections of child care settings, with an investment of $500 million over five years.

*Promote training of child care providers by establishing a Child Care Scholarship Fund to support 50,000 scholarships per year, with an investment of $250 million over five years.

*Invest in research by establishing a Research and Evaluation Fund to increase support for data, research, and evaluation in child care, as well as finance a child care hotline for parents and a National Center on Child Care Statistics, with an investment of $150 million over five years.

*Increase Head Start to serve one million children by 2002 and double the number of children served by Early Head Start with an increased investment of $3.4 billion over five years.

Child and Dependent Tax Credit Reform$5.2 billion over five years
Tax Credit for Businesses$500 million over five years
Child Care Block Grant Increase$7.5 billion over five years
Standards Enforcement Fund$500 million over five years
Early Learning Fund$3 billion over five years
Head Start Increase$3.4 billion over five years
Child Care Provider Scholarship Fund$250 million over five years
Research and Evaluation Fund$150 million over five years
21st Century Learning Center Program$1 billion over five years

TOTAL:$21.5 billion over five years

III.PARTICIPANTS

Briefing Participants:

Secretaries Shalala, Riley and Rubin, Bruce Reed, Gene Sperling, Melanne Verveer, Ron Klain, Elena Kagan, Susan Liss, Jennifer Klein, June Shih

Meet and Greet Participants:

Members of Congress (subject to change):
Senator Mary Landrieu
Representative Rosa L. DeLauro (D-CT)
Representative Ellen O. Tauscher (D-CA)
Representative Eleanor Holmes Norton (D-DC)
Representative Marge Roukema (R-NJ)
Representative Constance A. Morella (R-MD)
Representative James P. Moran (D-VA)
Representative Barbara B. Kennelly (C-CT)
Representative Patrick Kennedy (D-RI)
Representative Robert A. Weygand (D-RI)

Other Elected Officials:
Governor Lincoln Almond (R-RI)
State Senator Pat Piper (D-MN)
State Representative Jane Maroney (R-DE)
County Commissioner Jane Campbell (D-OH)
County Commissioner Jane Hague (R-WA)
County Councilmember Marilyn Praisner (D-MD)

Children and Families:
Bridie Eckenrode and daughter Sandy Eckenrode (8 years old)
Mark Dalton and daughter Hilary Dalton (6 years old)
Gary Dikeos and son Darien Dikeos (5 years old)
Beverly Lancaster-Hyde and daughter Camille Hyde (4 years old)
Sally DItalia and daughter Sarah (15 years old)
Tanya Sanders and daughter Tia (15 years old)
Mary Anne Carter and son Matthew Lundy (5 years old)
Binnie Harris and son Juan Gary Jr. (4 years old)
Leslie Bermudez and daughter Vivianna (7 years old)
Marcus Wilkins and daughter Rebecca (8 years old)
Yvonne Reyes and son Mulawin Diwa Reyes-Lozada (4 years old)

Event Participants:

The President
The Vice President
The First Lady
Mrs. Gore

Cabinet Members Attending:

Secretaries Shalala, Rubin, Riley, Slater, and Administrator Barram

Audience:

Approximately 160 leaders in the child care community, including experts and advocates (see attached list). Most were also present for the White House Conference on Child Care.

IV. PRESS PLAN

Open Press.

V. SEQUENCE OF EVENTS

*YOU will proceed to the Red Room for a briefing.
*YOU will proceed to the Blue Room to meet with elected officials and Members of Congress.
*YOU will meet with children and their parents in the Blue Room.
*YOU, the First Lady, the Vice President, and Mrs. Gore will proceed to the East Room, accompanied by children.
*YOU, the First Lady, the Vice President, and Mrs. Gore will proceed to stage.
*YOU, the First Lady, and the Vice President will be seated on stage.
*Mrs. Gore will make opening remarks and introduce the First Lady.
*The First Lady will make remarks and introduce the Vice President.
*The Vice President will make remarks and introduce YOU.
*YOU will make remarks.
*YOU, the First Lady, the Vice President, and Mrs. Gore will depart.

M E M O R A N D U M

TO: BRUCE REED, ELENA KAGAN

FROM: THOMAS FREEDMAN, MARY L. SMITH

RE: WORK AND FAMILY IDEAS

DATE: NOVEMBER 20, 1997

*Tax credits for those families who have chosen to have one parent stay at home and take care of their own children. (Idaho Statesman)

*Senator Dodd is attempting to craft a child-care bill that will likely include tax incentives for employers to help with child care, bigger child-care tax credits for families and larger block grants to the states. Five Republicans have committed to this effort: Orrin Hatch of Utah, James Jeffords of Vermont, Pat Roberts of Kansas, Olympia Snowe of Maine, and Arlen Specter of Pennsylvania.

*Expansion of HeadStart to reflect new research on the critical improtance of the ages zero to 3.

*Expanded tax credits for child care.
*Help for after-school programs for older kids.

*Smart Start early-childhood program: North Carolina program that offers new mothers stipends for diapers and baby food if they stay home with their newborns instead of rushing back to work.

*Expand the Family and Medical Leave Act so that parents can take time off for childrens medical appointments, teacher conferences (President at Child Care Conference)

*Flex time laws allowing workers to choose between receiving overtime in pay or in time off (President at Child Care Conference)

*Kohl bill that would provide tax credits to businesses that construct on-site child care (Bruce)

*Increase amount of money in child care development block grant to states (Bruce)

*expand dependent-care tax credit, which is available to two-parent families with two parents that work (Bruce)

*Chafee bill: KidCare Act. Among other things, it would:
*Increase the current child-care tax credit for families making less than $5,000, and increase the amount of pre-tax dollars employees can contribute to Dependent Care Assistance Plans
*Allow higher tax credits and greater pre-tax contributions for families who use accredited or credentialed child-care services, since they usually cost more
*Give child-care providers a larger tax deduction for educational expenses related to

achieving or maintaining accreditation

*Provide $50 million to create and operate technology-based training that uses distance learning, the Internet and satellite resources to help child-care providers nationwide to receive training, education and support

*Allow businesses a charitable deduction for donating educational equipment to nonprofit child-care providers and public schools

*Help employers who provide child care by implementing a tax credit for startup costs for child-care centers, professional development expenses, and costs related to achieving accreditation

*Establish a $260-million competitive grant program that would help states improve the quality of child care by doing such things as increasing the salaries of credentialed child-care providers; developing standards for the accreditation and credentialing of providers; offering scholarships to help providers pay for education and training, or for use on consumer-education efforts

TO:ELENA KAGAN
MICHAEL COHEN

CC:MARIA ECHAVESTE
JANET MURGUIA
MICKEY IBARRA
CRAIG SMITH

FROM:KAREN SKELTON

DATE:NOVEMBER 12, 1997

SUBJECT:BILINGUAL EDUCATION AND CALIFORNIA POLITICS

OVERVIEW

The "English for the Children" initiative, sponsored by Republican and former gubernatorial candidate Ronald Unz, is planned for the June 1998 ballot. The initiative would move Californias 1.4 million non-English proficient students from "bilingual education" classes into an intensive program of "sheltered English immersion." Bilingual education would remain an option for parents who specifically request it through a waiver. Supporters and opponents both agree that the measure would essentially end bilingual education in California, and probably spark a move to do the same nationwide.

Half of the children in America who are classified as "nonproficient" in English live in California. Most of these students come from Spanish-speaking homes. California spends approximately $300 million annually on bilingual education.

The question of whether to abolish bilingual education for these mostly Latino children is a politically charged question in California. The initiative is Californias third potentially divisive "race" initiative in 4 years. In 1994, Proposition 187 barred public benefits for illegal immigrants. In 1996, Proposition 209 ended affirmative action.

THE POLITICS

The gut reaction of most Californians is that public school instruction should be conducted in English. Most people--Hispanic, Caucasian, Republican and Democrat--want kids to learn English as early as possible by the most effective means possible. Eleven years ago, Californians resoundingly approved a measure making English the states official language.

The recent Los Angeles Times poll reflects this basic sentiment. The poll asked all registered voters whether they would vote for or against an initiative "that would require all public school instruction to be conducted in English and for students not fluent in English to be placed in a short-term English immersion program." The poll found 75 percent to 80 percent support for the initiative among every single voting group in the state. Liberals support it 2-to-1. Latino voters support the initiative by a ration of 84 percent to 16 percent. Latino parents, like other parents, want their children to learn English and prefer that their childrens courses be taught in English.

People disagree on the best way to achieve that result, or whether theres one best way in all circumstances. Nobody thinks it is bad for students to be bilingual. People disagree

on whether bilingual education is achieving that goal, or leaving students "limping along in both, masters of neither."

Under the best circumstances, the "English for Children" initiative will provoke a healthy debate on the merits of bilingual education in California. But, that is unlikely. Even though many Latinos may privately feel bilingual education has failed, they and other voters may be reluctant to attack such a "sacred cow."

The success of this initiative will depend more than anything else on the language in which it is framed. If the initiative is framed as anti-immigration, anti-affirmative action, anti-Latino, then Latinos are likely to fight against what they perceive to be "another racist campaign." Given the history of Propositions 187 and 209, it is likely this initiative will devolve into nasty hand-to-hand combat over race.

The divisive political rhetoric is heating up on both sides. The initiatives supporters declare it is "shameful that so many politicians continue to support a program which they realize does not work." Opponents of the initiative call it "anti-Latino racism."

At this time, most elected officials have not taken a position, but the line-up is taking shape. Last week, the California Teachers Association came out against the Initiative. On November 23, the United Teachers of Los Angeles will vote. Both sides have signed up endorsements that signal a tough fight ahead: Latino teachers say they support the initiative and a few Republican State Legislators say they oppose it. (See attached list)

CONCLUSION

It does not make political sense for us to take a position on the initiative at this time. First, we must assume for now that the Unz initiative is going to pass by a large margin, and it would take huge money to defeat it. Second, this initiative raises a California state issue that begs the question of federal "meddling."

Third, a popular Democratic Presidents opposition to the initiative will entice Governor Wilson, who has remained silent, to oppose the President and support the initiative. Other Republicans will follow Wilsons lead. We are then in the position of a sitting President fighting a sitting Governor over a California issue. We do not want this.

Fourth, a Presidential position at this point could adversely effect the 1998 elections in California. Given the presumed popularity of the initiative, we may assume that Democratic candidates in the State may support it. If the President opposes the initiative, it may cause a political disagreement between the Democratic President and Democratic candidates, and thus give the Republicans a "wedge" issue theyll readily exploit. If the President supports the initiative, he risks alienating "base voters" who the Democratic primary candidates must capture for a win. Thus, the Presidents least risky position in terms of the 1998 elections is to allow the candidates to make their own political determinations independent of the President.

Fifth, the State Legislature is considering drafting bi-partisan legislation which strikes a compromise between the Unz initiative and the position taken by the California Teachers Association. The legislation may be drafted by January. Our involvement any earlier will ensure negotiations collapse.

RECOMMENDATION

1.Keep the powder dry. Avoid knee jerk reactions. Do not get involved in the heated political rhetoric over the initiative. Wait for State Legislatures compromise.
2.Stay on the Offense. Unpack this issue and go back to what is at stake. Take a position that supports education for the 21st Century: bilingual graduates (however we get there), computers in the schools, local school flexibility.
3.Consult with gubernatorial candidates, Hispanic Caucus, Asian and Hispanic leaders, unions, and educational groups before making any decision on the initiative.
4.If we oppose the initiative, plan to spend a great deal of money to win.

FF

CURRENT POLITICAL ARGUMENTS

ARGUMENTS USED TO SUPPORT THE INITIATIVE (To Abolish Bilingual Education)

*"Bilingual education" is a failed program.
*The number of students classified as "limited English proficient" has more than doubled since 1982.
*The number of students reclassified as "English proficient" has remained flat. Only 5% of students graduate to proficiency in a given year.

*Bilingual Education does not work if it is not done right, and California cannot do bilingual education right.
*Only a third of supposedly bilingual classes are taught by credentialed bilingual teachers.
*California schools have been trying to recruit and train more bilingual teachers for 25 years.
*Class-size reduction has made the teacher shortage even more acute.
*California cant offer a high-quality bilingual program to more than a small number of students - - estimated at about 10% of English learners.

ARGUMENTS USED TO OPPOSE THE INITIATIVE (Save Bilingual Education)

*Initiative would virtually end bilingual education.
*Initiative Process is poorly designed for dealing with complex education issues.
*Initiative removes flexibility from local schools over educational decisions.
*Initiative exposes teachers and other educators to personal liability lawsuits.

FF

POLITICAL LINE-UP

SUPPORT INITIATIVE
*Ron Unz, Silcon Valley Republican, former gubernatorial candidate, and author of the initiative
*Gloria Matta Tuchman, Latina school teacher from Santa Ana and co-author
*Jaime Escalante, Latino calculus teacher whose success with inner-city kids was the basis

of the movie "Stand and Deliver."
*Fernando Vega, past City Councilman and School Board Member, worked on Clinton-Gore 1992 campaign.
*Mayor Richard Riordan
*Darrell Issa, Republican Senate Candidate opposing Senator Boxer

OPPOSE INITIATIVE
*California Teachers Association
*MALDEF (Antonia Hernandez)
*Association of Latino Elected and Appointed Officials (Arturo Vargas)
*State Assemblyman Bill Leonard, Minority Leader
*State Assemblyman Rod Pacheco, only Republican Latino Assemblyman
*California Association of Bilingual Education
*U.S. Senator Barbara Boxer

NO POSITION YET
*California Federation of Teachers
*California Association of School Boards
*U.S. Senator Diane Feinstein
*PTA
*Lt. Governor Gray Davis (Democratic candidate for Governor in 1998)
*Atty. General Dan Lungren (Republican candidate for Governor in 1998)
*Delaine Eastin, Supervisor of Public Instruction
*Speaker Cruz Bustamante
*Assemblyman Antonio Villaregosa
*Supervisor Gloria Molina

ALTERNATIVE VIEW
*Democrat Al Checchi opposes the initiative but thinks bilingual education has failed. He favors intensive language schooling of 3 and 4 year olds who do not speak English. Separate provisions would be made for students who are older when they arrive in California schools.

*

October 14, 1997

MEMORANDUM TO BRUCE REED
ELENA KAGAN

FROM: JENNIFER KLEIN
NICOLE RABNER

CC: MELANNE VERVEER

RE: POLICY OPTIONS FOR CHILD CARE CONFERENCE

As you know, the President will announce two or three small policy initiatives at the White House Conference on Child Care as "downpayments" on his larger child care agenda (which will be outlined in an Executive Memorandum issued at the conference). This memorandum outlines the policy options that we are considering.

Working Group of Business Leaders. The President would appoint Secretary Rubin to co-chair, with a private sector executive, a working group of business leaders on child care. The group would report back within 60 days on strategies for developing public-private partnerships to improve the quality and affordability of child care. We are working with Treasury to set up the working group and to appoint a co-chair who could be announced at the conference. HHS and Treasury support doing this, as do many child care advocates and experts. Treasury has raised some concern that the group might make recommendations that the Administration is not prepared to accept. With those concerns in mind, we have narrowly defined the scope of their work.

Health Outreach in Child Care Centers. The President would announce a plan to enroll eligible children in child care centers in Medicaid or the new state childrens health program. This would build on the Administrations commitment to linking health care and child care through the Healthy Child Care America Campaign, which promotes safety and healthy development in child care and improves access to immunization, nutrition and other health services in child care settings. We are working with Chris Jennings and Jeanne Lambrew on a series of proposals, including:

*Clarifying regulations to ensure that child care centers and schools distribute information about these health programs, assist in filling out applications, and grant presumptive eligibility for Medicaid.

*Requiring states in their state plans for the childrens health program to describe how they will use child care centers to enroll children.

*Developing an agreement with child care providers, school nurses and teachers to work together on education and outreach to families. This would include release of a Medicaid

handbook for child care workers (currently being produced at HHS) and a simple brochure describing the new childrens health program.

Chris and Jeanne will discuss any health care proposals with the National Governors Association staff to ensure that states will support our policy.

Scholarships for Child Care Workers. The President would announce a new federal scholarship program for child care workers. Our suggestion had been to announce our support for Senator DeWines "Quality Child Care and Loan Forgiveness Act" that provides loan forgiveness for students in early childhood education programs. The bill allows 15% of the total amount of a loan to be forgiven for each year of employment and requests an appropriation of $10 million for fiscal year 1998. Senator Kerry has a similar loan forgiveness bill that requests an appropriation of $100 million for 1998. DOE is opposed to granting loan forgiveness to people entering particular professions, so the Department is developing an alternative proposal either through adult and vocational education or school-to-work. HHS also requested an increase of $150 million for FY 1999 in the CCDBG to model a scholarship program after North Carolinas T.E.A.C.H. Program.

The President would also announce an outreach plan to let students in training to become child care workers know that many of them are currently eligible for Pell Grants.

Announcing policy in this area at the conference makes sense given strong agreement that the key to quality child care is the provider. A proposal would receive strong support from the child care and labor communities. However, we obviously need to resolve remaining issues with Education and HHS and to involve OMB and NEC before going forward.

Background Checks on Child Care Workers. This announcement could have three parts. First, the President would release a Department of Health and Human Services "checklist" of questions that employers and parents could use in interviewing and doing reference checks on child care providers. The ABA Center on Children and the Law recently completed a study finding that employer reference checks and personal interviews are among the most effective ways to screen child care providers. The Center also reports that 98 percent of respondents conduct personal interviews and 93 percent check references with past employers. However, there is no assurance that these checks are done right. The "checklist" would arm parents and employers with the information they need to do proper and thorough screening.

Second, HHS would issue regulations requiring any child care center receiving federal funding through the Child Care and Development Block Grant (CCDBG) to use the "checklist." HHS has authority to do this under provisions of the CCDBG allowing them to regulate health and safety in three specific areas (building and premises safety, training, and health and infectious diseases, including immunization). As you know, HHS recently issued regulations under this authority requiring federally-funded centers to ensure that the children in their care are properly immunized.

Third, the President would urge Congress to pass and the states to join the Interstate Crime Prevention and Privacy Compact. This compact, which is ready for transmission to the hill, would give access to criminal records for non-criminal purposes, including background checks on child care providers. While a slow and lengthy process, this would give the President an opportunity to talk about the importance of making this information available so that children in America will no longer threatened by the few "bad apple" child care

workers.

These announcements are controversial for several reasons. Secretary Shalala strongly believes that we should not take any steps in this area at the conference, and is particularly opposed to issuing HHS regulations. Because of the uproar by the states after HHS issued the immunization regulations, Shalala is adamantly opposed to any action in this area. More generally, she is concerned that we will give the impression that we do not support child care providers -- who as a whole work hard, receive meager salaries, and work in difficult conditions. In addition, she believes that announcing a controversial policy at the conference will jeopardize our ability to accomplish our larger child care agenda.

September 16, 1997

TOBACCO ANNOUNCEMENT

DATE:September 17, 1997
LOCATION:Oval Office
BRIEFING TIME:10:00 am - 10:30 am
EVENT TIME:10:30 am - 10:55 am
FROM:Bruce Reed

I.PURPOSE

To launch the Administrations plan for comprehensive tobacco legislation to reduce youth smoking.

II.BACKGROUND

You will challenge Congress to enact federal tobacco legislation to reduce teen smoking and announce five key elements that must be included in any national legislation. You will also announce that you will invite Congressional leaders to the White House to work on this issue in the coming weeks. This is an opportunity to build on the FDA rule and the efforts of attorneys general to take further steps to curb youth smoking.

In your remarks, you will call for national tobacco legislation that includes the following:
1.A comprehensive plan to reduce teen smoking, including tough penalties if targets are not met, a public education campaign, and expanded efforts to prevent youth access to tobacco products. Legislation should set ambitious targets to reduce teen smoking by 30% in 5 years, 50% in sevent years, and 60% in 10 years.
2.Full authority for the FDA to regulate tobacco products.
3.Changes in the way the tobacco industry does business, including: no marketing to children, increase document disclosure, and mandatory corporate compliance programs.
4.Progress toward meeting other public health goals, such as: the reduction of second-hand smoke, the expansion of smoking cessation programs, the strengthening of international efforts to control tobacco, and the provision of funds for medical research and other health objectives.
5.Protection for tobacco farmers and their communities.
The attached document, which will be released to the press, provides more specifics.

Since the announcement of a proposed national settlement on June 20, the Administration has consulted with the public health community, the attorneys general, members of Congress, tobacco farmers, and others to develop a comprehensive tobacco policy. At this event, you will be joined by several key representatives from the public health community and attorneys general to demonstrate unified support for your efforts.

III.PARTICIPANTS

Briefing Participants:
The Vice President
Secretary Shalala
Erskine Bowles
Bruce Reed
Elena Kagan
Don Gips

Event Participants:
The Vice President
Secretary Shalala
Secretary Glickman
Bruce Reed
Dr. C. Everett Koop
Dr. David Kessler
Four Members of Congress (as yet unknown)
Attorney General Michael "Mike" Moore (D-Mississippi)
Attorney General Grant Woods (R-Arizona)
Attorney General Christine Gregoire (D-Washington)
Attorney General Robert Butterworth (D-Florida)
Attorney General Skip Humphrey (D-Minnesota)
Dr. Randolph Smoak, Vice Chair of the Board, American Medical Association
Dr. John Seffrin, CEO, American Cancer Society
Dudley Hafner, Executive Vice President, American Heart Association
Matt Myers, Executive Vice President and General Counsel, Campaign for Tobacco Free Kids

IV.PRESS PLAN

Pool Press.

V.SEQUENCE OF EVENTS

- You will enter the Oval Office accompanied by the Vice President. (Other guests will be pre-positioned.)
-The Vice President will make welcoming remarks and introduce you.
-You will make remarks and then take questions from the pool.

VI.REMARKS

Remarks provided by Speechwriting.

*.MEMORANDUM

TO:BRUCE REED, ELENA KAGAN, MICHAEL COHEN

CC: MARY SMITH, WILLIAM KINCAID

FROM: TOM FREEDMAN
JULIE MIKUTA

RE:SOCIAL PROMOTION

DATE:JUNE 20, 1997

SUMMARY

In preparation for the Presidents speech to the Mayors, it may be useful to discuss recent developments in the banning of social promotion, an effort being led by Chicago. On June 4, Mayor Daley supported the Chicago School Boards announcement that 26.6% of eighth graders [7,392 students] and 48% of ninth graders will not graduate on time for failing to master required subject matter. These students must attend summer classes and pass a standardized test, or they have to repeat the grade next year [6/4/97: Chic Sun-Times]. Many other school districts across the country have said they will end social promotion, but Chicago is one of the first-- and the first large metropolitan district-- to actually enforce its rule. President Clinton encouraged ending social promotion in his State of the Union Address and in a speech he gave to the National Governors Association Education Summit (3/27/96).

DETAILS ON CHICAGOS ACTIONS

*42,700 third-, sixth-, eighth-, and ninth- graders must attend summer school this year.

Criteria for attending summer school: [6/4/97: Chicago Sun-Times]
1.all grades: failed math or reading classes during regular school year
2.3rd graders: more than a grade level behind in a reading or math score on the Iowa test
3.6th graders: more than 1.5 years behind
4.8th graders: to graduate from eighth grade the student must attain minimum score of 7.0 on Iowa Test of Basic Skills (This is the standard for a beginning seventh grader; 8.8 is true grade level for an end-of-the-year eighth grader.)

*At the end of summer school, 8th graders retake Iowa Test; if they fail, they repeat the 8th grade (in most other districts, students need only to pass summer school to be promoted).

*estimated cost for this years summer school is $40 million

*This is first year that the ban on social promotion is being imposed at the ninth grade level. Last year, it was imposed on eighth graders, but they were allowed to participate in June graduation ceremonies; at the time, there was a warning given that, in 1997, there would be no graduation for those who needed summer school [6/6/97, NYT].

*Last summer, 7,400 8th graders who took summer school, and 1,600 needed to repeat the grade. Now, the minimum test score is higher (last year it was 6.8; this year it is 7.0), so the superintendent, Paul Vallas, expects 2,000 to 2,500 eighth graders to repeat (no

mention of how many 3rd, 6th or 9th graders expected to repeat).

PREVIOUS ADMINISTRATION SUPPORT

In the State of the Union Address (2/97), and at the Education Summit held by the nations governors (3/27/96), President Clinton urged the ending of social promotions as a way to encourage students to meet higher standards.

WHATS DONE ELSEWHERE

Several other states and districts ban social promotion on paper, but this rule is not enforced in most places.

Places where ban on social promotion is enforced:
*In Gwinett schools (part of Atlanta metropolitan system) a ban on social promotion is enforced at the middle school level [Atlanta Jnal, 5/12/97]. In 1,667 of districts 80,270 students were retained [At Jnal 6/3/96].

*Several school districts in NY state have a policy of no social promotion [NY Beacon, 3/12/96].

*These states use exit tests to determine whether a child is ready to move on to the next grade: AK, LA, NC, SC, VA (no mention of whether or not students are always retained if they fail these tests) [LA Times, 6/29/96].

*Many states and districts enforce a no pass, no play rule.

Where law banning social promotion has not yet been tested
*In Detroit, the school board voted in 3/96 to ban social promotion at every grade level for school year of 1997-98 [Detroit News, 3/27/96].

Places where ban on social promotion is on the books, but not enforced:
*In 1984, the Texas Legislature banned social promotion, but this hasnt happened in schools. John Cole, president of the teachers group, estimates that 150,000 of TXs 3.6 million students were socially-promoted in 1995. (A State Board of Education rule limits number of times a student can be retained to once in PreK-4th grade and once in 5th-8th grade.) [Austin America-Statesman, 1/23/96]

*In Cincinnati the school board voted in 1991 to ban social promotion. The practice now is to require students to demonstrate mastery of certain skills at 3rd, 6th and 8th grades; they must attend summer school if unable to do so. If a student fails a grade twice, s/he is assigned to a remedial class with students their own age [LA Times, 6/29/96].

Places where social promotion occurs
*NYC: students are automatically promoted from 8th to 9th grade when they reach 16 years of age [NYT, 6/6/97].

*Chancellor Crew of NYC is currently investigating the banning of social promotion.

*In Atlanta, socially promoted students are assigned a team of teachers, psychologists and social workers who create an individualized plan of goals and strategies to bring student up to grade level.

*Bloomington, IL runs a program for socially-promoted students which focuses on basic academic skills, and is seen as successful [Pantagraph, Bloomington, 1/26/97].

RESEARCH ON SOCIAL PROMOTION AND FLUNKING STUDENTS

Albert Shanker, former President of the American Federation of Teachers, endorsed the ending of social promotion. Advocates of social promotion argue that flunking students stigmatizes them and creates discipline problems in the classroom. They are supported by most of the research in this area, which says that social promotion does not result in students performing better academically. Programs that combine social promotion with extra help/ support for the student are frequently seen as a preferred alternative to flunking students.

General Facts:
*40% of 2,312 members of TX Federation of Teachers [total membership = 25,000] surveyed in 1995 said failing students were promoted even after teachers recommended they be retained [at least 150,000 students] [Associated Press report, 9/1/96].

*A Texas Poll of 1,001 adult Texans done by TX Federation of Teachers in spring, 1996 found that 2/3 of respondents said that social promotion should be outlawed in TX [Dall Mng News: 4/16/96].

*According to a 1995 survey of 805 members of American Federation of Teachers, these are some of the main reasons social promotion is done:
1.61% believe that retention causes discipline problems;
2.61% believe retention doesnt help students;
3.58% say pressure from principal;
4.52% say pressure from parents;
also:
54% said they had promoted unprepared students during the previous year [LA Times, 6/29/96].

*A common recommendation as an alternative to retention is to create special programs for failing students such as after-school and weekend tutoring, career-development centers and smaller class size.

Research Supporting Social Promotion:
*National Center for Education Statistics (1992) found that the dropout rate for 16- to 24-year olds who had been held back at least once was more than double that of those who were never held back (no control mentioned) [Associated Press report, 9/1/96].

*Linda Darling-Hammond of Columbia University Teachers College argues that retention rates for low-income students is at least twice that of classmates [Associated Press report, 9/1/96].

*According to Lorrie Shepard, a University of Colorado education professor, students that help outside classroom while being promoted tend to do better than those who get same extra help but are held back [Associated Press report, 9/1/96].

April 2, 1997

MEMORANDUM FOR: PHIL LEVINE, MICHELE JOLIN

FROM:CYNTHIA RICE (6-2846)

SUBJECT:WHITEPAPER ON WELFARE CASELOADS

CC:BRUCE REED, ELENA KAGAN, LYN HOGAN

We appreciate the opportunity to comment on the draft whitepaper on welfare caseloads. Below are comments, both general and specific. Please let me know if more detailed comments, in the text itself, would be helpful.

Release of Report

Since caseload numbers for January 1997 will soon be available, we would like you to hold the release of the whitepaper so the two can be released together. The January 1997 numbers, which will show the caseload change during the Administration's first four years, will probably generate a fair amount of interest, and it seems to us to make sense to release the explanation of why caseloads have declined along with the latest data.

Model

We believe that the model, as constructed, may exaggerate the effect of the economy relative to policy initiatives. Specifically, the model leaves out certain policy initiatives which may correlate with a good economy or which could help explain some of the "unexplained" 26%. For example, there have been large increases in Earned Income Tax Credit, child support collections, and overall (federal plus state) child care spending since 1993, all of which helped encourage people to leave the welfare rolls.

In general, the paper doesnt explain well why there is a 26% "unexplained" portion. Could the fact that you counted only state-wide waivers have increased the "noise" in the model? We think the paper should discuss some obvious suspects, like public attention to welfare reform because of national and state debates, EITC, child care, etc.

Description

The discussion of "advanced responses" of the waivers (p. 5 and 10) misses an important point -- in order to apply for and obtain a waiver, states had to have a plan endorsed by their legislatures. Thus, a state like New Jersey had already passed a state law calling for the changes before it obtained the necessary waivers. The debate and passage of the new laws usually would get a lot of publicity, and there was little public recognition that the laws would not be implemented until the federal government gave permission. Thus the "advance response" isnt as much of a mystery as you imply. Similarly, the attention to welfare reform given during and immediately after the welfare bill signing seems to in and of itself contributed to a decrease in caseloads.

Also, speculating about the effects of the new law ("Implications for Welfare Reform" section) is outside the scope of the analysis and does not fit comfortably in an Administration document. It should be dropped.

Data Used in Report

Because of the parameters of the analysis, the whitepaper uses some data that is different than those commonly cited by the Administration. For example, the paper examines only 35 statewide waivers, while the Administration has repeatedly cited the fact that it has given waivers to 43 states. Also, the whitepaper uses decline in the percentage of the population on welfare through September 1996, while we are about to release data re: the percentage decline in the caseload through January 1997. I think the paper should refer to the more commonly used statistics at least once to help clarify potential confusion.

Also, rounding is applied inconsistently, making 42% into "almost half" but 32% into "almost a third." 42% seems a lot closer to two-fifth than to one-half. Also, page 5 says "45 percent" of caseload decline can be attributed to economic growth, and "roughly 30 percent" to federal welfare waivers.

*- 1 -

TO: Bruce Reed and Elena Kagan
FROM:Cynthia Rice
DATE:February 28, 1997
SUBJECT:Bipartisan Congressional Meetings regarding Welfare to Work
CC:Diana Fortuna and Lyn Hogan

Goals

Ideally, I think we want the bipartisan Congressional meetings to:

*Reinforce the Presidents image as a welfare reform leader who is tough on work but cares about kids.

*Engage Congressional leaders in a public-private effort to move a million more people from welfare to work.

*Garner support for the Presidents Welfare-to-Work Jobs Challenge and Work Opportunity Tax Credit proposals.

We want to avoid having the President appear as if he:

*Wants simply to spend more money on welfare.

*Wants to "re-open the bill."

Establish Responsibility

In my view, the President must first persuade members of Congress that they have a responsibility to help welfare reform succeed and that they can play a critical role in ensuring people move from welfare to work. Most members feel as though theyve done their part to reform welfare and now its the governors responsibility. Theyve turned their attention to other issues and are waiting passively for a progress report. Instead, we should foster the view that they are community leaders ideally positioned to forge the local public-private partnerships that will make welfare reform succeed.

Of course, lecturing the Congressional leadership would be ill-advised. Instead, the President could lead by example, by sharing with the group what he is doing to bring business, government, civic, and religious leaders together. He could also distribute materials they might find useful in their own efforts, such as information about model welfare-to-work efforts and private and public resources available to employers.

View Welfare through the Eyes of a Small Businessperson

The President may wish to suggest that members of Congress view welfare reform through the eyes of a small businessperson, with whom many members may sympathize. (Ideally, we would announce a small business associations endorsement of the Presidents plan that day.) That businessperson probably:

*Has never considered what he could do to help reform welfare, and, most likely, no one has ever asked him to help.

*Wouldnt know where to find a welfare recipient to hire. Calling a local government agency would probably be fruitless. Calling a local social service group might inundate the business with too many job seekers.

*Thinks hiring welfare recipients is too risky. Former welfare recipients, particularly those without much work experience, may be less productive, at least at first. They may need special assistance which the company is not prepared to provide.

Looking at welfare from this perspective indicates that successful welfare reform requires:

*Leaders from all walks of life personally asking business owners and other employers to hire welfare recipients.

*Public and private agencies providing easy-to-use information about resources available to both employers and welfare recipients.

*Temporary financial protection for employers hiring people on welfare.

Make the Case that the Presidents Proposals are Critical to Welfare Reform

The new law does a lot to motivate welfare recipients to work. Among other things it:

*Sanctions those who wont work.

*Imposes time limits.

*Provides child care to make work possible.

The new law gives states vast flexibility to design welfare programs suitable to their own needs and circumstances. But the new law doesnt target any funding specifically for work-related activities, and, according to the Congressional Budget Office, it does not provide adequate funds to meet the strict new work rates.

As a result of these and other concerns, the President has proposed two new welfare-to-work initiatives:

*Welfare-to-Work Jobs Challenge: The Jobs Challenge is designed to help cities and states provide subsidies and incentives to private business to create jobs for welfare recipients. It would establish a $3 billion fund to help move a million of the hardest-to-employ welfare recipients into jobs by the year 2000. It would also allow the use of vouchers that individuals could use to obtain the tools to succeed on the job.

*Work Opportunity Tax Credit: The President would create tax credits to help create jobs for the hardest-to-employ -- long term welfare recipients. A new tax credit would let employers claim a 50 percent credit on the first $10,000 a year of wages, for up to two years, for workers they hire who were long-term welfare recipients. In addition, the budget expands a smaller, existing tax credit to include certain food stamp recipients.

Expect Both Resistance and Support from Key Participants

The current views of likely participants vary widely:

*House Republicans: In a letter to the President last month, Ways and Means Committee chairman Bill Archer expressed concern that "welfare recipients should not be given jobs at the expense of the working poor who may not qualify for a corporate tax credit."

*House Moderate Democrats: The "Blue Dogs" have long advocated a separate fund dedicated to welfare-to-work activities. A $3.6 billion work fund is part of the balanced budget plan they proposed this week (as well as the one they proposed last year). The Blue Dogs would like to lay this plan on the table at the bipartisan welfare-to-work meeting. Their budget does not include any employer tax credits, not because they dislike them particularly, but because they believe the budget should be balanced before taxes are cut.

*Leadership Democrats: Some Democrats view employer tax credits as a business giveaway and cite studies which found similar credits increased hiring only marginally. They may accept credits only as part of a package which also includes the $3 billion fund, which they prefer.

*Senate Republicans: Some Senate Republicans would rank a block grant for legal immigrants higher than these work initiatives, and doubt that a balanced budget deal would contain funds for both.

*MEMORANDUM FOR ERSKINE BOWLES

FROM: Sylvia Mathews

SUBJECT: Minority Issues Meeting

On February 25, I assembled the group that will meet once every two weeks to discuss minority issues. (See attached list of working group members.) The purpose of these meetings is to stay in front of the minority issues facing the Administration. In most cases, the function of the group will be to ensure that issues are receiving appropriate attention and moving through the proper policy processes, not directly working on these issues. Also, the group will provide a forum for senior staff to express their concerns and ideas in this area.

The following list provides a brief summary of issues we covered during Tuesdays meeting. We encourage you and senior staff to let us know of any issues that also should be considered, and to bring such issues to our attention as we move forward. The next meeting will be scheduled during the week of March 10.

Agenda Items:

*Procurement Issues: Legislative Affairs will post the group regarding a Congressional hearing on Thursday February 27 that may touch upon the elimination of Section 8a. Dawn Chirwa, in WH Counsel's office, will meet with the interagency affirmative action procurement reform group, and then Hill and outside briefings on a proposed regulation reforming procurement, will occur. This proposed regulation is the first step towards conforming the government-wide affirmative action provisions of the Federal Acquisition Regulations to the Justice Department's May 1996 proposal for affirmative action reform.

*Cocaine Sentencing: This is an issue of focus for the Congressional Black Caucus. The the last review of these cocaine sentencing guidelines by the U.S. Sentencing Commission produced a very divisive reaction. The Commission is conducting another review of these guidelines. The Commission has been in contact with Dawn Chirwa to make the White House aware, generally, of the process in place to facilitate their review of this controversial issue. This time, the Commission intends to solicit the views of numerous parties, including the Hill, before making recommendations.

*DC church visit by POTUS: There is a scheduling request for the President to attend a service at the Methodist Baptist Church in D.C. This event is part our outreach D.C. effort and is something on Eleanor Homes Nortons radar screen.

*Native Americans: The Native American community has expressed their concerns on a number of personnel fronts: the gambling commission, the Department of the Interiors Assistant Secretary for Indian Affairs, and a person in the WH who is Native American. Bob Nash and I will follow up on these issues in our next meeting.

*Hispanic Issues: The NEC is working on some Hispanic economic issues and will come back to the group on these issues in our next meeting. SMAT Delete this? - Also, it was noted that a Hispanic group recently gave us a "D-" on their report card on White House diversity.

*Piscataway (New Jersey) case: The Supreme Court has requested the views of DoJ in this case as to whether it is constitutional for a school board to lay off a white teacher

rather than a black teacher, both being equally qualified, in order to promote diversity within the school. WH Counsel is monitoring DoJ's progress on developing their argument in this case.

*Prop. 209: A District Court in California has stayed implementation of Prop. 209, pending a trial on the constitutionality of the initiative. The State appealed, and the Ninth Circuit will decide shortly whether or not to reverse the District Court's decision. DoJ believes that the Ninth Circuit panel which will rule on this issue will reverse the decision, just on the issue of whether the initiative can be stayed. WH Counsel is monitoring developments in this case.

Working Group Members:
Sylvia Mathews
John Podesta
Chuck Ruff
Rob Weiner
Richard Hayes
Dawn Chirwa
Rahm Emmanuel
Maggie Williams
Alphonse Maldon
Kathy Wallman/Anna Gomez)
Kumiki Gibson
Janet Murguia/Tracey Thornton
Elena Kagan
Bob Nash
Maria Echaveste
Melanne Verveer
Andrew Mayock

cc:Vicki Radd
Rahm Emanuel
John Podesta
Doug Sosnick
FFsend list to attendees
work up agenda (JG)
background issues memos to ME, BN

7963 -

To: Bruce Reed
Elena Kagan

From: Mary L. Smith

Re: Native American Reports to the President

Date: November 30, 1998

At the Native American economic development conference on August 6, the President announced several initiatives that would improve economic development in Indian country. Attached are drafts of the reports required by the President. Although I have given you some of these drafts earlier, I thought I would give them to you in one package. With the exception of the MOU, the agencies are planning to sending the two reports to the President by December 2 or 3. Attached are the following:

(1) Interagency plan on Native American education. At the conference, the President signed an executive order on American Indian and Alaska Native education. This executive order required an interagency plan with recommendations identifying initiatives, strategies, and ideas in order to improve Native American education. The centerpieces of the draft plan include 1000 new Native American teachers and increased funding for the Bureau of Indian Affairs school construction and operation.

(2) Strategic plan for Native American economic development At the conference, the President directed the Small Business Administration, the Department of the Interior, and the Department of Commerce to develop a strategic plan to coordinate existing economic development initiatives and to detail future efforts. The centerpiece of the proposal would provide a toll-free number, located at the Bureau of Indian Affairs, in which tribes could access information about how the federal government can assist in economic development efforts. This number would provide one point-of-contact for tribes across all government agencies and would eliminate the need for tribes to be familiar with the intricacies of specific government programs. Calls will be answered in a problem-solving manner by staff people trained on the specific economic development programs offered by each agency. In addition, the BIA will organize business seminars throughout Indian country (staffed by various agency representatives) which will consist of both general sessions and individualized technical assistance.

(3) Memorandum of Understanding to Implement the Access Center. The attached MOU describes how the access center and the tollfree number would be implemented. The MOU outlines the staffing, training, and commitments of each of the agencies in order to make the access center operational. We will send this MOU through the OMB vetting process.

AUGUST 13, 1997

RELIGIOUS EXPRESSION IN THE FEDERAL WORKPLACE

DATE: August 14, 1997
LOCATION: White House
TIME: 9:50 A.M.
FROM: Maria Echaveste, Charles Ruff

I. PURPOSE

The narrow purpose of this event is to announce the issuance of Guidelines addressing religious expression in the federal workplace. More broadly, the event furthers two other goals. First, it gives you the opportunity to discuss the importance of religious faith and religious liberty in the American experience. Second, the event allows you to note the accomplishments of the Administration in working with a broad coalition of religious groups. (The coalition that authored the Guidelines also worked with the Administration on the passage of the Religious Freedom Restoration Act (RFRA) and the Guidelines addressing religious expression in the public schools.) In this way, you can tie the religious liberty issue to the Administration themes of community, diversity, and mutual respect.

II. BACKGROUND

The Guidelines were negotiated between the Counsel's Office and the Department of Justice, on the one hand, and representatives from a broad coalition of religious groups, on the other. Four key players from the religious community deserve special recognition. Those persons are Steve McFarland of the Christian Legal Society, Marc Stern of the American Jewish Congress, Eliot Mincberg of People for the American Way, and Oliver Buzz Thomas, formerly of the Baptist Joint Committee.

The idea for the project was initiated in response to the 1995 proposed EEOC guidelines addressing harassment in the workplace. The sections of the proposed EEOC guidelines addressing religious harassment were controversial and generated wide-ranging opposition from religious groups who believed that the EEOC guidelines might be construed by employers as prohibiting all religious activity in the workplace. The religious leaders believed that a set of guidelines dealing with religious expression in the workplace could be drafted which would be acceptable to most, if not all, religious organizations; and the Counsel's Office suggested that it might be possible to issue the guidelines as a joint project of the White House and the religious groups if the guidelines were modified to meet certain objections and if they were narrowed to apply only to the federal workplace.

The recent Supreme Court decision on the RFRA also adds to the significance of this event. As of now, the religious groups are divided as to the response to the Court's decision (e.g., federal legislation, constitutional amendment, state RFRAs) and the Administration has not yet taken a position on this subject. This event, however, will allow you to stake out a position obviously supportive of religious liberty without entering into the ongoing debate. First, it gives you an opportunity to announce publicly for the first time that the Administration interprets RFRA as still being in force with respect to the federal government (that is, that the Court's decision invalidated RFRA only to the extent the Act

applies to the states). Second, the event demonstrates that the Administration remains committed to religious liberty issues. Third, the issuance of the Guidelines shows that meaningful actions protecting religious liberty can be taken without the need of a constitutional amendment.

Finally, the event will be truly ecumenical. Participants will include members of the Christian Right, the secular left, religious moderates and federal officials.

III.PARTICIPANTS

Pre-brief participants:
Maria Echaveste, Charles Ruff, Ann Lewis, William Marshall, Elena Kagan

Event participants:
Vice President Gore, Secretary Richard Riley, Representatives Floyd Flake (D-NY) and Ben Cardin (D-MD), 180 participants including diverse religious leaders, federal agency general counsels and federal employee union representatives.

IV.PRESS PLAN

Open press.

V.SEQUENCE OF EVENTS

To be provided by Social Office.

VI.REMARKS

To be provided by Speechwriters.

April 5, 1999

HATE CRIMES ANNOUNCEMENT

DATE:April 6, 1999
LOCATION:Roosevelt Room
BRIEFING TIME:10:00AM - 10:30AM
EVENT TIME:10:30AM - 11:00AM
FROM:Bruce Reed, Mary Beth Cahill

I.PURPOSE

To urge Congress to pass quickly pending federal hate crimes legislation, and to demonstrate the broad base support for this legislation. Also, to announce other hate crimes initiatives targetted toward children, such as a public-private program that will develop a program for middle school children.

II.BACKGROUND

Today you will applaud public and private efforts to teach children about tolerance and urge Congress to quickly pass the pending federal hate crimes legislation. This legislation strengthens the existing federal hate crimes law by (1) extending the situations where prosecutions can be brought for violent crimes motivated by bias based on race, color, religion, or national origin; and (2) expanding the federal hate crimes statute to protect against hate crimes based on sexual orientation, gender, or disability. You will also announce a new public-private partnership which will focus attention on issues of hate, tolerance, and diversity in middle-grade schools. Finally, you will call on the Departments of Justice and Education to include hate crimes in its annual report card on school safety and to report on hate crimes and bias on college campuses.

Urging Passage of Expanded Federal Hate Crimes Law. You will urge Congress to pass the Hate Crimes Prevention Act of 1999, which expands a principal federal hate crimes statute. The current statute prohibits acts of violence that are based on a persons race, color, religion, or national origin and that are intended to interfere with certain specified federally protected activities. The proposed legislation would make illegal acts of violence, even if they did not interfere with federally protected activities. Further, the legislation would authorize the Department of Justice to prosecute individuals who commit violent crimes against others because of the victims sexual orientation, gender, or disability. Current federal law does not cover these cases at all.

Announcing Public-Private Partnership to Create a Middle-School Program about Tolerance. You will announce a public-private partnership that will develop a program for middle-school students to teach tolerance in the classroom and in their daily lives. The members of the partnership are the Departments of Justice and Education and AT&T, Court TV,

the National Middle School Association, the Anti-Defamation League, and Cable in the Classroom. This effort is supported by the NAACP, the Leadership Conference for Civil Rights, the National Council of La Raza, the National Asian Pacific American Legal Consortium, the National Association of Protection and Advocacy Systems, the National Education Association, and the National School Boards Association, and the Partnership welcomes support from other organizations that deal with these issues. Recognizing that tolerance cannot be taught in a single day and that raising awareness of diversity should be integrated into students daily lives, this public-private partnership entitled "Dealing with Our Differences," will provide an opportunity for an ongoing dialogue for middle-school students to learn about the harmful impact of intolerance and to highlight positive ways that young adolescents are dealing with diversity issues. The Partnership will develop in-school lessons and activities supported with cable TV programming; videos and websites; a nationally-televised forum on diversity and tolerance at the end of October; and post-show lessons and activities.

Creating New Studies About Hate Crimes in Schools and Colleges. In order to better understand the problem of hate crimes and intolerance among young people, you will call on the Departments of Justice and Education to include in their annual report card on school safety a section on hate crimes among young people, both at and away from school. In addition, you will direct the Department of Education, with appropriate assistance from the Department of Justice, to collect data on hate crimes and bias on college campuses for periodic publication.

III.PARTICIPANTS

Briefing Participants:
Bruce Reed
Elena Kagan
Mary Beth Cahill
Janet Murguia
Eddie Correia
Richard Socarides
Paul Glastris

Event Participants:
Attorney General Drew Ketterer (ME), Vice Chair, National Association of Attorneys General and Chair, Civil Rights Committee
Rt. Rev. Jane Holmes Dixon, Suffragan Bishop of the Episcopal Diocese of Washington

On-Stage (No Speaking Role):
Secretary Richard Riley
Acting Assistant Attorney General Bill Lan Lee

IV.PRESS PLAN

Pool Press.

V.SEQUENCE OF EVENTS

-You will enter the Roosevelt Room, accompanied by Secretary Richard Riley, Acting Deputy Attorney General Bill Lan Lee, Attorney General Drew Ketterer, and Bishop Jane Holmes Dixon.
-Attorney General Ketterer will make brief remarks and introduce Bishop Jane Holmes Dixon.
-Bishop Jane Holmes Dixon will make brief remarks and introduce you.
-You will make remarks and depart.

VI.REMARKS

To be provided by speechwriting.

*

August 8, 1998

PATIENTS BILL OF RIGHTS EVENT

DATE:August 10, 1998
LOCATION:Commonwealth Convention Center
EVENT TIME:11:00 am - 12:15 pm
FROM:Bruce Reed/Elena Kagan/Chris Jennings

I.PURPOSE

To highlight the critical differences between your Patients Bill of Rights proposal and Republican proposals, and to announce that you will veto the House Republican Leadership bill if sent to you by Congress. You will also announce that the Office of Personnel Management is implementing a new regulation to prohibit anti-gag rules, as part of your ongoing efforts within the federal government to implement the patients bill of rights for all Federal Health Plans.

II.BACKGROUND

For nine months, you have been calling on the Congress to pass a strong enforceable patients bill of rights. Unfortunately, the Republican Leadership only recently responded with proposals that are more symbolism than substance. While the Republican Leadership stalls on providing Americans with real patient protections, the Administration continues to implement these patient protections for the 85 million Americans in Federal health plans. However, Congress must act to make these rights real for all Americans. Unfortunately, the Republican proposals:

TAKE A STEP BACKWARDS FOR SOME CRITICAL PROTECTIONS.
*Undermine existing medical privacy protections. The House Republican Leadership bill would increase the number of individuals who can who can review health records and give them out without consent or knowledge. It would also obliterate the medical privacy guarantees many states have on the books to protect patients today.

*Do not have real emergency room protections. The Republican Leadership proposals do not contain the prudent layperson standard that were implemented for Medicare and Medicaid during the Balanced Budget Act of 1997. It also does not require health plans to cover patients who have to go to an emergency room outside of their network and does not assure coverage for any treatment beyond an initial screening. This puts patients at risk for huge costs for critical treatment that a doctor believes should take place in the facility where they were initially admitted.

CONTAIN HOLLOW PROMISES.
*Let HMOs, not health professionals, define medical necessity. The Republican Leadership proposals include an external appeals process that simply does not assure patients a fair independent review. They allow health plans to develop their own definition of medical

necessity, meaning that HMOs, not health professionals, get to determine what is medically necessary. This loophole will make it extremely difficult for patients to prevail on an appeal to get the treatment their doctor believes they need. The proposal also charges patients that need to address a grievance with their health plan.

*Allow dangerous financial incentives to limit critical patient care. The Republican legislation does not contain important provisions that prevent patients from being put at risk through unknown destructive financial incentives to limit patient care. This means that a patient may not even know about the treatment that may prove most effective.

LEAVE OUT ESSENTIAL PROTECTIONS PATIENTS NEED AND DESERVE.
*Do not guarantee direct access to specialists. The Republican Leadership proposals do not guarantee patients with critical health needs direct access to the specialists they need. This means that patients with cancer or heart conditions may be denied access to the doctor they need to treat their condition.

*Do not protect patients when physicians have been dropped from a health plan. The Republican bills do not assure that a patient's care will not abruptly change if their provider is unexpectedly dropped from a health plan or if their employer changes health plans. Therefore pregnant women or individuals undergoing care for a chronic illness may have their care abruptly halted in the middle of their treatment, which can severely undermine their health.

*Do not compensate patients who are maimed or who die as a result of a wrongful health plan action. The proposed per day penalties in the Republican plans are wholly insufficient for patients who suffer serious harm or even death because of a wrongful action by a health plan. These penalties are designed to brings health plans into compliance, rather than compensate patients who have been harmed or die because a health plans actions. A health plan that denies a service so that a child can no longer benefit from a lifesaving cancer treatment will only be penalized for the number of days it takes for the plan to comply: they do not have to compensate the family who, as a result of their denial, has a child with a now untreatable disease.

LEAVE MILLIONS OF AMERICANS OUT IN THE COLD.
*Does not cover all health plans, leaving out millions of Americans. The Republican bill does not assure patient protections for all health plans, thereby leaving millions of Americans completely vulnerable from these protections.

You will also announce that the Office of Personnel Management is implementing a new regulation prohibiting "anti gag" rules, as part of their efforts to meet your Executive Memorandum directing all Federal Health Plans to come into compliance with the patients bill of rights. Earlier this year, OPM notified all participating health plans through the annual call letter that they will have to provide new patients protections as a condition of participation, including assuring access to specialists, continuity of care, and access to emergency room services. The Federal Employees Health Benefits Program has 350 participating health plans that serve 9 million Federal Employees and their families, including over 100,000 people in Kentucky. While Republicans Leadership delays passing strong patient protections, the Clinton Administration is implementing the patients bill of rights for the 85 million Americans in Federal health plans.

III.PARTICIPANTS

Mayor Jerry Abramson
Senator Wendell Ford
Governor Paul Patton
Dr. Kenneth Peters, President, Kentucky Medical Association
Dr. Linda Peeno, former HMO executive

IV.PRESS PLAN

Open Press.

V.SEQUENCE OF EVENTS

- YOU will be announced onto the stage accompanied by Governor Patton, Senator Ford, Mayor Abramson, Dr. Peters, and Dr. Peeno.
- Mayor Jerry Abramson will make remarks and introduce Senator Wendell Ford.
- Senator Wendell Ford will make remarks and introduce Governor Paul Patton
- Governor Paul Patton will make remarks and introduce Dr. Kenneth Peters.
- Dr. Kenneth Peters will make remarks and introduce Dr. Linda Peeno..
- Dr. Linda Peeno will make remarks and introduce YOU.
- YOU will make remarks.

[NOTE: During your remarks you will proceed with a hand-held microphone to an eisle with a chart listing the key patient protections missing in the Republican proposals. You will write a check mark next to each protection indicating that they are included in your proposal.]

- YOU will complete your remarks at the podium, work a ropeline and then depart.

VI.REMARKS

Provided by Speechwriting.

April 5, 1999

HATE CRIMES ANNOUNCEMENT

DATE:April 6, 1999
LOCATION:Roosevelt Room
BRIEFING TIME:10:00AM - 10:30AM
EVENT TIME:10:30AM - 11:00AM
FROM:Bruce Reed, Mary Beth Cahill

I.PURPOSE

To urge Congress to pass quickly pending federal hate crimes legislation, and to demonstrate the broad base support for this legislation. Also, to announce other hate crimes initiatives targeted toward children, such as a public-private program that will develop a program for middle school children.

II.BACKGROUND

Today you will applaud public and private efforts to teach children about tolerance and urge Congress to quickly pass the pending federal hate crimes legislation. This legislation strengthens the existing federal hate crimes law by (1) extending the situations where prosecutions can be brought for violent crimes motivated by bias based on race, color, religion, or national origin; and (2) expanding the federal hate crimes statute to protect against hate crimes based on sexual orientation, gender, or disability. You will also announce a new public-private partnership which will focus attention on issues of hate, tolerance, and diversity in middle-grade schools. Finally, you will call on the Departments of Justice and Education to include hate crimes in its annual report card on school safety and to report on hate crimes and bias on college campuses.

Urging Passage of Expanded Federal Hate Crimes Law. You will urge Congress to pass the Hate Crimes Prevention Act of 1999, which expands a principal federal hate crimes statute. The current statute prohibits acts of violence that are based on a persons race, color, religion, or national origin and that are intended to interfere with certain specified federally protected activities. The proposed legislation would make illegal acts of violence, even if they did not interfere with federally protected activities. Further, the legislation would authorize the Department of Justice to prosecute individuals who commit violent crimes against others because of the victims sexual orientation, gender, or disability. Current federal law does not cover these cases at all.

Announcing Public-Private Partnership to Create a Middle-School Program about Tolerance. You will announce a public-private partnership that will develop a program for middle-school students to teach tolerance in the classroom and in their daily lives. The members of the partnership are AT&T, Court TV, the National Middle School Association, the

Anti-Defamation League, and Cable in the Classroom, with assistance from the Departments of Justice and Education. This effort is supported by the NAACP, the Leadership Conference for Civil Rights, the National Council of La Raza, the National Asian Pacific American Legal Consortium, the National Association of Protection and Advocacy Systems, the National Education Association, and the National School Boards Association, and the Partnership expects support from other organizations that deal with these issues. Recognizing that tolerance cannot be taught in a single day and that raising awareness of diversity should be integrated into students daily lives, this public-private partnership -- entitled "Dealing with Our Differences" -- will provide an opportunity for middle-school students to learn about the harmful impact of intolerance, and will highlight positive ways that young adolescents are dealing with diversity issues. The Partnership will develop in-school lessons and activities supported with cable TV programming; videos and websites; a nationally-televised forum on diversity and tolerance at the end of October; and post-show lessons and activities.

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III. PARTICIPANTS

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Elena Kagan
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Event Participants:
Attorney General Drew Ketterer (ME), Vice Chair, National Association of Attorneys General and Chair, Civil Rights Committee
Rt. Rev. Jane Holmes Dixon, Suffragan Bishop of the Episcopal Diocese of Washington

On-Stage (No Speaking Role):
Secretary Richard Riley
Acting Assistant Attorney General Bill Lan Lee

IV. PRESS PLAN

Pool Press.

V. SEQUENCE OF EVENTS

-You will enter the Roosevelt Room, accompanied by Secretary Richard Riley, Acting Deputy Attorney General Bill Lann Lee, Attorney General Drew Ketterer, and Bishop Jane Holmes Dixon.
-Attorney General Ketterer will make brief remarks and introduce Bishop Jane Holmes Dixon.
-Bishop Jane Holmes Dixon will make brief remarks and introduce you.
-You will make remarks and depart.

VI.REMARKS

To be provided by speechwriting.

October 24, 1997

MEMORANDUM FOR ERSKINE BOWLES

FROM:PETER RUNDLET AND ANDREW MAYOCK

SUBJECT:Race Initiative Meeting

I.PURPOSE:

At our last meeting on October 10, 1997, you indicated that you wanted to convene meetings with the leaders of the Race Initiative Working Groups on a biweekly basis. This will be our second meeting with this group, and the specific purposes of this meeting are the following:

(1) For you to review and comment on the activities and events that the Race Initiative seeks to accomplish by the end of December. (See attached draft memo to the President).

(2) For you to lead a discussion on the proposals for the first Race Town Hall meeting with the President on December 3, 1997. (See attachment re: proposed Town Hall ideas).

(3) For you to comment on proposed talking points on the Race Initiative.

(4) For you to receive a brief report from each of the ten working groups on how they have refined their year-long work plans, and, more specifically, what progress they have made in accomplishing their goals since the last meeting.

II.BACKGROUND

At our last meeting, the leaders of the ten working groups presented their initial plans to you for your comment. After the meeting, a memorandum was circulated to the working group leaders that incorporated your comments and detailed their immediate tasks. Since that meeting the ten working groups have refined their work plans and outlined in greater detail their specific short-term plans for accomplishing the goals of the Race Initiative.

A memorandum to the President has been drafted that proposes a list of specific accomplishments the Race Initiative intends to achieve by the end of December. Because this outlines the short-term goals and work over the next two months, we would like to begin the meeting by discussing these plans. This discussion will help give greater direction to the Initiatives immediate efforts, but it will also help lay the groundwork for a smaller group meeting with the President at the end of the month to present the Initiatives short-term plan for his review and comment.

We also seek your counsel on the proposal for the first Race Town Hall meeting on December 3, 1997. It would be helpful if you could solicit comments on the Town Hall from those that have not participated actively in the working groups.

Also, if possible, we would appreciate your comment on the proposed talking points for the

Race Initiative, which will be reviewed.

As you will see, much progress has been made: the work plans are more detailed, with timelines established and individuals identified to complete specific tasks. As the attached agenda indicates, each working group will distribute copies of their revised work plans, and each will provide a brief summary of their progress at the end of the meeting.

On this point, we have received detailed comments from only one of the senior staff members that you asked to provide them. A few have indicated that they dont object to the proposed plans, but it would be helpful if you could re-emphasize to them that their comments are wanted and needed.

III.PARTICIPANTS

See attached list.

IV.ATTACHMENTS

Agenda
List of participants
Copy of October 14 Follow-up memorandum (provided by Jason)
Draft memorandum to the President on the Race Initiative
Draft Proposals for Town Hall Meeting
(Note: Refined work plans will be distributed at the meeting)

The Presidents Initiative on Race
3:00 p.m., October 23, 1997
Roosevelt Room

AGENDA

I.Discuss Proposed Short-term (i.e., by Christmas) Accomplishments of the Race Initiative.

II.Discuss Proposed Race Town Hall for December 3, 1997.

III.Discuss Proposed Talking Points on the Race Initiative.

IV.Distribution of the revised work plans and brief reports from the following ten working groups:

Tough Issues
Living Report
Policy/Enforcement
Recruiting Leaders/Outreach
Promising Practices
Dialogue in Communities
Youth
Cabinet Affairs
Advisory Board

FF

Race Initiative Meeting Participants

3:00 p.m., October 23
Roosevelt Room

White House Staff Working on the Race Initiative and Race Initiative Staff
Michele Cavataio
Maria Echaveste
Chris Edley
Mickey Ibarra
Bobbie Greene
Claire Gonzales
Michele Jolin
Elena Kagan
Ann Lewis
Susan Liss
Lin Liu
Goody Marshall
Sylvia Mathews
Andrew Mayock
Cheyl Mills
Minyon Moore
Nelson Reyneri
Peter Rundlet
Mike Sorrell
Gene Sperling
Mike Wenger
Judith Winston

Senior Staff
Paul Begala
Sidney Blumenthal
Rahm Emanuel
John Hilley
Ron Klain
Mike McCurry / Joe Lockhart
Cheryl Mills
John Podesta
Doug Sosnik
Melanne Verveer
Michael Waldman

April 29, 1998

MEETING WITH THE CONGRESSIONAL ASIAN PACIFIC CAUCUS

DATE:Thursday, April 30, 1998
LOCATION: Cabinet Room
TIME:4:10 pm - 5:10 pm
FROM:Larry Stein
Janet Murguia

I.PURPOSE

To meet with the Executive Committee of the Congressional Asian Pacific Caucus regarding issues of concern.

II.BACKGROUND

The Congressional Asian Pacific Caucus was formed on May 16, 1994, to establish an organized effort within the Congress to advocate for the needs of Asian Pacific Americans. The activities of the Caucus are coordinated by an Executive Committee. Since October of 1996 when Congressman Norman Mineta of California resigned from Congress, Congresswoman Patsy Mink of Hawaii has chaired the Caucus. In the 105th Congress, the Caucus has taken the lead in advocating for fair and equitable treatment of legal immigrants; opposing efforts to repeal affirmative action; and also opposing English Only initiatives.

This will be your first official meeting with the Congressional Asian Pacific Caucus and they have a specific agenda of items that they would like to discuss with you. Their agenda for your meeting includes: Asian Pacific Islander appointments; Progress on redress for Japanese Latin American internees; Filipino veterans issues; Insular affairs and the pacific region policy development; and Asian Pacific American concerns related to the tobacco settlement.

The following information provided by the Offices of Presidential Personnel, Public Liaison, National Security Council, Intergovernmental Affairs, and the Domestic Policy Council will provide some background on each of these agenda items with the relevant talking points attached:

Appointments

We are proud of our record of appointing more minorities than any former Administration. Asian Pacific American appointees represent 3.2% of the Administration. (Approximately equivalent to the Civilian Work Force (3.4%) for APAs.) Our numbers are more than triple the 1% of the Bush Administration.
There are currently 30 Asian Pacific Americans selected for or appointed to Senate confirmed positions.

Since the 1996 election we have continued to hire Asian Pacific Americans to all levels of the Administration.
Donna Tanoue, Chair designate, Federal Deposit Insurance Corporation.
Nancy-Ann Min Deparle, Administrator, Health Care Financing Administration, Department of Health & Human Services
Bill Lann Lee, Acting Assistant Attorney General for Civil Rights, Department of Justice
We hope soon to nominate Norman Mineta as Member, Metro Washington Airports Authority.
Since the 1996 election, 4% of all Schedule Cs appointed have been Asian Pacific Americans.

Japanese Latin American Internees
A group of Japanese Latin Americans who were forcibly brought to the United States during World War II and then interned with Japanese Americans has sued the United States government to provide the same redress made available to Japanese American internees by the Civil Liberties Act of 1988. (You have previously responded to several Congressional letters urging that we settle this case.) The Department of Justice (DOJ) does not believe that it can provide redress to these individuals under the Civil Liberties Act because the Act limits eligibility to persons who were U.S. citizens or permanent. However, because of the strong equities in favor of this group, the DOJ is actively seeking to settle the case. DOJ has made a settlement offer to the plaintiffs and expects that the offer will be favorably received.

Filipino American Veterans Issues
--World War II Benefits
President Ramos proposed that the United States provide each of the 70,000 surviving Philippine World War II veterans a lump-sum pension payment of $20,000. This proposal would disadvantage non-career U.S. veterans who do not receive pensions; their benefits are based on service-related disabilities and need. The fiscal 1999 budget requests funding to equalize disability compensation to disabled Filipino veterans, living in the Unites States. The increased benefits will provide financial relief to Philippine veterans who because of disabilities, advanced age, and the high cost of living are facing real hardship here. We also have requested funding to keep open the Veterans Affairs Office and Outpatient Center in Manila. It is the only such facility the Department of Veterans Affairs maintains overseas.

--Bells of Balangiga
President Ramos requested your assistance in returning at least one of two bells taken by U.S. troops from the Philippine town of Balangiga to Wyoming in 1901. He raised the issue during your luncheon meeting in April. Return of the bells could be a factor in securing Philippine Senate support for Visiting Forces Agreement later this year, and for Ramos party in the May elections. The Filipinos have proposed a "shared solution" in which the United States and the Philippines would each keep one original bell and one replica. There are no statutory impediments to your implementing the shared solution, although it would require funding from the Philippines or the private sector, since Defense is precluded from incurring any expenses.

However, this is an especially emotional issue for veteran groups in Wyoming, who do not support any initiative that would remove any of the Bells from a memorial site. Senator Thomas (R-WY) recently introduced legislation that effectively blocks any return of the Bells without Congressional approval. Thomas has supported our China initiatives and has suggested that forcing a solution on the bells would upset our good relationship with him.

We have raised with Thomas the possibility of loaning the Filipinos the bells during this centennial year of their declaration of independence from Spain, but he opposes this option because it would amount to dismantling the memorial, even if only temporarily.

Insular Affairs and the Pacific Region Policy Development
--Guam Visit and Centennial
Delegate Robert Underwood of Guam will probably ask you to (1) visit the island during the China trip and (2) issue a statement June 21st on the Centennial of the taking of the territory during the Spanish-American War if you will not stop there.
Guamanians have asked you to visit the territory during every visit to the region and especially want presidential recognition in connection with the Centennial. These citizens view the anniversary as particularly significant because they still lack votes in their national government. You have indicated an interest in stopping in Guam but a visit appears more likely to be scheduled during the India trip later this year. A Centennial message is already being planned.

--White House Attention to Territories
Delegate Eni Faleomavaega (Eni) of Samoa plans to ask that the Office of Intergovernmental Affairs be assigned responsibility for the smaller territorial jurisdictions similar to its responsibility regarding Puerto Rico. President Kennedy transferred responsibility for policy regarding Puerto Rico from the Interior Department to the Office of the President. The action is regarded in the islands as a step in its political development and as justified because of its lack of votes in the Federal Government. The responsibility was assigned in this Administration to Intergovernmental Affairs and, under it, an Interagency Group that coordinates Puerto Rico questions and ensures attention to them.
The Interior Department is responsible for relations with the other territorial areas -- Guam , the Virgin Islands, and the Northern Marianas as well as Samoa -- other than in matters within other agencies' jurisdiction, but these are most issues that arise. Insular officials have asked for White House responsibility but Interior has not wanted to give up its role. (Staff there and here are, however, considering proposing an interagency group to ensure attention by other agencies.)

Tobacco Settlement
--Health Care/Tobacco Concerns of Asian Americans
Asian American Members of Congress were pleased that you highlighted Asian-American-specific data when you received the Surgeon Generals report on minority tobacco use. That report noted that there has been a 17 percent increase in smoking among Asian American high school students; it also chronicled how tobacco companies have promoted their products by sponsoring numerous ethnic activities and events, such as Chinese New Year festivities and events related to Asian/Pacific Heritage month.

Immediately after release of the report, however, some members of the minority caucuses wrote Dr. Satcher to raise concerns about the lack of data on residents of the insular areas, particularly the Pacific Islands. They urged the Surgeon General to ensure that future health reports incorporate this data, so as to inform health care providers and other experts about the extent of tobacco-related problems for this population. Some members of the Caucus are searching for specific funding set-asides for minorities in the tobacco legislation. Such proposals are unlikely to be enacted, and may not be advisable. We are working with numerous organizations to develop the best alternatives to ensuring that the needs of special populations are adequately addressed in any tobacco legislation.

--International Aspects of the Tobacco Legislation -- Impact of Advertising on Asian Markets Tobacco is expected to kill about 500 million people alive in the world today, including more than 200 million of todays children and teenagers. This will exceed deaths from HIV, malaria, and tuberculosis combined. By 2030, based on current smoking rates, tobacco will kill about 10 million people annually, with more than percent of those deaths occurring in developing nations. Asia is the largest market for cigarettes, and China alone accounts for one-third of all cigarettes smoked. (In China, there are 300 million smokers.) Some Asian countries such as Vietnam have male smoking rates of over 70 percent. Per capita consumption is growing in developing countries, in part because of more aggressive marketing practices. US companies and their subsidiaries and affiliates supply approximately one-fifth of the worlds supply of cigarettes. In 1996, more than 70 percent of cigarettes sold by Philip Morris and 57 percent of those sold by RJR Nabisco were sold overseas. We believe that the public health spending in the McCain bill should include significant funding (about $200 million per year) for international tobacco control efforts. These funds should be spent on both governmental and non-governmental efforts to promote public health and smoking prevention efforts abroad. The McCain bill has several additional international provisions that we are working to change. Specifically, the bill contains a provision that the State Department and HHS consider problematic and unenforceable, which would unilaterally require US companies to abide by the new labeling and advertising requirements when doing business in other countries.

III.PARTICIPANTS

Pre-Brief
President
Erskine Bowles
John Podesta
Sylvia Mathews
Larry Stein
Janet Murguia
Doris Matsui
Elena Kagan
Rob Weiner
Mara Rudman
Jeff Farrow

Meeting
President
Erskine Bowles
John Podesta
Sylvia Mathews
Larry Stein
Janet Murguia
Doris Matsui
Elena Kagan
Rob Weiner
Mara Rudman
Jeff Farrow

Members of Congress

Sen. Daniel Akaka, Secretary
Rep. Patsy T. Mink, Chair
Rep. Robert Underwood, Vice-Chair
Rep. Neil Abercrombie
Rep. Eni Faleomavaega
Rep. Robert Matsui
Rep. Nancy Pelosi

IV. PRESS PLAN

White House Photo only.

V. SEQUENCE OF EVENTS

As usual.

VI. REMARKS

None.

VII. ATTACHMENTS

Talking Points
I. Appointments
II. Japanese Latin American Internees
III. Filipino Veterans
IV. Insular Affairs and the Pacific Region
V. Tobacco

October 15, 1997

MEMORANDUM FOR ERSKINE BOWLES

FROM:Beverly Barnes

RE:Asian Pacific American Meeting

Following is a briefing paper prepared by Doris Matsui on issues that are likely to be raised during your meeting with local members of the Asian Pacific American community. Doris has provided not only their concerns, but also background information that they will be pleased to see you aware of and talking points on Administration positions/activities.

I have also included an article that ran in Mondays USA Today, which offers a good look at the communitys perspective on the bias they face.

Doris Matsui and Sylvia Mathews will attend this meeting. We will also ask Bob Nash and Elena Kagan to come, as the group is concerned about political appointments as well as immigration and welfare reform issues.

Doris would be happy to review some of the groups concerns with you in advance of the meeting. She suggests you take an informal tone and begin by telling the group that you want to listen to their concerns and have an exchange.

She recommended that you emphasize the following points:

1.The White House and the Administration is outraged that the Asian Pacific American community have been unfairly represented and portrayed during the campaign finance controversy. It is very important for everyone to understand that Asian Pacific Americans should and will not be held to a different standard than other Americans participating in the political process.

2.The Administration has not shunned the Asian Pacific American community. Concerns that the campaign finance controversy has negatively affected political appointments for Asian Pacific Americans are unfounded. This controversy did and will not affect these appointments in any fashion.

3.We need your advice, feedback and help to reach out to the Asian Pacific American community across the country. Many of you represent communities which have strongly supported the President and we greatly appreciate your support. It important for all us to work together for the betterment of the Asian Pacific American community.

0.a..Draft Agenda
Meeting with Federal Agency Liaisons to the Presidents Initiative on Race
October 7, 1997

*Welcome (Erskine / Silvia?)
*General Overview (Judy Winston)
-Mission, goals, structure, accomplishments
-5 areas for support from federal agencies (outreach, policy, data collection, management practices, promising practices
*Thanks for coming (Goody Marshall)

1.Message/outreach (Claire Gonzales, Ann Lewis)
a.Provide materials (e.g. speakers kit, Glickman memo)
b.Discuss involvement of Cabinet
c.Update on plans for town meetings

2.Policy (Lin Liu, Elena Kagan)
a.DPC policy process / "we need your best ideas" (Elena)
b.Sharing race-related policy announcements (Lin)

3.Data collection (Lin Liu)
a.Federal detailees
b.Going beyond government data

4.Promising practices (Lin Liu)
a.Discussion of strategic plan

5.Management practices / Getting Federal house in order
a.Working with PMC and NPR
b.Using your best practices memos as starting point

*Presentations by agencies that have begun activities (Treasury, HUD)
-Discussion of how agencies can work together on outreach?

*Next steps for liaisons:
-Give us your best ideas
- What else do you need from us

**00

December 5, 1997

MEMORANDUM FOR SYLVIA MATHEWS
JUDITH WINSTON

FROM: THURGOOD MARSHALL, JR.
JON P. JENNINGS

SUBJECT:Cabinet Affairs Race Initiative Weekly

Department of Treasury

Conversations That Bring Us Together: On November 28, Treasury issued a press release on a One America roundtable conversation on race. The roundtable was hosted by Alex Rodriguez, Deputy Assistant Secretary for Administration, in Boston. The release went out to national and regional media markets.

Department of Justice

Anniversary of the Civil Rights Division: DOJ is attempting to hold an event commemorating the 40th Anniversary of the Civil Rights Division. Either the Attorney General or the Deputy Attorney General will speak about the success of the Division and the need for an Assistant Attorney General.

Department of Interior

Tuskegee Airmen Historic Site: The National Park Service (NPS) Southeast Region is conducting a study of Moton Field, the small Tuskegee, AL, airport that served as a training base for the black Tuskegee Airmen of World War II fame, to determine whether the site should become part of the National Park System. The study is being funded by a $75,000 grant from AL Department of Economic and Community Affairs. Moton Field could come under NPS management as a separate park unit or as part of Tuskegee Institute National Historic Site.

United States Department of Agriculture

Professional Agricultural Workers Conference: On December 8, Secretary Glickman will address the Professional Agricultural Workers Conference, a forum in Tuskegee, AL, where participants will discuss improving the quality of rural life for people in the South. Hosted by Tuskegee University and supported by the University, 1890 Land Grant Institutions, other organizations, and USDA agencies, this years conference theme is "Access and Equality Issues in Policies and Programs for Agriculture and Rural Development." Other USDA employees are scheduled to participate.

New Director of Outreach: Sam Thornton has been named by Secretary Glickman as Director of the Office of Outreach, with a staff of eight.

D.C. Race Initiatives: In response to the Presidents One America initiative on race, Under Secretary for Food, Nutrition, and Consumer Services Shirley Watkins began her Food and Nutrition Service-District of Columbia initiative to reach out to the African-American Community. As part of this project, Consumer Advisor Joyce Willis met with Washington ministers on November 24 on the plan, "Do It Here First: How Churches Can Make Food and Consumer Service Programs Available To The Community." Future plans include meeting with the Under Secretary, and an all-day educational seminar for ministers interested in participating in the plan.

Speech: On December 10-11, Acting Assistant Secretary Reed will speak at the National Organization of Professional Black Natural Resources Conservation Service employees training conference in Atlanta, GA.

Speech: On December 12, Under Secretary Lyons will speak at the National Organization of Professional Black Natural Resources Conservation employees training conference in Atlanta, GA.

Interview: On December 1, Secretary Glickman discussed civil rights in an interview with Knight Ridder.

Department of Commerce

Bureau of the Census Director Martha Farnsworth Riche: December 11-12: Participate in the Race and Ethnic Advisory Committee meeting at the Census Bureau in Suitland, MD.

Department of Labor

National Council of Negro Women: On December 9, Secretary Herman will address the National Council of Negro Women in Washington, DC.

Department of Housing and Urban Development

Housing Discrimination: On November 25, Secretary Cuomo continued HUDs fight against housing discrimination by announcing charges against the owners and managers of an apartment complex in Richmond, VA, who are refusing to rent to African-Americans. A HUD investigation found several white tenants who said that the on-site apartment manager, Rita Lewis, boasted to white tenants that she would not rent to African-Americans. The manager no longer works at the 160-unit Wedgewood Village Apartments. One white tenant said Lewis ordered her to tell her son to stop bringing black friends to visit him at Wedgewood. Another white tenant who provided childcare in her apartment said Lewis told her to refuse to care for black children. HUD filed civil charges against Lewis, the apartment management company, and the owners of the apartments, alleging violations of the Fair Housing Act for discriminating against prospective black tenants. In addition, HUD issued an order barring Lewis from employment by any company that receives HUD housing assistance for one year.

Department of Transportation

Race Discussion: On December 1, Secretary Slater traveled to Miami, FL, to participate in a round table dialogue on the Presidents race relations initiative. The round table was attended by over 65 business and community leaders and received considerable national media

coverage.

Conversations That Bring Us Together: DOT has eight commitments from senior staff to lead small round table discussions on race over the next few weeks. Several staff members attended training at the New Executive Office Building on November 24.

FRA Update: FRA has incorporated an internal reporting system, in order to insure that all efforts toward the One America concept are recognized and fully implemented. In this internal reporting system, all Associate Administrators and the Chief Counsel have been asked to submit the name of an employee in each functional area who will serve as the contact person for weekly reporting of race relations items. In addition, the Office of Civil Rights will initiate programs designed to promote constructive dialogue within the FRA and to unite individuals along a path
to improve internal race relations.

Coast Guard: On November 19, the first of two award ceremonies was held recognizing selected Coast Guard units for their participation in the Coast Guard Partnership in Education 2000 Program. Outstanding unit achievement in this program is recognized each year. The program, started in 1991, is one of the Coast Guard's formal steps to achieving a more
diverse workforce by reaching out to women and to minority communities. It is designed to enhance educational opportunities and career awareness for the Nation's youth regardless of their ethnic and racial backgrounds and genders, as well as giving them exposure to positive Coast Guard role models both on the job and in the classroom.

Minority Educational Institutions (MEIs): On December 1, OSDBU signed Cooperative Agreements with five Hispanic Serving Institutions to provide training to small, women-owned and Disadvantaged Business Enterprises (S/DBEs) in the use of and access to Electronic Commerce and Internet business use. Under the Agreement, each MEI will also receive funding for transportation-related student internships and to provide information dissemination and outreach activities regarding the Presidential initiative to hire individuals off the welfare rolls and the DOT Garrett A. Morgan Technology and Transportation Futures Program. As of December 1, OSDBU has Cooperative Agreements with 14 MEIs, including 8 HBCUs, totaling $880,000.

National Black Caucus: On December 10, FTA Administrator Linton will address the Annual Legislative Conference of the National Black Caucus of State Legislators in Milwaukee, WI.

Race Relations: On November 24, Secretary Slater participated in a press conference by the Leadership Conference on Civil Rights. He joined government, civic, and corporate leaders to launch a new website to help combat hate crimes.

Department of Energy

"One America" Event in San Diego: On December 5, Secretary Pea will hold a race relations discussion with students at San Diego State Universitys Aztec Center to amplify the Presidents message under the Race Initiative. The Secretary will host a dialogue with 20-25 students as part of the "One America: Conversations that Bring Us Together" national effort of encouraging dialogue on race and diversity. The roundtable will also be observed by an audience of approximately 100 college and high school students.

Department of Education

Hispanic Dropout Rates: In mid-December, DOEd plans to release of a Congressionally-mandated report on dropout rates among Hispanic Americans. Secretary Riley, Congressman Hinojosa, and Senator Bingaman probably will participate in the release: Hispanic Americans have very high school dropout rates compared to other ethnic groups.

One America: Secretary Riley is scheduled to host a "One America: Conversations that Bring Us Together" event in Baltimore on December 11.

Race Initiative: The Secretary was interviewed by USA Today at the White Houses request for a story that ran Monday announcing the beginning of the "Conversations That Bring Us Together" initiative. Secretary Riley held the first of several Administration official-led sessions. Leslie Thornton held a race round table in Philadelphia as well.

Race Town Hall: Secretary Riley traveled to Akron, OH, to participate in the Race Town Hall with the President.

Conversations That Bring Us Together: DOEd promoted agency officials race discussions by issuing news advisories and releases and making calls to local reporters. Fox News in Philadelphia covered one and the Philadelphia Inquirer plans to cover another.

Department of Veterans Affairs

Conversations That Bring Us Together: On December 3, the Assistant Secretary for Human Resources and Administration will host VAs first dialogue on race. The Assistant Secretary has invited 11 members of the public, representing a cross-section of our racially and ethnically diverse society, to gather in VAs Omar Bradley Conference Room. They will offer their responses to a series of questions offered by the White House Initiative staff for discussion and they will provide insight based on their views and personal experiences. Their insights will be conveyed to the White House for consideration in developing further plans for the Initiative on Race and in formulating national policy on this important issue. VA expects that this event will be the first in a series of discussions hosted by VA officials under the program of "One America: Conversations That Bring Us Together."

Small Business Administration

Conversations That Bring Us Together: The Administrator, Deputy Administrator, General Counsel and other SBA staff have held or are planning to hold race roundtable discussions.

Office of Personnel Management

Race Town Hall: Planning is underway for Director Lachance to participate in a series of events to include a town meeting discussion on race in mid-December in Pennsylvania. Details will be in next weeks report..

Social Security Administration

Conversations That Bring Us Together: On December 9, Commissioner Apfel will host a roundtable discussion as part of the President's Racial Reconciliation Initiative. The

Commissioner will visit an Asian community resource center for a "One America" conversation with 16 multi-ethnic community leaders in the Seattle area.

cc:
Bob Nash
Ron Klain
Steve Silverman
Kris Balderston
Anne McGuire
Katherine Hubbard
David Beaubaire
Elisabeth Steele
Lisa Levin
Michele Cavataio
Andrew Mayock
Elena Kagan
Julie Fernandes
Lin Liu
Jacinta Ma
Michael Sorrell
Tamara Monosoff
Nelson Reyneri

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November 14, 1997
Cabinet Affairs Race Initiative Weekly - page 1

MEMORANDUM FOR SYLVIA MATHEWS
JUDITH WINSTON

FROM: THURGOOD MARSHALL, JR.
JON P. JENNINGS

SUBJECT:Cabinet Affairs Race Initiative Weekly

Department of Treasury

Hate Crimes Conference: On November 10, Under Secretary Kelly and Assistant Secretary Johnson attended the White House Conference on Hate Crimes to speak on Treasurys role in investigating bombings and arsons through ATF, and about FLETCs training programs on hate crimes for state and local law enforcement. In the coming months, Treasury will assess recommendations emerging from the conference intended to improve law enforcements capacity to deal with hate crimes. Under Secretary Kelly also did a live interview on CNN discussing Treasurys work on hate crimes.

Minority Business Leaders: On November 17, Secretary Rubin will address the Minority Business Leaders Conference in Chicago, Il.

Department of Justice

Bill Lee: On November 5, the Attorney General held a press conference reiterating her support for the nomination of Bill Lann Lee to become the first Asian American to head DOJ's Civil Rights Division.

Hate Crimes Conference: On November 10, the Attorney General joined President Clinton and Vice President Gore for the White House Conference on Hate Crimes. The Attorney General highlighted the Clinton Administrations programs that are helping to prevent hate crimes.

Department of Interior

National Congress of American Indians: On November 18, Secretary Babbitt will address the National Congress of American Indians in Santa Fe, NM. Secretary Babbitt will also introduce the new Assistant Secretary for Indian Affairs, Kevin Gover.

Gettysburg National Cemetery: On November 19, Secretary Babbitt will address the annual Gettysburg Address Commemoration at Gettysburg National Cemetery. He will deliver the Clinton Administrations message on the Race Initiative.

United States Department of Agriculture

Hate Crimes Conference: Secretary Glickman led a breakout session, with a focus on community responses, at the White House Conference on Hate Crimes.

USDA Civil Rights Team: USDA civil rights teams have completed work on 60 of the 92 recommendations of the USDA Civil Rights Action Team and are at 80 percent completion.

Intertribal Council: USDA is working with the Great Lakes Intertribal Council (GLITC) to organize a three-day conference for November 18-20 to create better mutual understanding between USDA and GLITC members, and clarify how tribes may tap into USDA programs and structure.

Child Nutrition: On November 4, Under Secretary for Food, Nutrition, and Consumer Services Shirley Watkins was interviewed by Chicago Defender, the citys largest African American newspaper, on the upcoming Child Nutrition Reauthorization Act and civil rights.

FOIA: The Coalition for Minority Employees requested information on employment and promotion by race and gender for the past six years.

FOIA: The Coalition for Minority Employees asked for information the on Forest Services hiring practices.

Department of Commerce

MED Week: DOC and SBA will co-sponsor the 15th Annual MED Week National Conference to be held November 20-22 in Washington. Secretary Daley and Minority Business Development Agency Acting Director Courtland Cox will participate in the conference.

Department of Labor

Out-of-School Youth Initiative: This week, Secretary Herman announced DOLs goal to assist out-of-school youth gain the education, training and access to jobs they will need to support themselves and their families as they become contributing members of society. The Opportunity Areas for Out-of-School Youth Initiative, which targets empowerment zones and enterprise communities, would provide seed funds to high poverty urban and rural areas to boost the employment rate of out-of-school youth.

BNA Speech: Secretary Herman spoke to the editorial board of the Bureau of National Affairs (BNA) regarding the progress made by the Presidents Initiative on Race and DOLs efforts in this area.

Department of Health and Human Services

Hate Crimes Reception: On November 10, Secretary Shalala spoke at the White House Conference on Hate Crimes reception.

Department of Housing and Urban Development

Hate Crimes Conference: On November 10, Secretary Cuomo attended the White House Conference on Hate Crimes. He also held a related press conference on HUDs "Make Em Pay" initiative which sharply increases fines and enforcement for housing-related acts of hate violence and intimidation.

Housing Discrimination: On November 13, Secretary Cuomo called into a Fair Housing Press

Conference in Chicago, IL. The press conference was held by the Leadership Council and involves a housing discrimination case involving an African American nun who was evicted based on race.

"Make Em Pay" Initiative: As part of his crackdown on hate crimes, President Clinton announced a five-part "Make Em Pay" initiative to fight housing-related acts of hate violence and intimidation with sharply higher fines and increased enforcement. The Presidents announcement came on November 10 at the White House Conference on Hate Crimes. Make Em Pay is one of a series of actions the President announced at the Hate Crimes Conference. It calls for increasing penalties for hate acts involving housing discrimination; a closer partnership between HUD and DOJ civil rights, advocacy groups and fair housing organizations to identify and fight these crimes; better training for those fighting discrimination; and creative uses of interactive technologies to fight discrimination. A new HUD internal task force will monitor progress of the Make Em Pay investigations, civil prosecutions, and outreach efforts and compile monthly progress reports.

Department of Energy

MED Week: On November 21, Secretary Pea will introduce the Diversity Contract Clause. The clause would require DOE contractors to insure balanced opportunities for workforce development, educational opportunities, community involvement, small business development, and economic development/technology transfer. DOE has put together the first comprehensive agency effort aimed at Federal Government contractors. Secretary Penas keynote address will follow remarks by Administrator Alvarez, DOC Deputy Secretary Mallet, and Acting Director Cox of the Minority Business Development Agency.

Department of Veterans Affairs

EEO Awards Program: On October 29, VA held its 10th Annual Secretarys EEO Awards Ceremony. Five VA employees from medical centers throughout the country and VA Central Office received awards for enhancing the Departments EEO Program in five categories. The categories for recognition were; Non-Supervisory Employees, Supervisors and Managers through GS-14, Managers and Executives GS-15 and above, EEO Program Representative, and People with Targeted Disabilities and Disabled Veterans. Remarks were made by VAs Acting Secretary Gober.

HACU Annual Conference: VAs Assistant Secretary for Public and Intergovernmental Affairs, Kathy Jurado, participated in the Hispanic Association of Colleges and Universities 11th Annual Conference which was recently held in San Antonio, Texas. Ms. Jurado made remarks during the Opening Plenary Session on VAs Memorandum of Understanding with HACU, and conducted a workshop entitled "Veterans Education Benefits: Montgomery GI Bill," to encourage Hispanic veterans to utilize those benefits within ten years of military separation. Assistnat Secretary Jurado also discussed how educational institutions can partner with VA to reach and encourage those veterans to use their benefits to achieve their educational objectives. She also participated in a Town Hall meeting on educational opportunities for the Hispanic community.

U. S. Pan Asian American Chamber of Commerce Business Luncheon: VAs Director, Affirmative Employment Service recently attended the monthly business luncheon sponsored by the U. S. Pan Asian American Chamber of Commerce. A panel of distinguished speakers addressed the

luncheon topic "Race Relations: Can We Get Along?" The panelists were Roger Clegg, General Counsel, Center for Equal Opportunity; Kwasi Holman, Executive Vice President, District of Columbia Chamber of Commerce; Stanley Karnow, Author and Journalist; H. Robert Sakinawa, Washington Representative, Japanese American Citizens League; and Abigail Thernstrom, Co-Author, America in Black and White: One Nation, Indivisible.

Hispanic Interns In Health Care Professions: VA announced its plans to sponsor 50 Hispanic students in health care internships in its medical centers, clinics and nursing homes nationwide next summer. This initiative is being undertaken in partnership with the Hispanic Association of Colleges and Universities (HACU). The HACU internship program will provide VA with a more effective recruitment tool in each of the countrys Hispanic Serving Institutions. A website has also been made available for students to obtain more information about the VA health care system and HACU summer internships (www.va.gov/hacu.htm.).

National Congress of American Indians: On November 18, Acting Secretary Gober will address tribal leaders and delegates during the National Congress of American Indians 54th Annual Convention in Santa Fe, NM.

Small Business Administration

MED Week: Administrator Alvarez will participate in the activities related to Minority Enterprise Development Week. On November 20, she will kick off the conference with remarks at the opening reception. On November 22, she will give the lunch speech and present an award to Representative Al Wynn.

Office of Personnel Management

Hispanic Caucus Meeting Postponed: Last week we reported that Director Lachance was scheduled to meet with Members of the Congressional Hispanic Caucus on November 6 to discuss OPMs Nine Point Plan to address the under representation of Hispanics in the Federal workforce. Caucus Chairman Xavier Becerras office canceled the meeting due to House business. We expect this meeting will be rescheduled for early next year.

cc:
Bob Nash
Ron Klain
Steve Silverman
Kris Balderston
Anne McGuire
Katherine Hubbard
David Beaubaire
Elisabeth Steele
Lisa Levin
Michele Cavataio
Andrew Mayock
Elena Kagan
Julie Fernandes
Lin Liu
Jacinta Ma
Michael Sorrell
Tamara Monosoff
Nelson Reyneri

*0.

November 7, 1997
Cabinet Affairs Race Initiative Weekly - page 1
MEMORANDUM FOR SYLVIA MATHEWS
JUDITH WINSTON

FROM: THURGOOD MARSHALL, JR.
JON P. JENNINGS

SUBJECT:Cabinet Affairs Race Initiative Weekly

Department of Justice

Hate Crimes Conference: The Attorney General and the Deputy Attorney General will attend the White House Conference on Hate Crimes. The Attorney General will preside for most of the conference. She will lead a break out group on "Law Enforcement Response to Hate Crimes" and a plenary session with other Cabinet Members. Deputy Attorney General Holder will lead a break out group on "Understanding the Problem: Improving Hate Crimes Statistics. The Attorney General will close the conference at an evening reception at the Holocaust Museum.

Department of Interior

Gettysburg National Cemetery: On November 19, Secretary Babbitt will deliver the Clinton administrations message on the Race Initiative at the annual Gettysburg Address Commemoration at Gettysburg National Cemetery in Pennsylvania.

United States Department of Agriculture

New Investigators: USDA has four temporary investigators in the Office of Civil Rights, and is hiring another 11. In addition, five contractors have been assigned cases for investigation, and another five are expected to be approved soon by the Small Business Administration.

Howard Law School: USDA reached an agreement with Howard University Law School to allow 11 third-year students to begin working 20 hours a week with the Office of Civil Rights. Another three students from local law schools are expected.

Grant Awards: On October 28, Secretary Glickman announced nearly $2 million in grant awards to 29 tribal colleges under USDAs new Tribal Colleges Extension Program.

Hispanic Advisory Council: On October 30, the Secretary announced the establishment of a Hispanic Advisory Council at USDA to provide leadership on Hispanic issues at the Department. The Secretary appointed its first 13 members.

Nutrition Outreach: USDA continues outreach efforts to minorities and hard-to-reach populations. On November 4, the Under Secretary for Food, Nutrition, and Consumer Services

was interviewed by The Chicago Defender, Chicagos largest African American newspaper. On November 5, she held a Hispanic outreach roundtable to discuss nutrition programs, improving outreach to the Hispanic community, and educating the Hispanic community on available nutritional resources.

Hate Crimes Conference: Secretary Glickman will lead a breakout session on "Preventing Hate Crimes" at the White House Conference on Hate Crimes.

Department of Labor

Morgan State Address: On November 6, Secretary Herman delivered the Founder's Day convocation to 1,500 students and alumni at Morgan State University in Baltimore, MD. Secretary Herman's address focused on the importance of Historically Black Colleges (HBCUs) in preparing young people in the fields of science; education; engineering; and math. The Secretary encouraged young people to maximize the opportunity of higher education to create better lives for themselves; families; and communities.

Department of Housing and Urban Development

Housing Discrimination Grants: On October 30, Secretary Cuomo awarded $11.5 million to state and local government agencies in 32 states, part of a continuing crackdown on housing discrimination ordered by President Clinton. The agencies work in partnership with HUD to investigate discrimination complaints. Additionally, the Secretary announced civil charges against a Davenport, IA landlord who refused to rent to two African-Americans because of their race. He said that he has not rented to African Americans in about 25 years. At the Presidents direction, HUD will double the number of fair housing enforcement actions it takes during the Presidents second term.

Hate Crimes Conference: Secretary Cuomo will lead a break out session on "Hate Crimes in Public and Private Housing" at the White House Conference on Hate Crimes.

Department of Transportation

Hate Crimes Conference: Secretary Slater will lead a break out session on "Counteracting Organized Hate" at the White House Conference on Hate Crimes.

Race Initiative Meeting: On November 4, the Department held its bi-weekly Interdepartmental Race Relations Committee Working Group meeting. Brenda Toineeta, Associate staff for the Outreach and Program Development Group of the President's Race Initiative Advisory Board gave an overview of the President's Initiative on Race and the Board's progress and plans to date. This meeting also included discussions defining the Departments role in achieving the goals of the President's Race Initiative.

Department of Energy

OMB Clearance on Diversity Contract Clause: The clause would require DOE contractors to insure balanced opportunities for workforce development, educational opportunities, community involvement, small business development, and economic development/technology transfer - this is the first comprehensive agency effort aimed at federal government

contractors. We are currently developing a media strategy for rolling out this initiative. This will most likely take place in November.

Department of Education

Hate Crimes Conference: Secretary Riley will attend the White House Conference on Hate Crimes. The Secretary will lead a break out session on "Hate Crimes in Schools (K-12): Prevention and Response. Assistant Secretary for Postsecondary Education David Longanecker will co-chair a session on "Hate Crimes in Higher Education".

cc:
Bob Nash
Steve Silverman
Kris Balderston
Anne McGuire
Katherine Hubbard
David Beaubaire
Elisabeth Steele
Michele Cavataio
Andrew Mayock
Elena Kagan
Julie Fernandes
Lin Liu
Jacinta Ma
Michael Sorrell

NLWJC – Kagan
Hard Drive – Folder 12

Withdrawal/Redaction Sheet
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. paper	Phone No. (Partial) (2 pages)		P6/b(6)
002. memo	From Melanne Verveer, re: Veto of H.R. 1833 (4 pages)	4/9/96	P6/b(6)
003. memo	From Melanne Verveer, re: Veto of H.R. 1833 (4 pages)	4/9/96	P6/b(6)
004. memo	Phone No. (Partial) (1 page)	5/22/1998	P6/b(6)
005. memo	Personal (Partial) (1 page)	5/26/1998	P6/b(6)
006. memo	Personal (Partial) (1 page)	5/26/1998	P6/b(6)
007. memo	Personal (Partial) (1 page)	12/4/1997	P6/b(6)
008. memo	From Ron Klain to Vice President Gore (4 pages)	5/19/1996	P2, P5, P6/b(6)
009. chronology	Chronology of Whitewater productions (3 pages)	4/1996	P5
010. memo	From Walker Bass to Bob Nash, re: personnel (2 pages)	3/10/1998	P2, P6/b(6)
011. paper	Production list (2 pages)	n.d.	P5
012. form	University of Chicago (6 pages)	n.d.	Personal Misfile

COLLECTION:
Clinton Presidential Records

Clinton Hard Drive (Preservation Copy : Extracted Files)
OA/Box Number:

FOLDER TITLE:
Folder 12

ds290

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

*June 10, 1997

CABINET BRIEFING ON "ONE AMERICA IN THE 21ST CENTURY:
THE PRESIDENTS INITIATIVE ON RACE"

DATE:Wednesday, June 11, 1997
LOCATIONRoosevelt Room
TIME:5:30 - 7:00 pm
FROM:Kitty Higgins

I.PURPOSE

To brief the Cabinet on the Race Initiative which the President will announce in the University of California at San Diego Commencement Address on Saturday, June 14, 1997.

II.PARTICIPANTS

YOU
Sylvia Mathews
Ann Lewis
Elena Kagan
Cabinet Members

III.PRESS PLAN

Closed Press

IV.SEQUENCE OF EVENTS

WelcomeYOU

Race InitiativeSylvia Mathews

Communications StrategyAnn Lewis

Policy DevelopmentElena Kagan

V.REMARKS

See talking points.

VI.ATTACHMENTS

A. Talking Points.

B. List of Cabinet Members.

C. Handouts.

FF

CABINET BRIEFING
June 11, 1997
Roosevelt Room--5:30 p.m.

Materials

I.The Presidents Radio Address on Hate Crimes, June 5, 1997

II.The Presidents remarks at the Tuskegee Event, May 16, 1997

III.The Presidents Inaugural Address, January 20, 1997

IV.The Presidents remarks at the University of Texas at Austin, October 15, 1993

V.The Presidents remarks at the Mason Temple Church of God, November 13, 1993

VI.Federal Welfare-to-Work Report, June 1997

VII.The Presidents Schedule, June-August 1997

VIII.The Vice Presidents Schedule, June 1997

IX.Cabinet and Sub-Cabinet Schedules, June 11, 1997

X.Talking Points
*The Presidents Initiative on Race, June 11, 1997

*Q & As on the Presidents Initiative on Race, June 11, 1997

*Excerpts from past Presidential Speeches on Race, June 11, 1997

*Human Cloning/Hate Crimes Conference, June 9, 1997

*Chairman Archers Tax Plan, June 10, 1997

CABINET BRIEFING
June 11, 1997
Cabinet Room--5:30 p.m.

Agenda

I.WelcomeErskine Bowles

II.Race InitiativeSylvia Mathews

III.Communications StrategyAnn Lewis

IV.Policy DevelopmentElena Kagan

V.OutreachMaria Echaveste
Minyon Moore

July 18, 1997

CABINET BRIEFING

DATE:July 23, 1997
LOCATIONRoosevelt Room
TIME:4:30 pm
FROM:Thurgood Marshall, Jr.

I.PURPOSE

To brief Cabinet Members on Fast Track, the Race Initiative, and Climate Change.

II.BACKGROUND

The last time you met with the Presidents Cabinet was June 11, 1997.

III.PARTICIPANTS

YOU
Cabinet Members

IV.SEQUENCE OF EVENTS

- YOU will make opening remarks.

- YOU will call on Gene Sperling to discuss Fast Track.
(Secretary Rubin and Ambassador Barshefsky will amplify this point)

- YOU will call on Judy Winston and Elena Kagan to discuss the Race Initiative.
(Secretary Herman and Administrator Alvarez will amplify this point)

- YOU will call on Katie McGinty and Todd Stern to discuss Climate Change.

V.REMARKS

Talking points will be provided by Cabinet Affairs.

CABINET BRIEFING

July 23, 1997

Roosevelt Room--4:00 p.m.

Agenda

I.WelcomeErskine Bowles

II.Fast TrackJay Berman

III.Climate ChangeTodd Stern

IV.Race InitiativeJudith Winston
Elena Kagan

June 10, 1997

CABINET BRIEFING ON ONE AMERICA IN THE 21ST CENTURY:
THE PRESIDENTS INITIATIVE ON RACE

DATE:Wednesday, June 11, 1997
LOCATIONRoosevelt Room
TIME:5:30 - 7:00 pm
FROM:Kitty Higgins

I.PURPOSE

To brief the Cabinet on the Race Initiative which the President will announce in the University of California at San Diego Commencement Address on Saturday, June 14, 1997.

II.PARTICIPANTS

YOU
Sylvia Mathews
Ann Lewis
Elena Kagan
Cabinet Members

III.PRESS PLAN

Closed Press

IV.SEQUENCE OF EVENTS

WelcomeYOU

Race InitiativeSylvia Mathews

Communications StrategyAnn Lewis

Policy DevelopmentElena Kagan

V.REMARKS

See talking points.

VI.ATTACHMENTS

A. Talking Points.

B. List of Cabinet Members.

C. Handouts.

FR

CABINET BRIEFING
June 11, 1997
Roosevelt Room--5:30 p.m.

Materials

I.The Presidents remarks at the Tuskegee Event, May 16, 1997

II.The Presidents Inaugural Address, January 20, 1997

III.The Presidents Radio Address on Hate Crimes, January 18, 1997

IV.The Presidents remarks at the University of Texas at Austin, October 15, 1996

V.The Presidents remarks at the Mason Temple Church of God, November 13, 1993

VI.Federal Welfare-to-Work Report, June 1997

VII.Biographies of Advisory Board Members, June 10, 1997

VIII.Press Release: Nominee to be Assistant Attorney General for Civil Rights, June 11,1997

IX.Accomplishments Documents, June 11, 1997

X.The Presidents Schedule, June - August 1997

XI.The Vice Presidents Schedule, June 1997

XII.Cabinet and Sub-Cabinet Schedules, June 11, 1997

XIII.Talking Points

*Racial Reconciliation, June 11, 1997

*Q & As on Racial Reconciliation, June 11, 1997

*Excerpts regarding Race from Presidential Speeches, June 11, 1997

*Human Cloning/Hate Crimes Conference, June 9, 1997

*Chairman Archers Tax Plan, June 10, 1997

CABINET BRIEFING
June 11, 1997
Cabinet Room--5:30 p.m.

Agenda

I.WelcomeErskine Bowles

II.Race InitiativeSylvia Mathews

III.Communications StrategyAnn Lewis

IV.Policy DevelopmentElena Kagan

UNCLASSIFIED
WITH ~~SECRET~~ ATTACHMENT

May 27, 1997

MEMORANDUM FOR THE PRESIDENT

FROM:ERSKINE B. BOWLES

SUBJECT:Issues Update

This memorandum reviews several key issues being tracked by the White House offices today.

CHINA MFN

*House Minority Leader Dick Gephardt Speaks Out Against Extending China MFN. Rep. Gephardt today urged Congress to reject your request that most-favored-nation trading status be extended to China for another year, saying that you have been "too weak" with China. Gephardt criticized Chinas human rights record and trade policies which he said include "blackmailing" companies into giving China technology and trade secrets that will make it an economic powerhouse. He added that major U.S. companies may miss out on some business contracts with China but Washington must maintain leadership on the human rights issue as it did in South Africa. Gephardt said he believed European countries and other major economic powers would follow the U.S. lead and China would eventually be forced to improve human rights policies. It is the second year in a row that Gephardt has opposed renewal of most-favored-nation status to China. Last year the House passed renewal 286 to 141.

FCC CHAIRMAN RESIGNS

UNCLASSIFIED
WITH SECRET ATTACHMENT*Chairman Hundt Announces Resignation. Today Chairman Reed Hundt of the Federal Communications Commission wrote to you to say that he intends to leave as soon as a successor is appointed. He intends to serve until that happens. His letter said that he wishes to spend more time with his family. A statement was issued in your name thanking him for his service and praising his accomplishments including progress on connecting the classrooms and libraries, improving children's broadcasting and completion of the World Trade Organization telecommunications agreement.

LATE-TERM ABORTION

*Late-Term Abortion -- Internal Planning. Sylvia Mathews chaired an internal staff meeting today to plan both a short-term and long-term course of action in anticipation of your veto of the late-term abortion bill. The meeting resulted in the following assignments: Leg Affairs will monitor the status and timing of the House and Senate versions of the bill and

its ultimate delivery to you; DPC (Elena Kagan) will coordinate with HHS and DOJ regarding the departments' views on alternatives to the bill; DPC will also take the lead on developing policy ideas on women's health and other issues to counter the focus on abortion issues; Public Liaison will organize meetings with (1) core pro-choice groups to hear their ideas regarding plans for sustaining the veto and future efforts to recast the choice and (2) broader women's groups to discuss an agenda of women's issues.

ECONOMIC REPORT

*Consumer Confidence at 28-Year High. In May, Consumer Confidence, as measured by the Conference Board, rose to its highest level since July 1969. Also, the preliminary estimate of Consumer Sentiment by the University of Michigan indicates that it is the highest it has been since the survey began in the 1950s. CEA reports that this mirrors what other economic data are telling us: economic performance is the strongest it has been in decades.

The Conference Board release shows that the percentage of consumers who believe that jobs are plentiful jumped in May, and the number of people reporting unfavorable labor market conditions fell to an all-time low. This is a reflection of the very strong labor market: since January 1993, the economy has created more than 12 million jobs, and the unemployment rate has fallen below 5 percent for the first time in 24 years.

The Conference Board survey also showed that consumers are more optimistic about the future. Respondents expect business conditions and employment prospects to improve over the next six months. This is consistent with our economys strong fundamentals: the deficit has been cut by 77 percent since 1992, helping spark this remarkable period of strong growth and low inflation.

Although measures of consumer attitudes can bounce around a lot from month-to-month, these high readings are not just a statistical quirk. Both Consumer Confidence and Consumer Sentiment have been rising steadily since 1993. And, both indexes have been at the high end of their historical ranges for the last several months.

VICE PRESIDENT REPORT

*New Hampshire Travel. The Vice President traveled to Manchester and Nashua, New Hampshire today to participate in two major events: (1) A visit this morning to an elementary school in Manchester to highlight the importance of child smoking prevention programs; and (2) a speech this evening to the Greater Nashua Chamber of Commerce on the New Economy. In the latter speech, the VP will highlight the great economic turnaround New Hampshire has achieved over the past 5 years. Initial press coverage of the trip has been very positive and Ron Klain reports that the VP feels very good about how the trip is going. Ron also reports that all of your old friends are "everywhere" and have been a great help.

WHITE HOUSE PERSONNEL

*Andrei Cherny. Sylvia Mathews reports that Andrei Cherny has accepted an offer to work at the White House as a speechwriter for the Vice President. We are working to ensure that this a joint appointment so that Andrei will also work on some of your remarks.

CABINET REPORT

*Blue Ribbon Schools. Today, Secretary Riley named 262 public and private elementary schools selected as 1996-97 Blue Ribbon Schools, honoring schools that a offer rigorous, rich curriculum to all of their students. The awardees excelled in the following areas: High student retention and graduation rates; challenging standard and curriculum; excellent teaching; school, family and community partnerships; and student performance on measures of achievement. The schools recognized this year are in 41 states, DC and Puerto Rico.

NSC REPORT

**See attached report from the NSC.

*

CHIEFS OF STAFF BREAKFAST

June 3, 1997

AGENDA

I.WelcomeKitty Higgins

II.BudgetJack Lew

III.Racial ReconciliationSylvia Mathews
Elena Kagan

IV.Social OfficeAnn Stock

CHIEFS OF STAFF BREAKFAST

June 3, 1997

MATERIALS

I.The Presidents Schedule, June-August 1997

II.The Vice Presidents Schedule, June 1997

III.Cabinet and Sub-Cabinet Schedule, June-July1997

IV.The Presidents Radio Address, May 31, 1997

V.The Presidents Statement on the DOJ 1996 Crime Statistics, June 1, 1997

VI.June Message Schedule, May 23,1997

VII. Outreach Accomplishment Documents, Fall 1996

VII.Talking Points

*NATO-Russia/European Relations/Memorial Day, May 27, 1997
*Blair Meeting/Marshall Plan, May 29, 1997
*The Economy Continues to Grow Steady and Strong, May 30, 1997
*Small Business Week/Tax Cuts for Families, June 2, 1997

Kittys Talking Points
Chiefs of Staff Breakfast
Tuesday, June 3, 1997
White House Mess -- 8:30 am.

I.Welcome

*Introduce Theodore Mastroianni new COS designee at Labor.

*Included in your packets are outreach accomplishments documents produced fall of 1996. Please review the documents and return to us any updates your agency has made in these areas. We need the updates by Friday, June 6 at 12:00 p.m. If you have any questions contact David or Bibb.

*In preparation for the 25th anniversary of Title IX, the amendment to eliminate sex discrimination in American education, the DPC is gathering a list of federally conducted education programs. Please get a list of all programs in your agency that fit this description to Jennifer Klein at 456-2599.

*The following Cabinet agency heads have been asked to attend the Southwest Border Region conference at the University of Texas next week: Education, DOE, USDA, DOC, EPA, HHS, HUD, DOJ, DOL, SBA and DOT.

Treasury, DOD, DOE, FEMA, GSA, OMB and ONDCP have been asked to send field staff. If you are planning to attend, please coordinate with Linda Paris at 456-5369.

II.President's Schedule

*Refer to attached "private schedule"-- items of interest are marked.

*

CHIEFS OF STAFF BREAKFAST

March 11, 1997

AGENDA

I.WelcomeKitty Higgins

II.Welfare to WorkElaine Kamarck

III.OMB Spring AssessmentJohn Koskinen
User Fees

IV.D.C. InitiativeCarol Thompson-Cole

V.Early Learning ConferenceElena Kagan

VI.Gleaning Greg Frazier

CHIEFS OF STAFF BREAKFAST

March 11, 1997

MATERIALS

I.The Presidents Schedule, March-May 1997

II.The Vice Presidents Schedule, March-May 1997

III.Cabinet and Sub-Cabinet Schedule, March-April 1997

IV. Authorization for Travel to Helsinki Summit Memorandum, February 26, 1997

V.OMB Spring Assessment Memorandum, March 4, 1997

VI.The Presidents Radio Address on Welfare to Work, March 8, 1997

VII.Talking Points

*CBO Analysis of FY98 Budget, March 4, 1997
*American Leadership to Meet 21st Century Challenges, March 1997
*Ending Business As Usual In Washington, March 1997
*A Balanced Budget Plan thats Tough but Fair, March 1997
*Presidents Budget Cuts Taxes for Middle Class Families, March 1997

Kittys Talking Points
Chiefs of Staff Breakfast
Tuesday, March 11, 1997
White House Mess -- 8:30 am.

I.Welcome

Elaine, John and Carol will arrive at 8:30 a.m.
Elena will arrive at 8:45 a.m.

*Welcome to two new Chiefs of Staff Paul Donovan from Commerce and Paul Weech from SBA.

*Next week starts our D.C. Initiatives roll-out. Today, POTUS and the First Lady will kick-off the initiative with an event today that some of your principals will be attending. Each Cabinet member is expected to do an event in D.C. demonstrating their agencys and this Administrations commitment to helping the District. If you have not done so already please get your detailed event proposal into Steve or David as soon as possible.

*We are now beginning to collect requests for commencement speaking engagements for all members of the Administration. If your agency has received any requests for your Cabinet member or Sub-Cabinet members, please fax those to David as soon as possible and indicate the status of these requests.

*If your principal is interested in traveling to the Helsinki Summit and Copenhagen, Denmark the travel request were due to the white House scheduling and advance office last week -- Please send all request to Chris Wayne at 456-7560. There is a memo outlining the travel guidelines in your packets.

Upcoming Hot Issues:
*Hot Issues for Florida and NC were due yesterday. Please get those in to Stefanie via Lotus if you have not done so already. Hot issues for San Francisco and Los Angeles are due Wednesday, March 19.

*The interagency volunteerism summit meeting scheduled for today at 11:00 a.m. in room 472 has been canceled. We will let you know when the next meeting will take place.

*Weekly Reports are due this Thursday, March 13 at 12:00 p.m. Please make sure your reports are in on time. Several agencies have been consistently late over the past few weeks. It is important that they come in on time so that we can meet our deadline.

*We are in the process of updating our e-mail distribution list to all political appointees. We will be faxing to you our current e-mail list for any updates. Please fax any updates or corrections to David.

*

CHIEFS OF STAFF BREAKFAST

March 25, 1997

AGENDA

I.WelcomeKitty Higgins

II.Budget ProcessJack Lew

III.Early Learning ConferenceElena Kagan

IV.Welfare to WorkBob Stone

V.Subcabinet ConferencePat McGinnis
VI.Easter Egg RollMelinda Bates

VII.Presidential/Agency AnnouncementsDon Baer

March 25, 1997

MATERIALS

I.The Presidents Schedule, March-May 1997

II.The Vice Presidents Schedule, March-May 1997

III.Cabinet and Sub-Cabinet Schedule, March-May 1997

IV.Summary of Cabinet Weekly Report Memorandum, March 14, 1997

V.Hill Consultation Regarding GPRA Memorandum, March 18, 1997

VI.Funding for Lotus Notes Xchange Network Memorandum, March 21, 1997

VII.Talking Points
*Blue Chip Economic Indicators, March 10, 1997
*National Economic Crossroads transportation Act, March 12, 1997
*Economic Developments in the Nations Capital, March 19, 1997
*Hope Scholarships, March 20, 1997
*Balanced Budget that Invest in Education, March 21, 1997

Kittys Talking Points
Chiefs of Staff Breakfast
Tuesday, March 25, 1997
White House Mess -- 8:30 am.

I.Welcome

*Great work on the DC intiative. People were very happy with Cabinet amplification.

*Thank you for your list of Presidential announcements last week. They were very helpful.

*We are collecting checks today to pay for COS Breakfast. Please give Ronda your checks today for $75.00 written out to the White House mess. We will be collecting checks to

cover the bill every 3 months.

*If there are any Schedule C or appropriate career staff who are interested in working at AmeriCorps to help prepare for the Presidents Summit for Americas Future scheduled for April 27-29 in Philadelphia, please fax those names and phone numbers to Bibb Hubbard asap.

*The next Inter-Agency Early Learning Conference working group meeting will be held today at 11:30-12:30 p.m. in room 476 of the OEOB. Reports regarding this matter were due yesterday to Elena Kagan. Please make sure that you have a representative at the meeting.

*There will be an Inter-Agency meeting for the Presidents Summit on Americas Future (volunteerism summit) today at 11:00 a.m. in room 472. Please make sure that you have a representative at the meeting.

*There is a change in the Weekly Report schedule this week. Reports will be due this Wednesday, March 26 at 12:00 p.m.

*We need lists of suggested invitees to the Chicago Bulls event by noon today. Please get them to Anne McGuire at 456-6704.

*1

CHIEFS OF STAFF BREAKFAST

February 25, 1997

AGENDA

I. WelcomeKitty Higgins

II. D.C. Initiatives/Presidential ScheduleAnn Lewis

III. Campaign Finance ReformRahm Emanuel
Peter Jacoby

IV. Presidential InitiativesElena Kagan
Sylvia Mathews

February 25, 1997

MATERIALS

I.The Presidents Schedule, February-April 1997

II.The Vice Presidents Schedule, February-April 1997

III.Cabinet and Sub-Cabinet Schedule, February-March 1997

IV.Metro Area Re-Employment Project Flyer, February 1997

V.The Presidents address to the American Council on Education, February 24, 1997

Kittys Talking Points
Chiefs of Staff Breakfast
Tuesday, February 25, 1997
White House Mess -- 8:30 am.

I.Welcome

Ann will arrive at 8:30 a.m.

Rahm, Peter and Elena will arrive at 8:45 a.m.
Sylvia will arrive after 9:00 a.m.

*There is a Cabinet Briefing scheduled for this Friday, February 28 at 2:00 p.m. in the Roosevelt Room. Cabinet members should come prepared to discuss your Presidential Priorities memorandums.

*The Presidential Priorities memorandums were due last Wednesday. We are still missing final reports from State, Defense, VA, EPA, UN, USTR, ONDCP, SBA, CIA, FEMA, OPM, USIA, GSA and DOE. We need these ASAP!!!

*Over the next few months the President and the First Lady will be doing a number of events in the District. If you have any ideas for events with your principal and the President, Vice President or First Lady during the next few months, please let us know.

*Reminders:

*The 8:30 a.m. conference call is very important. Please make sure either you or an appropriate individual is on the call who can speak for your agency on policy questions, discuss scheduling issues, etc. The number for the call is 757-2104. Code 1270.

*Please ensure that both your Cabinet and Sub-Cabinet schedules are being entered into the Lotus Notes Xchange system. This is only way to insure people arent going to bump into other on the road, and that we can track what everyone is doing. We are also expanding the database so we can track all interactions the Administration has with Members of Congress, Governors and Mayors, so please make sure this information is entered. If you have questions, please contact David.

*There will be a meeting today at 11:00 a.m. in room 472 regarding the Volunteerism Summit. Each Department should designate someone to attend.
*Shanker Memorial:

The funeral will take place tomorrow in NY with just members of his immediate family.

There will be a very informal "gathering" in the Atrium of the Washington Court Hotel (near the AFT HQ) tomorrow between 3-6:30 pm. This will be an opportunity for staff to gather and friends of the AFT to make a condolence call. Currently they do not expect a program. Secretary Riley is traveling tomorrow but they are planning to send a delegation.

The AFT is currently planning a larger and more formal Memorial Service during the first week of April in Washington, D.C.

Agenda

1. Balanced budget amendment -- Barbara Chow, Chuck Konigsberg*
2. Line item veto -- Trey Shroeder
3. Christian Science case -- Walter Dellinger
4. Welfare bill -
a. "religiously affiliated" -- Diane Fortuna
b. FLSA and privatization issues -- Elena Kagan
c. Religious employer issues -- Elena Kagan, Dawn Johnson
5. Campaign finance --
a. Citizen Advisory Group -- Wendy Smith, Rahm Emanuel
b. FEC cert petititons -- Seth Waxman
c. FEC petition -- Waldman
d. Overrruling Buckley -- Rahm
6. Partial birth
7. Guam commonwealth -- Jeff Farrow
8. National Endowment -- Karen Christensen
9. Religious expression in the workplace -- Marc Stern
10. RFRA --
a. City of Bourne -- Walter Dellinger
b. Tithing case
11. EPA requirements -- Sally Katzen, Mike Fitzpatrick
a. MacIntosh response -- Steve Aitkin
b. Bliley -- Rob Weiner
12. Gambling Commission -- Cheryl Mills, Liz Montoya
13. Carlson letter *
14. Gays and Lesbians --
15. America Reads -- Holly Fitter
16. Clinton v. Jones
17. Cloning -- Elizabeth Drye
18. Whistlebower legislation -- Tony Suitan*
19. Office of the President v. Office on the Independent Counse -- Chuck Ruff
20. Federalism Executive Order -- Sally Katzen

CABINET BRIEFING
July 23, 1997
Roosevelt Room--4:00 p.m.

Agenda

I.WelcomeErskine Bowles

II.Fast TrackJay Berman

III.Climate ChangeTodd Stern

IV.Race InitiativeJudith Winston
Elena Kagan

BUDGET MEETING

December 17, 1997

AGENDA

I. CHILD CARE (Bruce Reed and Elena Kagan)

II. Food Stamps (Jack Lew)

III. Higher Education (Bob Shireman)

IV. School Construction/TAA (Gene Sperling)

V. REVENUES (Bob Rubin and Larry Summers)

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MEMORANDUM TO FRANKLIN D. RAINES

FROM:SALLY KATZEN

SUBJECT:WEEKLY REPORT

Status of activities during the week of March 24-28, 1997:

UPDATE -- PM/Ozone and TRI Requests -- We are still working with Bob Damus et al. on a reasonable response to Chairman McIntoshs request for more documents relating to our review of EPAs ozone and PM air standards. Last week, I called Chairman McIntoshs office suggesting that we meet face-to-face to discuss where we are and where we are going with the remaining requests. This week he responded by letter, declining to meet with me until we provide him with a written response to his requests (the very same requests that I want to talk with him about). Bob and I are working on a way through this issue.

UPDATE -- Agency Regulatory Activity -- I convened a meeting with Elena Kagan (DPC), Kathy Wallman (NEC), and Shelley Fiddler (CEQ) to discuss the recent increase in agency rulemakings, and, as important, increasing requests for ever shorter review periods. They were very supportive and agreed to be our allies as new initiatives come up. We agreed the next step was to speak with Sylvia Mathews (probably next week).

This issue was also at the top of the agenda at this weeks Regulatory Working Group meeting, where we had an excellent turn-out of GCs, assistant secretaries, and chiefs of staff. I delivered the same message to them -- no more jamming.

UPDATE -- Meet and Greets on the Hill -- I continued a round of meet and greets with the chairpersons and ranking members of various House committees that will be players in upcoming reg reform issues. Last week, I met with Reps. Gekas and Jackson-Lee (Chairman and ranking on Judiciarys Ad Law subcommittee) and with Rep. Luther (ranking on Small Business Regulation and Paperwork subcommittee). This week I touched base with Rep. Kelly (Chairwoman of Small Business Regulation and Paperwork subcommittee) and Rep. Lafalce (ranking on Small Business). Ill continue these face-to-face chats over the next few weeks -- WH Leg. Affairs think they are very productive.

UPDATE -- Unfunded Mandates Report -- We will be getting a copy of the report describing agency compliance with Title II of the Act, which addresses regulatory consultations and analyses, into clearance next week. We hope to send the report up to the Hill as soon as possible. The second year anniversary of the Act is March 22.

Individual Regulations

UPDATE -- MF/ART -- EPAs TRI/Facility Expansion Rule -- I think you know everything we know at this point, probably more.

UPDATE -- MF/ART -- EPA's Ozone and PM Air Standards -- Our outreach efforts continued with

the second of our now weekly interagency policy meetings. EPA continued its briefing on where they are in developing the final standards, and we actually began to address some of the substantive issues. These policy level meetings are supported by weekly interagency technical meetings at the staff level -- there are many more to come at both levels.

UPDATE -- DOEs Refrigerator Rule -- DOE continues to explore a new compromise. At some point, any decision will be better than no decision.

UPDATE -- Medicare Subvention -- I attended a meeting with Gordon and Nancy-Ann on a DoD notice that is related to pending legislation that would affect military retirees who are eligible for Medicare. There is a question as to how the notice would affect the legislation; we agreed to raise it with you as soon as we can.

UPDATE -- HIPAA -- We are working feverishly to review major regulations from HHS, DOL and Treasury that implement the Kennedy-Kassebaum health insurance portability legislation. I hosted a meeting of the three agencies to ensure that OMB receives all of the materials by the end of this week, in light of a statutory publication deadline of April 1. The agencies agreed to publish available analysis and discuss qualitatively the costs and benefits of these rules.

OLD ENTRY -- RRB Disabilities Rule -- I met with Jerry Keever, the management member of the RRB, who wanted to be assured that a disabilities rule that we have under review would receive timely consideration. The rule updates the medical definitions of disability from definitions that go back as far as the 1940s. We also discussed the three rules that we just returned for reconsideration. He understands our concerns.

OLD ENTRY -- Meeting with Union of Concerned Scientists -- I met with three individuals representing the Union of Concerned Scientists and the Environmental Defense Fund. They raised concerns over the need for additional regulatory oversight in the biotechnology area. We have a USDA biotech rule here now and are expecting one from EPA and one from FDA.

Information Policy/Technology

UPDATE -- Privacy Report -- Staff is cleaning up final footnote. Second floor sign-offs are done but for OMB Counsel, who has concerns about any options that suggest the EOP would be given additional privacy coordination functions.

UPDATE -- CIO Council -- The CIO Council met on Wednesday. I reminded the Council that the ISP/ICB submissions are due to OMB on April 14. We also discussed the latest on since a number of CIOs are being asked questions by their appropriations/authorization committee staffs on how much agencies are spending on this effort. OMB is working with the Hill to come up with a reporting requirement that satisfies both parts of the government. The next update to the cost estimates for Y2K will occur in May. We also discussed a draft paper on architecture that OMB has put together based on last year's response to the Raines Rules memo. Comments from the CIOs are due back to OMB by March 26th. We hope to put out final guidance on architecture by early May.

UPDATE - Encryption -- The Administration testified twice this week (Senate and House). We are beginning to sense some stirrings of recognition that our policy is at least worth serious discussion. We are still on target to send up an Administration bill by the end of the month. Meanwhile our roving encryption envoy David Aaron was in town and tells us that major trading partners are beginning to come around to key recovery also.

UPDATE -- Post FTS-2000 -- The debate continues over GSA's revised program strategy -- with several questions on the strategy and the reasons for its change coming up during the March 20 House Appropriations Subcommittee hearing. In response to Chairman Burton's request that GSA not release the RFP until May 2, Michael Deich and I recommended to GSA that Dave Barram send a letter to the Chairman agreeing to the delay and stating GSA's intention to form a working group to make recommendations. This working group would consist of GSA, agency, and Congressional staff and would have until April 14 to provide Barram with recommendations for strategy refinements -- using the "February strategy" as the starting point for the discussions. We believe GSA will agree to this approach.

NEW ENTRY -- DOCs Science and Technology Fellowship Program --

Miscellaneous

UPDATE -- Response to Thompson on Reg Costs in Strategic Plans -- My staff and I joined the fray on drafting a reply to Senator Thompson's request that agencies include information on cost and benefits in their strategic plans. We have suggested that it generally makes more sense to include such information in an annual performance plan rather than a five year strategic plan. It not easy to sort out the concerns, or the competing drafts, of NRD, OIRA, and the GPRA implementation group -- not to mention EPA. Stay tuned.

OLD ENTRY -- OECD Visits -- I met with Joanna Shelton, Deputy Secretary-General of the OECD, who is heading up the OECD project on Regulatory Reform. The various directorates have produce eleven sectoral/thematic papers, for which various agencies of the U.S. Government have provided conflicting comments. State, USTR, CEA, Commerce, and OMB have been supportive because they see it as a way to open up trade opportunities for the U.S., it is good government, and we have a good story to tell. The regulatory agencies are concerned that their opponents on the Hill will somehow use the report against them. She expressed hope that the U.S. would come up with a unified position on the final summary and recommendations paper that has just been circulated. I said I would make sure that that would happen in time for John Morrall's trip to Paris for the April 8 meeting on the final paper. He is working with State to draft a U.S. position paper.

NEW ENTRY -- Meet and Greet -- Don Gipps

Outreach and Interviews

Interview with Washington Technology Magazine re CIO Council.

Interview with Government Computer News re Y2K.

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MEMORANDUM TO FRANKLIN D. RAINES

FROM:SALLY KATZEN

SUBJECT:WEEKLY REPORT

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Outreach and Interviews

Interview with Washington Technology Magazine re CIO Council.

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March 25, 1997

MEMORANDUM FOR CHIEFS OF STAFF

FROM:RONDA JACKSON

SUBJECT:CHIEFS OF STAFF BREAKFAST

1.We are collecting checks today to pay for COS Breakfast. Please send your $75 checks written out to the White House mess to Ronda Jackson today. We are still missing checks from State, Treasury, DOL, HHS, HUD, DOT, Energy, Education, VA, EPA, CEA, UN, USTR, ONDCP, GSA and NEC.

2.If there are any Schedule C or appropriate career staff who are interested in working at AmeriCorps to help prepare for the Presidents Summit for Americas Future scheduled for April 27-29 in Philadelphia, please fax those names and phone numbers to Bibb Hubbard asap at 456.6704.

3.The next Inter-Agency Early Learning Conference working group meeting will be held today at 11:30-12:30 p.m. in room 476 of the OEOB. Reports regarding this matter were due yesterday to Elena Kagan. Please make sure that you have a representative at the meeting.

4.There will be an Inter-Agency meeting for the Presidents Summit on Americas Future today at 11:00 a.m. in room 472 of the OEOB. Please make sure that you have a representative at the meeting.

5.There is a change in the Weekly Report schedule this week. Reports will be due this Wednesday, March 26 at 12:00 p.m.

6.We need lists of suggested invitees to the Chicago Bulls event today. Please get them to Anne McGuire at 456-6704.

7.There will be a conference call on Thursday, March 27 at 11:00 a.m. for all agencies who have staff members that carry guns as a requirement for their job. DOJ will be conducting a briefing on the implementation of the trigger lock order. The code for the call is 4590.

8.We need a list of names of staff persons from your agency to attend the Easter Egg Roll on Monday, March 31. These people will be entitiled to bring three additional guests, one of which must be a child age 3-6. Please fax your list today to Anne McGuire at 456.6704.

9.There will be a Cabinet Meeting on Thursday, April 10 to discuss the Presidents Welfare to Work Initiative. Cabinet members should be prepared to discuss what their agency is doing to amplify this initiative. The reports outlining your agencys welfare to work plans are due April 7, including a one-page summary, to Bob Stone at NPR at 632.0390 fax. If you have any questions please contact Susan Valaskovic at 632.0150 ext. 117.

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MEMORANDUM TO FRANKLIN D. RAINES

FROM:SALLY KATZEN

SUBJECT:WEEKLY REPORT

Status of activities covering the weeks of January 13-17 and January 20-24, 1997:

Regulatory Reform -- Last week John Hilley convened a meeting with interested WH policy offices to discuss our reg reform strategy. The consensus was that we will have to play at some point, and to some degree, but a few of the offices were quite emphatic that while we may be playing on the Hill with our right hand, our left hand should be vigorously signaling that we do not need a comprehensive bill and instead should continue doing what has been successful in the past -- tackling this issue statute by statute, program by program. This strategy will likely lead to everyones interpreting our bottom line differently, and undoubtedly we will need to reconvene in a few weeks to sort through this again. Meanwhile, we are helping Cabinet Affairs set up a meeting of the chiefs of staff from the interested agencies to discuss strategy and ensure that we are all singing off the same song sheet.

Bliley & McIntosh Document Requests -- On January 15, we sent our response to Rep. Blileys letter asking various questions about our review of EPAs ozone and particulate matter air standards. This was a labor intensive effort. Damus did a brilliant job of protecting us (me), and EPA was not unhappy with the finished product. No sooner did we send out the response to Bliley then we received another set of questions and a document request from Rep. McIntosh. This deadline is absurdly short. We are working hard, but not at the expense of our other work, to answer the letter as soon as possible.

Bond and Shelby Request -- We responded to a letter from Senators Bond and Shelby about the basis for our conclusion that OSHA's methylene chloride final rule (published January 10) met the conditions set by the Treasury-Postal subcomittee in report language for the FY 1997 OBRA. The subcommittee had asked OMB to ensure that OSHA had complied with the Regulatory Flexibility Act, and that OSHA's rule was consistent with related EPA rules -- issues that we were looking at in our review in the first instance. We have sent the Senators the regulatory file, which includes OSHA's initial rule and analysis, changes to those documents, and the public comments received.

Third Year Report -- We continue to distribute our Third Year Report to the Congress, the press, and various private sector groups (industry and trade associations, think tanks, and environmental, labor, and consumer groups). We have been receiving letters of commendation from inside and outside the Administration, and yesterday we received a favorable story in the trade press (BNA). We are beginning to receive more calls for copies. This just might bump "It Takes a Village" off the best seller list.

Regulations

See attached Radar Report for current and expected inventory.

USDAs Avocado Rule -- As you know, we sent through you a "heads-up" memo to Erskine Bowles earlier this week. At Sylvia Matthewss request, we sent a second memo with additional information on the rule, as well as the trade and political implications of moving forward. It looks like it may not be necessary to set up a meeting on this one. I will let you know what is happening.

EPAs TRI Rule -- We, along with other WH policy offices, are meeting with EPA to discuss the legal and policy issues associated with EPAs draft final rule to expand the classes of industries required to report to the Toxic Release Inventory. Im not sanguine that we will be able to resolve these issues without elevating them.

EPA's Ozone and Particulate Matter Air Standards -- T.J. and I met with Mary Nichols, Katie McGinty, and other WH policy offices to discuss next steps. Our discussion focussed on: (1) the requests from outside groups (including State and local groups) for an extension of the public comment period; (2) the current June 1997 court deadline to promulgate the particulate matter standard; and (3) the need to develop specific proposals for implementing the standards. Meanwhile, we have sent over our questions for EPA to work on during the public comment period. The status of my testifying at Congressional hearings is still not clear.

DOEs Refrigerator Rule -- Over the past two weeks, I have met with representatives of all the major interested parties to hear their views for and against a draft DOE final rule setting more stringent efficiency standards for new refrigerators and freezers. Whirlpool and several environmental and energy efficiency groups favor the rule as DOE has drafted it. The other major manufacturers (GE, Maytag, Amana, and Electrolux) favor an alternative that would require a somewhat more stringent standard at a later date (2003 instead of 2000). We are working with DOE to see if we can craft an approach that would allow the DOE-preferred option to go forward while minimizing any undue burdens on the other manufacturers. Again, Im not sanguine we will be able to resolve this one without help.

ADA/Veterans provisions in COTS contracts -- We were involved in a meeting Jack Lew held with Steve Kelman, Ken Apfel, Bob Damus and senior officials from DOL, DOD, and VA about waiving DOL affirmative action regulations for the disabled and Vietnam veterans for government contracts to purchase commercial, off-the-shelf items. DOD and OFPP would like to reduce the number of requirements that such contractors need to follow to make procurement more efficient; DOL and OMBs HRH are concerned that waiving these provisions would have a detrimental impact on the affected groups and would send the wrong signal about our committment to these groups. Jack asked DOD to provide more evidence as to why they thought that waiver of these provisions would in fact lead to more efficient procurements. DOD agreed to try to provide this in a few weeks time, and Jack will hold an internal meeting to discuss next steps.

DOLs "Joint Employment Rule" -- We continue to struggle with a draft final rule setting forth the basis for determining when farmers should be held jointly liable with farm labor contractors for violations of the Migrant Seasonal Agricultural Worker Protection Act. USDA is concerned with DOLs approach. We are trying to find a rational compromise.

Information Policy/Technology

Encryption -- The Deputies made some progress but reached no final agreement on draft legislation. I met with Alice Rivlin and Fed staff to discuss the implications of our policy for the banks. They will be getting back to us with their ideas on how we can encourage the banks to use commercial key recovery products and help create a market.

Y2K -- We are receiving cost and schedule data from the agencies for inclusion in our report to Congress. We will send the draft report through the second floor next week so that it can accompany the Budget. We met with OPM on its Y2K problems last week. Also met with USDA where we discussed the National Finance Center in New Orleans, which processes payroll and other finance activities for a large portion of the Government and the Food Stamp Programs. More meetings to be scheduled. . . .

WIPO Deputies -- I attended an NEC Deputies meeting on January 17 to review the results of the recently completed World Intellectual Property Organization (WIPO) treaty negotiations. Two treaties were successfully concluded that would extend copyright protection to works distributed in a digital environment while preserving traditional concepts of fair use. Minimal, if any, implementing legislation will be necessary. No agreement was reached on a third treaty that would provide new protection for databases. There are serious concerns regarding the need for such protection and its potential impact on science and education. The Administration will not support database protection legislation should it be introduced in this Congress.

Post-FTS 2000 -- On January 8, Senator Stevens wrote to you expressing concerns with GSAs conduct of the program that will replace the current FTS 2000 government-wide long distance voice and data telecommunications services contracts. Senator Stevens requested that GSA delay releasing the RFP until these issues are resolved. OIRA and RMO staff are preparing a response to this letter, which we will have to you next week. OMB is generally in agreement with GSA's strategy.

CIO COUNCIL -- John Koskinen, Steve Kelman, and I were at the Chief Information Officers Council meeting this past Wednesday. I discussed an upcoming meeting on government printing that I plan to hold. The first task of this group, to be coordinated by representatives of the Interior Department and GSA is to collect trend and baseline data regarding the volume of printing and duplicating now being procured, along with an assessment of what portion of this printing and duplicating involves information disseminations to the public. The second task, to be coordinated by the Defense and Treasury Departments, will be to develop initial business models for the future that maximize the benefits of increased flexibility.

I also discussed OMB bulletin 97-03, which instructs Executive departments and agencies to prepare and implement an Information Streamlining Plan (ISP) and an Information Collection Budget (ICB). These two reports are due to OMB by April 14.

I also distributed a copy of the draft Y2K report we plan to send up to the Hill with the President's budget. The CIO's comments were due on January 24. I also gave them a copy of the Table we plan to include in the budget that fulfills our responsibilities under the Information Technology Management Reform Act of 1996 (ITMRA). All comments on that document have been received.

Steve Kelman and I also discussed a draft memorandum that provides management guidance to agencies on the use of multi-agency contracts for information technology under the ITMRA.

Finally, the CIO Council had a good discussion on OMB M-97-02, which will help OMB and the CIO Council in future discussions of major systems.

Interoperability Committee of the CIO Council -- My staff and I met with Anne Reed, acting CIO of USDA, in her new role as chair of the Interoperability Committee. We had a rather free-form discussion about the many issues that Anne will have to address.

STATISTICAL POLICY

Annual Report on the Status and Well Being of Children and Youth -- We met this week with Elaine Kamarck, Elena Kagan, and senior folks from HHS to discuss the next steps in inaugurating an annual report to the President on the status and well being of our Nation's children and youth. The report will provide about two dozen indicators on young people's family characteristics, economic security, health and health care, behaviors, and education; monitor these indicators over time; and stimulate improvements in information collection. The production of this report represents an outstanding example of collaboration among the statistical agencies. We expect to institutionalize this report, which will parallel in some ways our principal economic indicators, via an executive order or similar means. It may get a few words in the State of the Union address as well.

Miscellaneous

Budget & CEA Annual Report Chapters -- During the past two weeks, we helped the RMOs drive Larry Haas crazy putting together the Budget volumes. We developed an Analytical Perspectives chapter on Federal statistics, provided pieces on information technology for chapter IV and elsewhere, and integrated information on regulations and paperwork burden into chapter VI. We also reviewed drafts of the CEA annual report.

Public Appearances and Interviews

Was interviewed on the Y2K Investor Radio Program and by Computer World Magazine.

Also interviewed by the New York Times on regulatory reform.

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BUDGET ROLL-OUT AND AMPLIFICATION
January 26-February 7, 1999
(DRAFT--January 28, 1999, at 5:30pm)

TUESDAY, JANUARY 26 (Done)
General/Print:
*Regional Press on Women Mayors Social Security meeting

WEDNESDAY, JANUARY 27 (Done)
Leg. Affairs:
*3:45pm--Social Security Briefing of Ways & Means Democratic staff in 1139 Longworth HOB [Surrogates: Mathews(c), Sperling(c), Apfel(c), Summers(c)]
*5:00pm--Social Security Briefing of Finance Democratic staff in Dirksen 215 [Surrogates: Mathews(c), Sperling(c), Apfel(c), Summers(c)]

THURSDAY, JANUARY 28 (Done)
Cabinet Affairs:
*11:00am--Conference call for agency Communications Directors [Surrogates: Lockhart(T), Palmieri(c), Ricci(c), Spector(c)]
*1:30pm--Conference call for Regional Administrators [Surrogates: Palmieri(c), Spector(c), Lori McHugh(c)]

Leg. Affairs:
*2:30pm--Social Security briefing for Blue Dogs [Surrogates: Joe Minarik(c), Goss(c)]
*4:00pm--Social Security briefing for House and Senate Budget Democratic staff in HC-9 [Surrogates: Mathews(c), Sperling(c), Apfel(c), Wilcox(c)]

FRIDAY, JANUARY 29
General/Print:
*10:15am--Social Security briefing at National Press Club [Surrogate: Sperling(c)]

Leg. Affairs:
*9:15am--Social Security briefing for Senate Task Force Members in SD-562 [Surrogates: Lew(c), Sperling(c), Apfel(c), Stein(c)]
*10:30am--Joint briefing for House and Senate Democratic Budget/Appropriations/Ways & Means/Finance staff in HC-9 [Surrogates: Mathews(c), DeSeve (c), Joe Minarik(c), Dick Emery(c), PADs(c), WH Leg. Affairs(c) and OMB Leg. Affairs(c)]
*12:00pm--Hispanic Caucus conference call [Surrogates: Lew(c), Chow(c), Murguia(c)]
*1:00pm--Briefing for Senate Democratic AAs, LDs and Leadership staff in S-211, Capitol [Surrogates: Mathews(c), DeSeve(c), Joe Minarik(c), Dick Emery(c), PADS(c), WH Leg. Affairs (c) and OMB Leg. Affairs(c)]

*2:00pm--Social Security briefing for Finance Committee Republican staff [Surrogates: Sperling(c), Apfel(c), Stein(c)]
*3:00pm--Briefing for House Democratic AAs, LDs and Leadership staff in HC-5 [Surrogates: Mathews(c), DeSeve(c), Joe Minarik(c), Dick Emery(c), PADs(c), WH Leg. Affairs(c) and OMB Leg. Affairs(c)]

WEEK OF JANUARY 23-29
Television:
*(T) Interviews for news and business shows [Surrogates: Lew(T), Mathews(T),

Sperling (T), Yellen(c)]

Radio:
*(T) Interviews for radio [Surrogates: Lew(T), Mathews(T), Sperling(T), Yellen(c)]

SUNDAY, JANUARY 31
Television:
*(T) Sunday morning shows [Surrogates: Lew(T), Mathews(T), Sperling (T)]

MONDAY, FEBRUARY 1
*7:00am (embargoed until 8:00am)--Wires get budget
*7:30am--OMB Leg. Affairs distribution of FY2000 Budget
*9:00am--Conference call with Cabinet [Surrogate: Lew(c)]
*10:00am--Budget and other amplification materials will be put up on WH web site
*10:15am--BUDGET ROLL-OUT EVENT (East Room)
*11:45pm--Press Budget briefing in OEOB 450 [Surrogates: Lew(c), Mathews(c), Rubin(c), Sperling(c), Yellen(c)]
*12:00pm--Dept. of Education and EPA begin briefings
*1:00pm--Cabinet Agencies begin briefings
*1:00pm--Roundtable with budget reporters (OMB organizing) [Surrogate: Lew(T)]
*1:00pm--OPL conference call for regional constituency group leaders (other offices can feed in) [Surrogate: Mathews(c)]
*1:30pm--Technical briefing for House and Senate bipartisan Budget/Appropriations in SD-124 [Surrogates: Chuck Kieffer(c), Dick Emery(c), Joe Minarik(c)]
*2:00pm--IGA briefing for DC representatives from 50 states , DC representatives for cities and counties, Tribal leaders and state legislators in the Truman Room of the White House Conference Center [Surrogate: Mathews(c), DeSeve(c)]
*3:00pm--White House briefing for national constituency group leaders in OEOB 450 (OPL organizing and other offices can feed in) [Surrogates: Lew(T) or Mathews(T), Gotbaum(c), PADs(c)]
*4:00pm--IGA conference call with 20 key mayors [Surrogates: Lynn Cutler(c), Gotbaum(c), Lewis(c)]

*4:00pm--Joint House and Senate Bipartisan Staff Briefing in SC-5 [Surrogates: Mathews(c), DeSeve(c), Joe Minarik(c), Dick Emery(c), PADS (c) and WH Leg. Affairs staff(c)]
*4:00pm--Climate Change Budget briefing in OEOB 450 [Surrogates: Stern(c), George Frampton(T), Elgie Holstein(T), Neal Lane(T)]
*(T) Cabinet/Sub-Cabinet conference calls on targeted issues with press [Education and Training, Health, Research and Technology, Environment, Community Empowerment, Legal Immigrants, Crime, Working Families, Defense, Tobacco, Race(T)]
*(T) Targeted calls to editorial boards, pundits [Surrogates: Lew(T), Mathews(T), Sperling(T), WH Senior Staff]

Television:
*(T)Interviews for morning shows, news and business shows [Surrogates: Lew(T), Mathews(T), Sperling(T), Yellen(c)]
*(T) Interview for Lehrer News Hour [Surrogates: Lew(T)]
*(T) Interview on cable news [Surrogate: Echaveste(T)]

Radio:

*(T) Interviews for radio [Surrogates: Lew(T), Mathews(T), Sperling (T)]
*(T) Interview with Bloomberg Business Radio [Surrogate: Lew(T)]
*(T) Interview with NPR Marketplace [Surrogate: Lew(T)]
*(T) Interviews with radio [Surrogates: WH Senior Staff]

Specialty Media:
*1:45pm--Conference call with Latino newspapers [Surrogate: Echaveste(c)]
*Interviews for Hispanic TV [Univision (1:00pm), Telenoticias (1:10pm), Telemundo (1:20pm)] [Surrogate: Echaveste(c)]
*Early morning and drive-time interviews for Hispanic radio [Surrogate: Echaveste(c)]
*Conference call with African American newspapers [Surrogate: Ben Johnson(T)]
*(T) Conference call with Asian American newspapers [Surrogate: Barbara Chow(T)]

Internet Media:
*Time TBD--Interview with Time Magazine.com on budget (story will be posted on web site and run for rest of week) [Surrogate: Mathews(T)]

TUESDAY, FEBRUARY 2
General/Print:
*(T) Cabinet/Sub-Cabinet conference calls on targeted issues with press [Education and Training, Health, Research and Technology, Environment, Community Empowerment, Legal Immigrants, Crime, Working Families, Defense, Tobacco, Race(T)]

Television:
*(T)Interviews for morning shows, news and business shows [Surrogates: Lew(T), Mathews(T), Sperling(T), Yellen(c)]

Radio:
*(T) Interviews for radio [Surrogates: Lew(T), Mathews(T), Sperling(T), Yellen(c)]

Specialty Media:
*Interviews for Native American media [Surrogate: Lynn Cutler(T), Mathews(T)]
*Early morning and drive-time interviews for Hispanic radio [Surrogate: Echaveste(c)]

Internet Media:
*7:30pm(EST)--Live interview with MSNBC On-Line on budget [Surrogate: Reed(T)]
*Time TBD--Q&A interview with Washington Post.com on budget (answers will be posted on web site and run for rest of week) [Surrogate: Mathews(T)]

Cabinet Affairs:
*8:30am--Briefing for Cabinet Chiefs of Staff [Surrogates: DeSeve(T), Gotbaum(T), Sperling(T)]

Leg. Affairs:
*9:30am or 10:00am--Senate Finance Hearing [Surrogates: Rubin(c)] (Mathews will accompany Sec. Rubin)
*10:00am--Congressional Testimony at Senate Budget Committee Hearing [Surrogates: Lew(c)]
*1:00pm--Democratic Senators Weekly Lunch [Surrogates: Lew(c), Stein(c)]
*4:00pm--Briefing for House Budget Committee Democrats [Surrogate: Lew(c), Mathews(c)]

First Ladys Office:
*(T) Briefing for Arts community [Surrogates: Verveer(T), Lovell(T)]

TUESDAY, FEBRUARY 2 or WEDNESDAY, FEBRUARY 3
Cabinet Affairs:
*(T) Two or three agency briefings for Sub-Cabinet [Surrogates: TBD]

WEDNESDAY, FEBRUARY 3
Leg. Affairs:
*10:00am--House Budget Committee Hearing [Surrogate: Lew(c)]
*10:00am--Senate Budget Committee Hearing [Surrogates: Rubin(c)] (Mathews will accompany Sec. Rubin)
*4:30pm--Pre-brief for House Ways & Means Democratic staff [Surrogate: Mathews(c)]

WEDNESDAY, FEBRUARY 3 or THURSDAY, FEBRUARY 4
Womens Office/Leg. Affairs:
*2:30pm--Budget briefing for House Womens Caucus [Surrogates: Mathews(c)]

THURSDAY, FEBRUARY 4
Leg. Affairs:
*10:00am--House Ways & Means Hearing [Surrogates: Rubin(c), Mathews(c)]

CEA:
*Release of the 1999 Economic Report of the President (will emphasize budget and economic agenda)

FRIDAY, FEBRUARY 5
General/Print:
*(T) Roundtable with regional outlets [Surrogates: Sperling(T), Lew(T)]
*(T) Breakfast with pundits, columnists [Surrogates: Sperling(T), Lew(T)]

Leg. Affairs:
*National Conference of State Legislators [Surrogates: Lew(c)]

WEEK OF FEBRUARY 1-7
General/Print:
*Regional editorial board mailings with State-by-States
*Roundtables with regional outlets (when State-by-States are releasable)
[Surrogates: Lew(T), Sperling(T)]

Television:
*6:00pm--Lehrer News Hour Interview [Surrogate: Sperling(T)]

Specialty Media:
*Specialty press conference calls [Surrogates: TBD]
*Specialty press mailings to Native American, Health, Seniors, Disability, African American and Hispanic media

SUNDAY, FEBRUARY 7-TUESDAY, FEBRUARY 9
*House Democrats Retreat (POTUS and VP attending)

SURROGATES
Gene Sperling
Jack Lew
Sylvia Mathews
Janet Yellen
Bruce Reed
Elena Kagan
Josh Gotbaum
Maria Echaveste
Sally Katzen
Larry Summers
Larry Stein
Ed DeSeve
Sec. Rubin (?)
OMB Program Area Directors (PADS)--Michael Deich, Barbara Chow, Elgie Holstein, Dan Mendelson and Bob Kyle

PAPER NEEDED FOR BUDGET ROLL-OUT
(Communications will serve as clearinghouse for distribution of paper to WH Offices)
Overview Talking Points (NEC) (Friday at Noon)
Economic and Fiscal Record (NEC) (Monday)
Issues Paper (OMB)--(Monday)
- Education and Training
- Health
- Research and Technology
- Environment
- Community Empowerment
- Legal Immigrants
- Crime
- Working Families and Child Care
- Defense
- Tobacco
- Race

Accomplishments (Done)
Sample Op-eds and Letters to the Editor (Communications)

A. I. A.
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January 4, 1998

MEETING ON UNIFIED SURPLUS AND SOCIAL SECURITY

DATE:January 5, 1998
TIME:1:00 p.m. - 2:00 p.m.
LOCATION:Cabinet Room
FROM:Gene Sperling

I.PURPOSE:

To continue our discussions with you on options relating to the unified surplus, Social Security and retirement security.

At the beginning of the meeting, there will also be a pool spray during which you will announce our new (lower) deficit projections if OMB feels it is ready to release the figures at that time.

II.BACKGROUND:

The projected unified surpluses are attracting increased attention, as evidenced by their prominence in the news this weekend. A crucial part of your State of the Union address will be what you say about our approach to the unified surplus and to Social Security reform. As we have examined the possible options and further refined our thinking, the views of many advisers have evolved significantly. The purpose of this meeting is to provide you with three specific options on using the unified surplus to bolster the Social Security system.

III.PARTICIPANTS:

The Vice President
Erskine Bowles
Frank Raines
Gene Sperling
Secretary Rubin
Jack Lew

Paul Begala
Larry Summers
Janet Yellen
Ron Klain

Rahm Emanuel
Sylvia Mathews
John Podesta
Ken Apfel
Elena Kagan
Bruce Reed
John Hilley
Peter Orszag
Maria EchevesteIV.SEQUENCE OF EVENTS:

-- You will have a pre-briefing before the meeting
-- There will be a pool spray at the top of the meeting in the Cabinet Room
-- You will be meeting with your advisors.

V.PRESS COVERAGE:

Pool spray at the top of the full meeting.

VI.REMARKS:

Brief remarks on new deficit projections (if OMB is ready to release them).

VII.ATTACHMENTS:

Background packet on Social Security. Many of your previous questions from our earlier meetings are addressed in this packet.

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January 12, 1998

MEETING ON UNIFIED SURPLUS AND SOCIAL SECURITY

DATE:January 13, 1998
TIME:1:30 p.m. - 2:30 p.m.
LOCATION:Cabinet Room
FROM:Gene Sperling

I.PURPOSE:

To continue our discussions with you on options relating to the unified surplus, Social Security and retirement security. We will discuss how the issue will be presented in the FY 1999 budget, what you could say in the State of the Union, what processes we would undertake for 1998 and how we will achieve reform in 1999.

II.BACKGROUND:

The projected unified surpluses are attracting increased attention, as evidenced by their prominence in the news. A crucial part of your State of the Union address will be what you say about our approach to the unified surplus and to Social Security reform. As we have examined the possible options and further refined our thinking, the views of many advisers have evolved significantly. The purpose of this meeting is to discuss further our options on using the unified surplus to bolster the Social Security system, and the processes for advancing the reform effort.

III.PARTICIPANTS:

The Vice President
Erskine Bowles
Frank Raines
Gene Sperling
Secretary Rubin
Jack Lew
Paul Begala
Janet Yellen

Ron Klain
Rahm Emanuel
Sylvia Mathews
John Podesta
Ken Apfel
Elena Kagan
Bruce Reed
John Hilley
Peter Orszag

IV.SEQUENCE OF EVENTS:

-- You will be meeting with your advisors.

V.PRESS COVERAGE:

None

VI.REMARKS:

None

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Franklin D. Raines

FROM: Sally Katzen

SUBJECT: Heads-up on Proposed EEOC Rule Re: Federal Employee Complaint Procedures

We are about to conclude review of a proposed Equal Employment Opportunity Commission (EEOC) rule revising how discrimination complaints made by Federal employees are handled. The rule, which aims to streamline and make more fair the administrative process set in motion once an employee files a discrimination complaint against an agency, would, among other things, (1) make the decision of an EEOC administrative judge (AJ) final, subject to an appeal to the full Commission (the effect of this would be to eliminate an agencys current authority to reject an AJ finding of discrimination) and (2) increase the time period for which an employee can be awarded attorneys fees.

Many of the agencies are concerned that the rule would create a more litigious process, which would make it harder to dispose of frivolous and/or minor complaints. The civil rights community will either be supportive or argue that the EEOC should have gone further. We believe the proposed rule strikes an appropriate balance and sends the right message.

Please let me know if you have any questions.

FFcc:Maria Echaveste
Rahm Emanuel
John Hilley
Micky Ibara
Ron Klain
Thurgood Marshall, Jr.
Ann Lewis
Sylvia Mathews
John Podesta
Bruce Reed
Gene Sperling
Lynn Cutler
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Barbara Chow
Larry Haas

M E M O R A N D U M

June 29, 1998

TO:Rahm Emanuel

FR:Chris Jennings

RE:Patients Bill of Rights Status

cc:Sylvia Matthews, John Podesta, Bruce Reed, Larry Stein, Gene Sperling, Ron Klain, Elena Kagan, Janet Murguia, Chuck Brain, Sally Katzen

This memo responds to your request for an up-to-the-moment status report on the House Republican Leadership's Patients' Bill of Rights. It also outlines positioning options for the President's consideration on the legislation and, more specifically, on the enforcement provisions.

House Republican Patients Bill of Rights. The reaction to the House Leadership's announcement of their intention (they have provided no details) to introduce a Patients' Bill of Rights has been almost universally negative. The base Democrats, the consumer advocates, and the providers have labeled it a "sham;" the insurers and big business community are criticizing it as overly regulatory. Notwithstanding these reactions, it is remarkable how far the Republicans apparently have moved toward the President's position.

Status of Policy. With the exception of the access to specialist/out-of-network referral, continuity of care, and requirement for financial disclosure provisions, the House Republicans appear to have included virtually every one of the consumer protections recommended by
the President's Quality Commission. They have even (reportedly) included a Federal Court-enforced remedies provision that has a damages cap between $100,000 and $250,000. Less than two months ago, many conservative Democrats and most Republicans would have labeled the current Republican plan as something between excessively regulatory and a Government takeover of the health care system. In fact, just 4 months ago, the Presidents Quality Commission would not even touch the issue of enforcement. The political ground has obviously shifted dramatically.

Administration Reaction of Republican Proposal. We have taken the position that the Republican proposal both affirms the President's longstanding position that strong, Federal, and enforceable legislation is needed and confirms (both through their bill's added and missing provisions) that the Republican Leadership is not serious. In short, we say that any bill without all of the Quality Commission's protections and a strong enforcement provision is nothing more than a "bill of goods." We also charge that any bill that piles on "poison pill" provisions (like MEWAs, arbitrary caps for medical malpractice, and MSAs) is designed to kill, rather than enhance, the chances of an acceptable bill emerging. We will find out how or if the Republicans respond to our criticism when they introduce a bill -- which will not happen until after the July 4th recess.

The Dingell/Ganske/Kennedy Bill and Democratic Positioning. The Democratic Leadership and base Members have been even more critical of the Republican plan than us. Their bill starts with more provisions than were recommended by the Quality Commission and, particularly in the absence of CBO cost estimates for their bill, they are extremely comfortable criticizing the much less comprehensive Republican plan.

The Democratic plan builds on the Quality Commission's recommendations by adding, among other provisions, requirements for ERISA remedies, a medical necessity provision (that prohibits any insurer from denying coverage for any service that a physician deems is medically necessary), mandatory clinical trial coverage, mandatory 48-hour hospital coverage following a mastectomy, mandatory coverage for breast reconstruction following a mastectomy, required access to prescription drugs that are not on a plan's formulary if a doctor deems necessary, and a "whistle blower" provision, which protects health professionals against retribution if they report and document quality problems. Although most of these provisions are generally defensible policy and certainly politically attractive, they do add costs (at least 2 percent higher premiums than the Quality Commission's recommendations.)

Congressional Budget Office (CBO) Estimate. The next big hurdle for the Democrats will be next Wednesday's or Thursday's expected release of the CBO premium estimates of the Dingell/Ganske bill. We anticipate that the premium will be projected to increase by about 4 percent for the average employee, which amounts to about $6 a month. We are working on a positive roll-out strategy for this estimate to buttress our claim that the benefits of any such legislation are more than worth the modest cost. If all agree in the White House, we might want to have the President (next Monday?) or the Vice President announce the generally good-news estimate during the next week.

Likely Republican Response to CBOs Scoring of Dingell/Ganske Bill. The Republican (and the insurer and big business) response to the CBO estimate will be swift and critical. They will cite overall health care expenditure increases (that will amount to billions of dollars, although a small fraction of the nations trillion dollar health expenditures base) and flawed coverage loss projections (probably in the neighborhood of 200,000 to 2 million Americans.) It is important to point out that the likely CBO cost estimate for the Republican bill will be much lower than the Dingell bill -- about one fourth of it (1 percent). If the opponents cost and coverage argument takes hold, it could seriously undermine momentum for the Patients Bill of Rights. We are currently in the process of working on a strong, message document, as well as some Qs & As, to help ensure that we get a positive message from the CBO numbers.

"Blue Dog" Democrats Could Create Difficulty. Finally, it is important to note that some "blue-dog" House Democrats may seriously consider joining up with the Republicans when and

if their bill goes to the floor. They are generally most influenced by the small business lobby and the Republican bill has received its only real support from the NFIB. Similarly, the Senate is populated by numerous Democrats who are and always will be uncomfortable with standing by Senator Kennedy. As a consequence, if the Senate Republicans feel pressured to develop their own Patients Bill of Rights (and Chafee is now drafting a bill), there may be a number of Democrats who could sign on, particularly if the "poison pill" provisions are dropped and a few more patients' protections are added.

Enforcement/Liability/Remedies Provision.

Because of the popularity of HMO regulation, it is probable that a consensus can be achieved on most if not all of the traditionally-desired patient protections. Decisions on what protections make it in will be linked to two variables: CBO cost estimates and perceived political pain associated with opposition to popular provisions. With the possible exception of some of the unrelated "poison pill" provisions mentioned earlier, the only seemingly apparent "line-in-the-sand" issue that could define the difference between Republicans and Democrats might be the issue of need for strong remedies for those aggrieved parties that have suffered serious health consequences or death because a health plan wrongly denied care.

To date, the Administration has consistently stated that this legislation must include a strong enforcement provision -- that a "right without a remedy is no right." To provide us with some flexibility and consistent with our directions from senior staff, we have never locked ourselves into a particular approach.

Both the Dingell-Ganske and the Norwood bills include state-court enforced liability provisions. Simply stated, the bills explicitly clarify that the Employee Retirement Income Security Act (ERISA) would no longer pre-empt or supersede state laws that provide for a right of action against a health plan that has denied care to a patient. Without this provision, the only current remedy a patient can obtain through ERISA law is payment for the cost of the benefit he or she should have had. In other words, for the 122 million Americans in ERISA covered plans, patients cannot get any compensation for treatment costs, pain and suffering, or lost wages.

Current Law Example: Dr. Welby wanted to refer Mrs. Jones to a specialist to conduct a needle biopsy to determine if she has cancer. The plan refused the referral and denied any coverage for the test. The patient, as a consequence, did not go to the specialist or take the test. Six months later, she came back with a more noticeable lump. Dr. Welby argued with the HMO to cover the specialist and the needle biopsy; this time, the HMO paid for it. The specialist then found the patient had a cancer that had spread throughout her body and that it was now untreatable. Had they had the test results 6 months earlier, they could have successfully treated the cancer. Now the patient must undergo a radical mastectomy and, even with that, her survival odds are very low. She is furious and asks her lawyer to sue the HMO. Her lawyer tells her she can, but the only thing she can get compensated for is the cost of the original cancer screening test. She can collect no damages to pay for the mastectomy, the chemotherapy and any other treatment her doctor may order. She gets no compensation for the lost wages from the job she must leave and she gets no enumeration for all the pain and suffering she is going through as a consequence of her HMO denying her treatment.

Fears of Business and Labor (Taft-Hartley) Community. The prospect of opening up health

plans to law suits at the state level petrifies both the business and the Taft-Hartley plans. (Labor has been quiet to date because it is poor P.R., and would hurt our chances of passing a good bill.) They fear that the trial lawyers will ride herd over their plans and that costs will balloon (in terms of lawsuit settlements and/or because their health plans will be so nervous that they will stop making even appropriate denials).

Business-underwritten analyses are projecting an unbelievably high 10-30 percent premium increase. For the last two months, this community has used highly dubious rhetoric that state-based enforcement would leave many businesses no choice other than to drop their health benefits. But the real underlying fear is modifying, in any way, the protections ERISA affords against suits from the states and from aggrieved employees on any benefit an employer provides (health, pensions, leave, etc.).

CBO Projections Do NOT Confirm Concerns of Business Community. Notwithstanding the fears of the liability provisions of the House bills and unprecedented lobbying by the business, insurer and Republican Leadership, however, the preliminary (not for attribution or dissemination) projections from CBO seem to assume that the existence of a state-based right of action would increase premiums by only about 1 percent, about one-fourth the total premium hike projected for the Dingell-Ganske bill. (This figure will not be released by CBO until after it reports on the Dingell bill, which will take place sometime in the next week.) CBO believes that most of the suits are now being directed at doctors and that any new suits against managed care plans would generally substitute for -- not add onto -- what is already out there.

Regardless of the true number, the opponents will pull out all of the guns to stop any state-based liability provision from becoming law. They will use inflated cost projections and attempt to terrify the public into believing that the result of any Patients Bill of Rights legislation will be more regulation, more costs, and a lot more uninsured -- as people will no longer be able to afford needed health insurance.

Enforcement Options. Although there will be numerous other provisions within any Patients Bill of Rights bill that will be debated fiercely, the main outstanding issue is how we resolve the enforcement provision. Remarkably, the issue now is not whether there will be an enforcement mechanism, but rather what that mechanism will be. There are numerous different approaches that could be taken, but there are three primary options:

(1)State-Based Remedies. The Norwood and the Dingell-Ganske et al Patients Bill of Rights bills have a provision that precludes health plans or businesses who make illegal denials of coverage that result in death or injury from using ERISA to pre-empt state-court enforced remedies (if a state has enacted laws that authorize such remedies).
As mentioned above, although this provision is expected to receive a modest premium estimate from CBO, the business community will use all their resources to kill it. No one several months ago believed that any real enforcement mechanism had a chance of passing the Congress; however, buoyed by strong polling, comfort with this provision (and the right to sue HMOs) appears to be growing in the Congress, particularly with the Democrats.

Advantages:

*Already in bills that have received bipartisan support.
*Would not require any new Federal rules (e.g., provisions regarding whether this should include punitive damages, pain and suffering, caps, etc.)
*Relatively easy to explain; opponents have more difficult burden as to why HMOs have more

liability protections than practically any other industry in the nation. (Recent polls indicate strong support to allow individuals to sue HMOs).
*If we want to have the bar set at a place that the Congress is unlikely to meet, this is probably the only one that meets that criteria WITHOUT us taking a new position and looking overly political.

Disadvantages:

*Would make us the target of an all out campaign from the business and insurer industries over an issue that we could well lose in the end.
*The well-financed, largely unanswered and highly orchestrated campaign may succeed in making this an issue about greedy trial lawyers, health care costs, and loss of insurance coverage.
*There is a real chance that neither the House nor the Senate could pass this provision; pushing for such a provision would risk the whole bill, particularly if we make it a line in the sand issue.
*Could risk criticism from some elites who may charge that we are grabbing too much too soon, and blowing any real chance of getting some important patient protection standards enacted into law.

(2)Federal Court Enforcement. A frequently raised alternative to the Dingell-Ganske state-court approach is to provide for a new Federal cause of action (with new rules and remedies) for aggrieved parties. This approach is being considered because it could assure greater uniformity than the state approach and to address employers fear of local bias in the state court system.

Advantages:

*Probably more likely to get passed out of the Congress.
*Although the business community would not like this approach, they could probably live with it -- particularly if caps on awards were provided.
*Labor (Taft-Hartley plans) would likely support this approach.

Disadvantages:

*Would require a great deal of deliberation as to how to structure the new Federal rules (e.g., should there by punitive, pain and suffering, caps, etc.?)
*Assuming the pressure from the business community successfully produced award caps, this approach would make us much more vulnerable on similar medical malpractice cap issues.
*It will be more expensive and time consuming for consumers to have their cases heard and resolved.
*Federal courts have no experience in trying these cases.

(3)Civil Monetary Penalties -- either enforced through Federal Courts, Administrative Law Judges or HHS/Labor. To avoid time-consuming, jury-involved cases, a new system of civil monetary penalties could be devised for aggrieved consumers. Unlike traditional CMPs, the penalties paid by the plans would go directly to the aggrieved party -- not back to the courts or government.

Advantages:

*Much more likely to pass the Congress as it seems to most resemble rumors about the Republican enforcement provisions. Face saving on both sides could be achieved by simply raising the CMPs that could be awarded.
*Business would support since long, drawn-out court proceedings could be avoided and there would be no unpredictable punitive/pain and suffering settlements.
*Consistent with current ERISA enforcement practices in other areas.

Disadvantages:

*Individuals could not seek and obtain punitive/pain and suffering awards, which some would argue would most influence good behavior by health plans.
*Because individuals could obtain, some would argue the remedy cannot be calibrated to actual harm.
*If the Departments were to be enforcers of CMPs, we would have to obtain more administrative resources, which the Congress would likely not fund.
*If we want to keep the bar high enough to make it impossible for Republicans to support, we would not choose this option.

In conclusion, because of the interest on the Hill on this issue, we need to fully recognize that our positioning on the Patients Bill of Rights may not be fully adopted by the Democrats on Capitol Hill. While much of our base is taking a "keep the bar high and do not pass legislation" position, our moderate Democrats generally want to see a bill passed. There are exceptions to this rule, but it is clear that we will have to keep close tabs of our Democrats to ensure that our position -- whatever it is -- is not undermined. Larry Stein believes we will need to continue to hold meetings with the Members and the staff to assure that outcome.

I hope this information is useful. In order to assure the Administration is on same page regarding positioning and policy strategy, I would advise we hold a meeting in short order to review options. In preparation, I am enclosing a one page side-by-side document comparing the provisions of the various proposals. Please call if you have any further questions.
FFUnder ERISA you can now go to court to get benefits. You can also go to Labor, HHS or the state insurance commissioner (yapping) who can bring civil and monetary penalties as a look behind? If you are hurt in an ERISA plan, you can only get benefits. If you are not in an ERISA plan (like in an individual market or church plan), you can sue for violation of contract, and can recover damages as permitted by law.

A civil, monetary penalty. Go to court and have individual award. Genetic screening example. Most Federal actions can be brought in state court. Once genetic info goes out in public domain, the problem cant be addressed except through a money award. Defendant pays directly to the plaintiff. Like a Qui Tam suit. Not a trial for damages; it must be in front a jury.

Republicans: A thousand dollars up to a cap. Addresses on ongoing plan problem; not a damages problem.

Federal courts could run a trial with a jury. A new Federal cause of action with new Federal rules.

Alternatives:

6th Amendment problem. Trial for damages needs a jury. End up in state or Federal court with a damage.

Liquidated/schedule damages. Schedule of benefits/damages. You die, you get X much.

Federal cause of action. If you do this, you might have to specifically address the issue of punitive damages, pain and suffering, loss wages,

Beefed up Agency enforcement. Higher civil and monetary penalties. Right to requires info on compliance form insurers. Do market conduct investigations (the right to do this. Same as what state commissioners have. And money for enforcement

Do an Administrative Law Judge process rather than going to Federal court. Maybe faster and certainly and does not necessarily require a lawyer. Penalties but not damages. Modification of Republican proposal

MEMORANDUM FOR THE DIRECTOR

THE DEPUTY DIRECTOR

From: Barbara Chow/EIML Division

Subject: Weekly Report, through April 16, 1999

Date: April 19, 1999

Elementary and Secondary Education Act Reauthorization: I have been working closely with Bruce Reed and Elena Kagan to resolve the major issues concerning social promotion policy, as raised by the Civil Rights groups and the Kennedy staff. We hope to come to closure early this week. In addition, EIML staff and I continue to work with LRD to review and resolve issues on the many other parts the ESEA bill, in anticipation of the April 28 Presidential transmittal. Meeting that deadline will be very difficult, but ED Deputy Secretary Smith believes it is possible.

Food Stamps. We continued review of Food Stamp participation and cost declines. We are refining an estimate of a likely acceptable BA offset for use in the Emergency Supplementals, if necessary. We are also working with Ag/FNS on policy and administrative changes that might address the part of participation decline not attributable to the economy.

Youth Opportunity Grants (YOG). DOL hopes to solicit applications for the first round of YOG sites funded by the FY 1999 appropriation of $250 million within the next month. EIML staff met with DOL to discuss two significant policy changes DOL is considering: 1) increasing the number of sites from the 15-20 assumed in the Budget to 30-35; and 2) providing a constant grant level to each site each year for 5 years, as opposed to the Budgets assumption of declining Federal funding and rising grantee matching. Both changes appear to us to dilute the potential impact of the initiative and to put pressure on the discretionary budget for the future. If DOL policy officers persist in this approach, a policy level meeting will be required.

College Completion Challenge Grants: EIML staff are nearing clearance of the Department of Educations draft legislation for College Completion Challenge Grants, and FY 2000 budget initiative. Final clearance and transmittal are expected this week. EIML staff met with staff for Senator Kennedy, Rep.Clay, and Rep. Fattah to plan strategy to garner support for the bill. The proposal is opposed by the "TRIO" program lobby, which operates somewhat

similar Federal programs, and fears diversion of funds.

DC College Access: The House Subcommittee on DC approved Representative Davis bill, including broadening it to reach all U.S. public institutions and authorizing $3,000 scholarships to attend private institutions in DC, Virginia, and Maryland. EIML staff and ED have continued to work closely with Senator Jeffords to develop a bill that better reflects Administration priorities.

Vocational Rehabilitation: ED A/S Heumann came to my office to present the interim findings of EDs longitudinal study of the Vocational Rehabilitation program, and to begin an OMB-ED dialogue on performance and funding of Rehabilitation programs. ED believes these programs are underfunded in the context of their goals and performance, and that OMB has shown little interest in them. The study is still a year or two away from providing performance data, but the discussion was useful in opening an OMB-ED dialogue on how to think about these programs for the FY 2001 and future budgets. EIML staff and ED will continue the discussions which should, at minimum, result in a better justified FY 2001 submission from ED.

Report on effects of Social Security Reforms on Women: SSA recently completed an analysis at the request of Senator Mikulski that examines the differential impact of several reform options by gender and income level. SSA is scheduled to provide results to Mikulski Wednesday, April 21. There is interest at NEC in using the release of this report for a Presidential event with Mikulski, if the timing can be worked out. The analysis examines the effect of one revenue option, four traditional benefit cut options, and two forms of individual accounts -- flat dollar amount and percent of payroll. The analysis revealed that traditional reforms as well as individual accounts do affect women somewhat differently than men due to differences in life expectancy, labor force participation and earnings histories. However, the differential effects are mitigated to some extent by the fact that women are often part of households that include men. (That holds for individual accounts as well.) The analysis also showed that certain benefit reductions result in a greater percentage reduction in overall household income for low-income retiree households than for high-income retiree households, because Social Security generally comprises a greater share of total income for low-income households.

Welfare-to-Work Reauthorization. EIML worked with LRD, DPC, and OIRA to clear legislation that would reauthorize the Welfare-to-Work (WTW) grant program in FY 2000, as provided in the FY 2000 budget. Key provisions include simplifying the eligibility criteria, promoting services to non-custodial parents, increasing resources for Indian tribes, and streamlining the reporting requirements. DOL has provided the reauthorization language informally to Rep. Cardin, who will sponsor the bill in the House. Secretary Herman and Rep. Cardin will announce the bill's introduction on April 20th.

H-1B Visa Cap Status and Regulation. It appears that we already have reached the new 115,000 cap for FY 1999. INS has approved 96,000 petitions and has more the 19,000 on hand. INS is reviewing better ways to manage the cap. The Administration has not been contacted by industry groups on reaching the cap, although the press has been calling the WH. Senator Abraham's staff are aware of the situation but do not currently have plans to seek an additional increase.

On January 5, 1999, DOL published the proposed H-1B regulation implementing the additional worker protections enacted under the "American Competitiveness and Workforce Improvement Act of 1998." The comment period on the proposal closed February 19, 1999. DOL received

88 comments on the proposal. DOL is currently reviewing these comments and will revise the regulation as it determines in light of the various views. DOL anticipates submitting the draft final regulation to OMB for review in late April.

BUDGET ROLL-OUT AND AMPLIFICATION
January 26-February 7, 1999
(DRAFT--January 28, 1999 at 8:00am)

TUESDAY, JANUARY 26 (Done)
General/Print:
*Regional Press on Women Mayors Social Security meeting

WEDNESDAY, JANUARY 27 (Done)
Leg. Affairs:
*3:45pm--Social Security Briefing of Ways & Means Democratic staff in 1139 Longworth HOB [Surrogates: Mathews(c), Sperling(c), Apfel(c), Summers(c)]
*5:00pm--Social Security Briefing of Finance Democratic staff in Dirksen 215 [Surrogates: Mathews(c), Sperling(c), Apfel(c), Summers(c)]

THURSDAY, JANUARY 28
Television:
*(T) 6:00pm--Lehrer News Hour Interview [Surrogate: Sperling(T)]

Cabinet Affairs:
*11:00am--Conference call for agency Communications Directors [Surrogates: Lockhart(T), Palmieri(c), Ricci(c), Spector(c)]
*1:30pm--Conference call for Regional Administrators [Surrogates: Palmieri(c), Spector(c), Lori McHugh(c)]

Leg. Affairs:
*2:30pm--Social Security briefing for Blue Dogs [Surrogates: Joe Minarik(c), Goss(c)]
*4:00pm--Social Security briefing for House and Senate Budget Democratic staff in HC-9 [Surrogates: Mathews(c), Sperling(c), Apfel(c), Wilcox(c)]

THURSDAY, JANUARY 28 (afternoon) or FRIDAY, JANUARY 29 (morning)
Print:
*Briefing at weekly meeting with news magazines on Social Security and budget [Surrogate: Lockhart(c)]

FRIDAY, JANUARY 29
General/Print:
*10:15am--Social Security briefing at National Press Club [Surrogate: Sperling(c)]

Leg. Affairs:
*9:15am--Social Security briefing for Senate Task Force Members in SD-562 [Surrogates: Lew(c), Sperling(c), Apfel(c), Stein(c)]
*10:30am--Joint briefing for House and Senate Democratic Budget/Appropriations/Ways & Means/Finance staff in HC-9 [Surrogates: Mathews(c), DeSeve (c), Gotbaum(c), Joe Minarik(c), Dick Emery(c), PADs(c), WH Leg. Affairs (c) and OMB Leg. Affairs(c)]
*1:00pm--Briefing for Senate Democratic AAs, LDs and Leadership staff in S-211, Capitol [Surrogates: Mathews(c), DeSeve(c), Gotbaum(c), Joe Minarik(c), Dick Emery(c), PADS(c), WH Leg. Affairs (c) and OMB Leg. Affairs(c)]
*(T) 2:00pm--Social Security briefing for Finance Committee Republican staff [Surrogates: Sperling(c), Apfel(c), Stein(c)]
*3:00pm--Briefing for House Democratic AAs, LDs and Leadership staff in HC-5

[Surrogates: Mathews(c), DeSeve(c), Gotbaum(c), Joe Minarik(c), Dick Emery(c), PADs(c), WH Leg. Affairs (c) and OMB Leg. Affairs(c)]

WEEK OF JANUARY 23-29
Television:
*(T) Interviews for news and business shows [Surrogates: Lew(T), Mathews(T), Sperling (T), Yellen(c)]

Radio:
*(T) Interviews for radio [Surrogates: Lew(T), Mathews(T), Sperling(T), Yellen(c)]

SUNDAY, JANUARY 31
Television:
*(T) Sunday morning shows [Surrogates: Lew(T), Mathews(T), Sperling (T)]

MONDAY, FEBRUARY 1
*7:00am (embargoed until 8:00am)--Wires get budget
*7:30am--OMB Leg. Affairs distribution of FY2000 Budget
*9:00am--Conference call with Cabinet [Surrogate: Lew(c)]
*10:00am--BUDGET ROLL-OUT EVENT (East Room)
*10:00am--Budget and other amplification materials will be put up on WH web site
*11:45pm--Press Budget briefing in OEOB 450 [Surrogates: Lew(c), Mathews(c), Rubin(c), Sperling(c), Yellen(c)]
*12:30pm--Cabinet Agencies begin briefings
*1:00pm--Roundtable with budget reporters (OMB organizing) [Surrogate: Lew(T)]
*1:00pm--OPL conference call for regional constituency group leaders (other offices can feed in) [Surrogate: Mathews(c)]
*2:00pm--IGA briefing for DC representatives from 50 states , DC representatives for cities and counties, Tribal leaders and state legislators in the Truman Room of the White House Conference Center [Surrogate: Mathews(c), DeSeve(c),Yellen(T)]
*2:00pm--Technical briefing for Budget/Appropriations [Surrogates: Chuck Kieffer(c), Dick Emery(c)]
*3:00pm--IGA conference call with 20 key mayors [Surrogates: Gotbaum(T), Lewis(T)]

*3:00pm--White House briefing for national constituency group leaders in OEOB 450 (OPL organizing and other offices can feed in) [Surrogates: Lew(T) or Mathews(T), Gotbaum(c), PADs(c)]
*4:00pm--Climate Change Budget briefing in OEOB 450 [Surrogates: Stern(c), George Frampton(T), Elgie Holstein(T), Neal Lane(T)]
*4:00pm--Joint House and Senate Bipartisan Staff Briefing [Surrogates: Mathews(c), Gotbaum(c), DeSeve(c), Joe Minarik(c), Dick Emery(c), PADs (c) and WH Leg. Affairs staff(c)]
*(T) Cabinet/Sub-Cabinet conference calls on targeted issues with press [Education and Training, Health, Research and Technology, Environment, Community Empowerment, Legal Immigrants, Crime, Working Families, Defense, Tobacco, Race(T)]
*(T) Targeted calls to editorial boards, pundits [Surrogates: Lew(T), Mathews(T), Sperling(T), WH Senior Staff]

Television:
*(T)Interviews for morning shows, news and business shows [Surrogates: Lew(T), Mathews(T), Sperling(T), Yellen(c)]
*(T) Interview for Lehrer News Hour [Surrogates: Lew(T)]
*(T) Interview on cable news [Surrogate: Echaveste(T)]

Radio:
*(T) Interviews for radio [Surrogates: Lew(T), Mathews(T), Sperling (T)]
*(T) Interview with Bloomberg Business Radio [Surrogate: Lew(T)]
*(T) Interview with NPR Marketplace [Surrogate: Lew(T)]
*(T) Interviews with radio [Surrogates: WH Senior Staff]

Specialty Media:
*1:45pm--Conference call with Latino newspapers [Surrogate: Echaveste(c)]
*Interviews for Hispanic TV [Univision (1:00pm), Telenoticias (1:10pm), Telemundo (1:20pm)] [Surrogate: Echaveste(c)]
*Early morning and drive-time interviews for Hispanic radio [Surrogate: Echaveste(c)]
*Conference call with African American newspapers [Surrogate: Ben Johnson(T)]
*(T) Conference call with Asian American newspapers [Surrogate: Barbara Chow(T)]

Internet Media:
*Time TBD--Interview with Time Magazine.com on budget (story will be posted on web site and run for rest of week) [Surrogate: Mathews(T)]

TUESDAY, FEBRUARY 2
General/Print:
*(T) Cabinet/Sub-Cabinet conference calls on targeted issues with press [Education and Training, Health, Research and Technology, Environment, Community Empowerment, Legal Immigrants, Crime, Working Families, Defense, Tobacco, Race(T)]
Television:
*(T)Interviews for morning shows, news and business shows [Surrogates: Lew(T), Mathews(T), Sperling(T)]

Radio:
*(T) Interviews for radio [Surrogates: Lew(T), Mathews(T), Sperling(T)]

Specialty Media:
*Interviews for Native American media [Surrogate: Lynn Cutler(T), Mathews(T)]
*Early morning and drive-time interviews for Hispanic radio [Surrogate: Echaveste(c)]

Internet Media:
*7:30pm(EST)--Live interview with MSNBC On-Line on budget [Surrogate: Reed(T)]
*Time TBD--Q&A interview with Washington Post.com on budget (answers will be posted on web site and run for rest of week) [Surrogate: Mathews(T)]

Cabinet Affairs:
*8:30am--Briefing for Cabinet Chiefs of Staff [Surrogates: DeSeve(T), Gotbaum(T), Sperling(T), Yellen(T)]

Leg. Affairs:
*9:30am or 10:00am--Senate Finance Hearing [Surrogates: Rubin(c), Mathews(T)]
*10:00am--Congressional Testimony at Senate Budget Committee [Surrogates: Lew(c)]
*1:00pm--Democratic Senators Weekly Lunch [Surrogates: Lew(c), Stein(c)]
*4:00pm--Briefing for House Budget Committee Democrats [Surrogate: Lew(c)]

First Ladys Office:
*(T) Briefing for Arts community [Surrogate: HRC]

WEDNESDAY, FEBRUARY 3
General/Print:
*Conference calls on targeted issues [Surrogates: Cabinet Secretaries(T) or Sub-Cabinet(T)]

Leg. Affairs:
*10:00am--House Budget Committee Hearing [Surrogate: Lew(c)]
*10:00am--Senate Budget Committee Hearing [Surrogates: Rubin(c), Mathews(T)]

Womens Office/Leg. Affairs:
*Time TBD--Budget briefing on Hill for Women Congressional Members [Surrogates: Mathews(T)]

THURSDAY, FEBRUARY 4
Leg. Affairs:
*10:00am--House Ways & Means Hearing [Surrogates: Rubin(c), Mathews(T)]

FRIDAY, FEBRUARY 5
General/Print:
*(T) Roundtable with regional outlets [Surrogates: Sperling(T), Lew(T)]
*(T) Breakfast with pundits, columnists [Surrogates: Sperling(T), Lew(T)]

Leg. Affairs:
*National Conference of State Legislators [Surrogates: Lew(c)]

WEEK OF FEBRUARY 1-7
General/Print:
*Regional editorial board mailings with State-by-States
*Roundtables with regional outlets (when State-by-States are releasable) [Surrogates: Lew(T), Sperling(T)]

Specialty Media:
*Specialty press conference calls [Surrogates: TBD]
*Specialty press mailings to Native American, Health, Seniors, Disability, African American and Hispanic media

SUNDAY, FEBRUARY 7-TUESDAY, FEBRUARY 9
*House Democrats Retreat (POTUS and VP attending)

SURROGATES
Gene Sperling
Jack Lew
Sylvia Mathews
Janet Yellen
Bruce Reed
Elena Kagan
Josh Gotbaum
Maria Echaveste
Sally Katzen
Larry Summers
Larry Stein

Ed DeSeve
Sec. Rubin (?)
OMB Program Area Directors (PADS)--Michael Deich, Barbara Chow, Elgie Holstein, Dan Mendelson and Bob Kyle

PAPER NEEDED FOR BUDGET ROLL-OUT
(Communications will serve as clearinghouse for distribution of paper to WH Offices)
Overview Talking Points (NEC) (Friday at Noon)
Economic and Fiscal Record (NEC) (Monday)
Issues Paper (OMB)--(Monday)

- Education and Training
- Health
- Research and Technology
- Environment
- Community Empowerment
- Legal Immigrants
- Crime
- Working Families and Child Care
- Defense
- Tobacco
- Race

Accomplishments (Done)
Sample Op-eds and Letters to the Editor (Communications)

July 21, 1998

MEETING WITH ECONOMIC ADVISORS

DATE: July 22, 1998
TIME: 12:00pm-12:45pm
LOCATION:Cabinet Room
FROM:Gene Sperling

I.PURPOSE

Erskine Bolwes requested that you meet with your economic advisors again, as you did last month, to update you on key economic, financial, and budgetary issues. We will discuss (1) possible strategies to buffer our "Save Social Security First" position against Republican tax cut proposals; (2) the state of the economy with respect to second quarter GDP growth; and (3) the current financial situation in Asia and Russia and its effect on the global economy.

II.BACKGROUND

Tax Cuts/Surplus. It appears that the Republicans will try to tap the surplus to pay for their tax cuts. We will discuss with you ways to strengthen the resolve of Democrats to Save Social Security First and our efforts to work with them to fashion an alternative tax cut that advances your priorities. The IRS bill signing event (immediately following this meeting) provides an opportunity to build on the strong message you delivered last Friday on the surplus.

State of the Economy. We will review the latest economic indicators and forecasts for GDP growth in the second quarter and the rest of the year. In light of recently released data on trade flows and inventories, most forecasters have revised downward significantly their estimates of second quarter GDP growth. Many analysts now expect the advance estimate of second quarter GDP, to be released on July 31, to show near-zero and conceivably negative growth. We will highlight three factors responsible for the changed assessment: the GM strike, the impact of Asian financial crisis on U. S. trade, and the significant decline in inventory investment from its record level in the first quarter. We also want to discuss with you the prospects for growth in the second half of 1998 and the year as a whole and analyze some key risks to the forecast.

Global Economy. Secretary Rubin and Erskine remain concerned about the economic situation in four countries: Russia, Ukraine, Japan, and Pakistan. In particular, we will discuss the nature of the IMF program and challenges ahead for Russia; the current financial situation in Ukraine; the impact of sanctions on Pakistan*s financial situation; and the continued lack of direction in Japan*s banking and fiscal priorities.

III.PARTICIPANTS

The President

The Vice President
Erskine Bowles
Sylvia Mathews
Maria Echaveste
John Podesta
Gene Sperling
Jack Lew
Janet Yellen
Ron Klain
Larry Stein
Secretary Rubin
Larry Summers
Rahm Emanuel
Paul Begala
Bruce Reed
Elena Kagan
Lael Brainard
Tim Geithner
Sandy Berger
Jim Steinberg
Jill Blickstein
Leon Fuerth

IV.SEQUENCE OF EVENTS

You will meet with your advisors in the Cabinet Room.

V.PRESS COVERAGE

NONE

VI.REMARKS

NONE

VII.ATTACHMENTS

a.Options for Surplus/Tax Cut Strategy
b.CEA Review -- The Current Economic Status
c.Treasury

*

*Figure 1

November 9, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Jacob J. Lew
Gene B. Sperling

SUBJECT: Fiscal Year 2000 Budget Overview

On Tuesday, you are scheduled to drop by the cabinet meeting where we will be discussing the fiscal year (FY) 2000 budget. As we discussed last week, there is a broad sense among members of the cabinet that resources are abundant this year. It would be very helpful for you to send a clear signal at this meeting that the budget will be constrained by our commitment to save the surplus until we fix social security. This memorandum provides an overview of the fiscal year 2000 budget outlook and describes the tension inherent in this years budget decisions. Attached are talking points for you to use at the cabinet meeting.

The framework and early signals you send are very important. Your FY 2000 budget must both set forward your domestic, international and defense priorities and preserve your commitment to save the surplus until we fix Social Security. While we need to save the surplus to take our best shot at Social Security reform, we must also set forth your priorities to position us to engage in spring/summer budget negotiations regardless of the disposition of Social Security. We will work with the policy councils to make room, within these constraints, for initiatives. The policy councils understand that the level of funding for new initiatives for the State of the union will need to be balanced against our need to protect the surplus.

Discretionary resources remain very tight in FY 2000. The FY 2000 discretionary spending caps represent a virtual freeze of discretionary spending. Moreover, not all of the offsets that we used last year to offset spending above the caps are available for this years budget. For example, your FY 99 budget used tobacco revenue and mandatory savings from the repeal of the VA/tobacco benefit. This means that before we commit resources to new initiatives, we must find substantial new offsets simply to keep $9.3 billion in commitments above the caps from last years budget.

Although tobacco legislation never passed, and VA/tobacco savings were used to finance the

highway bill, we nonetheless did very well in 1999 by finding alternative means of financing many of our increases. In addition to the emergency spending of $20.8 billion, the final omnibus contained roughly $3 billion in spending that was offset from one-time mandatory savings and an additional $4.3 billion funded through a budgetary device called advanced appropriations -- which shifted certain late spending funding to October 1, 1999 and therefore into the next fiscal year. This $7.3 billion financed many of the initiatives in your budget.

In addition to the discretionary commitments enacted last year, your budget also proposed multi-year programs such as class size and child care, which also require offsets. Because these were funded out of the tobacco revenue, either we will need to once again use tobacco for this purpose or we will need to find other offsets. We have been working with Bruce Reed and Elena Kagan to develop a tobacco spending program that might do more to enhance chances for passage of tobacco legislation. However, unless tobacco revenue is used to finance old commitments, we will find ourselves short of the offsets needed to avoid spending the surplus. This means we cannot assume that tobacco revenue is available to fund new programs.

In total we need $20 billion in offsets just to stay even with the spending side commitments made in last years budget. We are developing options to meet this target, but they will require many difficult decisions. There will be substantial tension between agency demands for core government funding -- in particular to fund the pay raise -- and funding for new initiatives. Any commitments to new initiatives will need to be financed by either reducing spending elsewhere or by increasing the amount of offsets that will be required. Additional offsets will not be easy to find and will be increasingly controversial.

Beyond the funding gap that must be closed simply to continue last years policies, agency requests add up to impossible demands for new spending. DOD has requested $20 billion over their guidance level and the other agencies have requested a total of $40 billion over their aggregate guidance levels. Any spending over the guidance level will add to the $20 billion financing problem.

As we work through the details of the FY 2000 budget and you make decisions on policies such as tobacco legislation, we will begin to know more accurately how tight the funding really is. In addition, there are new issues we need to work through in FY 2000. For example, the "firewall" between defense and discretionary spending no longer exists and any defense increases will appear to be funded at the expense of domestic programs, and vice-versa.

Living within the caps and finding resources for State of the Union initiatives will require very difficult choices in virtually every department. We will be able to include initiatives in the State of the Union, but we will also need to make tough decisions on the trade-offs. This means that while we are encouraging agencies to think creatively about initiatives, we also need to push hard on agencies to live within guidance. We, along with John Podesta, recently met with the Department of Defense to underscore the need to fund readiness needs within agency totals to the maximum extent possible. We are planning a similar meeting with the State Department and we are having separate conversations with many agency heads. It would be very helpful if you send the same message at the cabinet meeting on Tuesday.

ATTACHMENT

FF

TALKING POINTS FOR THE NOVEMBER 10
CABINET MEETING DROP BY

*I would like to take just a few minutes to talk about the 2000 budget process. I know that each of you has worked hard to present me with budget alternatives that will help continue the strong agenda I have pursued. It is important that we continue to think creatively about new policies. However, it is also important that we match this enthusiasm with our commitment to saving the surplus until we have fixed Social Security.

*As I have said time and again, I am committed to saving the surplus until we have fixed Social Security for future generations. This is our best shot at Social Security reform and my 2000 budget decisions will need to be considered within this constraint.

*John Podesta, Jack Lew and the rest of the budget team are working hard to come up with ways to finance my priorities, but resources will be tight in 2000.

*Maintaining the fiscal discipline that we have fought so hard to achieve will require very difficult choices in every department. We will have to make some very tough decisions about which initiatives we can afford, while continuing to protect the surplus.

*I appreciate your continued dedication to moving forward with both the mission of your individual agencies and with the broad economic policy that has done so much to promote a thriving economy.

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November 9, 1998

MEETING WITH BUDGET TEAM
ON 2000 BUDGET

DATE:November 10, 1998
LOCATION:Oval Office
TIME:6:00-7:00pm
FROM:Jack Lew
Gene Sperling

I.PURPOSE

To discuss the current economic and budget situation, and highlight major decisions, including how to deal with budgetary pressures while saving the surplus until Social Security is fixed. Your guidance will inform OMBs reviews of the Departments submissions and the passbacks to the Departments before Thanksgiving.

II.BACKGROUND

See attached memorandum.

III.PARTICIPANTS

Meeting
The President
The Vice President
John Podesta
Maria Echaveste
Secretary Rubin
Larry Summers
Gene Sperling
Jack Lew
Sandy Berger
Janet Yellen
Larry Stein
Ron Klain
Bruce Reed
Doug Sosnik
Paul Begala
Sylvia Mathews

Sally Katzen
Elena Kagan

IV.PRESS PLAN

Closed press.

V.SEQUENCE OF EVENTS

6:00-7:00pmBriefing and discussion with your advisors

VI.REMARKS

No remarks.

VII.ATTACHMENTS

Memorandum
Talking Points

A. I. A.
1. 1. a. (1) (a) i) a)

I. (1) (a)
A.
1. a.
I. i) a)

December 18, 1997

MANDATORY AND TAX OPTIONS IN THE FY 1999 BUDGET

DATE:December 19, 1997
TIME:9:00a.m.-10:00a.m.
LOCATION:Cabinet Room
FROM:Gene Sperling
Frank Raines

I.PURPOSE:

To finish reviewing both alternative mandatory spending options and tax side options for the FY 1999 budget.

II.BACKGROUND:

We will finish up our discussion of key mandatory issues, including child care, higher education, food stamps, school construction and TAA and options for financing new mandatory initiatives such as revenue from the tobacco tax. We will then move on to a discussion on options on the tax side, including both uses and sources of revenue. The sources, generally, are revenue raisers we have proposed in the past. The uses include initiatives such as child care, climate change and pensions.

III.PARTICIPANTS:

The Vice President
Erskine Bowles
Frank Raines
Gene Sperling
Secretary Rubin
Jack Lew
Josh Gotbaum
Larry Summers
Janet Yellen
Ron Klain

Rahm Emanuel
Bruce Reed
Elena Kagan
John Hilley
Sylvia Mathews
John Podesta
Paul Begala
As Appropriate, OMB and Treasury Specialists Will AttendIV.SEQUENCE OF EVENTS:

-- Frank Raines, Gene Sperling, and Jack Lew will review a set of alternative options on both the mandatory and tax sides.

V.PRESS COVERAGE:

None

VI.REMARKS:

None

A. I. A.
1. 1. a. (1) (a) i) a)

I. (1) (a)
A.
1. a.
I. i) a)

December 6, 1997

SOURCES OF NEW SPENDING IN THE FY 1999 BUDGET

DATE:December 9, 1997
TIME:5:00 - 6:00 p.m.
LOCATION:Cabinet Room
FROM:Frank Raines
Gene Sperling

I.PURPOSE:

To review potential sources of additional funds for new initiatives in the FY 1999 budget.

II.BACKGROUND:

Similar to last year, OMB and the NEC have scheduled a series of meetings with you to provide you with choices and solicit your decisions on funding priorities in the FY 1999 budget. At this meeting, Frank Raines, Gene Sperling, and Jack Lew will review potential discretionary and mandatory savings and additional revenues that will provide room for new initiatives.

III.PARTICIPANTS:

The Vice President
Erskine Bowles
Frank Raines
Gene Sperling
Secretary Rubin
Jack Lew
Josh Gotbaum
Joe Minarik
Barry Anderson
Larry SummersJanet Yellen
Ron Klain
Rahm Emanuel
Bruce Reed
John Hilley

Sylvia Mathews
John Podesta
Paul Begala
Elena Kagan
Chuck MarrIV.SEQUENCE OF EVENTS:

-- Frank Raines and Gene Sperling will open the discussion with a series of savings/revenues options.

V.PRESS COVERAGE:

None

VI.REMARKS:

None

VII.ATTACHMENTS

None

July 4, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN

SUBJECT: Crack/powder cocaine sentencing recommendations

The attached Bruce Reed/Elena Kagan memo recommends that you accept a recommendation from the Attorney General and Director McCaffery and authorize them to work with Congress on legislation to change the threshold for a 5-year mandatory sentence for crack cocaine from 5 grams to 25 grams and from 500 grams to 250 grams for powder cocaine -- a ratio of 10:1 rather than the current 100:1. You should act upon this before your trip if possible.

Background. In May 1995, the U.S. Sentencing Commission voted to make the ratio 1:1 at 500 grams for both substances. The Administration opposed these changes and, in October 1995, you signed legislation rejecting them and directing the Sentencing Commission to submit new recommendations to Congress. On April 29, the Commission submitted the new report that suggested a range of 25-75 grams for crack and 125-375 grams for powder. You asked the AG and McCaffery to review the recommendations.

Recommendations. The AGs and McCafferys recommendations stand upon a three-pronged rationale. First, the revised sentencing structure would help federal prosecutors and law enforcement officials better allocate resources by enabling them to focus on mid- to high-level dealers and permitting state and local prosecutors to focus on lower level dealers. Second, the current 100:1 ratio is outdated because the rates and danger of crack and powder use have narrowed over the years. Third, the current ratio is a symbol of racial bias and that our proposal would reduce the perception of injustice and inconsistency.

Congress. Next week, Senators Hatch and Abraham may offer an amendment to the juvenile justice bill lowering the minimum for powder to 100 grams while leaving crack at 5 grams -- a 20:1 ratio. Other Members have proposed lowering powder to as low as 5 grams for a 1:1 ratio. Bruce/Elena note that addressing the disparity in this manner will increase the federal governments role in low-level drug cases, overwhelm the courts and add billions to the federal prison budget.

Views. Bruce/Elena believe that the recommended changes represent the middle ground and the best hope of achieving progress on the issue. They advocate getting into the debate now and pushing for sensible legislation, but note that the Congressional Black Caucus will criticize 10:1 and advocate for further reducing the ratio. Ben Johnson notes that 10:1 will not sit well with the African-American and Hispanic communities, but that agrees that we need to enter the debate so as to push for sensible legislation. Rahm notes that our communications strategy will need refining from the current Reno/McCaffery approach, but agrees with the underlying decision to accept 10:1 and move ahead. Ann Lewis concurs. John Podesta would like to get a sense of where you stand on the issue before you depart, and then meet about the communications strategy on Monday before making any further moves

as several relevant senior staffers are out of town for the holiday. Once our strategy is set, he would like to confirm with you on the road.

Recommendation. Enter the debate based on the Reno/McCaffery recommendation, but move forward only after a communications strategy is set:

_____ Agree _____ Disagree _____ Discuss

September 14, 1998

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Jack Lew

FROM: Donald R. Arbuckle

SUBJECT:DOT Rule on Intercity Buses

We have nearly completed our review of a final Department of Transportation (DOT) rule that will provide improved access for wheelchair-bound passengers to intercity buses. The rule will require intercity fixed-route bus companies (i.e., Greyhound, Peter Pan) to provide wheelchair lifts on their buses. At least one-half of each company's buses must be made wheelchair accessible within 6 years, with the remainder accessible within 12 years. Small companies are subject to much less stringent requirements. The costs of the rule have been reduced substantially from the proposal -- about $25 million in annual costs as compared to $50 million at the proposed stage. Most of this reduction is in relief to smaller carriers and charters.

I have talked with representatives of both the disabled community and the industry. The disability community strongly supports the rule and has been fighting ardently for the wheelchair lift requirement for years. Smaller companies and charter operators (about 3500 companies) will also be reasonably satisfied. However, the largest companies, such as Greyhound, who have argued most strongly against the rule, will not be happy. Greyhound has been advocating a much less costly plan that would provide reasonable accommodation to the disabled on 48 hours notice. Disability groups regard this as "discriminatory", since non-handicapped passengers can purchase tickets without a 48-hour notice. In addition, these groups do not believe Greyhound's plan will work. DOT agrees.

The final rule is under a September 15 court ordered deadline and we are working with DOT to complete our review asap.

FF

cc:Maria Echaveste
Rahm Emanuel
Larry Stein
Ron Klain
Thurgood Marshall, Jr.
Ann Lewis
Sally Katzen
Minyon Moore
John Podesta

Bruce Reed
Gene Sperling
Elena Kagan
Barry Toiv
Michael Waldman
Janet Yellen
Mickey Ibarra
Michael Deich

M E M O R A N D U M

June 25, 1998

TO:Rahm Emanuel

FR:Chris Jennings

RE:Patient's Bill of Rights Status

cc:Sylvia Matthews, Bruce Reed, Larry Stein, Gene Sperling, Ron Klain, Elena Kagan, Janet Murguia, Chuck Brain, Sally Katzen

This memo responds to your request for an up-to-the-moment status report on the Republican Leadership's Patients' Bill of Rights. It also outlines positioning options for the President's and your consideration vis a vis the bill in general and the enforcement provisions more specifically.

House Republican Patients Bill of Rights. The reaction to the House Leadership's announcement of their intention (they have provided no details) to introduce a Patients' Bill of Rights has been almost universally negative. The base Democrats, the consumer advocates, and the providers have labeled it a "sham;" the insurers and big business community are criticizing it as overly regulatory. Notwithstanding the positioning nature of these reactions, it is remarkable how far the Republicans apparently have moved toward the President's position.

Status of Policy. With the exception of the access to specialist/out-of-network referral, continuity of care, and requirement for financial disclosure provisions, the House Republicans appear to have included virtually every one of the consumer protections recommended by the President's Quality Commission. They have even (reportedly) included a Federal Court-enforced remedies provision that reportedly has a damages cap of between $100,000 and $250,000. Less than two months ago, many conservative Democrats and most Republicans would have labeled the current Republican plan as something between excessively regulatory and a Government takeover of the health care system. In fact, just 4 months ago, the Presidents Quality Commission would not even touch the issue of enforcement. The political ground has obviously shifted dramatically.

Administration Reaction of Republican Proposal. We have taken the position that the Republican proposal both affirms the President's longstanding position that strong, Federal, and enforceable legislation is needed and confirms (through their bill's provisions or lack thereof) that the Republican Leadership is not serious. In short, we say that any bill without all of the Quality Commission's protections and a strong enforcement provision is nothing more than a "bill of goods." We also charge that any bill that piles on "poison pill" provisions (like MEWAs, arbitrary caps for medical malpractice,

and MSAs) is designed to kill, rather than enhance, the chances of an acceptable bill emerging. We will find out how or if the Republicans respond to our criticism when they introduce a bill -- which will not happen before until after the July 4th recess.

The Dingell/Ganske/Kennedy Bill and Democratic Positioning. The Democratic Leadership and base Members have been even more critical of the Republican plan than us. Their bill starts with more provisions than were recommended by the Quality Commission and, particularly in the absence of CBO cost estimates for their bill, they are extremely comfortable criticizing the much less comprehensive Republican plan.

The Democratic plan builds on the Quality Commission's recommendations by adding, among other provisions, requirements for ERISA remedies, a medical necessity provision (that prohibits any insurer from denying coverage for any service that a physician deems is medically necessary), mandatory clinical trial coverage, mandatory 48-hour hospital coverage following a mastectomy, mandatory coverage for breast reconstruction following a mastectomy, required access to prescription drugs that are not on a plan's formulary if a doctor deems necessary, and a "whistleblower" provision, which protects health professionals against retribution if they report and document quality problems. Although most of these provisions are generally defensible policy and certainly politically attractive, they do add costs (at least 2 percent higher premiums than the Quality Commission's recommendations.)

Congressional Budget Office (CBO) Estimate. The next big hurdle for the Democrats will be next Wednesday's or Thursday's expected release of the CBO premium estimates of the Dingell/Ganske bill. We anticipate that the premium will be projected to increase by about 4 percent for the average employee, which amounts to about $6 a month. We are working on a positive roll-out strategy for this estimate, using it to buttress our claim that the benefits of any such legislation are more than worth the modest cost. If all agree in the White House and he is available, we might want to have the Vice President announce the generally good-news estimate during this Congressional recess period.

Likely Republican Response to CBOs Scoring of Dingell/Ganske Bill. The Republican (and the insurer and big business) response to the CBO estimate will be swift and critical. They will cite overall health care expenditure increases (that will amount to billions of dollars, although a small fraction of the nations trillion dollar health expenditures base) and flawed coverage loss projections (probably in the neighborhood of 200,000 to 2 million Americans.) It is important to point out that the likely CBO cost estimate for the Republican bill will be much lower than the Dingell bill -- about one fourth of it (1 percent). If the opponents cost and coverage argument takes hold, it could seriously impede the momentum that the Patient Bill of Rights now enjoys. We are currently in the process of working on a strong, message document, as well as some Qs & As, to prepare for the release of the CBO document.

"Blue Dog" Democrats Could Create Difficulty. Finally, it is important to note that some "blue-dog" House Democrats may seriously consider joining up with the Republicans when and if their bill goes to the floor. They are generally most influenced by the small business lobby and the Republican bill has received its only real support from the NFIB. Similarly, the Senate is populated by numerous Democrats who are and always will be uncomfortable with standing by Senator Kennedy. As a consequence, if the Senate Republicans feel pressured to develop their own Patients Bill of Rights (and Chafee is now drafting a bill), there may be a number of Democrats who could sign on, particularly if the "poison pill" provisions are

dropped and a few more patients' protections are added on.

Enforcement/Liability/Remedies Provision.

Clearly, because of the popularity of HMO regulation, it is probable that a consensus can be achieved on most if not all of the traditionally-desired patient protections. Decisions on what protections make it in will be linked to two variables: CBO cost estimates and perceived political pain associated with opposition to popular provisions. With the possible exception of some of the unrelated "poison pill" provisions mentioned earlier, the only seemingly apparent "line-in-the-sand" issue that could define the difference between Republicans and Democrats might be the issue of need for strong remedies for those aggrieved parties that have suffered serious health consequences or death because a health plan wrongly denied care.

To date, the Administration has consistently stated that this legislation must include a strong enforcement provision -- that a "right without a remedy is no right." To provide us with some flexibility and consistent with our directions from senior staff, we have never locked ourselves into a particular approach.

Both the Dingell-Ganske and the Norwood bills include state-court enforced liability provisions. Simply stated, the bills explicitly clarify that the Employee Retirement Income Security Act (ERISA) would no longer pre-empt or supersede state laws that provide for a right of action against a health plan that has denied care to a patient. Without this provision, the only current remedy a patient can obtain through ERISA law is payment for the cost of the benefit he or she should have had. In other words, for the 122 million Americans in ERISA covered plans, patients cannot get any compensation for treatment costs, pain and suffering, or lost wages.

Current Law Example: A doctor orders a cancer screening test for a patient he thinks might have breast cancer, but the plan denies coverage. The patient, as a consequence, does not take the test, but 6 months later comes back with a more noticeable lump. The doctor orders the test and, this time, the HMO pays for it. He finds the patient has a cancer that has spread throughout her body and that it is now untreatable. He and his patient are devastated because they know that, had they had the test results 6 months earlier, they could have successfully treated the cancer. Now the patient must undergo a radical mastectomy and, even with that, her survival odds are very low. She is furious and asks her lawyer to sue the HMO. Her lawyer tells her she can, but it really isn't worth the trouble since the only thing she can get compensated for under the law is the cost of the original cancer screening test. She can collect no damages to pay for the mastectomy, the chemotherapy and any other treatment her doctor may order to save her life. She gets no compensation for the lost wages from the job she must leave and she gets no enumeration for all the pain and suffering she is going through as a consequence of her HMO denying her treatment.

Fears of Business and Labor (Taft-Hartley) Community. The prospect of opening up health plans to law suits at the state level petrifies both the business and the Taft-Hartley plans. (Labor has been quiet to date because it is poor P.R., and would hurt our chances of passing a good bill.) They fear that the trial lawyers will ride herd over their plans and that costs will balloon (in terms of lawsuit settlements and/or because their health plans will be so nervous that they will stop making even appropriate denials).

Business-underwritten analyses are projecting an unbelievably high 10-30 percent premium

increase. For the last two months, this community has used highly dubious rhetoric that state-based enforcement would leave many businesses no choice other than to drop their health benefits. But the real underlying fear is modifying, in any way, the protections ERISA affords against suits from the states and from aggrieved employees on any benefit an employer provides (health, pensions, leave, etc.).

CBO Projections Do NOT Confirm Concerns of Business Community. Notwithstanding the fears of the liability provisions of the House bills and unprecedented lobbying by the business, insurer and Republican Leadership, however, the preliminary (not for attribution or dissemination) projections from CBO seem to assume that the existence of a state-based right of action would increase premiums by only about 1 percent, about one-fourth the total premium hike projected for the Dingell-Ganske bill. (This figure will not be released by CBO until after it reports on the Dingell bill, which will take place sometime in the next week.) CBO believes that most of the suits are now being directed at doctors and that any new suits against managed care plans would generally substitute for -- not add onto -- what is already out there.

Regardless of the true number, the opponents will pull out all of the guns to stop any state-based liability provision from becoming law. They will use inflated cost projections and attempt to terrify the public into believing that the result of any Patients Bill of Rights legislation will be more regulation, more costs, and a lot more uninsured -- as people will no longer be able to afford needed health insurance.

FFEnforcement Options.

Internal and external appeals.

Under ERISA you can now go to court to get benefits. You can also go to Labor, HHS or the state insurance commissioner (yapping) who can bring civil and monetary penalties as a look behind? If you are hurt in an ERISA plan, you can only get benefits. If you are not in an ERISA plan (like in an individual market or church plan), you can sue for violation of contract, and can recover damages as permitted by law.

A civil, monetary penalty. Go to court and have individual award. Genetic screening example. Most Federal actions can be brought in state court. Once genetic info goes out in public domain, the problem cant be addressed except through a money award. Defendent pays directly to the plaintiff. Like a Qui Tam suit. Not a trial for damages; it must be in front a jury.

Republicans: A thousand dollars up to a cap. Addresses on ongoing plan problem; not a damages problem.

Federal courts could run a trial with a jury. A new Federal cause of action with new Federal rules.

Alternatives:

6th Amendment problem. Trial for damages needs a jury. End up in state or Federal court with a damage.

Liquidated/schedule damages. Schedule of benefits/damages. You die, you get X much.

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We now are faced with a situation that, with the exception of the remedies, the poison pill Republican add-ons (MEWAs, medical malpractice, and MSAs), and perhaps a few of the additional provisions in the Dingell-Kennedy bill, it is difficult to imagine not being able to extract all of the additional patient protections.

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June 25, 1998

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September 16, 1998

IBEW POLITICAL AND LEGISLATIVE CONFERENCE

DATE:September 17, 1998
LOCATION:Hyatt Regency Hotel
BRIEFING TIME:9:00 am - 9:20 am
EVENT TIME:9:40 am - 10:40 amFROM:Karen Tramontano
Bruce Reed

I.PURPOSE

To announce a new regulation that brings the Medicaid program into compliance with the Patients Bill of Rights and to reiterate your call on Congress to pass strong patients bill of rights legislation this year.

II.BACKGROUND

The venue selected for this event is the International Brotherhood of Electrical Workers union (IBEW) Political and Legislative Conference. The IBEW supports the HMO Bill of Rights but because it has its own health care fund, IBEW has raised concerns about the enforcement provision. This has not stalled labors support for the bills passage, however. Last Thursday the AFL-CIO launched a 1.5 million dollar media campaign in 13 states in support of Daschle/Kennedy.

You will announce that the Department of Health and Human Services has finalized a new regulation that brings the Medicaid program into compliance with the patients bill of rights. This new proposed regulation will provide critical patient protections to over 20 million Medicaid beneficiaries, including children, people with disabilities, and older Americans. It is part of your ongoing efforts to institute the patients bill of rights for all federal health plans.

Specifically, you will make the following announcements:

A NEW REGULATION TO BRING MEDICAID INTO COMPLIANCE WITH THE PATIENTS BILL OF RIGHTS. You will announce that HHS has finalized a new regulation that will give the over 20 million Medicaid beneficiaries in managed care plans the patient protections they need and deserve. This new regulation will require managed care plans in all fifty states to provide needed patient protections to Medicaid beneficiaries including:
*Access to the specialists they need;
*Anti-gag rules to ensure that health professionals can discuss all medical treatment options with their patients;
*Access to providers for womens health services;
*Access to emergency room services when and where the need arises;
*Disclosure of clear, up-to-date information about benefits, plan operations, and

protections; and
*A timely internal appeals process as well as an independent external appeals to assure patients can address grievances with their health plans.

HIGHLIGHT THAT WE HAVE TAKEN EXECUTIVE ACTION TO APPLY THE PATIENTS BILL OF RIGHTS TO TENS OF MILLIONS OF AMERICANS IN FEDERAL HEALTH PLANS. The Medicaid regulation is part of your longstanding effort to bring Federal health plans into compliance with the patients bill of rights. In June, the Department of Health and Human Services extended the patients bill of rights to Medicare beneficiaries. The Department of Defense, the Department of Veteran Affairs, and the Office of Personnel Management have issued directives extending similar patient protections to servicemen and women, veterans, and federal employees. Taken together, these executive actions are extending protections to tens of millions of Americans.

UNDERSCORE NEED FOR STRONG LEGISLATION AND URGED THE REPUBLICAN LEADERSHIP TO STOP STALLING AND PASS A BILL THIS YEAR. While you have acted to hold Federal health plans implement the patients bill of rights, Congress must act to ensure that private health plans give their patients the protections they need and deserve. Just yesterday, the Republican Leadership again refused to allow an up or down vote on the patients bill of rights. This is an opportunity to urge the Republican Leadership to stop stalling and pass a strong enforceable patients bill of rights this year.

REITERATE WHY THE ADMINISTRATION CANNOT SUPPORT THE REPUBLICAN LEADERSHIP PATIENTS BILL OF RIGHTS. You should reiterate your serious concerns about the shortcomings of the current Republican Leadership bills which:

*Let HMOs, not informed health professionals, define medical necessity. The Republican Leadership proposals provide for an external appeals process, but make this process meaningless by allowing the HMOs themselves, rather than informed health professionals, to define what services are medically necessary. This loophole will make it very difficult for patients to prevail on appeals to get the treatment their doctors believe they need.

*Fail to guarantee direct access to specialists. The Republican Leadership proposals fail to ensure that patients with serious health problems have direct access to the specialists they need. This means that patients with cancer or heart disease may be denied access to the doctors they need to treat their conditions.

*Reverse course on emergency room protections. The Republican Leadership proposals back away from the emergency room protections that Congress implemented in a bipartisan manner for Medicare and Medicaid beneficiaries in the Balanced Budget Act of 1997. The bills include a watered-down provisions that do not ensure coverage for any treatment beyond an initial screening. These provisions put patients at risk for the huge costs associated with critical emergency treatment.

*Fail to protect patients from abrupt health care changes. The Republican Leadership bills fail to assure continuity of care when an employer changes health plans. These deficiencies mean that pregnant women or individuals undergoing care for a chronic illness may have their care suddenly altered mid course, potentially causing severe adverse health consequences.

*Allow financial incentives to threaten critical patient care. The Republican Leadership proposals fail to prohibit secret financial incentives to providers. This omission would

leave patients vulnerable to financial incentives that limit patient care.

*Undermine existing medical privacy protections. The House Republican Leadership bill would preempt some existing medical privacy protections guaranteed by state law, without putting protections in their place. As a result, the Republican bill would increase the number of individuals who can review and give out health records without a patients knowledge or consent.

*Fail to compensate patients who have suffered harm as a result of a wrongful health plan action. The proposed per-day penalties in the Republican Leadership plans fail to hold health plans accountable when patients suffer serious harm or even death because of a health plans wrongful action. For example, if a health plan improperly denies a lifesaving cancer treatment to a child, it will incur a penalty only for the number of days it takes to reverse its decision; the plan will not have to pay the family for all the damages they will suffer as the result of having a child with a now untreatable disease. And because the plan will not have to pay for all the harm it causes, it will have insufficient incentive to change its health care practices in the future.

*Do not cover all health plans. Both Republican Leadership bills leave millions of Americans unprotected. The Senate Republican proposal, for example, covers only self-insured plans, thus leaving out more than 100 million Americans, including millions of Americans in small businesses. These Americans are left to hope that states will provide them with the set of patient protections that the Republicans in Congress will not.

III.PARTICIPANTS

Pre-brief participants
Secretary Shalala
Secretary Herman
John Podesta
Bruce Reed or Elena Kagan
Chris Jennings
Karen Tramontano

Event participants
Senators Daschle, Kennedy, Harkin
Representatives Palone, Barry, McDermott, Filner
Secretaries Shalala and Herman
AFL-CIO President John Sweeney
IBEW President Jack Barry
IBEW Secretary Ed Hill
IBEW Member Carol Hooper
The audience will be approximately 400 members of IBEWs utility, communications and manufacturing divisions.

IV.PRESS PLAN

Open Press.

V.SEQUENCE OF EVENTS

-YOU will be accompanied to the stage by Jack Barry, John Sweeney and Carol Hooper with an

off-stage announcement;
-President Barry will introduced John Sweeney;
-John Sweeney will introduce Carol Hooper, an IBEW member and Business Agent;
-Carol Hooper will introduce YOU;
-YOU will make remarks;
-YOU will work a ropeline and depart.

VI.REMARKS

Remarks provided by Speechwriting.

VII.ATTACHMENT

Patients Bill of Rights Chart
*(note chart will be on stage)

June 16, 1997

PRESENTATION OF THE CLONING REPORT

DATE:June 9, 1997
LOCATION:Rosegarden
BRIEFING TIME:11:00 am - 11:30 am
EVENT TIME:11:30 am - 12:10 am
FROM:Bruce Reed

I.PURPOSE

To receive the National Bioethics Advisory Commission (NBAC) report on the possible cloning of human beings, and to announce your response to the NBAC recomendations.

II.BACKGROUND

In February, following reports of the first successful cloning of an adult sheep, you asked NBAC to review the profound ethical issues raised by the possible cloning of human beings. At this event, Dr. Harold Shapiro, the Chair of the Commission and President of Princeton University, will formally present you with their report.

The NBAC report makes three key recommendations: (1) Legislation to prohibit for 5 years the use of somatic cell nuclear transfer to create a human being, (2) Keep in effect a moratorium on the use of the "somatic cell nuclear transfer" cloning technique in humans. In a unanimous vote, NBAC concluded that it is morally unacceptable to create a child by using technology that created Dolly the sheep, and (3) Do not ban the cloning of DNA, cells, tissues, and animals unsing somatic cell nuclear transfer and other cloning techniques that may have agriculatural and medical benefits.

You will be making the following announcements to respond to the NBAC recommendations:
*Propose legislation banning the use of the new technology to clone human beings, and consistent with NBACs recommendation, prohibit for 5 years the use osomatic cell nuclear transfer to create a human being without interfering with the beneficial biomedical and agricultural uses of the technology. The legislation also directs NBAC to report back in 4 1/2 years on whether to continue the ban.
*Continue to keep in effect the moratorium you put in place in March so that no federal funds will be used to clone human beings,
*Urge privately-funded scientists and clinicians to adhere to the voluntary moratorium you called for in March.
III.PARTICIPANTS

Briefing Participants:
Erskine Bowles
Jack Gibbons
Elena Kagan

Secretary Shalala
Harold Varmis
John Hilley
Michael Waldman

Event Participants:
The Vice President
Dr. Harold Shaprio, NBAC Chair

Also Seated on Stage:
Secretary Shalala
Harold Varmis

Members of the National Bioethics Advisory Commission, the Presidents Council Adivisory Science and Technology, and Members of Congress, will be seated in the audience.

IV.PRESS PLAN

Open Press.

V.SEQUENCE OF EVENTS

- You will meet briefly with the members of the National Bioethics Advisory Commission in the Oval Office prior to event. (*This is the first time you will have met with NBAC.)
- You will be announced into the Rosegarden accompanied by the Vice President, Dr. Harold Shapiro, Secretary Shalala, and Harold Varmis.
- The Vice President will make welcoming remarks.'
- Dr. Harold Shapiro makes remarks and presents the NBAC Cloning Report to you.
- You will accept the report and make remarks.
- Following remarks, you will depart the rosegarden and meet with Members of the PresidentsCouncil on Science and Technology in the Roosevelt Room.

VI.REMARKS

Remarks Provided by Jordan Tamagni in Speechwriting.

FF

Meet and Greet with National Bioethics Advisory Commission

Harold T. Shapiro, Chair of the National Bioethics Advisory Commission, is the President and Professor of Economics and Public Affairs, Princeton University, and is a world-renowned educator and economist. He is a member of numerous honorary professional societies including the Institute of Medicine and has been awarded many honorary degrees. Dr. Shapiroserves on advisory boards to several public organizations and corporations and is a past member of the President's Council of Advisors on Science and Technology (1990-1993). He earned a B-Comm. from McGill University, and M.A. and Ph.D. in economics from Princeton University.

Members of the National Bioethics Advisory Commission

Patricia Backlar, of Oregon, Senior Scholar at the Center for Ethics in Health Care, Oregon

Health Sciences University.
Arturo Brito, M.D., of Florida, Assistant Professor of Clinical Pediatrics at the University of Miami School of Medicine.
Alexander M. Capron, L.L.B., of California, co-director of the Pacific Center for Health Policy and Ethics at the University of Southern California.
Eric J. Cassell, M.D., F.A.C.P., of New York, Physician to In-Patients at The New York Hospital-Cornell Medical Center.
R. Alta Charo, J.D., of Wisconsin, Assistant Professor in the University of Wisconsin Medical and Law Schools.
James F. Childress, Ph.D., of Virginia, Edwin B. Kyle Professor of Religious Studies and Professor of Medical Education at the University of Virginia, and co-director of the Virginia Health Policy Research Center.
David R. Cox, M.D., Ph.D., of California, Professor of Genetics and Pediatrics at the Stanford University School of Medicine.
Rhetaugh Graves Dumas, Ph.D., of Michigan, Vice Provost for Health Affairs, The University of Michigan.
Ezekiel J. Emanuel, M.D., Ph.D., of Massachusetts, Assistant Professor of Medicine, Social Medicine and Clinical Epidemiology at the Dana-Farber Cancer Institute, Harvard Medical School. *He is Rahm Emanuels brother.
Laurie M. Flynn of Virginia, Executive Director of the National Alliance for the Mentally Ill.
Carol W. Greider, Ph.D., of New York, Senior Staff Scientist, Cold Spring Harbor Lab.
Steven H. Holtzman of Massachusetts,Chief Business Officer, Millenium Pharmaceuticals,Inc.
Bette O. Kramer of Virginia, President of the Richmond Bioethics Consortium.
Bernard Lo, M.D., of California, Professor of Medicine and Director of the Program in Medical Ethics at the University of California, San Francisco.
Lawrence H. Miike, J.D., M.D., of Hawaii, Director of the Dept. of Health, State of Hawaii.
Thomas H. Murray, Ph.D., of Ohio, Professor of Biomedical Ethics and Director of the Center for Biomedical Ethics at the Case Western Reserve University School of Medicine.
Diane Scott-Jones, Ph.D., of Pennsylvania, Associate Professor in the Department of Psychology, Temple University.

*

April 24, 1998

LEADERSHIP CONFERENCE ON CIVIL RIGHTS MEETING

DATE:Monday, April 27, 1998
LOCATION:Roosevelt Room
TIME:1:30 - 3:30 p.m.
FROM:Peter Rundlet
THROUGH:Sylvia Mathews

I.PURPOSE

The purpose of this meeting is to learn about and respond to a number of issues pertaining to civil rights that the members of the Leadership Conference on Civil Rights (LCCR) are concerned about, as well as to inform them of some of the Administrations current priorities in this area.

II.BACKGROUND

LCCR is a coalition of over 185 national organizations committed to the advancement of civil rights laws and policies. LCCR includes organizations representing persons of color, women, labor unions, individuals with disabilities, older Americans, major religious groups, gays and lesbians, and civil liberties and human rights groups. Founded in 1950 by A. Philip Randolph, Roy Wilkinson, and Arnold Aronson, LCCR was created with the mission to implement the historic report of President Truman's Commission on Civil Rights, To Secure These Rights. Dr. Dorothy Height, former President of the National Council of Negro Women, is LCCRs Chairperson and Wade Henderson is the Executive Director.

You have had three previous meetings with LCCR since becoming Chief of Staff --January 6, 1997, March 7, 1997, and March 13, 1998. At the first two meetings you discussed LCCRs policy agenda. At the last meeting, you, Dr. John Hope Franklin, and other senior members of the Administration discussed the Presidents Initiative on Race. At that meeting, it was determined that this meeting would be held to discuss policy concerns not directly related to the Race Initiative. Maria Echaveste has worked with Wade Henderson to create a list of issues that we expect them to raise with us. The agenda agreed to is attached, along with issue papers that provide background and talking points.

Note: This past Monday evening, April 27, LCCR held its annual Hubert H. Humphrey Civil Rights Award Dinner. At the dinner, LCCR presented its Civil Rights Award to three individuals: Steven Spielberg and Debbie Allen for their joint contribution to the civil rights movement through their work as Director and Producer of the film, Amistad, and to the Honorable Bob Lanier, former Mayor of Houston, for his outstanding leadership of last years campaign to defeat Houston's anti-affirmative action ballot initiative. The President provided LCCR with a video message for the dinner and attended the reception that preceded the dinner.

Note: April 22, the Wednesday before this meeting, was Wade Hendersons 50th birthday.

III. PARTICIPANTS

Event participants

Wade Henderson, Executive Director, Leadership Conference on Civil Rights
Dr. Dorothy I. Height, Chairperson, LCCR and National Council of Negro Women
Judith Appelbaum, National Womens Law Center
Barbara Arnwine, Lawyers Committee for Civil Rights
Marisa Demeo, Mexican American Legal Defense and Educational Fund
Kahryn Engustian, American Civil Liberties Union
Joe Ervin, National Council of Senior Citizens
Anita Perez Ferguson, National Womens Political Caucus
Jocelyn Frye, National Partnership for Women & Families
Patricia Ireland, National Organization for Women
Elaine Jones, NAACP Legal Defense and Educational Fund, Inc.
Charles Kamasaki, National Council of La Raza
Joan Brown Campbell, National Council of Churches
Judith Lichtman, National Partnership for Women and Families
Robert McAlpine, National Urban League
Laura Murphy, American Civil Liberties Union
Karen Narasaki, National Asian Pacific American Legal Consortium
Michele Pollak, American Association of Retired Persons
Bob Sakaniwa, Japanese American Citizens League
Hilary Shelton, National Association for the Advancement of Colored People
Carole Shields, People for the American Way
Cynthia "Winnie" Stachelberg, Human Rights Campaign
Karin Stanford, Rainbow/PUSH Coalition
Eula Tate, International Union, United Automobile Workers
William L. Taylor, Vice Chairperson, Leadership Conference on Civil Rights
Richard Womack, AFL-CIO
Nancy Zirkin, American Association of University Women

White House Participants

Erskine B. Bowles
Sylvia Mathews
John Podesta
Maria Echaveste
Chuck Ruff
Judy Winston
Chuck Brain
Tracey Thornton
Minyon Moore
Karen Tramontano
Elena Kagan
Dawn Chirwa
Rob Weiner
Eddie Correia
Mark Childress
Richard Socarides
Peter Jacoby
Bob Shireman

Julie Fernandes
Michael Deich
Broderick Johnson
Barbara Chow
Peter Rundlet

IV. PRESS PLAN

Closed Press.

V. SEQUENCE OF EVENTS

*You welcome participants, formally introduce new White House staff members Eddie Correia and Mark Childress to LCCR, and ask everyone else to introduce themselves.

*You then give your introductory remarks.

*You then recognize Wade Henderson.

*Wade Henderson then makes introductory remarks on the purpose of the meeting and turns to the list of agenda items.

*You make, OR ask Mark Childress or John Podesta to make, remarks about the status of the nomination and confirmation of judicial and other appointees.

*You make, OR ask Karen Tramontano or John Podesta to make, remarks about the Administrations efforts with regard to the decennial Census.

*You make, OR ask Chuck Brain to make, remarks about our strategy to preserve the Presidents budget priorities (specifically, increased funding for civil right enforcement and food stamps for legal immigrants), in light of the ISTEA bill.

*You may ask Elena Kagan to provide greater detail on the status of our increased funding request for the EEOC, if necessary.

*
You may ask Barbara Chow to provide greater detail on the status of our request for funding for food stamps for legal immigrants, if necessary.

*You make, OR ask Eddie Correia to make, remarks about the Riggs amendment to the Higher Education Reauthorization bill.

*You make, OR ask Bob Shireman to make, remarks about the voluntary early retirement incentive program (VERIP) amendment to the Higher Education Reauthorization bill.

*You make, OR ask Maria Echaveste to make, remarks about our efforts to reach out to higher education leaders to promote diversity and inclusion in higher education.

*You make, OR ask Eddie Correia to make, remarks about Washington states anti-affirmative action ballot initiative (I-200).

*You make, OR ask Dawn Chirwa to make, remarks about the status of the black farmers

litigation.

*You make, OR ask Peter Jacoby or Richard Socarides to make, remarks about the proposed Employment Non-Discrimination Act (ENDA).

*You make, OR ask Peter Jacoby or Richard Socarides to make, remarks about the status of the proposed Hate Crimes Prevention Act.

*You make, OR ask Broderick Johnson to make, remarks about the proposed Fair Housing Amendments Act of 1998 (H.R. 3206).

*You make, OR ask Rob Weiner to make, remarks about the Japanese/Latin American redress litigation.

*Ask Eddie Correia to make a few remarks about the recent D.C. Circuit court decision regarding FCCs affirmative action regulation.

*Ask Judy Winston to provide a brief update on PIRs April activities.

*You or Sylvia Mathews close the meeting, thanking them again for their support, and encouraging them to stay in close contact with your staff.

VI.REMARKS

Introductory Talking Points (attached at Tab B)
Issue Papers with Background and Talking Points (attached at Tab C)

VII.ATTACHMENTS

Agenda (Tab A)
Introductory Talking Points (Tab B)
Issue Papers with Talking Points (Tab C)

FF

The Leadership Conference on Civil Rights Meeting
The Roosevelt Room
April 27, 1998
1:30 p.m.

Agenda

1. Nomination and Confirmation of Judicial Appointees and Other Executive Branch Nominees

2. The Decennial Census

3. Budget Implications of the ISTEA Bill, Generally

- Specifically with Regard to Civil Rights Enforcement
- Specifically with Regard to Immigration Policy Issues (i.e., Food Stamps)

4. Higher Education Issues:

- Higher Education Reauthorization -- Riggs Amendment
- Higher Education Reauthorization -- Early Retirement & Tenured Faculty
- PIR Outreach Plan to Higher Education Leaders

5. Black Farmers Litigation

6. Washington State Anti-Affirmative Action Ballot Initiative (I-200)

7. Legislation:

- Employment Non-Discrimination Act (ENDA)
- Hate Crimes Prevention Act of 1998
- Fair Housing Amendments Act of 1998 (H.R. 3206)

8. Japanese/Latin American Redress Litigation

9. Other Issues and Wrap-up

ERSKINE BOWLES TALKING POINTS

I. INTRODUCTIONS

*I want to thank everyone for coming today.

*I enjoyed our previous three meetings and believe that they were productive. I am looking forward to discussing several issues of mutual concern with you. Before we start, I would like to go around the room and introduce ourselves. I am Erskine Bowles, Chief of Staff at the White House, and with me today are a number of the senior White House staff who will introduce themselves. Before they do, however, I would like to make special introductions for three of the newest members of our staff, all of whom I imagine you may have worked with in other contexts.

*Eddie Correia was recently named Special Counsel to the President for Civil Rights. Eddie comes to us most recently from Northeastern Law School in Boston, where he taught Constitutional and anti-trust law. Prior to this, Eddie was Chief Counsel to former Senator Howard Metzenbaum. Eddie is overseeing our current and continuous effort to defend reasonable, appropriate affirmative action.

*Mark Childress joined us less than one month ago as Senior Counsel for Nominations. Prior to joining us, Mark served for many years as Counsel to the Senate Labor Committee, where, among other things, he took the lead on many important nominations. You can rest assured that Mark is working full time to help us nominate and confirm new judges to the federal bench.

*Broderick Johnson also joined us about a month ago as Special Asssisant to the President for Legislative Affairs. Broderick primarily will cover issues related to education, labor, judiciary, and housing and banking. Prior to this appointment, Broderick was Chief Counsel to the House Education Committee. In that role, he led the fight to increase the minimum wage and he helped defeat Speaker Gingrichs school voucher plan.

*Please welcome Eddie, Mark, and Broderick; I encourage you to stay in contact with all of them.

[After introductions are concluded, make opening remarks below.]

*I know that there are a number of issues on our agenda that we need to discuss -- and we will turn to them in a moment. Before we do, though, I want to take a moment to thank all of you for your superb efforts in helping us defeat two attempts to eliminate the Disadvantaged Business Enterprise (DBE) program in the ISTEA reauthorization bills in both the House and Senate. Both amendments to eliminate this necessary and fair affirmative action program were defeated handily in bi-partisan votes. Thanks to your efforts, we all have reason to celebrate.

*I also want to thank you, again, for strongly supporting many of the Presidents nominees. You supported the nomination of Bill Lann Lee, and we responded by appointing him as the Acting Assistant Attorney General for Civil Rights. As you know, we are maintaining our effort to have the Senate remove the "Acting" from his title, by confirming him as the Assistant Attorney General for Civil Rights.

*Since we first started meeting, we have made great progress on many of our shared objectives -- from holding the Hate Crimes Conference last November to defeating Houstons anti-affirmative action initiative to following through with several policy initiatives designed to reduce economic, educational, and health disparities, and much more. The President has placed a high priority on many of the issues that concern you most. Of course, we have further battles to fight together, and we look forward to working with you on all of them.

*Wade, I know that you have been talking with Maria Echaveste about a number of issues you would like to discuss today. Would you like to make any remarks before we turn to the agenda?

[Turn to the Issue Papers]

PFIndex to the Issue Papers

Note:The list of issues below follows the order of the Agenda (and are tabbed accordingly) and the name of the White House staff person responsible for handling the issue is indicated. Each of them is expected to attend the meeting and each will be prepared to make remarks about their issue or respond to any question that you would like them to handle.

1.Nomination and Confirmation of Judicial Appointees:Mark Childress

2.Confirmations of Jim Hormel and Fred Hochberg:Karen Tramontano

3.The Decennial Census:Karen Tramontano

4.Budget Implications of the ISTEA Bill (Generally):Chuck Brain

5. -Specifically with regard to civil rights enforcement:Elena Kagan

6. -Specifically with regard to immigration policy/food stamps:Barbara Chow

7.Higher Education Reauthorization -- the Riggs Amendment:Eddie Correia

8.Higher Education Reauthorization -- ADEA & tenured faculty:Bob Shireman

9.PIR Outreach Plan to Higher Education Leaders:Maria Echaveste

10.Washington States Anti-affirmative Action Initiative (I-200):Eddie Correia

11.Black Farmers Litigation/Legislation:Dawn Chirwa

12.Employment Non-Discrimination Act (ENDA):Peter Jacoby or
Richard Socarides

13.Hate Crimes Legislation:Peter Jacoby or
Richard Socarides

14.Fair Housing Amendments Act of 1998 (H.R. 3206):Broderick Johnson

15.Japanese Latin American Redress:Rob Weiner

Other (non-agenda) possible issues:

16.The FCC Affirmative Action Decision in the D.C. Circuit:Eddie Correia
17.Update on PIRs April ActivitiesJudy Winston
Nomination and Confirmation of Judicial Appointees

Staff Persons: Mark Childress or John Podesta

Note:Because of the importance of this issue to LCCR, you may want to ask John to make a few remarks before asking Mark.

Background

Wade Henderson and others from the Leadership Conference on Civil Rights (LCCR) are concerned about our overall plan and efforts to confirm candidates to the federal bench. Wades efforts last year helped to focus attention on the Senates failure to move nominees. Now that the Senate has taken action on a number of nominees, Wade is likely to emphasize the need for us to speed up the pace of nominations.

From the beginning of the Clinton Administration, a high priority has been placed on appointing qualified candidates from diverse backgrounds to the federal bench. Two statistics demonstrate the extent to which the Administration has succeeded: 1) President Clinton has nominated more minority and women judicial candidates than any previous president; and 2) President Clinton has had more nominees confirmed that were rated "well

qualified" by the American Bar Association than any previous president:

Clinton I & IIBushReagan I & II

Number Of Nominations:327195385

% Women and Minorities:51%27%14.5%

ISSUES: Most importantly, Wade is likely to express disappointment over the slow pace of nominations coming out of the White House. He has recently pointed out that the Senate has confirmed more nominees (20) in 1998 than we have nominated (17). (Although by the time of the meeting, we should have nominated more.) Without underrating our mutual concern about speeding up the pace of nominations, it is difficult to limit comparison of confirmation and nomination numbers to 1998 because, for example, of the 20 nominees confirmed this year, an average of 285 days passed between nomination and confirmation, with several of the nominees waiting years for confirmation.

The answer to Wades concern is to maintain a steadily increasing pipeline of nominees -- which we are now in a position to do. We have been delayed in producing nominations by a number of factors including delays in receiving names from Senators, but we now should be able to nominate 18-20 candidates prior to the Memorial Day recess, beginning with several nominees the week of the 20th. (We also nominated four candidates immediately prior to the current Congressional recess). We are on track to nominate several candidates virtually every week between now and the end of May. These estimates are based on candidates already identified, and most of these are out being reviewed by the ABA and FBI right now.

If we meet this ambitious schedule, we will have cut in half the current number of vacancies for which we do not have a nominee. It is probably worth stressing to Wade that we keenly understand the limited time left for getting judges confirmed, which is why we are making an all-out push to get nominees before Memorial Day. This effort includes negotiating with the American Bar Association to meet a much more expedited schedule for reviewing nominees, and pressing Senators for names for all remaining vacancies.

Wade Henderson may also express concern about the extraordinarily long time certain nominees have been awaiting confirmation. Specifically, 6 of the 8 judicial nominees who have been delayed the longest, (nominated over 1 year ago), are women or minorities. (Mark Childress has details on these 6 nominees). The good news is that we are seeing some movement on at least a couple of these long delayed nominations, and we will continue to push on all of the nominees.

Talking Points

*You all know about President Clintons commitment to diversity on the federal bench. This Administration has placed far more minorities and women on the federal bench than any previous Administration.

*Your efforts in focusing attention on delays in the judicial confirmation process were vital to breaking the deadlock in the Senate last year, and we have recently been seeing real progress on Capitol Hill in addressing the backlog.

*I know that you are concerned about the pace of nominations, and I share that concern. We

have to act more rapidly to send judicial nominees up to the Senate, and we will.

*We sent up four nominees immediately prior to the most recent Congressional recess, and we sent up more nominees immediately upon Congresss return last week. And we will be adding to a steadily increasing pipeline over the next few months.

*I believe that we will have 18-20 nominees sent up to the Senate between now and the Memorial Day recess. In fact, we should be sending up several names virtually every week between now and the end of May.

*Your efforts in persuading Senators to send us names of potential nominees have been critical to our ability to put a pipeline into place, but I have to ask you to continue to help in that regard; with, of course, a special emphasis on seeking diversity candidates.

*Mark Childress has recently joined us as our new Senior Counsel for Nominations and he can give you more background on where we are.

If you want to say something about Frederica Massiah-Jackson:

(Wade may mention the failed candidacy of Frederica Massiah-Jackson, the Philadelphia judge who withdrew her nomination after significant controversy arose over her alleged leniency in criminal sentencing.)

*We want to thank you for helping us deal with a very delicate situation in the case of Massiah-Jacksons nomination. We were adamant that under no circumstances were we going to ask her to withdraw.

*Fortunately, with your assistance, she was finally able to make her case for confirmation in a public forum, which enabled her to make the personal decision that she withdraw.
Confirmation of Jim Hormel (if raised)

Staff person: Karen Tramontano

Background

As you know, the President nominated Jim Hormel to be Ambassador of Luxembourg. Secretary Albright worked with Senator Helms to get Hormel voted favorably out of the Committee. He has been on the Executive Calendar since last fall. Senators Inoufe, Hutchinson (Arkansas), and Smith (NH) have holds on the nominee because he is gay. According to these three Senators, they do not oppose Hormel because he is gay, they oppose him because he is a gay activist.

We have been working each week to try to get the "holds" released. From the beginning of this battle, LCCR and Wade Henderson have been supportive. LCCR wrote a letter to Senator Lott supporting Hormel and asking that a vote be scheduled. You should thank LCCR for their early support and for their letter.

We currently have 54 votes, we are trying to get 60. If appropriate, you could ask LCCR for any help they could offer to add to our list of Republicans. The two strongest Republican supporters are Senators Hatch and Gordon Smith (Washington). Senator Lott has said he believes there is not sufficient time to deal with this issue, but he has stopped short of saying he will not schedule a vote. Frank Rich wrote a very strong piece recently

in the New York Times. We have a lobbying strategy that involves the Human Rights Campaign and the State Department talking with Republicans who we believe will vote for cloture and for Hormel.

The only issue that LCCR may raise is that Secretary Albright--of late--has not said anything in public supporting the nominee. We have really tried to hold Albright for the final push, rather than have her in the public debate on this issue. The advocacy groups are concerned about this strategy--we are reevaluating it with the State Department. There is a Time Magazine story that is due out Monday and State is putting Albright in that story to quell these concerns.

LCCR may ask what the President has done with regard to Hormel. He has talked with Senator Lott about giving Hormel a vote. And, last month while in California he publicly stated his support for Hormel and said he thought the Senate should schedule a vote.

Talking Points

*We are working very hard to break the logjam on Jims nomination. Were pleased with the recent favorable press and believe that Senator Lott ultimately will be forced to give us a vote.

*We appreciate the help you have given us so far on this important nomination.
FFConfirmation of Fred Hochberg (if raised)

Staff person: Karen Tramontano

Background

Fred Hochberg has been nominated by the President to be the Deputy Director of SBA. I am not sure that this issue will be on LCCRs list. The Republicans have successfully centered the debate about Hochberg on his finances. Additionally, Hochberg has not wanted to make the issue be that he is gay. As a result, we have been very low key about this nominee with the advocacy groups, including LCCR.

If they do raise the issue, the current status is as follows: Senator Bond had been refusing to hold a hearing unless he can review all the documents in the White House relating to this nominee. Buzz Waitzkin in Counsels office has done a very good job of narrowing the scope of Bonds inquiry. As a result, we have a resolution to the issue. Senator Bond reviewed a narrower set of documents on Friday. We believe that he will now schedule the hearing for Hochberg. At this time we believe we have the votes to confirm Hochberg.

Talking Point

*We had a good meeting with Senator Bond on Friday and he has agreed to hold a hearing, probably on May 12th. This is real progress and we believe we have the votes to confirm Fred.

FFThe Decennial Census

Staff person: John Podesta or Karen Tramontano

Note:Because of the importance of this issue to LCCR, you may want to ask John to make a few remarks before asking Karen.

Background

The Leadership Conference on Civil Rights is very involved in the Decennial Census. In 1990, as you will recall, there were many problems with the census. The one that most concerns LCCR is the undercount of minorities. They are part of the Census 2000 coalition (put together to support an accurate Decennial Census) and at LCCRs annual conference this week they hosted a panel discussion on achieving accuracy in the next census--which included a discussion of sampling.

As you know, the Republicans in the House with the exception of Chris Shays, oppose our plan to use sampling. Our goal is to have the most accurate census, employing the most up-to-date, scientific methods with the most cost-effective use of taxpayer dollars. Statistical sampling has been endorsed by the National Academy of Sciences--the Justice Departments for the Carter and the Bush Administrations have found sampling to be legal and constitutional.

The Leadership Conference supports sampling but has additional concerns. They are concerned they we have not selected a permanent director to replace Dr. Ritchie, who left the Census Bureau at the end of January. The Secretary of Commerce and the White House will have interviewed the top three finalists for this position on Friday, April 24. We will have a recommendation memo to the President as soon thereafter as possible. The position is confirmed by the Senate so the Presidents selection will have to be vetted, which will take some time. Carolyn Maloney and other Democrats in the House want us to appoint Barbara Bryant -- President Bushs Census Director. I doubt very strongly that we will make that recommendation to the President, although she has been interviewed for the position. We have not told any of the advocates that it is unlikely Bryant will be selected. I recommend you do not mention it to this group. If you are asked, you should say that Bryant is under consideration.

The President has appointed the Census Monitoring Board -- with Tony Coehlo as one of the Co-Chairs. The Monitoring Board has 8 members -- 4 Republicans and 4 Democrats with Republican and Democratic Co-Chairs. The Board will have two Executive Directors. I believe LCCR is happy with the appointments, although they were concerned that the vetting process took too long.

Another concern is whether the Commerce Department and the Census Bureau can accomplish all they have to accomplish as the 2000 census gets more politicized. This is a legitimate concern but one that the Commerce Department and the Census Bureau is aware of and both are up for the challenge. Finally, LCCR has been very helpful to us in this process, you should thank them.

Talking Points

*The Administration is focused on ensuring we have a fair and accurate census, that we are using the most up-to-date technology including sampling, and that every one is counted. In 1990, the Census Bureau undercounted millions of individuals -- many minorities, children and women. We do not want that to happen again.

*This is a priority for our Administration and we are putting the people in place to see

that it receives the appropriate attention. John Podesta is our point person here in the White House.

*The Senate recently confirmed the Presidents nominee for Undersecretary for Economic Affairs -- Rob Shapiro, who has oversight of this matter in the Commerce Department. The White House has interviewed several finalisst for the Director of the Census Bureau and we will be making a recommendation to the President shortly.

PFBudget Implications of the House and Senate ISTEA Reauthorization Bills (H.R. 2400 and S. 1173)

Staff person: Chuck Brain

Background

The highway bill now in conference spends approximately $33.4 billion in outlays above the surface transportation levels proposed in the Presidents FY 99 budget submission. The intent of Chairman Shuster and Congressman Oberstar is to fund the additional highway spending with the mandatory spending cuts proposed in the Presidents budget as offsets for Administration initiatives. If the mandatory offsets are insufficient, as they are likely to be, the Speaker has instructed the conferees to reduce the discretionary spending pot by the amounts needed to offset the rest of the bill. These exorbitant highway funding levels will inevitably exert a crowding out effect on the already constrained pool of domestic discretionary resources.

If we assume the level of domestic discretionary funding in the Presidents budget, the highway bill would require a 2 percent outlay reduction in the other non-defense accounts and up to a 3.9 percent reduction in budget authority for FY 99.

The ultimate endpoint of the highway bill is by no means clear. It is uncertain whether the conference can get a majority of votes for all the offsets proposed in the Presidents budget. In addition, the House bill contains approximately 1600 "demonstration" projects portioned out roughly 55% to 45% between Republicans and Democrats. The Senate bill contains none. Finally, due to the vote, 96-4 in the Senate and 337-80 in the House, the President may be faced with a bill that has veto proof margins in both chambers

Talking Points

*We have become increasingly concerned regarding the effects of the spending in the highway bills on the remainder of the budget, in general, and our priorities, in particular. There has been much confusion concerning the total costs of both of these bills and exactly how this spending would be offset.

*According to the current estimates, it now appears that the House bill would cost an additional $34.5 billion beyond current projections. The Senate bill would cost an additional $35.5 billion.

*Under current budget rules, all of this spending would have to be offset with other spending reductions. In fact, since some of the spending in the House bill is mandatory spending, the necessary offsets would have to come from mandatory programs. Rather than identify specific spending reductions, one rumor that weve heard is that they might simply reduce the spending caps for discretionary spending by the amount needed.

*We share your concerns regarding the effects of this bill on our priorities and government programs.

*We are now beginning the process of dealing with the transportation committee staffs and the leadership to make them realize how big a job they have to offset the amount of spending they want to do. We hope that we will be able to instill some reality into their thinking and to realize that there will be much more opposition to the Conference Report than there was to the bills when they were considered in the House and Senate. Were going to make it clear that they have a tough job to do.

*As the Conference on this proceeds, we will determine if they are improving the bill and what our final attitude on signing will be.

Specific Issues with Civil Rights Enforcement Budget

Staff person: Elena Kagan

Background

The Administrations 1999 budget contains $279 million for the EEOC -- $37 million (15%) more than the enacted 1998 budget. Funds will go to reduce the average time it takes to resolve private sector complaints from over 9.4 months to 6 months by the year 2001 through a combination of investments in information technology, increased use of mediation, and increased staffing.

On March 3, 1998, Speaker Gingrich testified before the Education and Workforce Committees Subcommittee on Employer-Employee Relations and indicated support for the Presidents EEOC budget request, conditioned on the agency implementing six "reforms" to its operation:

(1) improvements to the investigative and intake processes (including greater supervision of the process by lawyers);
(2) a significant reduction of the backlog of cases and the length of time for case processing;
(3) a more appropriate allocation of resources to charge processing vis-a-vis litigation;
(4) expanded use of alternative dispute resolution;
(5) clarification of the criteria for litigation by the EEOC; and
(6) an agreement by the EEOC not to use its scarce resources for employment testers.

Congressmen Fawell and Goodling subsequently sent a letter to Chairmen Livingston and Rogers supporting Gingrichs position.

On Friday, April 17, 1998, EEOC staff met with Rogerss and Fawells staff to better determine where they are headed. The EEOC believes that they can come to favorable agreement on the first five "reforms." However, the Speaker has made clear to Fawell and Rogers that the provision related to testers is a "line in the sand."

At this point, we are still unsure of the breadth of the Speakers suggested reform related to testers. At a minimum, Gingrich wants the EEOC to agree not to spend any money in FY99 on hiring employment testers. Though the EEOC currently has a very small pilot program to explore whether and how the agency could use testers, the program is only funded through the end of this fiscal year, and there are no plans to expand it. The FY99 budget does not include any money for testers. However, depending on the results obtained from the pilot, we may want to include a testing program as part of a future EEOC budget. Thus, we could

likely agree not to spend money on testers in FY99 as long as the agreement would not limit the agencys ability to use or hire testers in the future and did not in any way send a signal that we do not think that testing in an appropriate tool for civil rights enforcement.

However, Gingrichs condition may be broader -- perhaps to include a prohibition on the use of evidence obtained from testers generally (commissioned by non-profits, for example). This would be very difficult for us to agree to. It could be interpreted as questioning the validity of the use of employment testers in the enforcement of anti-discrimination laws. The use of testers is an established tool for the enforcement of the Fair Housing Act, and HUD now provides grants (through the Fair Housing Initiative Program) to non-profits for the use of testers to gather evidence in housing discrimination cases. Also, the Presidents FY99 budget includes an additional $10 million for HUD to conduct a nationwide testing program.

Talking points

*The Administration is committed to working hard to get a 15% increase ($37 million) for the EEOC in FY99. Though we have been encouraged by the expressed support of Speaker Gingrich and others in Congress on this issue, we are concerned that some of the conditions for their support may inhibit the agencys ability to effectively determine how to allocate resources, set litigation priorities, or utilize effective tools for the enforcement of federal anti-discrimination laws. Most particularly, we are concerned about the Speakers suggested "reform" that would prohibit the agency from utilizing discrimination testers.

*The EEOC currently has a small pilot program to determine whether and how to use testers as part of their enforcement arsenal. This program ends at the end of this fiscal year. The EEOCs FY99 proposed budget does not include any money for testers.

*Though the EEOC could likely commit to not employing testers in FY99, we are concerned that Gingrich and others may try to statutorily limit the EEOCs ability to use testers in the future or to limit the ongoing use of evidence obtained by outside testers (e.g., those employed by non-profits). This would be a very bad result. Though we have not yet concluded that the EEOCs use of testers is effective and appropriate (the pilot has been operating for approximately 6 months), we do not want to tie the agencys hands.

*Moreover, we do not want to signal that the use of testers is not an appropriate tool for enforcement of the anti-discrimination laws generally. This is particularly true in light of the Presidents strong endorsement of the use of testers in the housing context, reflected in his request for a new $10 million for HUD to conduct a nationwide testing program.

*Our strategy is to continue to meet with Hill staff (both Democratic and Republican) to determine precisely what their bottom line is on the issue of testers. If, in order to get necessary Republican support for our budget request, the agency would need to agree not to employ testers in FY99, we need to assess whether this commitment would somehow institutionalize the limitation, thus making it harder for the agency to use testers in the future. If, however, they want a broader restriction, we need to assess the degree to which such a limitation weakens the agencys ability to effectively enforce the law.

Budget Implications on Food Stamps for Legal Immigrants

Staff person: Barbara Chow

Background

The 1996 welfare reform bill denied Supplemental Security Income (SSI) and Food Stamps to most legal immigrants currently in the country and who enter in the future. Immigrants who enter after the enactment of welfare reform are also denied means tested benefits, including Medicaid and TANF, for their first 5 years.

The Balanced Budget Act (BBA) significantly reversed these restrictions and restored benefits to immigrants. The BBA restored SSI benefits to 420,000 immigrants in FY 1998 at a cost of $11.5 billion over 5 years (CBO estimate).

*The Conference Report on the agriculture research bill reflects a bipartisan agreement to address Congressional and Administration priorities. Using offsets almost entirely from the Food Stamp program, the bill restores Food Stamps to vulnerable groups of immigrants, including children, refugees, the elderly and disabled, and addresses priority agriculture issues.

--The bill provides more than $800 million over five years and restores benefits to 250,000 people in 1999, including 75,000 children. These provisions are financed using less than half (43%) of the Food Stamp savings in the bill.

--The bill helps 5 important groups: children, the elderly, individuals with disabilities, refugees and asylees, and Hmong who helped the U.S. during the Vietnam conflict.

--The provisions for the elderly and the disabled mirror what was provided for them in SSI and Medicaid in last years BBA. In general, the bill only provides benefits to individuals who were in the country as of the signing of the welfare bill in 1996. The bill provides assistance to immigrant children -- a group that did not receive any restorations in the BBA.

Status of the Legislation. Majority Leader Lott is apparently concerned that the agriculture research bill uses a $1.7 billion offset from Food Stamp administrative costs which is earmarked in the Senate budget resolution to finance highway spending. It is possible that the House will try to use these funds for transportation as well. As noted above, several other Republican Senators have also expressed concerns with the bill.

*We have urged the Senate leadership to allow the Conference Report to be considered by the full Senate in its entirety. Delaying consideration or splitting the report will create a conflict between spending on highways and spending on farmers and vulnerable immigrants. The Administration believes that restoring food assistance to vulnerable immigrants and improving programs for our nations farmers is the highest priority.

Talking Points

The Presidents FY99 Budget included a comprehensive $2.4 billion proposal to restore Food Stamps to vulnerable groups of legal immigrants who lost benefits due to the cuts in welfare reform that had nothing to do with moving people from welfare to work.

Through the Administrations efforts, the Conference Report on the agriculture research bill provides over $800 million to restore Food Stamp benefits to legal immigrants. The major offset in the bill saves $1.7 billion from Food Stamp State administrative costs.

The agriculture research bill, which also contains funding for some other Administration priorities in addition to legal immigrants -- crop insurance, agriculture research, rural development -- is currently being blocked from consideration in the Senate.

Majority Leader Lott had indicated to Senator Harkin that he would bring the bill up for Senate floor consideration after the Easter recess. We are hopeful that this will occur, but significant hurdles remain. Several Republican Senators reportedly have "holds" on the bill and there is a rumor that at least one (possibly Sen. Gramm) may offer a motion to recommit the bill to strip out the food stamp provisions, a motion we would strongly oppose.
FFHigher Education Reauthorization Bill: The Riggs Amendment

Staff person: Eddie Correia

Background

The higher education reauthorization bill is likely to be on the floor of the House in the next two weeks. Rep. Riggs (R-Calif.) may offer an amendment that would bar any college or university receiving federal funds from considering race or gender in its admissions decisions. The practical effect of the Riggs amendment would be to prohibit hundreds of institutions from using affirmative action in admissions to increase the diversity of their student body. It goes further than Prop. 209 because it applies to private institutions as well as public institutions. It would lead to drastic drops in minority enrollment in major universities and graduate schools throughout the country. Consequently, there is enormous concern in the civil rights and higher education communities about the amendment.

We have a good chance of prevailing in the House, but the importance of the issue warrants significant efforts. (A comparable amendment in the Senate is unlikely.) White House staff have been working with the Department of Education to develop briefing materials for Members. Secretary Riley (perhaps joined by the Attorney General) intends to send a strong letter to Members opposing the amendment and recommending a veto if it is enacted. The President could also send a short letter opposing the amendment. These statements would parallel those made by the administration prior to the DOT/DBE vote. The Riley/Reno letter will be coordinated with the release of the SAP on the overall bill.

Talking Points

*We have all seen stories about the drastic decline in minority enrollments in California as a result of a bar on affirmative action. The full story is actually worse since the final enrollment levels will be even lower.

*Many of the minority applicants who were rejected were extremely well-qualified to do the work; many had outstanding academic records. The fact that they were denied admissions means that the educational experience of all of the students who were admitted will suffer. We cannot tolerate a country where the classrooms at our best universities are full of white faces.

*The President strongly opposes the Riggs amendment and we are working hard to defeat it. He considers it one of his highest priorities.

*With your help, the House and Senate recently rejected efforts to kill the Department of

Transportations Disadvantaged Business Enterprise (DBE) program. The Administration and the country are grateful for your hard work on those votes. We intend to make the defeat of the Riggs amendment the third straight vote for reasonable affirmative action.

*I know representatives of LCCR have met recently with White House and Department of Education staff. Please let us know what we can do.

FFHigher Education Reauthorization Bill: Early Retirement and Tenured Faculty

Staff person: Bob Shireman

Background

Overview: A House committee has moved legislation that includes an exception to the Age Discrimination in Employment Act (ADEA) to allow colleges to target early retirement incentives on tenured professors. College and faculty organizations support the change. The AARP (and, we anticipate, the LCCR) oppose the idea because it would discriminate against older workers; e.g., a 55-year-old targeted for early retirement would be eligible, while a 65-year-old with the same or more years of service would not. The EEOC also opposes the change. Discussions on a possible compromise have begun (at the Administrations suggestion).

As part of the 1986 ADEA amendments that prohibited mandatory retirement ages for most workers, Congress permitted colleges and universities to continue requiring tenured faculty members to retire at age 70 until the end of 1993. Colleges were concerned that without mandatory retirement, aging faculty would be unremovable because of tenure, leaving less room for new faculty who are traditionally the source of new ideas.

Congress directed the EEOC to seek advice from the National Academy of Sciences on whether to continue the exemption from the mandatory retirement prohibition for tenured faculty. In 1991, the NAS concluded that ending mandatory retirement would not be a problem for most colleges and universities. Some research universities, however, "are likely to suffer adverse effects from low faculty turnover: increased costs and limited flexibility to respond to changing needs and to provide support for new fields by hiring new faculty." The NAS recommended that to address this problem, Congress should permit age-capped retirement incentive programs. However, no changes have been made in response to that recommendation, and colleges are concerned that EEOC and court decisions have narrowed rather than expanded the options available to them. For the past several years, colleges have been lobbying for legislation permitting a broader array of voluntary early retirement incentive programs (VERIPs).

The AARP, the EEOC, and others have opposed the VERIP proposals in Congress. They argue that offering a retirement incentive that is available only when a worker is younger (such as age 60) rather than older (such as age 70) allows just the type of arbitrary, age-based discrimination that the ADEA was intended to prohibit.

The House Education and the Workforce Committee included a VERIP amendment in its proposal for reauthorization of the Higher Education Act. Similar legislation has been introduced in the Senate. We are preparing a SAP on the House bill, and the EEOC has recommended language opposing the VERIP proposal. Administration officials (NEC) have spoken to the AARP, EEOC, and higher education representatives, and have urged them to attempt to reach a compromise on this issue.

Talking points

*We are aware of the problems with the early retirement incentives proposal that has been included in the House bill reauthorizing the Higher Education Act.

*However, we are also mindful of the National Academy of Sciences recommendation in 1991 that some additional options be provided to address reduced faculty turnover as a result of the prohibition on mandatory retirement.

*We are encouraging the EEOC to sit down with the higher education community and the AARP to see whether a compromise can be worked out on this issue.

*The SAP has not been finalized, but it will certainly also attempt to push in the direction of compromise on this issue.

PIR Outreach Plan to Higher Education Leaders

Staff person: Maria Echaveste

Background

LCCR has expressed concerns about the Administrations response to the attacks on diversity in higher education. While they applaud the Presidents defense of affirmative action and his impassioned call for continued diversity in institutions of higher education, they hope to see more leadership in this area.

In response to Hopwood and Prop. 209, in connection with the Presidents Initiative on Race and in anticipation of continued attacks on affirmative action in higher education, the Administration has undertaken the following steps:

*Begun meeting with university leaders informally, together with ACE, to discuss the possibility of the creation of an independent coalition of university leaders, possibly also including foundation and corporate leaders. This coalition would undertake an aggressive and proactive campaign to educate the public about the value of diversity in higher education -- to make the case to the public. The coalition would also share best practices for how to achieve diversity in a changing legal environment.

*Our preliminary conversations have been very positive with leaders of the some of the countrys elite institutions. Our goal is to have a core group of 20-30 leaders who will publicly commit to this undertaking and who will, in turn, seek to expand the number of people with credibility to make the case.

*The Administration is also meeting regularly with persons involved in ongoing litigation to stay informed of potential opportunities for action. This area is more problematic since it involves litigation and it is not always clear that Administration action would be helpful in a particular case. We are committed, however, to ensuring that the Administration stays fully informed and fully engaged on this issue.

Talking Points

[Maria Echaveste would like you to ask her to make the remarks with regard to this issue.]

Washington States Anti-Affirmative Action Ballot Initiative (I-200)

Staff person: Eddie Correia

Background

This fall the voters of the State of Washington will decide whether to adopt I-200, a ballot initiative modeled after Californias Proposition 209. It will represent the third high profile ballot initiative following the adoption of Prop. 209 and the rejection of a similar initiative in Houston. The outcome will be closely watched as a signal of where the country is heading on affirmative action. The demographics of Washington are less favorable to defeating the initiative than Houstons. On the other hand, the voters tend to be more progressive, and one of the leading opponents of the initiative is Gary Locke, the popular Asian-American Governor.

White House staff have been in contact with elected leaders in Washington as well as advocacy groups working to defeat I-200. At one point, their strategy was to offer an alternative ballot initiative, which would have conveyed a "mend it, dont end it" message. This was rejected because of procedural problems, the costs of mounting a signature drive and mixed signals about the support it would receive. The opponents of the initiative need help in raising funds and in communicating their message in a way that has broad appeal. We cannot help them raise money, but we can encourage Cabinet Secretaries and others to visit the state to speak on the issue. The opponents of the initiative have asked for our help in arranging for visits by the Secretary of State, the Secretary of HHS, and Colin Powell, among others.

Talking Points

*The ballot initiative in Washington will be a critical test of the countrys direction on affirmative action. The Administration cares about this vote and we want to help.

*We understand that the demographics in Washington are different than in Houston. Women and moderates will be critical to the outcome.

*Our staff has been in frequent contact with people in Washington. We have offered our assistance and we will continue to work with, and take the lead from, them. We understand that financial support is critical, but raising money for their effort is something we cannot do. However, we may be able to help in others ways, for example, by speaking out about the importance of the issue.

Black Farmers Litigation

Staff person: Dawn Chirwa

Background

We have been informed that it is likely LCCR will wish to discuss issues related to black farmers at our meeting. In anticipation of this, Dawn Chirwa spoke with Wade Henderson to discuss the impact of the Justice Departments Office of Legal Counsel (OLC) opinion with him and the steps we are taking to resolve the problems caused for particular black farmers by the statute of limitations bar. He was pleased with our efforts and said that the issue is still likely to come up, but primarily as a request for an update on our efforts.

As you know, the Justice Departments OLC opinion concludes that the statute of limitations

in the Equal Credit Opportunity Act bars claims by many black farmers. The opinion was released last week and copies were sent to interested Members of Congress. Since the opinion was released, the team working on this issue (USDA, Justice, and from the White House -- WH Counsel, Legislative Affairs and Public Liaison) has been working closely with Hill staff on legislation that would provide remedies for farmers currently barred from relief by the statute of limitations.

Various Members have expressed considerable interest in passing such legislation, including Reps. Clayton, Thompson, Waters, McKinney, Conyers, the Speaker and Rep. Smith, Chairman of the Agriculture committee. Our team met with staff from the Speakers office and majority staff of the House Agriculture committee last week to discuss USDAs proposed legislative language. The meeting went well and it appeared that the staff was interested in working cooperatively with the Administration on passing legislation. Legislative Affairs and USDA are also engaged in ongoing discussions with House and Senate Democrats and are working with them on legislative language changes. At the same time, we are working with representatives of the black farmers to ensure that any concerns they have with the legislation are addressed.

On the litigation front, we are awaiting the district courts decision on the statute of limitations issue. Justice filed papers with the district court last week arguing the same position articulated in the OLC opinion. In opposition, the black farmer plaintiffs have argued essentially that the statute of limitations should be equitably tolled with respect to all the farmers cases. It is highly unlikely that the plaintiffs will prevail on this issue. Of course, there is always the possibility that the court will rule against the government. We do not expect, however, that the court will rule prior to our meeting with LCCR. Until the court rules on this and other legal issues,
mediation of the farmers cases is being held in abeyance.

In addition, WH Counsel is discussing with Justice other, non-legislative means of remedying the problems caused by the statute of limitations. The OLC opinion did leave open the possibility that, in certain cases, an argument could be made that the statute was equitably tolled. While we are exploring this option in the event the legislation does not pass, these arguments are very difficult to make and will not help all farmers harmed by the statute of limitations. This is why we have made the legislative route our first priority. However, you should know that Wade Henderson is particularly concerned that we continue to explore this option and we have assured him that we are doing so.

Finally, WH Counsel has also asked a team of USDA and Justice staff to explore enforcement actions that can be taken against individuals within USDA who are discriminating against farmers. It will be important to point this out to LCCR attendees.

Talking points

*We understand and appreciate the concern you and others have expressed over OLCs conclusions with respect to this statute of limitations issue. We share your desire that all black farmers who have suffered from discrimination be able to obtain a remedy for the harm done to them; we do not like the effect of this statutory provision any more than you. I want to let you know what we and USDA have done in this area and what we are doing to address the OLC opinion.

*As you know, Secretary Glickman has made it a top priority of his to provide a remedy for the farmers who have faced discrimination by USDA. Recently, he reconstituted the team set

up to review claims of discrimination to expedite the process and get farmers with valid claims their money sooner, including hiring 14 new full-time investigators. He also brought on a new Associate General Counsel for Civil Rights (David Harris) and a Special Assistant for Civil Rights (John Sparks) who works directly for the Secretary and is overseeing the review process to ensure it is moving along efficiently.

*USDA has closed 295 program discrimination cases of the 1,088 total. There have been 15 settlements -- some in the hundreds of thousands of dollar range. (For example, recently, Mr. Eddie Ross from Mississippi received a settlement in excess of $300,000.) Of the remaining cases, 180 are claims of discrimination filed by African-American farmers. The Secretary hopes that the new team in place will soon clear up the backlog.

*Justice and USDA are also looking at ways to take enforcement action against discriminators within USDA to attack the problem at the source.

*As for the statute of limitations issue, I am personally committed to doing everything we can to pass legislation which will cure the problems this time bar creates. In recent days, my staff has been working closely with the Hill on a bi-partisan basis on such legislation. I also had a conversation with the Speaker about the legislation; he was receptive and his staff have been very cooperative with our staff. We will continue to keep you informed of our progress.

The Employment Non-Discrimination Act (ENDA)

Staff person: Peter Jacoby or Richard Socarides

Background

Overview: The Employment Non-Discrimination Act (ENDA) would provide federal protections against employment discrimination based on sexual orientation. Those protections are currently provided based on race, religion, gender, national origin, age and disability. The measure would prohibit employers (including Congress), employment agencies and labor unions from using an individuals sexual orientation as a basis for employment decisions, such as hiring, firing, promotion, or compensation. Employers could not subject an individual to different standards or treatment based on that individuals sexual orientation --real or perceived --or discriminate against an individual based on the sexual orientation of those with whom he or she associates.

Additionally, the bill prohibits any form of preferential treatment, including quotas, and prohibits discrimination claims based solely on statistics ("disparate impact" claims). It does not require an employer to provide benefits for the same-sex partner of an employee. Although the bill does not apply to religious organizations, including schools and educational institutions that are substantially controlled or supported by religious organizations, it does apply to their "for-profit activities subject to taxation." Finally, the measure does not apply to the armed forces or to small businesses with fifteen (15) or fewer employees.

Legislative Status: In the Senate, Senators Kennedy (D-MA), Jeffords (R-VT) and Liebermann (D-CT) have gathered 35 cosponsors for their bill since its introduction last year. Additionally, Senator Jeffords as Chairman of the Labor and Human Resources Committee held a hearing on the measure last October. Unfortunately, however, the measure remains mired in the Labor Committee because Chairman Jeffords cannot convince any Republican on the Committee to join him and vote to report the measure to the full Senate. Consequently,

there is a debate going on within the ranks of the bills supporters over whether they should continue to work to secure the necessary votes in the Labor Committee (an approach strongly favored by Senator Jeffords) or take the bill directly to the Senate floor and offer it as an amendment to some appropriate legislative vehicle (an approach favored by Senator Kennedy). Given the closeness of the vote on this measure when it was offered as a floor amendment during the last Congress (49-50), the high number of cosponsors, and the likely votes of freshman Senators, any floor vote can expected to be very close.

In the House, Congressman Frank (D-MA) and Congressman Shays (R-CT), the measures lead sponsors, have signed up a total of 158 cosponsors (12 Republicans and 146 Democrats) for ENDA. That number will jump to 159 when Lois Capps (D-CA) signs on to the measure after Congress returns from its Easter recess. This represents the highest number of cosponsors the measure has had since its was first introduced several Congresses ago.

While the bill introduced in this Congress is much more moderate than previous versions of ENDA, the measure has not gained much support from Republicans, especially the moderate northeastern and Californian Republicans whose support will be critical for moving this bill through the House. Consequently, the measure is not a priority in any of the committees with jurisdiction (Judiciary, Government Reform and Oversight, Education and the Workforce and House Oversight) - which have not held a single hearing on the measure - or for the Republican House leadership.

Talking Points

*We are strongly committed to getting ENDA passed in the Senate during this Congress. To that end, we will support all efforts to bring the measure to the floor of the Senate for debate and passage.

*With respect to ENDA, moderate Republican support is the key in both the House and the Senate. This bill is about a creating a government that is fair and doesnt interfere in the private lives of its citizens- - this should have great appeal to moderate Republicans.

*In the House, there are many Californian and northeastern Republicans who have not yet cosponsored the bill and we should work to get those Members on board.

*In the Senate, moderate Republicans are the key, especially those swing Republicans on the Labor Committee like Senators Frist, Collins, DeWine and Warner, and we will work to gain their support.

The Hate Crimes Prevention Act of 1998

Staff person: Peter Jacoby or Richard Socarides

Background

Overview: The Hate Crimes Prevention Act of 1998 is designed to give federal prosecutors both the statutory authority and the necessary resources to prosecute flagrant acts of racial or religious violence, gay-bashing, gender-motivated violence and violence against the disabled. Specifically, the measure expands the federal governments current ability to punish racial violence by removing unnecessary jurisdictional requirements in existing law. The measure also gives federal prosecutors new authority to prosecute violence against women, the disabled and gays.

On the resource side, the measure would authorize additional funding to hire the necessary law enforcement personnel to investigate and prosecute hate crimes. The bill would also authorize new spending for programs designed to prevent hate crimes. Finally, the measure directs the U.S. Sentencing Commission to determine whether additional criminal sentencing enhancements would be appropriate for adults who recruit juveniles to commit hate crimes.

Senator Kennedy and Congressman Schumer introduced the measure in the Senate and the House last November in conjunction with the Presidents White House Conference on Hate Crimes. The Attorney General is strongly supportive of the measure which is modeled after the highly effective Church Arson Prevention Act passed by Congress two years ago.

Legislative Overview: In the Senate, Senator Kennedy has been pressuring Judiciary Committee Chairman Hatch (R-UT) to convene a hearing on the hate crimes legislation. Senator Hatch has reportedly agreed to hold a hearing but he has been slow to deliver. One concern that Senator Hatch has expressed, which has been echoed by other opponents of the measure, is that this may be an issue better left to state jurisdiction. Due to the uncertainty in Committee, sponsors had originally planned to offer the measure to S. 10, the Senates juvenile crime bill. That measure, passed by the Judiciary Committee last fall, is currently stalled in the Senate due to the Senate Republican leaderships fears that Republicans will be forced to vote on politically volatile amendments offered by Democrats during the measures floor consideration.

In the House, Congressman Schumer (D-NY) has garnered 64 cosponsors for the measure but no action is expected. It is unlikely that any activity will occur until the Senate acts.

Talking Points

*We are strongly committed to enacting Hate Crimes legislation during this Congress. To that end, we will support all efforts to bring this measure to the floor of the Senate for debate and passage.

*With respect to the Hate Crimes bill, we should be working to get Senator Hatch to hold a hearing on the measure prior to the Memorial Day recess. Following that, we must identify an appropriate legislative vehicle to get it through the Senate.

FFFair Housing Amendments Act of 1998 (H.R. 3206)

Staff person: Broderick Johnson

Background

On February 12, 1998, Representatives Charles Canady (R-FL), Brian Bilbray (R-CA), and Jane Harman (D-CA) introduced H.R 3206, the "Fair Housing Amendments Act of 1998." The legislation constitutes a major restructuring of the Fair Housing Act, which celebrates its 30th anniversary this year. The Fair Housing Act is regarded as fundamental civil rights legislation, and thus H.R. 3206 has caused great concern among the civil rights community and fair housing advocates.

As currently drafted, H.R. 3206 addresses complicated matters involving relationships between the Fair Housing Act and the First Amendment; protections against discrimination based upon familial status; the relationship between state and local governments and the federal government on zoning and land use issues; and complaint procedures under the Fair Housing Act. These issues were hotly debated and resolved during debate and passage of the

"Fair Housing Amendments Act of 1988".

Two major concerns of LCCR with regard to H.R. 3206 have to do with: (1) whether it should be made more difficult to bring Fair Housing Act cases against those who publicly espouse opposition (in the context of zoning proceedings, for instance) to certain disabled and minority persons living in their neighborhoods; and (2) the ability of state and local governments to cluster group homes in certain neighborhoods and whether they can restrict the categories of persons who can live in certain such homes and neighborhoods (e.g., disabled persons as opposed to recovering substance abuse patients).

The original version of the bill is apparently being modified since the bill was considered by the House Judiciarys Subcommittee on the Constitution. Some of these changes were made to address criticisms raised by Subcommittee Democrats (led by Ranking Democrat Bobby Scott (D-Va)). Nevertheless, the bill was reported out of the subcommittee on a straight party line vote, and the anticipated changes are not likely to affect HUDs recommendation that the Administration strongly oppose the bill. A coalition of advocacy groups, which includes civil rights groups, disability groups, and religious organizations, is likely to continue to strongly oppose the bill. The National League of Cities is a major supporter of the bill.

Full Judiciary Committee consideration has been delayed several times, but could occur as early as next week.

Talking Points

*The President has made clear his unequivocal commitment to strong, fair, and effective enforcement of the Fair Housing Act, and HUDs recent enforcement program under Secretary Cuomo exemplifies the Presidents commitment.

*The 30th anniversary of enactment of this landmark civil rights statute is certainly no time to weaken that law or to retreat from our nations commitment to fair housing for all Americans. The various issues raised in H.R. 3206 are best addressed through joint efforts by HUD and the Justice Department, perhaps involving greater flexibility, rather than through the changes advanced by this legislation.

*The Administration stands ready to work with the Congress, civil rights and fair housing advocates, and such entities as the National League of Cities to try to achieve mutual objectives. Nonetheless, we remain strongly opposed to this or any other legislation that threatens the ability of minorities and the disabled to be protected under the Fair Housing Act.

FF

Japanese - Latin American Redress Litigation

Staff person: Rob Weiner

Background

During World War II, several Latin American countries sent residents of Japanese descent to the U.S. to be used for prisoner exchange with Japan or interned in U.S. camps. Approximately 2300 Japanese Latin Americans, most from Peru, were brought here. Of these, we sent 800 to Japan during the war. Another 900 left after the war. Most of these went to Japan because Peru and other Latin American countries would not let them return. Others

remained here and eventually became citizens.

In 1988, Congress enacted the Civil Liberties Act to apologize for the internment of Japanese Americans and to authorize a $20,000 payment to eligible internees. "Eligible" internees included only those who were American citizens or permanent resident aliens at the time of internment. "Permanent resident aliens" included only persons "lawfully admitted into the United States for permanent residence." The U.S. government has deemed most Japanese Latin American internees ineligible because they were brought to this country against their will for internment or prisoner exchange, rather than admitted for permanent residence.

Five Japanese Latin Americans brought a class action, Mochizuki v. United States, in the U.S. Court of Claims seeking redress under the Civil Liberties Act. They claim:

(1) they were "lawfully admitted" because the U.S. government brought them here, and they were "permanent residents" because they came for an indefinite time period;
(2) they should be treated as "permanent residents under color of law" -- a constructive permanent residency status used under some welfare statutes to provide benefits; and
(3) to deny redress unconstitutionally discriminates based on national origin.

The U.S. has opposed these claims on the basis that the statute clearly intended to exclude these individuals and that Congress has broad constitutional power to distinguish between citizens, permanent residents, and others.

In January 1998, the President responded to a letter from Representative Tom Campbell, who had urged settlement of the Mochizuki case. The President stated that:

My staff and the Department of Justice explored thoroughly the possibilities of redress for these people under the Civil Liberties Act of 1988. The Act provides redress to persons of Japanese ancestry who were citizens or permanent resident aliens at the time of their internment. Unfortunately, many Japanese individuals from Latin American did not have such status at that time. . . . Nor is it within my power to confer the requisite status retroactively.

Although this is a succinct statement of the position that the Administration has taken in the Mochizuki litigation, it does not resolve whether the Justice Department has power, as part of its overall authority to settle lawsuits, to settle this one by offering some compensation from the redress fund.

After struggling with the issue, the Justice Department offered to settle the case for $5,000 per claimant. The offer of 25 cents on the dollar reflected an assessment of the low litigation risk of the case, which the Justice Department must consider in settling cases, as well as the amount of money left in the fund. Absent a settlement, approximately $6-8 million should be left in the redress fund when the program sunsets in August 1998. If all 1300 Japanese Latin American claimants sought redress at $5000 each, the total claimed would be $6.5 million.

After initially rejecting the offer, representatives of the Japanese Latin Americans decided to accept it. A few items remain to be negotiated, but they are unlikely to derail the settlement. The representatives of the Japanese Latin Americans are likely to want the Administration to seek legislation to treat their clients the same as others who can make claims on the redress fund.

Talking Points

*We are pleased that settlement negotiations appear to be on track and that a resolution appears to be within reach.

*We believe that the moral claim of Japanese Latin Americans to redress stands on the same footing as the claim of Japanese-Americans who were interned during World War II. Unfortunately, the legal basis of their claim under the Civil Liberties Act was not strong, and the Justice Department had to be able to justify a settlement legally.

If LCCR brings up legislation:

*We are happy to work with you on a legislative solution that treats Japanese Latin Americans the same as other internees. You should recognize that it will not be easy to achieve such a solution, and you will need to put in a great deal of effort with us.
PFThe FCC Affirmative Action Decision

Staff person: Eddie Correia

Background

A unanimous panel of the D.C. Circuit just struck down FCC rules that require a radio station licensee to engage in a number of outreach and recruiting efforts in order to achieve a diverse workforce. Lutheran Church-Missouri Synod v. FCC. (The panel was made up of three of the most conservative judges in the circuit.) The licensees were required to provide EEO notices to employees, to submit information on their hiring, and to use minority-specific recruiting sources. Such requirements are common in EEO programs. The court found these requirements, as applied, amounted to race classifications under Adarand and, therefore, triggered strict scrutiny. It held that the FCCs asserted interest, "diversity in programming," was not compelling, and, in any event, the rules were not narrowly tailored to accomplish it.

The most serious problem is that the opinion could make it difficult to justify common recruiting and outreach requirements in many areas, including contracting, and hiring. For example, the opinion says that FCCs policy of reviewing the hiring record of licensees puts pressure on employers to make certain hiring decisions. Obviously, most EEO programs will involve some type of review. The government has an interest in determining whether an outreach program is ever implemented and whether it is working. This review is important even if the government makes it as clear as possible that it is assessing outreach efforts, not actual hiring or contracting decisions. If the opinion means that any race-specific recruiting or outreach program that creates even the slightest incentive to hire minorities triggers strict scrutiny, it could have very wide and devastating affect. DOJ is currently considering its options, one of which is to ask for a rehearing en banc (in front of a panel of the full D.C. Circuit).

Talking Points

*The administration is deeply concerned about the recent FCC decision and the implications that it is has for recruiting and outreach requirements in affirmative action programs. I know Rev. Jackson, Wade Henderson, and others met with Bill Lann Lee to express their views on this case, and I know Bill understands your feelings.

*Recruiting and outreach efforts are essential if affirmative action programs are going to work and if we are going to open up opportunities for people who have been shut out of them. Even conservative Republicans support recruiting and outreach, so that is a sign of how extreme this opinion is.

*The Justice Department and the FCC are studying this decision now. One of the options is to ask the full circuit to grant a rehearing on the decision. We will be monitoring this case closely.

PFHighlights of Recent Activities of the Presidents Initiative on Race

Staff person: Judy Winston

Note:Judy will briefly review for LCCR the following events.

ESPN Conversation on Race and Sports. On April 14, the President participated in the ESPN discussion in Houston, Sports and Race: Running In Place?. The conversation was successful in moving the dialogue on race forward and reaching an audience that may not have been aware of the Race Initiative. Participants from the sports world included current and former athletes, coaches, and executives in football, baseball, basketball, and track and field.

They included:
Jim Brown, former football player; currently president of Amer-I-Can program
Vince Dooley, former college football coach, currently university Athletic Director
Dennis Green, professional football coach
Keyshawn Johnson, professional football player
Jackie-Joyner Kersee, five-time Olympic medalist in track and field
Felipe Lopez, college basketball player
Joe Morgan, former professional baseball player, currently ESPN sports broadcaster
Carmen Policy, president of professional football team
John Thompson, college basketball coach
John Moores, owner of professional baseball team

Three Advisory Board members (Governor Winter, Reverend Cook, Mr. Thomas), consultant Laura Harris, and Executive Director Judy Winston also attended.

HUD Roundtable Discussion on Fair Housing. In commemoration of the 30th anniversary of the Fair Housing Act, the U.S. Department of Housing and Urban Development conducted a public meeting and roundtable discussion on April 23 in Newark, New Jersey, with representatives from fair housing and community organizations. The meeting focused on race and housing issues in New Jersey. Advisory Board members Franklin and Kean participated in the discussion. HUD Assistant Secretary for Fair Housing and Equal Opportunity Eva Plaza also participated in this event.

Statewide Days of Dialogue. Statewide Days of Dialogue is an effort to involve governors, mayors, and others in the Race Initiative by issuing a proclamation, participating in a dialogue, organizing a town hall meeting on race, or other activities. Statewide Days is being launched on April 30 in conjunction with the YWCAs National Day to Erase the Hate and Eliminate Racism. To date, 16 Governors, several Mayors, and more than 100 YWCA's in 37 states and the District of Columbia have agreed to participate. Attorney General Reno will be attending a Capitol Hill luncheon related to these events and Secretary Riley will be

participating in a dialogue with school children in Birmingham, Alabama.

Campus Week of Dialogue. Campus Week of Dialogue engaged colleges and universities across the country in the Race Initiative in town hall meetings, smaller discussions, campus-community projects, and other activities. Close to 600 schools participated in Campus Week of Dialogue events from April 6-9, including universities both large and small, historically black colleges and universities, Hispanic serving institutions, tribal colleges, and community colleges. Advisory Board members and Initiative staff participated in a number of events at different campuses. Cabinet participants included Attorney General Reno and Secretary Babbitt. White House staff participating in Campus Week events included Maria Echaveste.

*MEMORANDUM FOR ELENA KAGAN

FROM:Julie Fernandes

CC:Cynthia Rice

RE:Public Charge -- remaining legal issues

DATE:January 11, 1999

Recent changes in the welfare and immigration laws, along with changes in the Medicaid program, have created some confusion about how Medicaid and Food Stamps should be considered in the determination of whether an alien is or is likely to become a "public charge." Determination as a "public charge" has significant consequences for an alien -- it can cause them to be denied admission to the United States, deported, or denied permanent residency. By statute, the INS and State Department are required to consider the aliens age, health, family status, assets, resources, financial status, education and skills when considering whether he or she is or is likely to become a public charge.

There have been documented instances in which aliens have been denied re-entry to the U.S. because they had received Medicaid or Food Stamps. Moreover, aliens have been told that receipt of Medicaid and/or Food Stamps will have a negative effect on their immigration status. These cases have translated into widespread concern in immigrant communities about legal receipt of these benefits, even where the beneficiary is a U.S. citizen child. The concern about negative immigration consequences associated with the legal use of Medicaid and Food Stamps interferes with the Presidents goals of increasing insurance coverage and improving public health.

After much discussion and debate, the INS and the State Department have agreed to issue guidance that past or current use of Medicaid, the Childrens Health Insurance Program (CHIP), or Food Stamps (or their state analogs) is not to be considered in determining whether a person is likely to become a public charge for purposes of admission to the U.S. or adjustment of status, except where an alien has received long-term institutionalized care funded by Medicaid.

However, we have not reached resolution on how these programs should be treated for purposes of deportation based on having become a public charge. Section 237(a)(5) of the INA states that "[a]ny alien who, within five years after the date of entry, has become a public charge from causes not affirmatively shown to have arisen since entry is deportable." Under the INSs current policy -- informed by a 1948 decision of the Board of Immigration Appeals (BIA), Matter of B.
-- if an alien is subject to the new binding affidavit of support (post-December 1997 aliens only) and (1) receives a public benefit (like Medicaid or TANF) within five years after entry, (2) there is a demand for repayment of the value of that benefit from the benefit-granting agency, and (3) the sponsor refuses to pay, the alien can be subject to deportation for being a public charge. The theory is that since the new affidavit of support creates a binding obligation on the part of the sponsor to support the alien, a failure on the sponsors part to meet that obligation creates an unpaid debt for which the alien is responsible, and thus the alien is deportable as a public charge.

With regard to the receipt of federal welfare benefits, this rule has almost no application -- most aliens entering the U.S. are not eligible for Medicaid and/or Food Stamps for the

first five years (unless, of course, we manage to restore some benefits to post-Welfare Act aliens in FY 2000). However, states are free to provide welfare-like benefits (including state-only food and health benefits) to post-Welfare Act aliens. Thus, aliens in jurisdictions where state-only benefits are available may be deterred from taking advantage of these programs if they believe there may be deportation consequences down the road. In addition, some states do not make clear whether benefits offered are state-only or federally financed, and thus some aliens may be deterred from taking advantage of any medical and/or food benefits for fear of the possible deportation consequences.

Issue #1

We would like to be able to assure legal immigrants that legal use of Medicaid, CHIP, and Food Stamps -- or their state analogs -- would never lead to deportation. The legal question that we have posed to the Department of Justice is how we can get to this result in light of the aforementioned BIA case (Matter of B.) that sets out this multi-part test for when a finding of public charge is triggered. According to DOJ, the binding affidavit of support creates just the kind of debt that Matter of B. contemplated.

The Department has indicated that in order for the Attorney General to take certain programs (like Medicaid or Food Stamps) off the table for purposes of triggering the Matter of B. test, she must issue a regulation. However, they have suggested that it may be possible to issue interim guidance that directs INS officers not to consider Medicaid or Food Stamp use as a basis for a debt that could trigger deportation, pending the issuance of a regulation that effects this change. OLC is looking into whether this option is legally permissible.

Issue #2

We would like the INSs guidance to lay out a clear analytical distinction between those programs that should be considered for purposes of the public charge analysis, and those that should not.

The current version of the guidance lists examples of those programs that should be considered in the public charge analysis (TANF, SSI) and those that should not be considered (Food Stamps, Medicaid, WIC, etc.), but does not articulate the basis for distinguishing one group from the other. Thus, if an immigration or consular officer is presented with an alien who is receiving benefits from a program not listed, there is no guidance to that officer about whether to consider this program for public charge purposes.

HHS has made the argument to the INS that the distinction should be between cash and non-cash benefits (with an exception for those who reside in a long-term care institution; though the benefit they receive is non-cash, they are wholly dependent on it for food and shelter). The State Department, while not endorsing any particular framework for the overall distinction, has long relied on the conclusion that Food Stamps are "supplemental" for determining that receipt of Food Stamp benefits should not be considered for purposes of public charge.

According to DOJ and INS, they have not yet concluded whether they can -- in light of their past administrative decisions re: public charge -- separate programs based on a cash/non-cash or a supplemental/non-supplemental distinction.

October 30, 1996

MEMORANDUM FOR LEON PANETTA

FROM: Bruce Reed
Paul Weinstein
Peter Jacoby
Jim Webber
Elena Kagan

SUBJECT: Possible Q&A on President's Campaign Finance Reform Announcement

QUESTION: Why are you announcing this now?

RESPONSE: This announcement is consistent with the President's had a long-standing commitment to campaign finance reform and to changing business as usual in Washington. In the last three years, the President repealed the tax loophole for lobbyist deductions, enacted legislation to make the Congress and the White House live by the same laws Washington applies to rest of the nation, signed legislation to require lobbyists to disclose how much they spend and what they spend it on, enacted the line-Item Veto, and made it easier for millions of Americans to register to vote.

In 1992, the President made campaign finance reform a central piece of his agenda and throughout his first term he pressed the Congress to pass real, bipartisan legislation.

QUESTION: Both parties have been unable to resolve the campaign finance reform issue for years, why should the American people expect you and Congress to take action next term?

RESPONSE: Last Congress we enacted Lobbying Disclosure, the Gift Ban, Congressional Accountability Act, the Line-Item Veto. We have a proven track record of getting the job done on political reform. Campaign finance reform is the last step, and most important step. I believe that the Congress should and must make passage of McCain-Feingold a priority. I challenge Congress to pass McCain-Feingold in the first six months of the 105th Congress, and not deny the American people any longer.

QUESTION: There has been a lot of controversy about foreign contributions to the DNC. Do you think it is wrong to accept contributions from foreigners?

RESPONSE: I do believe the system is broken, and needs to be fixed. The voting public must have confidence that the process is fair and works for them. That is why I agree with Senators McCain and Feingold that real, bipartisan campaign finance reform must include effective limitations on foreign contributions. If you can't vote you cannot contribute.

QUESTION: Does your support for limitations on foreign contributions mean that you will direct the DNC to stop taking such contributions immediately and return those contributions received this elections cycle?

RESPONSE: It clear that the system is broken and that the rules need to be changed. I support banning these contributions by law. We need quick action by Congress on this issue as part of comprehensive, bipartisan campaign finance reform. (Question: should the President commit to endorsing a ban on accepting contributions from all non-citizens -- on

a unilateral basis -- until Congress acts?)

QUESTION:How will you enforce this ban, and how broad will it be? For example, would the ban include U.S. subsidiaries of foreign-owned corporations?

RESPONSE:Many of the specific details of the ban would have to be worked out with Congress. However, the principle is clear, if you can't vote, you can't contribute -- individual contributors would have to certify citizenship.

With regards to corporate contributions, the McCain-Feingold bill would ban PACs and eliminate the current "soft money" system. Therefore, no corporate entity, foreign or domestic, could make a Federal campaign contribution.

QUESTION:If you believe it is wrong to accept foreign campaign contributions, is it wrong to accept foreign contributions to your legal defense fund?

RESPONSE:I do not allow the Legal Defense Fund to accept contributions from registered lobbyists and PACs. In addition, contributions are limited to $1,000. (Additional recommended response is: "In the future, my legal defense fund will not accept contributions from foreign donors.)

QUESTION:Aren't you, by endorsing the bipartisan commission as a fallback position, undermining any real hope that McCain-Feingold will pass?

RESPONSE:I have been and remain a strong supporter of McCain-Feingold, and believe the principles of that legislation are the key elements of real reform: spending limits; curbing PAC and lobbying influence; free and discounted broadcast time; and ending the "soft money" system. I support a commission only as a last resort, if the Congress lacks the political will to pass McCain Feingold. The benefit of a Commission is that it takes the politics out of the reform effort.

QUESTION: Mr. President, you are challenging Congress to pass McCain-Feingold in the first six months of the 105th Congress. Will this be a number one priority for your administration?

RESPONSE:This will be a key priority in my second term. I have long felt that this is one of the most important issues facing the American political system. We must restore the faith of the American people in their political leadership in order to build a bridge to the 21st century.

g:data\travel\SUB2.REQ

DRAFT -- JANUARY 29, 1996

MEMORANDUM FOR:ALL STAFF OF THE WHITE HOUSE, THE EXECUTIVE OFFICE OF THE PRESIDENT, THE OFFICE OF MANAGEMENT AND BUDGET, THE OFFICE OF THE VICE PRESIDENT AND THE EXECUTIVE RESIDENCE

FROM:Jane C. Sherburne
Special Counsel to the President

SUBJECT:Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its investigation into the "White House Travel Office matter."11For purposes of responding to the subpoena requests, please use the definition of the term "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). Please review your "records,"22For purposes of responding to the subpoena requests, please use the definition of "records" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve the following White House records created on or before January 11, 1996:

1."All records related to the General Accounting Office review of the White House Travel Office."

2."All records related to the Justice Department's Office of Professional Responsibility review of the White House Travel Office."

3."Any records related to American Express obtaining the White House Travel Office business including all records related to any contact with GSA or American Express up to the time of this letter."

4."All records related to the Peat Marwick review of the White House Travel Office and any subsequent reviews such as that performed by Tichenor and Associates and any records reflecting any contacts, communications or meetings with any Peat Marwick attorneys or officials to the present."

5."Any records of any contacts or communications related to any IRS matter regarding UltrAir and/or any IRS matter regarding any other White House charter company, any IRS matter related to any of the fired seven travel office employees, or any other IRS matter related to the White House Travel Office and any records of contact or communi-cations with IRS Commissioner Peggy Richardson by Mack McLarty, Webb Hubbell, Bruce Lindsey, Vince Foster, Bill Kennedy, or any other member of the White House Counsel's office33For a list of the lawyers who have served in the White House Counsel's Office from May 1, 1993 to the present, see Attachment 2. from May 1, 1993 to the present."

6."All records related to the Treasury Inspector General's investigation of the IRS audit of UltrAir. (The investigation requested by Rep. Frank Wolf in May 1993)."

7."Any records relating to any proposal to use independent financing or unused Presidential Inaugural Committee funds to assist anyone on the White House staff, outsource White House duties or tasks, or otherwise assist White House operations. This would include records regarding any efforts, both inside and outside the White House to explore, evaluate or implement such proposal. It would also include records of any subsequent analysis of such efforts."

8."Any records relating to or mentioning the finding of the note in Mr. Foster's briefcase or any other location following his death, any Travel Office records of Mr. Foster's and any records relating to the finding or existence of or explanations of any files of Mr. Foster's relating to the White House Travel Office matter, Special Government Employees, issues of nepotism, the use of volunteers or any efforts to obtain Office of Legal Counsel opinions on any of these matters and any records of any contacts with Mr. James Hamilton, Lisa Foster, Harry Thomason, Susan Thomases, James Lyons about Vincent Foster records."

9."Any records relating to Mr. Thomason, Mr. Martens, Ms. Penny Sample, Ms. Betta Carney and Mr. Steve Davison and any other World Wide Travel employees including, but not limited to, all records indicating what these individuals did while at the White House, any documents relating to issues arising out of any actions they took while at the White House, any personnel records, requests for passes or pass forms, requests for office space and any forms related to office space, phone or other equipment, and any records relating to any actions taken by these individuals regarding the White House Travel Office. (For Ms. Sample, this request would also include all trip files for trips she had any involvement with while at the White House.)"

10."All records about problems or allegations or wrongdoing in the Travel Office from January 20, 1993 to present."

11."All tapes or videotapes produced by Mr. Thomason or any associates of his for the White House, the Bill Clinton for President Committee or the Clinton/Gore '92 Committee and all billings and financial statements relating to such work."

12."All records relating to Travel Office funds and/or documents being placed in the White House military office and all records of any inquiries about related events."

13."All records of any contacts with David Watkins or Bill Kennedy from the time they ended their employment at the White House to the present."44Bill Kennedy's effective date of resignation was 11/21/94. David Watkins' effective date of resignation was 6/17/94.

14."All Executive Order documents located in Mr. Foster's Travel Office files and/or his briefcases."

15."All records related to Harry Thomason and/or Darnell Martens discussing pursuing contracts with GSA, all records related to ICAP, and any records of the White House Counsel's office analyzing the issues raised by Mr. Thomason and Mr. Martens action at the White House."

16."All records related to any sexual harassment complaints about Mr. David Watkins during the Clinton/Gore 1992 campaign or during his tenure at the White House and any records of meetings, actions, or communications regarding such complaints and all records related to the $3000 per month retainer provided to Mr. Watkins by the Clinton for President campaign."

17."All records of any contacts, communications or meetings regarding the `Watkins memo' produced to the Committee on January 3, 1996 and the chain of custody of this memo."

18."All indices or catalogues of Vincent Foster's office, tapes, computer and documents and who received each document from his office."

19."All records relating to the actions of Mr. Watkins at the White House regarding the use of White House helicopters, the names of all individuals in the two helicopters used in May 1994 for Mr. Watkins golf outing and all records relating to his departure from the White House."

20."All records relating to the matter of United States of America v. Billy Ray Dale, any investigation by the Justice Department into the White House Travel Office matter as defined (in the accompanying "Definitions and Instructions"), and all records relating to Billy Ray Dale as well as any records of talking points prepared about Mr. Dale to the present."

21."All records related to the gathering of documents for any review or investigation related to the White House Travel Office matter as defined (in the accompanying "Definitions and Instructions"). This includes, but should not be limited to, the White House Management Review, the IRS internal review, the GAO Travel Office review, the OPR investigation, the Public Integrity investigation, the Treasury IG investigation, the FBI internal review, Independent Counsel Robert Fiske, and Independent Counsel Kenneth Starr."

It is extremely important that staff members conduct a thorough search for responsive documents. Each Assistant to the President or Department head should ensure that his or her staff members conduct such a search.

We recognize that, in many respects, the House subpoena is identical to the December 19, 1995 document request previously sent to you by the Counsel's Office. You do not need to provide any documents which have already been produced to the Counsel's Office in response to the December 19, 1995 request, or any other prior requests. But for all other responsive records that fall within the above categories, please provide such materials to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 5, 1996.

If you have any questions regarding the House subpoena request, please call Associate Counsel Natalie R. Williams (6-5079) or Special Counsel Jane C. Sherburne (6-5116).

Thank you for your cooperation.
FF

DRAFT -- JANUARY __, 1996

MEMORANDUM FOR:OFFICE OF RECORDS MANAGEMENT

FROM:

SUBJECT:Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its investigation into the "White House Travel Office matter."11For purposes of responding to the subpoena requests, please use the definition of the term "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). Please review your "records,"22For purposes of responding to the subpoena requests, please use the definition of "records" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve the following White House records created on or before January 11, 1996:

1."Any records related to the White House Travel Office matter or the White House Project33For purposes of responding to these requests, please use the following definition of "White House Project" which appears in the Committee subpoena: The White House Project "involved both improving the 'staging' of Presidential events as well as finding a way to utilize excess Presidential Inaugural Commission funds for outsourcing White House assistance or providing assistance to the White House." from the following individuals and/or offices (which would also include all assistants and secretaries): The White House Counsel's Office,44For a list of the lawyers who have served in the White House Counsel's Office from May 1, 1993 to the present, see Attachment 2. Maggie Williams, Capricia Marshall, Lisa Caputo, Neel Lattimore, Isabelle Tapia, Mary Beck, Vince Foster, Deborah Gorham, Linda Tripp, Bill Kennedy, David Watkins, Catherine Cornelius, Clarissa Cerda, Jeff Eller, Patsy Thomasson, Ricki Seidman, Mark Gearan, Dwight Holton, Andre Oliver, Todd Stern, Jean Charleton, Brian Foucart, Janet Greene, Beth Nolan, Clifford Sloan, Mack McLarty, Bill Burton, David Dreyer, Anne Edwards, Rahm Emmanuel, David Leavey, Bruce Lindsey, Darnell Martens, Matt Moore, Dee Dee Myers, Lloyd Cutler, Jane Sherburne, Abner Mikva, Mark Fabiani, Tom Hufford, Roy Neel, John Podesta, Rita Lewis, David Gergen, Craig Livingstone, Marjorie Tarmey, Ira Magaziner, Bernard Nussbaum, Jennifer O'Connor, Penny Sample, George Stephanopoulos, Frank Stidman, Harry Thomason, Lorraine Voles, Jeremy Gaines, Dale Helms, David Gergen, Joel Klein, Neil Eggleston, Steve Neuwirth, Cheryl Mills, Jurg Hochuli, Andris Kalnins, Matt Moore and Bruce Overton."

Jack: This request should be discussed with Clinger. It is extremely burdensome for us to try and identify all of the assistants and secretaries who worked in the Counsel's Office since the beginning of the administration.

Also in the last request, we proffered a definition of "White House Project," based on the Committee's description of this effort in correspondence. Perhaps we should ask the Committee to give us a definition of the term so that there is no confusion.

2.All calendars, phone records (including message slips, phone logs, pages or any White House record of phone calls) of the following individuals for the period May 1, 1993 through July 31, 1993: Bill Kennedy, Vince Foster, Mack McLarty, Ricki Seidman, John Podesta, Todd Stern, Dwight Holton, Andre Oliver, Brian Foucart, Bruce Lindsey, Jack Kelly, Matt Moore, Beth Nolan, Cliff Sloan, Bernard Nussbaum, David Watkins, Catherine Cornelius, Jennifer O'Connor, George Stephanopoulos, Dee Dee Myers, Clarissa Cerda, Jeff Eller, Patsy Thomasson, Mark Gearan, Leon Panetta, Harry Thomason and Maggie Williams.

Jack: This request captures records wholly unrelated to the Travel Office matter or White House project -- even as they have so broadly defined the terms. We should explain to them that we are not providing records wholly unrelated to these matters. I think we should collect them in any event so that we have them available.

3.All calendars, phone records, message slips or phone logs of the following individuals for the period May 1, 1995 through November 30, 1995: Jane Sherburne, Jon Yarowsky, Natalie Williams, Miriam Nemetz, Abner Mikva, Maggie Williams, Capricia Marshall, Patsy Thomasson, John Podesta, Catherine Cornelius, Mark Gearan, Bruce Lindsey, David Watkins, Janet Greene, Betsey Wright, Webb Hubbell, Bill Kennedy, Jeff Eller, Neil Eggleston, Cliff Sloan, Mike Berman, Harry Thomason, Darnell Martens, Beth Nolan, James Hamilton, Susan Thomases, James Lyons, Roy Neel, John Gaughn, [any employee of the Military Office], Larry Herman, John Shutkin, [any employee of KPMG Peat Marwick], Billy Ray Dale, Barney Brasseaux, John Dreylinger, Ralph Maughan, John McSweeney, Robert Van Eimeren, Gary Wright, David Bowie, Pam Bombardi, Tom Carl, Stuart Goldberg, Lee Radek, Jamie Gorelick, Adam Rossman, David Sanford.

We recognize that, in many respects, the House subpoena is identical to the December 19, 1995 document request previously sent to you by the Counsel's Office. You do not need to provide any documents which have already been produced to the Counsel's Office in response to the December 19, 1995 request, or any other prior requests. But for all other responsive records that fall within the above categories, please provide such materials to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 5, 1996.

If you have any questions regarding the House subpoena request, please call Associate Counsel Natalie R. Williams (6-5079) or Special Counsel Jane C. Sherburne (6-5116).

Thank you for your cooperation.FF
JANUARY __, 1996

MEMORANDUM FOR:ALL PERSONS ON ATTACHED DISTRIBUTION LIST

FROM:

SUBJECT:Subpoena from the House Government Reform & Oversight Committee

The House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its ongoing investigation into the Travel Office matter. Please review your "records," as that term is defined in the attached "Definitions and Instructions," and retrieve the following White House records created as January 11, 1996:

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We understand that in many instances the House subpoena is identical to the December 19, 1995 document request previously sent to you by the Counsel's Office. Any documents that already have been provided in response to the December 19 request do not have to be produced again. Please provide any other records that fall within the above categories to [ ] no later than 12:00 p.m., on Monday, January 29, 1996.

If you have any questions regarding the House subpoena, please call [ ].
FFDISTRIBUTION LIST

The White House Counsel's Office
Capricia Marshall
Lisa Caputo
Neel Lattimore
Mary Beck
Mack McLarty
David Dreyer
Rahm Emmanuel
David Leavey
Bruce Lindsey
Jane Sherburne
Mark Fabiani
Tom Hufford
Roy Neel
Craig Livingstone
Marjorie Tarmey
Ira Magaziner
Jennifer O'Connor
George Stephanopoulos
Frank Stidman
Lorraine Voles
Jeremy Gaines
Dale Helms
Steve Neuwirth
Cheryl Mills
Jurg Hochuli
Andris Kalnins
Bruce Overton JANUARY __, 1995

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Maggie Williams
Catherine Cornelius
Patsy Thomasson
FFJANUARY __, 1995

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Mack McLarty
Bruce Lindsey
Jennifer O'Connor
George Stephanopoulos
FF
DRAFT -- JANUARY __, 1996

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Leon Panetta
Jack Kelly
FF
DRAFT -- JANUARY __, 1996

MEMORANDUM FOR:ALL PERSONS ON ATTACHED DISTRIBUTION LIST

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Jane SherburneFF
DRAFT -- JANUARY __, 1996

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Military Office employees [must get names]

Molly Brostrom

Molly had three main issues: (1) Housing and Homelessness; (2) Veterans; and (3) Seniors/Aging. This is probably a portfolio that will get abandoned in a revamped DPC, but here are the key pieces for following through:

Housing/Homelessness

The DPC is responsible for the Interagency Council on the Homeless. The Council was, till 1993, an independent entity with its own funding, designed to ensure interagency coordination and cooperation on homeless issues. When Congress defunded and sunsetted (?) the ICH, we re-created it as a working group of the DPC. This was greatly appreciated by advocates and other agencies. Sec. Cisneros agreed to keep funding it. However, it never really regained its functions, independence, or stature. Molly continues to be the liaison to it, and it continues to meet as a working group at a staff level. Our various efforts to involve either Secretaries or Assistant Secretaries were not fruitful and did not produce any results.

We did succeed in forcing interagency funding of the first-ever National Study of the Characteristics and Needs of the Homeless. The survey is being conducted by the Census Bureau, and should be available soon. Someone should stay on top of this to be sure it does not get buried. The one controversial issue is whether you can derive a count of the homeless from the survey methodology.

Housing Policy DPC has provided a point of entry for housing and homeless advocates to the White House. Through meetings with us, they have felt that at least somebody at the White House was aware of and pressing their concerns with various HUD and OMB proposals. We have had some success in ensuring better communication between the advocates and HUD and OMB. We have not however played any role in the actual development of housing policy. This is a policy area which has received less than its fair share of attention from the White House - and where there are significant issues ranging from affordability of housing for low-income working families to the long-term financial stability of the federally-financed housing stock. I don't think the DPC should abandon this issue. I would recommend maintaining this as a part of someone's issue portfolio.

Veterans

The DPC, together with Cabinet Affairs and Public Liaison, started the Interagency Veterans Policy Group in 1994. This represented the first time that the White House had ever pulled together agencies beyond VA to address veterans concerns. We have met several times with the veterans groups, and they seem to appreciate the effort as well. This is definitely an effort that Cabinet Affairs and Public Liaison could continue, and that we could send someone to without playing a coordinating role. There is no question that meetings have to take place early in the New Year to ensure that this continues. It has been a while since there were meetings.

Seniors/Aging

The DPC's role in Social Security and other aging issues has been minimal. I assume that any effort to address Social Security will be led by the NEC. Whether to press for a role for DPC is a strategic call for the new DPC leadership.

Dennis Burke/Leanne Shimabakuro

Zero Tolerance

This issue is basically done. To quickly summarize, the President endorsed the notion that all states should have laws that forbid people under 21 from driving with any alcohol in their blood. He called for license revocation for all minors caught in violation of this standard. Congress acted and passed such legislation. DOT has issued regs and most states have adopted such laws. We've milked this for about all it's worth. If we never need anything else on this, the person to call at DOT is Phil Recht, 366-2775.

Drugs and Driving

Leanne and Dennis have been working with the interagency group developing the report on this topic requested by the President. The report is due in early January, and there should be plenty of follow-up on the topic including potential further Presidential action.

Files:Passed on to Leanne.

Mike Cohen

While I was involved in education issues fairly closely for a while, since Mike's arrival, I have been less involved. It is critical for the new Deputy to decide early on whether this is an area they want to focus on, and then deal with the division of responsibility on this issue with the other White House offices.

Two issues I want to flag that I was involved in that perhaps others in the White House did not follow as closely:

FF

Parental Rights and Responsibilities

This bill never went anywhere in Congress in 96, although it was up for consideration in a number of states. The concept was defeated by referendum in Colorado. It is not clear whether the Right will continue to press this idea or if they will reconsider in light of its failure to move.

The approach we had decided to take to respond if it did move was to have the Dept of Education issue a manual - along the lines of the religious liberty guidance - that would demonstrate how much involvement parents could already have under current law - thereby saying that federal legislation was unnecessary. At the Department of Education, Kevin Sullivan and Terry Peterson have been the point people.

Community Schools

The only other issue that I have been engaged in in some significant way is community schools. The idea is keeping schools open in the mornings, evenings, weekends, summers, etc. to provide kids and adults a place to go for all sorts of activities -- answering a number of critical concerns from communities ranging from child care, to tutoring, to adult education. There had been some work in the late summer around a possible Presidential event, and there continues to be interest from Rahm Emanuel.

There may be money in the budget, and there is a manual the Dept of Education could release.

Other Education Related Issues

The DPC should remain actively involved obviously in education issues. Among the more important things coming up in the next year:

oWorkforce Reform -- The next go-round on the consolidation of education and training programs needs to be better coordinated with the thinking on welfare reform. The DPC should help to ensure that this conversation is more integral to the broader discussions of local flexibility, community based services and economic development. The task force developing this proposal has tended to be somewhat isolated in the employment training world.

Files:Passed on to Mike Cohen.

Diana Fortuna

Welfare Implementation

Disability Policy

In 1994, the DPC and OMB created the National Disability Policy Review to take a comprehensive, interagency look at policies affecting people with disabilities. The Review set up four working groups: children, transition to adulthood, work, and federal accommodations. Diana has been managing the project since 1995. The children's piece has ended up being mostly a discussion of the appropriate standard for determining childhood disability.

Lyn Hogan

Choice

Partial Birth Abortion -- This issue is very likely to come up again early in the new Congress. DPC had been very active in this issue, raising to the forefront in the White House early. Our central role was a little taken over by others (Todd Stern, Betsy Myers, Elena Kagan), but I recommend DPC being centrally involved in helping to craft a proposal with the Hill to move the President's agenda on this issue forward. Lyn (and others?) may want to call a meeting early in January to establish our agenda and coordinate administration efforts.

RU-486 -- Although FDA approval is nearly complete, I understand that the manufacturer that the Population Council had lined up has run into financial difficulties. We should probably look into this early in the new year and see what next steps HHS is planning if that is the case.

Files: Passed on to Lyn Hogan.

International Family Planning

Lyn and I have been coordinating closely with Martha Foley the preparation of a Presidential finding to Congress concerning funding for international family planning.

The finding is due February 1. This is an interagency effort involving State, AID, NSC, OMB, DPC and other White House offices. Lyn and Martha need to bring closure to this work in early January.

Files: Passed on to Lyn Hogan.

Women's Issues Generally

Some serious thought should be given to the DPC's role in women's issues. The Women's Office would very much like to take on a "policy" role with someone on staff there to work on women's policy issues. I believe that that role should be within the policy council staff, and that the present role that Lyn plays -- and before that Debbie Fine and Karen Guss -- as liaison to the women's office should be continued. There needs to be some serious discussion once the transition is over between DPC and Betsy Myers about the roles of the two offices.

Child Welfare

There is a great deal of work to be done in this area in 1997. Lyn has prepared an excellent outline of a policy agenda that includes legislative, administrative, and p.r. components. This agenda needs to be coordinated with HHS, the First Lady's office and with bipartisan leaders on the Hill.

Next Steps: In early January, DPC should convene a series of strategy meetings to coordinate policy and legislative strategy. HHS has 60 days to report back on steps it recommends taking including legislative changes. Note: In my personal opinion, the most critical element of this plan and the one that will require some pushing from DPC of both OMB and HHS is the issue of subsidized guardianship. This needs to be a priority of the next DPC Deputy because it will take some heavy lifting.

Files: Passed on to Lyn Hogan.

Teen Pregnancy

We have had activity in three areas in teen pregnancy:

National Campaign -- The President called for a National Campaign and a national organization has in fact been started. DPC needs to work closely with the campaign to first of all stay informed of its activities but more importantly to find ways for the President to work with them to help build the Campaign -- events, etc.

Dr. Foster -- DPC coordinated Dr. Foster's appointment as a Senior Advisor on Teen

Pregnancy. We are his point of contact with the House and someone (Lyn and Bruce?) should sit down with him to think about his role in the coming year.

Administration Activity -- The administration is required to submit a report to Congress on its plan to reduce teen pregnancy in January. There is clearly more the administration could be doing directly in this area, and some thought some be put into what that is around the development of this Plan. Lyn has a great deal of information that was gathered last year to document the range of administration activities around this issue.

Jeanine Smartt

Partnerships for Stronger Families

This DPC-led initiative was designed to provide an interagency forum for discussing administrative ways to improve coordinating across agencies to serve children, families and communities. Jeanine has been our lead staff person and is familiar with at least the last six months of history. Jeanne Jehl at IEL has also been actively involved in this effort since its inception, as have various NPR and VP staff. The effort really dates back to a June 1994 conference which brought to DC a collection of model local programs from around the country who were providing integrated, comprehensive services to discuss the barriers they faced in dealing with the federal government.

The effort was structured around five action teams, and the following summarizes key next steps for each:

1.Results -- The first organizing principle of these efforts is that they have to measure outcomes in broad terms, looking at outcomes that don't necessarily measure narrow programmatic facts. So we decided that there was a need for a broad set of national indicators of child and family well-being that would equate with the Index of Leading Economic Indicators for the economic world. An interagency group developed the indicators -- and now we need to release them.

Important Next Step: HHS owes us a memo, which could easily be drafted by WH staff if they do not produce, that lays out for the President the proposal and will hopefully ask whether he would like this to be a high-profile roll-out. Elaine Kamarck is a major proponent of including this in the State of the Union.

2.Information Disemination -- One of the major accomplishments of the Partnerships project was the creation of a single web page (family.gov) that can be used to access a whole range of information across the government about programs and resources for children and families. There is a lot of creative work that can be done to build on this next year.

Important Next Step: NPR is trying to figure out how to get a staff person who will worry about maintaining the web page. Jeanine and the DPC should continue the action team and expand its mission to further explore the possible ways to technologically link many of the people doing family and children services at the local level.

3.Technical Assistance -- This action team was working on a demonstration of a model for providing more community-driven technical assistance. Elaine is leaning toward a different approach which would look at reforming the procurement process.

4.Financing Flexibility -- Categorical funding programs continue to be the bane of service providers at the local level. My recommendation in this area is the creation of a group to develop a legislative initiative outlined below.

5.Promoting Partnerships -- The work in this group focussed primarily on the structure of federal efforts to better relate to state and local governments. The CEB and NPR are both developing proposals in this area, and this group was focussed on attempting to bring these two efforts together. That was not possible, but the Partnerships effort can still provide a forum for ensuring communication across the various efforts.

Flexibility Legislation

Within Jeanine's portfolio, and specifically as part of the Partnerships Project, one of the most significant and difficult issues to be addressed is financing flexibility. Specifically, for children and family services, for youth, for communities, the array of specific categorical federal programs remains overwhelming. Last term, there were two initiatiaves important to this area:

(1)"Local Flex" legislation would have provided a broad flexibility for combining dollars and getting waivers from the entire spectrum of federal programs. Known as the Hatfield bill, this proposal ultimately died, in my opinion, because it tried to take on too much and generated too much opposition;

(2)The Youth Development Block Grant, pushed primarily by Sen. Kassebaum, but also significantly by ALL the national youth services organizations such as Boys and Girls Clubs, YMCA, etc. This bill did not succeed because it initially tried to incorporate too many politically untouchable items like Safe and Drug Free Schools and Summer Youth Employment. Once those were taken out, there was no money left.

There is a lot of interest in pursuing a flexibility approach that combines the best elements of these two proposals -- perhaps into some form of "Family Flex" or "Youth Flex" legislation. This would limit the range of programs covered by Local Flex and not threaten the existence of particular programs the way a block grant does.

Next Steps: NPR and DPC, working closely with OMB, should convene a working group as soon as possible in the new year, to develop a legislative proposal in this area. Among the interested players: John Koskinnen/Jonathan Breul (OMB), Elaine Kamarck/Nancy Hoit (OVP/NPR), the outside groups that formed the YDBG coalition, Rep. Hoyer staff.

Files: Passed on to Jeanine Smartt.

Children's Research Initiative

The Office of Science and Technology Policy (OSTP) has worked over the past year to put together a report that (1) tries to summarize all of the dollars being spent and efforts being made to do research on children within the federal government and (2) makes the case that there needs to be a stronger linkage between research and policy-making within the federal government.

OSTP has felt it critical to have DPC involved in the effort because of that research-policy link. Jeanine, Jeanne Jehl, and I have all attended various meetings and

reviewed various drafts of the report. The report is nearly done, although I have neither reviewed nor approved a final draft. The last contact I had with the group was that they wanted to brief Carol and Jack on the final report. I recommended to Carol and Jill that this be scheduled, but I have not heard anything since. Jeanine has been in touch with the committee putting this together and has helped write various sections.

I believe this is an important effort from a federal policy perspective. There should be a regular way for significant research findings to be brought to the attention of key administration policy makers. A regular DPC meeting would be one such format. A portion of each meeting could be devoted to the presentation of some significant new research finding from one or another of the agencies on the DPC. This is, of course, up to those who run the DPC in the future and how they wish to use interagency meetings.

Files:Jeanine has all relevant information.

Connecticut Memorandum of Understanding

In early 1996, the Vice President, Secs Cisneros and Browner, and Carol Rasco signed a memorandum of understanding with the State of Connecticut which relates to the state's program of Neighborhood Revitalization Zones. Much like the Oregon Option, this program is designed to provide federal assistance in helping the state overcome any barriers on the federal government's side in achieving results communities are working towards - particularly in environmental and housing areas. The agreement incorporated the VP's notion of a single point of contact - a HUD employee named Ray Jordan - who the state was supposed to be able to turn to to deal with any issues that arose.

There has been little federal follow-through as neither HUD nor NPR really felt they fully owned the project. So in August, I went to Connecticut and convened a federal workgroup - mostly regional agency folks to meet with Ray and with the state folks. I have been the state's primary point of contact, and Molly had worked with them as well. I think it would be important for Jeanine to continue being in touch with them and for the DPC to ensure that someone is following through on the implementation of this agreement. I don't want it to turn into an embarassment for the federal government for failing to follow through.

Family Friendly Workplace

The Domestic Policy Council along with NPR is receiving reports from all federal agencies on their efforts to comply with the President's memorandum on this topic. Jeanine has been working with Lisa Mallory on this project. There was a federal implementation group led by Faith Wohl out of GSA, which was to take the lead following the VP's Family Reunion last July. I do not know whether further work is required.

Fatherhood Initiative

Another project, very similar in background, is the Fatherhood Initiative. Also sparked by a VP Family Reunion and also involving a Presidential Memorandum with NPR/DPC follow-up, Jeanine has been the point person on this project as well. Again, it is unclear what further work DPC needs to do here.

AIDS Office

1.First order of business is obviously personnel and structure. I would recommend that the "office" be folded into the staff of the DPC and moved to the OEOB. The Director and Deputy along with a support person should be the entire office and they should be fully integrated into the working of the White House staff. The office never can be a fully independent power like the drug office. I would strongly recommend that Richard Sorian be considered for the Deputy spot as a detailee. He would provide much needed continuity and institutional history. If he could be brought over as a detailee, he would be able to keep his salary and would be interested.

2.Needle Exchange -- This issue was not addressed squarely during the first term. It is the single highest priority of the AIDS community and the Advisory Council. If we are to address it, it should be early in the second term. Some serious thought needs to be given to this.

3.Other Issues/National Strategy -- I won't provide a complete rundown on all the many issues facing the AIDS office. I hope that Patsy and Jeff will leave detailed and orderly transition memos. The new Director and Deputy should take the Strategy and the Council's recommendations and develop an orderly implementation plan that drives their work for 1997. The groundwork has been laid for the work that needs to be done -- implementation is now the key.

Files: Archived.

Steve Warnath

Immigration/Welfare

The primary work I am doing with Steve right now centers on implementation of the new bills - both welfare and immigration. There are a series of difficult issues that relate to immigration that need to be settled quickly. Steve and Diana are aware of all of them. It is probably important for someone of higher rank than them to start to play a role in the implementation process - preferably a new Deputy soon and/or Bruce. There should be some quick conversations with them about the support that they do or do not need.

Among the immediate products:

- interim guidance from the Department of Justice on verification of citizenship status should be issued by the end of the year.

- the INS is supposed to issue a reg that relates to waiving certain naturalizations requirements for individuals with disability. Again promised by the end of the year. Diana is tracking this too.

- the new affidavit of sponsorship should be completed by the end of the year.

- the definition of means tested benefits needs to be settled.

Other Immigration

I have been less involved with the other aspects of Steve's immigration work. We do hold a weekly - biweekly immigration meeting which I would recommend continuing. There are significant issues relating to legal immigration restrictions that could come up in 1997 as well as ongoing work relating to worksite enforcement and verification demonstration programs. I would strongly recommend the new Deputy or Director getting involved to ensure DPC continuity in these issues.

Other Legal/Civil Rights Issues

Steve has attended meetings and been part of work groups on issues ranging from Affirmative Action to English Only. The DPC has not been a central player in any of these issues.

I had minimal involvement in the work of Chris Jennings, Sandy Bublick-Max, Pauline Abernathy/Jennifer Klein, Dennis Burke, Paul Weinstein and Diane Regas.

The only issue that I flag here is that the First Lady's staff (Pauline/Jen and Nicole Rabner) are very involved in child welfare and some of the women's issues. Lyn will need some help in ensuring that the DPC remains the central player on this issues, if that is what the DPC wants!

January 9, 1997

BY HAND DELIVERY

John D. Bates
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490 North
Washington, D.C. 20004

Re: Subpoena #D472
Dear John:

As we discussed, enclosed are recently found documents responsive to subpeona #D472, numbered T6299 - T6877. A production log is enclosed.

The documents, which were contained in two three ring binders, were recently found by Associate Counsel Elena Kagan when she was moving out of her office, on a bookshelf with other materials. Ms. Kagans office was previously occupied by Neil Eggleston, who was working on the travel office matter when he left the White House. Another Associate Counsel, Wendy White, already had searched for Mr. Egglestons documents, including a search of this office for certain travel office notes, but had not seen these binders. When Ms. Kagan found them, she turned the binders over to Ms. White, who in turn gave them to me. As I stated during our telephone conversation, copies of many of these documents have already been produced to your office, but for the sake of completeness we are producing the entire notebooks.

As with documents previously produced, we understand that your office will treat these documents and the information conveyed in this letter as confidential and entitled to all protection accorded by law, including Federal Rule of Criminal Procedure 6(e), to documents subpoenaed by a federal grand jury.

FF

Please feel free to call me if you have any questions.

Sincerely yours,

Sally P. Paxton
Special Associate Counsel to the President

Enclosures

November 24, 1997

MEMORANDUM FOR SYLVIA MATHEWS
JUDITH WINSTON

FROM: THURGOOD MARSHALL, JR.
JON P. JENNINGS

SUBJECT:Cabinet Affairs Race Initiative Weekly

Department of Treasury

Midwest Trip: On November 16, Secretary Rubin traveled to Detroit to address the Yeshiva Beth Yehuda dinner with Senator and Representative Levin. On November 17, Secretary Rubin traveled to Chicago to address the Mid-America Committee, a group of area business leaders, with Senator Moseley-Braun. At this speech, Secretary Rubin unveiled a comprehensive report on the state of financial services commissioned by Congress in 1994. While in Chicago, Secretary Rubin also spoke to Minority Business Leaders, met with mortgage industry leaders, and held a roundtable discussion with the Runners Club, a group of African American entrepreneurs mentored by business leaders. Under Secretary Kelly and ATF Director Magaw joined Secretary Rubin in Chicago to tour the Illinois State Police Lab where ATF technology is aiding in the identification of guns and munitions used in crimes. On November 18, Secretary Rubin traveled to Minnesota to meet with Vice President Mondale and address the Minnesota Meeting, a group of Minneapolis business leaders.

Presidents Initiative on Race: During his trip to the Midwest on November 17, Secretary Rubin met with Minority Business Leaders and also held a roundtable with the Runners Club, a group of African-American entrepreneurs mentored by business leaders. On November 20-22, the 15th annual national conference to recognize Minority Enterprise Development Week (MED Week) 97 will be held in Washington, DC. MED Week was created in 1983 to recognize and promote the achievements of the nations minority-owned businesses. Treasury plans to have an exhibit booth at the conference and share information about procurement opportunities throughout the Department.

Department of the Interior

Toward One America Initiative -Message and Outreach Activities: The Bureau of Reclamation helped sponsor the Annual Society of Hispanic Professional Engineers West Coast Exposition and Recruitment Fair, in Anaheim, CA. The fair attracted over 600 Hispanic and other university students from across the western and southwestern United States.
Cabinet Affairs Race Initiative Weekly - page
United States Department of Agriculture

Pine Ridge Indian Reservation: USDA staff are providing area-wide planning assistance to the Pine Ridge Indian Reservation in South Dakota, the immediate goal being to identify resource issues on the reservation and develop a plan that will allow local people to solve local resource problems.

African American Farmers: In a lawsuit against USDA, 14 plaintiffs are purporting to represent a class of present and former African American farmers who have claims of racial discrimination pending against the Department or whose claims of discrimination were denied by the Department between 1983 and February 1997. The class has not been certified. On November 17, counsel for the government and for the plaintiffs agreed to a 30-day delay in certain procedural matters, including answering plaintiffs complaint, filing the governments motion to dismiss and plaintiffs motion for class certification, while the government determined what procedures it could use under the law, in an attempt to rapidly and properly adjudicate the discrimination complaints of the plaintiffs and if appropriate, conduct settlement discussions.

White House Conference On Hate Crimes: On November 10, Secretary Glickman led a breakout session, with a focus on community responses, at the White House Conference on Hate Crimes.

Hispanic Association Speach: On November 20, Under Secretary for Natural Resources and Environment Jim Lyons spoke at the Hispanic Association of Colleges International Conference on Natural Resources and Cultural Heritage in Phoenix, AZ.

Department of Housing and Urban Development

Chicago Race Discrimination Suit: On November 13, Secretary Cuomo joined the Leadership Council of metropolitan Open Communities (LCMCC) to announce settlement of a racial discrimination suit. According to the suit, Phillis Sheppard, an African-American nun and psychologist, and her sister were forced to move from there Northwest Chicago apartment because of racial discrimination. LCMCC is a private fair housing group that receives funds from HUDs Fair Housing Initiatives Program. HUD has pledged to double the number of enforcement actions in housing discrimination cases over the next four years.

Minority Home Ownership: As part of President Clintons One America Initiative, HUD and the National Association of Realtors (NAR) created an historic partnership to help promote equal housing opportunity and increase minority home ownership rates. HUD and NAR will develop training and certification program open to more than 1.5 million real estate professionals across the country. The program will train real estate professionals to implement Fair Housing Act principles and to make housing markets more accessible to traditionally underserved populations, such as racial and ethnic minorities. Although recent gains in minority home ownership are largely responsible for pushing the national rate to an all-time high of 66 percent, only 45.8 percent of African Americans and 43 percent of Hispanics own their own homes - compared with 72.3 percent of whites. This initiative will help advance President Clintons goal of a nation where the door to the American dream is open to all. Real estate professional certified under the program will earn the right to use the new One America logo in advertising and professional materials. The logo is expected to be a valuable marketing tool that will enable home buyers to identify real estate professionals committed to equal housing opportunity. The One America logo will be like a Good Housekeeping Seal of Approval for realtors, said Secretary Cuomo, It will show a clear commitment to equal opportunity in housing. By increasing Home ownership, it will be good for all Americans, good for our economy, and good for the real estate industry.

Human Rights Award: On November 20, Secretary Cuomo presented the 1997 Robert F. Kennedy Human Rights award.

Amplification: On November 15, Secretary Cuomo addressed the National Association of Realtors Conference (NAR) in New Orleans, LA. At a press conference, the Secretary announced a partnership between HUD and the NAR to promote equal housing opportunity and increase minority Home ownership in the spirit of Presidents One America initiative. Coverage Included AP, Baltimore Sun, The Tennessean, The Indianapolis Star, The Dallas Morning News, The Los Angeles Times, Houston Chronicle, Washington Times, Long Island Newsday, The Arizona Republic, Chester County Local News, Chicago Defender, The Buffalo News, Milwaukee Journal Sentinel, The Times Picayune. New Orleans ABC, NBC, ABC.

Department of Transportation

Federal Advisory Board Meeting: On November 13, the Department attended a meeting at the NEOB which was hosted by the Presidents Race Initiative Advisory Board staff. Kits on how to lead small round table discussions on race were subsequently distributed to all DOT departmental offices as well as to their staff representatives who serve on DOTs Interdepartmental Working Group on Race Relations in support of the Presidents Initiative. Support for the Presidents request for a national dialogue on race and the Advisory Boards request for senior staff participation in At the Table discussions on race will be addressed at DOTs bi-weekly senior meeting this week.

Roy Wilkins Center: Departmental Office of Civil Rights staff reached out to the Roy Wilkins Center for Human Relations and Social Justice, Humphrey Institute of Public Affairs at the University of Minnesota, to see if they would be interested in submitting a "Promising Practices" form to the President's Race Initiative, for possible inclusion in the Initiative's website and reports. The Center has as one of its missions, "To promote debate and dialogue designed to alter the course of deteriorating race relations and widening inequality."

Action Plan Continues: The FHWA work group on Race Relations met on November 10 and identified 13 day-to-day activities in which Race Relations can be addressed in the Plan. They have agreed to also identify major agency activities and events planned for this fiscal year which are conducive to addressing Race Relations.

Hate Crimes Conference: Secretary Slater participated in the White House Conference on Hate Crimes on November 10 in Washington. The Secretary moderated a breakout session about ways to combat organized hate, including use of the Internet. Some regional and specialty press coverage.

Department of Energy

MED Week: On November 21, The Secretary will introduce DOEs Diversity Clause that will require DOE contractors to insure balanced opportunities for workforce development, educational opportunities, community involvement, small business development, and economic development/technology transfer - DOE has put together the first comprehensive agency effort aimed at Federal Government contractors. MED Week brings together over 1,000 minority small business owners - which makes it the Nations largest and most diverse minority business conference. The Secretarys key-note address will follow remarks by SBA Administrator Alvarez, Commerce Deputy Secretary Mallett, and Acting Director Cox of Minority Business Development Agency.

One America Event in San Diego: The Secretary plans to hold a race relations discussion with students at San Diego State University on December 5 to amplify the Presidents Race

Initiative. Staff is working with Professors at SDSU to possibly have the Secretary participate in a class discussion on this issue.

Department of Education

One America: Secretary Riley is scheduled to host a "One America: Conversations that Bring us Together" event in Alexandria, VA, on November 24 and, tentatively, in Baltimore on December 11. The Secretary is also tentatively scheduled to attend the Town Hall Meeting in Akron on December 3.

Department Of Veterans Affairs

Federal Agency Youth Task Force: On November 17, Sandra A. Barrett, VAs representative to the Federal Agency Youth Task Force, Presidents Initiative on Race, attended the second meeting of the Task Force. The meeting was held in the New Executive Office Building. The purpose of the meeting was to discuss some of the initiatives and events that various Federal Departments and Agencies are planning in support of the Presidents Initiative The meeting was attended by approximately thirty employees from various Federal Departments and Agencies and staff members from the Executive Office of the President.

National Alliance of Black School Educators Conference: VA will support Historically Black Colleges and Universities (HBCUs) by participating at the National Alliance of Black School Educators Conference in Reno, NV, from November 18 to 23. VA will participate as a panelist with Presidents of HBCUs on a program entitled Federal Agency Outreach Initiatives with HBCUs and Minority Educators. VAs Associated Health Programs and procedures for academic affiliations with minority academic institutions will be discussed.

National Association of Hispanic Federal Executives (HAHFE): On November 20, a Partnership Agreement between VA and the National Association of Hispanic Federal Executives (NAHFE) will be signed during NAHFEs Sixth Annual Executive Leadership Development and Diversity Training and Recruitment Conference in Arlington, VA. VA will be represented at the signing ceremony by the Assistant Secretary for Human Resources and Administration. Under the Partnership Agreement, VA and NAHFE will agree to work collaboratively to increase the number of Hispanics in VA at the GS-13 and higher grade levels. The Deputy Assistant Secretary for Equal Opportunity will also participate as a panelist during the NAHFE Conference on a panel entitled Affirmative Action: Will it Survive?

American Indian Science and Engineering Society National Conference: VA will participate in the 19th Annual American Indian Science and Engineering Society National Conference in Houston, TX, from November 20 to 23. VA will participate as an exhibitor and provide information on research, employment, and other opportunities.

Environmental Protection Agency

Environmental Briefing for African American Leaders: On November 19, Administrator Browner and other Administration officials meet with 75 African American environmental leaders to discuss the Administrations environmental priorities. Several environmental justice leaders were in attendance and expressed frustration and serious concern about the Administrations commitment to environmental justice. In particular, many attendees expressed concern that they had not been invited to the White House for discussions on environmental issues since President Clinton signed Executive Order 12898 on Environmental

Justice in 1994.

Administrator Browner made it clear that environmental justice remains an Administration priority and discussed several key environmental initiatives affecting the African American community, including the new clean air standards, community right-to-know, Superfund, and childrens health protection. Administrator Browner was also asked about EPAs decision on September 10 regarding the Shintech facility in Convent, LA. Administrator Browner ordered Louisiana to stop issuance of air permits for a proposed Shintech chemical facility because the permits have technical deficiencies which fail to regulate all potential sources of air pollution. These issues must be resolved before the project can move forward. EPA is also conducting an investigation of local citizens civil rights complaint, which alleges that African American residents would be disproportionately impacted by the permitting of the Shintech facility.

Small Business Administration

MED Week: The Administrator will speak at and participate in various MED Week activities, including the kickoff reception on November 20 and giving the keynote speech at the business luncheon on November 22. At this luncheon, Kweisi Mfume, President and COO, NAACP, will be receiving the Pioneer ward, and Congressman Albert Wynn will be receiving the Administrators Leadership Award.

The Presidents Initiative on Race: The Deputy Administrator and a number of senior staff are planning to hold At the Table roundtable discussions during the Thanksgiving holiday. Plans are also being considered for the Administrator to convene an At the Table session.

cc:
Bob Nash
Ron Klain
Steve Silverman
Kris Balderston
Anne McGuire
Katherine Hubbard
David Beaubaire
Elisabeth Steele
Lisa Levin
Michele Cavataio
Andrew Mayock
Elena Kagan
Julie Fernandes
Lin Liu
Jacinta Ma
Michael Sorrell
Tamara Monosoff
Nelson Reyneri

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b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

MEETING OPTIONS FOR THE COMING WEEK:

Henry Howard, COO of
BAC International Credit Corporation.

Next Week or Two

We tried to do this January 30 while he was in town. They are calling to arrange the meeting for the next week or two.
Howard met with POTUS months ago. Craig Smith suggested that the follow-up be with you. 7

"BAC Education Finance is large lender of Federal Family Education Loan Program & only Hispanic-owned lender in the program."
Requested by Jonathan Slade of MWW Group

Weissman has more context on this request.

Bob Shireman is getting info on the organization.
Jonathan Slade
or Julie Palmer [redacted] P6/b(6)

Charles S. Zimmerman
Tuesday, April 21 (first thing and on) or Wednesday, April 22 (all day) will be in DC.
Wants 15 minutes.

His partner Randy Hopper (met w/ Charles Bursons office in VPs office last fall)
Meet to discuss tobacco related matters.
Sally: No substantive reason to meet. Gene could do for personal reasons.
[redacted]

Mr. Hopper home [redacted] P6/b(6)

[redacted] Monday morning at 1pm.

Michael Posner, Lawyers Committee for Human Rights
Tuesday April 21

We were unable to schedule a meeting with himlast week (they only gave us one days notice). Per Sally, we said we would try to meet when he was next in town, Tuesday, April 21.
Meet with Mike Posner
Posner is next in town on April 21, 1998.
Sally: a good time to meet
DO YOU STILL WANT TO MEET WITH HIM IN YOUR OFFICE if you will see him at the AIP Meeting on Tuesday?
Lynn
[redacted] P6/b(6)

Monday, April 20

Milwauke Mayor John Norquist
Wednesday, April 22 (2-5 pm)
Thursday, April 23
(early am)
Mayor Norquist will be in town April 22 (2-5 pm) and 23(early am) and would like to drop by. A brief 10 minute "get acquainted meeting" with no particular topic.

Orson Porter
[redacted] P6/b(6)

Sam Beard, Martha McStein, Max Ritchman
April 22, 23 or 28
Sam Beards office called March 17th to set up this meeting.

Kaplan and Peter Orszag have spoken with Sam Beard at length.
Kaplan and Peter do not think a meeting is necessary.
They have spoken with Sam Beard at length. McStein and Richman are in the groups you regularly brief.

Nancy [redacted] P6/b(6)

Second Presidential Leadership Conference for Presidential Appointees and Nominees
SATURDAY
April 25, 1998
12:45-1:45 pm
During a luncheon at the State Department.

This is the day of the White House Correspondents Assn dinner.
Goody Marshall invites you to be a panelist with Maria Echaveste, Elena Kagan, Ann Lewis, Bob Nash and Larry Stein.

Goody writes, "we would like to have strong presence from senior WH staff and think you are ideally suited to talk about working with the White House from the NECs perspective.

Audience: 175 subcabinet and presidential appointees
The VP addresses the group on the first day of their conference and POTUS may speak to them as well.
Paul Begala and Kay Casstevens are panelists during the day. Both John Podesta and Sylvia Mathews are making remarks to the Conference.

Sally: not the best use of your time. Since Elena is going, perhaps Sally could go for you.

Goody invited you. They would like an answer Monday.
Patricia McGinnis
[redacted] P6/b(6)

Goody 6-2572

Greater Durham (NC) Chamber of Commerce
Thursday
April 23, 1998
10:00-11:00 am
Indian Treaty Room

10-15 minutes remarks plus
10 minutes Q&A

Erskine drops by. Carole Parmelee said Erskine wants you to speak to the group for 25 minutes.

Top executives from the Research Triangle Region of North Carolina. 50 Representatives from IMB, Glaxo-Wellcome, NorTel/Northern Telecom, Bell South, Motorola, AT&T, GTE
Re: Intl Trade

Peter OKeefe
6-7702

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. memo	From Melanne Verveer, re: Veto of H.R. 1833 (4 pages)	4/9/96	P6/b(6)

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004. memo	Phone No. (Partial) (1 page)	5/22/1998	P6/b(6)

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May 22, 1998

MEMORANDUM FOR THE VICE PRESIDENT

FROM:TOBY DONENFELD

SUBJECT:PHONE CALL TO DR. KESSLER

Dr Kessler can be reached at [redacted] or paged at [redacted] P6 /b(6)

Dr. Kessler called you this morning to discuss tobacco legislation. It is my understanding that he shares many of the same substantive concerns about the McCain bill that Dr. Koop has expressed. Those are: 1) support for a cigarette pack increase to $1.50; 2) support for strengthening the lookback penalties provision (the Durbin amendment); and 3) elimination of the liability caps (the Gregg amendment). As you recall, the Administration did not weigh in on the first two concerns and opposed the Gregg amendment.

Update on the Status of the McCain bill:

Following the vote yesterday on the Gregg amendment to strip the liability caps from the McCain bill, Senator Phil Gramm offered an amendment to eliminate the so-called marriage tax penalty. The amendment is still being analyzed but it appears that it is for couples making less than $50,000 a year and would cost an estimated $11 billion per year. Paying for this provision would essentially eliminate the funds going to public health programs. You may want to tell Dr. Kessler how dangerous this amendment could be for the public health funding we have in the McCain bill now.

According to Elena Kagan, Senator Daschle was going to call for an immediate vote on the Gramm amendment, until he realized that he did not have the votes to kill the amendment. This tax cut may have appeal to Democrats because it is focused on lower income people and many Members of Congress have been sensitive to the many criticisms this week about the regressive nature of the tobacco tax increase and its effect on lower-income people.

Erskine Bowles and Bruce Reed are meeting with Senator Lott this morning to negotiate how to proceed on the tobacco legislation when the Senate returns on June 1. It is our understanding that the McCain bill will again be on the Senate floor when the Senate returns.

The LEAF Act

You may want to ask Dr. Kessler for his support for the Hollings/Ford LEAF Act over the Lugar proposal. In your efforts to gain support for the Hollings/Ford proposal, yesterday you met with Seantors Lautenberg, Leahy, Durbin and Conrad.

Attachments

Attached is an internal transcript of the Presidents interview yesterday with USA Today on tobacco.

FF

THE WHITE HOUSE

Office of the Press Secretary

Internal Transcript May 21, 1998

INTERVIEW OF THE PRESIDENT
BY USA TODAY

The Oval Office

12:15 P.M. EDT

Q We appreciate you sitting down with us. We'd like to talk about the tobacco bill, and then about China.

On the tobacco bill, the Senate is debating the McCain proposal, but slowly, and I wonder what your reading is on the bill's prospects, and also what you think the Senate ought to do on it.

THE PRESIDENT: Well, I think the Senate ought to pass it. I think the most important message I have is that they still ought to make every effort in the Senate to act on the McCain bill this week, but if they can't do it before they break, then it should be the first order of business when they come back. And if it is, we'll work through it, we'll pass a good bill, and then we'll send it on to the House of Representatives.

But the Senate is the key here. If they pass a good, strong bill, I think the House will have to act.

Q Now, there's this Gregg amendment up today that would lift the liability cap, which the White House has opposed the amendment.

THE PRESIDENT: Yes.

Q Do you think that by keeping the liability cap provision there you can entice the industry to come back and be a part of this settlement, this deal?

THE PRESIDENT: Well, I think two things about the Gregg amendment. First of all, I think that that may well be right, that they might come back and be a part of it. And I've always said I thought it would be better if they were a part of it for the simple reason that a big part of our strategy is stopping them from advertising to children in the first place -- and it becomes much, much more difficult if they're not a part of the settlement, because then they can challenge all this in court, they can spend hundreds of millions of dollars on lawyers fees, they can say, well, no matter how much money we lost in Florida or Texas or Mississippi or Minnesota, if we drag this thing out state by state, we may still never lose as much as we're going to lose in the settlement, and so we'll just spot it.

And so I think that that's one reason, the main reason, I think they ought to

be in it. But secondly, the way the McCain bill is now written with the liability cap, it's actually an effective stick because it says to the tobacco companies, you can only get this liability cap -- which is very high anyway, and they can still get socked with a lot of lawsuits -- it says, you can only get this if you are successful in reducing teen smoking. So that it's a huge encouragement. It's not some sort of a great gift to them; in effect, it's a stick, but it does say to them, if you play by the rules, if you do everything you can and if you get the results, then there will at least be this aggregate cap, so you know you're not going to go totally bankrupt.

Q Some of the Democrats on the Hill and some people in the public health community are unhappy with the White House for not fighting for $1.50 increase instead of $1.10, and for opposing the Gregg amendment. But I wonder if you want a bill that is still enticing or appealing enough to the industry to get them back. Is that your strategy here?

THE PRESIDENT: No -- well, on the $1.50 let me just say, in my original bill we had $1.10, and we had real protections to stop the black market in cigarettes, and we had a bill that we believe will reduce teen smoking by more than half over the next five years, so it meets our objectives. Our objectives are not to bankrupt the tobacco companies or to run any greater risk of a black market. Our objectives can be met within the money now reached.

If you look at how much money we raise, which is reflected in this McCain-Hollings bill, it's considerably more than was in the original settlement. So that's -- I just thought that --
I have said all along that I didn't want to use the tobacco companies -- cigarettes as a cash cow, I wanted to raise the price enough to deter smoking and to raise the money we need to do the medical research through health programs, and to make sure we had a system that would cut down on the black marketing. I think we have achieved that. So that's why I stuck with that position.

I've got to -- the public health community I think, when they look at this -- this bill is so much stronger in every conceivable way than the original proposal, and it meets my standards
and the principles I laid out, except it's not yet resolved what's going to happen to the tobacco farmers and their communities.

Q I know Bill wants to ask about that, but just one last question on this. The industry walked away from this deal quite angrily. Do you want to call on them to come back to the table and be a part of it now?

THE PRESIDENT: I think they should come back, but whether they do or not, this is the bill I think we ought to pass.
And then they can make up their own minds. But I would think if this actually passes the Senate -- it's a good, strong bill with a liability cap -- then I think they're going to have to think long and
hard about whether they want to come back or not, and I think a lot of them will do so.

Keep in mind, if they can come into this framework and operate within it, they can show good faith to the American people, they can continue to operate, they can go on about their business, but they will have to make an aggressive effort to deal with the biggest public health problem in America today. If they don't do it, there are costs in that, too. They will have to face all these other lawsuits, they have all these pending

lawsuits that will be unsettled. And they will, in effect, be saying to the American people, we're going to keep advertising to children.

So I think they -- I think once they see the outlines of where we're going I think there will be some incentive for them to come back into this.

Q So you pass this bill, the industry might come back?

THE PRESIDENT: They might, they might not. But the main thing is it's a good bill on its own merits. But it would be better if they came back. It would be better if they were a part of
it, because then we would have resolved the advertising issue, the promotion of cigarettes to children issue.

Q On the farmers issue, Mr. President, is the Lugar amendment going to kill this bill for you? I mean, is that going to prompt a veto from you if it stays in?

THE PRESIDENT: Well, I hope we can get some changes there. Of course, right now they're talking about putting the Lugar proposal and Senator Ford's proposal up there together, then letting the Senate vote on whichever one.

I have a lot of respect for Senator Lugar. What he says is, look, this is just a quick buy-out and it gets the government out of controlling the amount of the tobacco crop, and it's consistent with the Freedom To Farm Act, what they did with agriculture generally a couple of years ago. That's his position. And theoretically, it has a lot of appeal. But there are a lot of
practical problems with it and I'd like to say what I think they are, first of all.

As compared with Senator Ford's approach, the Lugar bill essentially helps the big producers and the tobacco companies, as compared with the little tobacco farmers and the tobacco communities. To me, that's the most important thing. Secondly -- and I think this
is very important -- if you get the -- (inaudible) -- system out of it, you know, and you get the government out of it entirely in terms of trying to control the crop, I think the effect of this is going to be to lower the price of tobacco and to lower the cost to the companies so that the price of cigarettes will not go up as much as it's planned to go up under this bill, which means the that whole strategy will be weakened. So for those two reasons, I don't think the Lugar bill is as good as the Ford bill. There may be some other way of doing it, some compromise.

One third thing I'd like to point out is that the Lugar bill is such a quick buy-out -- it's a quicker buy-out than the Ford bill is -- that in the early years, the first three years, it cuts
ways down on the money that will go into medical research, which, again, I think is a mistake. I think that the -- if you look at that McCain-Hollings bill now, we've got money in there for clinical trials in cancer, a lot of money in there for medical research, a lot of money in there for children's health. I just think that we shouldn't erode that commitment over the next two or three years when you can string it out a little more and you can still have a very aggressive medical commitment.

So those are basically the three things that I'm concerned about with the Lugar approach.

Q Could you sign a bill that had the Lugar approach in it as it's written now?

THE PRESIDENT: Well, what I want to know is that -- the promise I made was to try to protect the tobacco farmers, their families and their communities. Now, there is some movement within the communities; I understand in North Carolina some of the Farm Bureau people wound up actually saying they liked the Lugar bill better, but I think that's because of a complicated issue about different kinds of tobacco that are farmed.

So I have real problems with it. I think we need some changes. But there may be some way of finding it -- there may be an option other than just either the Lugar bill or the Ford bill. And I'm going to keep working for it. But I can tell you I'm just very concerned about the Lugar bill because of those three things I said.

Q Do you think the Republican leadership is in any way trying to use the Lugar provision as a poison pill for this legislation?

THE PRESIDENT: No, I really don't. I think Senator Lott has operated in good faith. He's taken some heat from his people, just like I'm taking some heat from ours. If you try to get
together and fashion a principled compromise in an area that has as much emotion, as many lives and as much money at stake as this one does, you're going to have heat and you're going to have -- tempers will flare and nerves will fray and suspicions will fly.

But so far I would have to say that I have not been -- I don't think I've been subject to any poison pills or any parliamentary games in this in the Senate, as far as I'm aware. I
think Senator Lott has played it straight with me. I believe Dick Lugar really believes that his bill is a better bill. I believe that some Republicans philosophically believe that they ought to treat tobacco like all other crops, like they did in Freedom To Farm.

I believe that -- there may be some that want to help the tobacco companies and the big farmers more than they want to help the little farmers in the tobacco communities, depending on where they think the votes are in their state. There may be some members of the Senate, some members of Senator Lott's caucus, for example, that want to vote against the bill -- or they want to kill the bill without having to vote against it. So maybe that's why they're trying to run this thing out because they know I don't like it. But I think that the leadership, I think Trent Lott really wants a good bill.

Q Do you think in the House and the Senate that the bill can attract enough Republican votes, even given the amount of tobacco industry money that goes into Republican districts? And to follow on that, do you feel that the DSCC and the DCCC should continue to take tobacco money since the DNC doesn't?

THE PRESIDENT: Well, the DNC doesn't because that was, in effect, a decision that I could influence and I feel very strongly about it. Some of the members of the DSCC and the DCCC represent tobacco growing areas and they think that they should continue to take it. I think that's a decision for them. But I think the burdens are even heavier on those who accept this money to vote for a principled bill. That's what I think.

Now, I believe, once we get through this last set of amendments, I believe

that when that bill is on the floor for final passage, no matter how much tobacco money the members take -- and
they're going to have to think long and hard about voting against it -- and I believe that if we can send a strong bill from the Senate to the House they're going to have to think long and hard about not passing it this session. I think the public scrutiny will intensify. I think the press scrutiny will intensify. And I think that --you've got 1,000 kids' lives a day on the line -- the chance to save a million lives over the next five years. I don't think there's any doubt that as that becomes clearer, as it was out here yesterday at our event, that we've got a good chance to pass it.

Q If you don't get a bill -- and it's possible on a big complicated issue like this, you don't get a bill -- do you get a political issue, a powerful political issue for the midterms?

THE PRESIDENT: I don't want a political issue. There will be one inevitably, especially after all this advertising the tobacco companies have done, and all the evidence that's come up now that we have about how much they basically misled the American people over 30 years about what they knew about the addictive qualities of tobacco and what they were doing to market to children.

But I don't want a political issue. I want it done. I want it over with. I want it behind us. I want us to be able to say that we still have our fights, we still have our disagreements -- we're going to have big arguments in the fall election about education and whatever, these things where we have differences of opinion. But at least we saved 1,000 kids a day, the lives of 1,000 kids a day.

To be perfectly accurate, we think the plan will save slightly more than half, it will cut teen smoking by slightly more than half over the next five years. That's about a million lives.
That's important. That's what I want to be able to say.

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005. memo	Personal (Partial) (1 page)	5/26/1998	P6/b(6)

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*

May 26, 1998

WELFARE TO WORK EVENT

DATE:May 27, 1998
LOCATION:East Room
BRIEFING TIME:11:30 am
EVENT TIME:11:45 am (Roosevelt Room Meeting)
12:25 pm (East Room Event).
FROM:Bruce Reed

I.PURPOSE

To demonstrate your leadership in reforming the welfare system by announcing: (1) the accomplishments of the Welfare to Work Partnership in its first year; (2) a new decrease in welfare caseload numbers; (3) the first round of Department of Labor Welfare-to-Work Competitive Grants.

II.BACKGROUND

This event will celebrate the one-year anniversary of the Welfare to Work Partnership. You will announce that the Partnership has grown from 105 to 5,000 companies since it was launched at the White House last May and that its member companies hired over 135,000 welfare recipients in 1997. You will also announce dramatic new caseload reduction figures, showing that over five million people have come off the welfare rolls since you took office and over three million since you signed welfare reform into law. Finally, you will announce the first Welfare-to-Work competitive grants and highlight Congressional action on your welfare-to-work transportion proposal.

Welfare to Work Partnership Success
On May 20, 1997, 105 company executives joined you at the White House to launch the Welfare to Work Partnership. One year later, 5,000 businesses of all sizes from all 50 states have joined the Partnership and pledged to hire and retain welfare recipients without displacing current employees. In 1997, the Partnership's business partners hired 135,000 welfare recipients, and today you will challenge those companies to double their efforts by hiring 270,000 workers from the welfare rolls in 1998.

Record Welfare Caseloads Declines
You will announce new figures showing welfare caseloads have fallen to 8.9 million, a record drop of 3.3 million since you signed welfare reform into law and 5.2 million since you first took office. The welfare rolls have declined by 37 percent since January 1993, when they stood at 14.1 million, and by 27 percent since their August 1996 level of 12.2 million. The percentage of the U.S. population on welfare is at its lowest since 1969 -- 3.3 percent. The latest data from the Census Bureaus Current Population Survey show that

1.7 million adults on welfare in 1996 were working in March 1997, an increase of 20 percent over the previous year.

First Welfare to Work Competitive Grants
You will announce the first round of competitive grants from the $3 billion Welfare-to-Work program you fought for in the Balanced Budget Act of 1997. The $186 million in grants from the Department of Labor will support 49 innovative welfare-to-work efforts designed to move long term welfare recipients into lasting, unsubsidized jobs. These awards are the first of five rounds of competitive grants to be awarded in 1998 and 1999. Twenty five percent of the Balanced Budget Act's $3 billion welfare to work funds are to be awarded on a competitive basis, with the remaining 75 percent to be allocated by formula to states to be used by local Private Industry Councils to help welfare recipients who have significant barriers to employment obtain and retain jobs.

Funding of Welfare-to-Work Transportation Proposal
You will praise the Congress for including your welfare-to-work transportation proposal in the ISTEA transportation bill which passed the Congress on Friday. The proposal will provide up to $150 million a year for local efforts to help welfare recipients get to where the jobs are.

Attending this event will be: over 100 executives of small, medium, and large companies who belong to the Welfare to Work Partnership, former welfare recipients who are now successful employees, and some of the local organizations receiving the new Welfare-to-Work grants.

III.PARTICIPANTS

Briefing Participants:
Erskine Bowles
Bruce Reed or Elena Kagan
Andrea Kane

Roosevelt Room Meeting Participants:
Secretary Shalala
Secretary Herman
Erskine Bowles
Bruce Reed
Eli Segal, President of the Welfare to Work Partnership
Welfare to Work Partnership Board of Directors (*SEE ATTACHED LIST)

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Jerry Greenwald, CEO of United Airlines and Chairman of the Welfare to Work Partnership.
Rhonda Costa, former welfare recipient who currently works as an Administrative Assistant at Salomon Smith Barney. Rhonda is featured in one of the Welfare to Work Partnerships PSAs and will be introducing you at this event.
[Rhonda received public assistance for one year following the birth of her first child in 1983, and again after the birth of her second child in 1994. Determined to get off welfare, in July 1996 she enrolled in a job training program at the Wildcat Service Corp., which lead her to an internship at Salomon Smith Barney. She was quickly hired and has been working there for 1 years. She earns [redacted] per year with full benefits and stock P6/b(6)

options. She has moved her family from New York City to Irvington, New Jersey, so that her two daughters could attend better schools and live in a safer neighborhood.]

IV.PRESS PLAN

Roosevelt Room Meeting -- CLOSED PRESS
East Room Event -- OPEN PRESS

V.SEQUENCE OF EVENTS

Meeting with the Welfare to Work Partnership Board of Directors in Roosevelt Room
- You will briefly greet each of the meeting participants.
-You will briefly thank the Partnership Board for coming and invite Eli Segal to lead the discussion.
-Eli will make brief remarks, and will open up the conversation. He will call on three Partnership Board Members to speak.
- You will have an opportunity to respond to each speaker and then Eli will close the meeting.

East Room Event
-You will be announced into the room accompanied by Eli Segal, Jerry Greenwald, and Rhonda Costa.
- Eli Segal will make remarks and introduce Jerry Greenwald, CEO, United Airlines.
- Jerry Greenwald will make remarks and introduce former welfare recipient Rhonda Costa.
-Rhonda Costa will make remarks and introduce you.
-You will make remarks, work a ropeline, and then depart.

VI.REMARKS

Talking Points for Roosevelt Room meeting attached.
Remarks for East Room provided by Speechwriting.

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Administrator Alvarez
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December 4, 1997

MEMORANDUM FOR SYLVIA MATHEWS
JUDITH WINSTON

FROM: THURGOOD MARSHALL, JR.
JON P. JENNINGS

SUBJECT:Cabinet Affairs Race Initiative Weekly

Department of Treasury

On November 28, the Treasury Department issued a release on a One America roundtable conversation on race. The roundtable was hosted by Alex Rodriguez, Deputy Assistant Secretary for Administration, in Boston. The release went out to both the national and regional media markets. A copy of the release is attached.

Department of Justice

40th Anniversary of the Civil Rights Division: The Department is attempting to hold an event commemorating the 40th Anniversary of the Civil Rights Division. Either the Attorney General or the Deputy Attorney General will speak about the success of the Division and the need for an Assistant Attorney General.

Deparment of Interior:

Air Field that Launched Tuskegee Airmen Studied for Inclusion in NPS: The NPS Southeast Region is conducting a study of Moton Field --the small Tuskegee, AL airport that served as a training base for the black Tuskegee Airmen of World War II fame --to determine whether the site should become part of the national park system. The study is being funded by a $75,000 grant from AL Department of Economic and Community Affairs. Moton Field could potentially come under NPS management as a separate park unit or as part of Tuskegee Institute National Historic Site.

United States Department of Agriculture

Presidents Initiative On Race: On Dec. 8, Secretary Glickman will address the Professional Agricultural Workers Conference a forum in Tuskegee, AL where participants discuss improving the quality of rural life for people in the South. Hosted by Tuskegee University and supported by the University, 1890 Land Grant Institutions, other organizations and USDA agencies, this years conference theme is "Access and Equality Issues in Policies and Programs for Agriculture and Rural Development." Other USDA employees are scheduled to participate in the conference.

Sam Thornton has been named by Secretary Glickman as Director of the Office of Outreach, with a staff of eight.

In response to the Presidents One America initiative on race, Under Secretary for Food, Nutrition, and Consumer Services Shirley Watkins began her Food and Nutrition Service-District of Columbia initiative to Reach Out to the African-American Community. As part of this project, Consumer Advisor Joyce Willis met with Washington ministers on Nov. 24 on the plan, "Do It Here First: How Churches Can Make Food and Consumer Service Programs Available To The Community." Future plans include meeting with the Under Secretary, and an all-day educational seminar for ministers interested in participating in the plan.

On Dec. 10-11, Acting Assistant Secretary Reed will speak at the National Organization of Professional Black Natural Resources Conservation Service employees training conference in Atlanta, GA.

On Dec. 12, Under Secretary Lyons will speak at the National Organization of Professional Black Natural Resources Conservation Employees training conference in Atlanta, GA

Presidents Race Reconciliation Initiative: On Dec. 1, Secretary Glickman discussed civil rights in an interview with Knight Ridder.

Department of Labor

On December 4, Secretary Herman will attend and be honored at the 13th Annual New York AFL-CIO Labor Recognition Dinner in New York, NY.

On December 9, Secretary Herman will address the National Council of Negro Women in Washington, DC.

Department of Housing and Urban Development:

HUD Continues Fight Against Housing Discrimination On November 25th, Secretary Cuomo continued HUDs fight against housing discrimination by announcing charges against the owners and managers of an apartment complex in Richmond, VA, who are refusing to rent to African-Americans. A HUD investigation found several white tenants who said that the on-site apartment manager, [redacted], boasted to white tenants that she would not rent to African-Americans. The manager no longer works at the 160-unit Wedgewood Village Apartments. One white tenant said [redacted] ordered her to tell her son to stop bringing black friends to visit him at Wedgewood. Another white tenant who provided childcare in her apartment said [redacted] told her to refuse to care for black children. "Housing discrimination is an ugly part of Americas past that has no place in our present or future. Its outrageous, its illegal and its intolerable," Secretary Cuomo said. P6/b(6)

HUD filed civil charges against Lewis, the apartment management company, and the owners of the apartments, alleging violations of the Fair Housing Act for discriminating against prospective black tenants. In addition, HUD issued an order barring Lewis from employment by any company that receives HUD housing assistance for one year.

The action is part of a nationwide crackdown on housing discrimination ordered by President Clinton on September 30th.

Department of Transportation:

Miami, Florida: On December 1, Secretary Slater traveled to Miami, FL to participate in a

round table dialogue on the Presidents race relations initiative. The round table discussion was attended by over 65 business and community leaders and received considerable national media coverage.

The Department has eight commitments from Senior staff to lead small round table discussions on race over the next few weeks. Several staff persons attended training at the New Executive Office Building on November 24. Secretary Slater moderated a discussion with corporate executives on Dec. 1 in Miami to explore the economic value of diversity, sharing "best practices" in a racially diverse workforce, building relationships between large corporate and minority businesses and the impact of corporate leadership in the community.

FRA Update: FRA has incorporated an internal reporting system, in order to insure that all efforts toward the One America concept are recognized and fully implemented. In this internal reporting system, all Associate Administrators and the Chief Counsel, have been asked to submit the name of an employee in each functional area who will serve as the contact person for weekly reporting of race relations items. In addition, the Office of Civil Rights will initiate programs designed to promote constructive dialogue within the FRA and to unite individuals along a path
to improve internal race relations.

Coast Guard Update: On 19 November, the first of two award ceremonies was held recognizing selected Coast Guard units for their participation in the Coast Guard Partnership in Education 2000 Program. Outstanding unit achievement in this program is recognized each year. The program, started in 1991, is one of the Coast Guard's formal steps to achieving a more
diverse workforce by reaching out to women and to minority communities. It is designed to enhance educational opportunities and career awareness for the Nation's youth regardless of their ethnic and racial backgrounds and genders, as well as giving them exposure to positive Coast Guard role models both on the job and in the classroom.

Minority Educational Institutions (MEIs): On December 1, OSDBU signed Cooperative Agreements with 5 Hispanic Serving Institutions to provide training to small, women-owned and Disadvantaged Business Enterprises (S/DBEs) in the use of and access to Electronic Commerce and Internet business use. Under the Agreement, each MEI will also receive funding for transportation-related student internships and to provide information dissemination and outreach activities regarding the Presidential initiative to hire individuals off the welfare rolls and the DOT Garrett A. Morgan Technology and Transportation Futures Program. As of December 1, OSDBU has Cooperative Agreements with 14 MEIs, including 8 HBCUs, totaling $880,000.

December 10, 1997: FTA Administrator Linton will address the Annual Legislative Conference of the National Black Caucus of State Legislators in Milwaukee, WI.

Race Relations: On November 24, Secretary Slater participated in a press conference by the Leadership Conference on Civil Rights. He joined government, civic and corporate leaders to launch its new website to help combat hate crimes.

Department of Energy

Secretary Pea to Host "One America" Event in San Diego: The Secretary will hold a race relations discussion with students at San Diego State Universitys Aztec Center on Friday,

December 5, to amplify the Presidents message under the Race Initiative. Secretary Pea will host a dialogue with 20-25 students as part of the "One America: Conversations that Bring Us Together" national effort of encouraging dialogue on race and diversity. The roundtable will also be observed by an audience of approximately 100 college and high school students.

Departmeent of Education:

Hispanic Dropout Rates: DOEd is planning the release of a Congressionally-mandated report on dropout rates among Hispanic Americans for mid-December. Secretary Riley, Congressman Hinojosa, and Senator Bingaman probably will participate in the release. Hispanic Americans have very high high school dropout rates compared to other ethnic groups.

One America: Secretary Riley is scheduled to host a "One America: Conversations that Bring us Together" event in Baltimore on December 11.

White House Race Initiative: The Secretary interviewed with USA Today at the White Houses request for a story that ran Monday announcing the beginning of the at-the-table discussions. Riley held first of several Administration official-led sessions. Leslie Thornton held a race round table in Philadelphia as well.

Race Town Hall: The Secretary will travel to Akron, OH to participate in the Race Town Hall with the President. He will be available to reporters as needed.

At the Table Discussion: ED promoted agency officials at-the-table discussions by issuing news advisories, releases and making calls to local reporters. Fox News in Philadelphia covered one and the Philadelphia Inquirer plans to cover another.

Department of Veterans Affair

Presidents Initiative on Race. On December 3, the Assistant Secretary for Human Resources and Administration will host VAs first dialogue on race. The Assistant Secretary has invited 11 members of the public, representing a cross-section of our racially and ethnically diverse society, to gather in VAs Omar Bradley Conference Room. They will offer their responses to a series of questions offered by the White House initiative staff for discussion, and they will provide insight based on their views and personal experiences. Their insights will be conveyed to the White House for consideration in developing further plans for the Initiative on Race and in formulating national policy on this important issue. We expect that the December 3 event will be the first in a series of discussions hosted by VA officials under the program of "One America: Conversations That Bring Us Together."

Small Business Administration

The Presidents Initiative on Race: The Administrator, Deputy Administrator, General Counsel and other SBA staff have held or are planning to hold "At the Table" roundtable discussions.

Office of Personnel Management

Planning is underway for Director Lachance to participate in a series of events to include a town meeting discussion on race in mid-December in Pennsylvania. Details will be in next

weeks report..

United States Infomration Agency

U.S. Civic Education Text Incorporated in Jordan University Human Rights/Democracy Course: To address the lack of a civic education component in the Jordanian educational system, USIS hosted a three-day program, November 17-19, 1997, by U.S. speaker Dr. Margaret Branson, director of the Civic Education Center in California. During her meetings with senior educators at the Ministry of Education and Jordanian universities, she drew the distinction between national education as currently represented in the Jordanian curriculum with its emphasis on political institutions, and civic education, highlighting issues of democracy and human rights. As a result of her program, Jordan University will incorporate American civic education materials in a required university course on democracy and human rights.

Congo-Kinshasa Bans VOA and Other International Broadcasters: VOA has been forced off the air in Kinshasa on orders of the Democratic Republic of Congo's Information Minister Raphael Ghenda. Local FM transmissions of Voice of America, the BBC and Radio France International fell silent following Ghenda's announcement November 30 banning the transmissions.

Social Security Administration

On December 8 -9, Commissioner Apfel will be in Seattle, WA where he will visit SSA's regional and local offices and meet with the editorial board of the Seattle Post-Intelligencer. Also, as part of the President's Racial Reconciliation Initiative, the Commissioner will visit an Asian community resource center for a "One America" conversation with 16 multi-ethnic community leaders in the Seattle area.

cc:
Bob Nash
Ron Klain
Steve Silverman
Kris Balderston
Anne McGuire
Katherine Hubbard
David Beaubaire
Elisabeth Steele
Lisa Levin
Michele Cavataio
Andrew Mayock
Elena Kagan
Julie Fernandes
Lin Liu
Jacinta Ma
Michael Sorrell

Tamara Monosoff
Nelson Reyneri

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
008. memo	From Ron Klain to Vice President Gore (4 pages)	5/19/1996	P2, P5, P6/b(6)

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Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
009. chronology	Chronology of Whitewater productions (3 pages)	4/1996	P5

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
010. memo	From Walker Bass to Bob Nash, re: personnel (2 pages)	3/10/1998	P2, P6/b(6)

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011. paper	Production list (2 pages)	n.d.	P5

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012. form	University of Chicago (6 pages)	n.d.	Personal Misfile

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