

## THE WHITE HOUSE

WASHINGTON

April 21, 1993

02 021 P1: 09

## MEMORANDUM FOR THE PRESIDENT

FROM: ROBERT E. RUHIN *RR*

SUBJECT: Enterprise Zones and Community Development Banks

Attached are decision memoranda regarding enterprise zones and community development banks.

Both of these issues have turned out to be far more complex and controversial than had originally been expected, largely because the approaches are innovative and expansive. Consequently, the memoranda are relatively long and pose numerous and not simple issues. Furthermore, despite many meetings and a well conducted process led by Bruce Reed and Gene Sperling, there are still substantial disagreements on many of the issues, especially relating to enterprise zones.

We need decisions on the basic policy issues within the next few days, in order to dovetail with the legislative schedule. Given the limits on your time, one possibility would be that we could have a meeting with you which would lead to decisions on the basic issues, with the subsidiary design issues reserved for decision at a later date or, if you wish, delegated to Carol and me. Either way, we would meet the requirements of the legislative schedule.

Marcia Hale is attempting to fit this into your schedule very late Friday, and you can let us know at that time what decision-making process you would like to have.

May 12, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED  
DONSIA STRONG

SUBJECT: Lobbying Disclosure Bill

As you know, the Senate voted last week to pass the Levin lobby reform bill, including a Lautenberg amendment to bring Congressional gift rules in line with those of the executive branch, and a Wellstone amendment to require lobbyists to disclose gift, travel, and entertainment benefits to Members, as your ethics law required in Arkansas.

We believe the Administration should support these provisions when the measure moves to the House, and assume from your public comments over the last few days that you think so, too.

Howard Paster still contends that despite your personal support for these measures, these rules are Congress's business, and the Administration should not appear to be telling Congress what to do.

We believe that lobbyists are the villain here, not Congress. We think the Administration should support these measures because 1) they're good policy; 2) the Administration is going to be asked to take a position, and if we don't support these provisions in the House, we will look like we're not serious about political reform; 3) public pressure is so great that the House will vote for these measures anyway; and 4) you've said publicly you're for these ideas, so that should be the Administration's official position.

Please let us know whether we can say the Administration supports the Levin bill as amended.

THE WHITE HOUSE  
WASHINGTON

July 14, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: GENE SPERLING, BRUCE REED  
SUBJECT: TOMORROW'S CD BANK/CRA REFORM EVENT

As you know, you are scheduled to announce your CD Bank and CRA Reform initiatives on the South Lawn tomorrow -- two economic initiatives which you approved in late April. The reason we had to schedule this event today is that the Senate Banking Committee had scheduled a hearing for July 15 on your CD Bank Bill, where Secretaries Bentsen and Espy will testify. We were unable to get an announcement date prior to your leaving for the G-7 trip but were able to get Riegle to move his hearing to this afternoon in order to accommodate you. This event is the culmination of months of planning, drafting, policy development and delicate negotiations with constituent groups and Members of Congress. Frank Newman and Gene Ludwig at Treasury and Bob Nash at Agriculture have been particularly involved in the negotiations with these groups and in developing the final proposals.

These initiatives reflect a fundamental principle of your overall economic plan: to make capital available to enterprising Americans in all communities that want to invest, spur economic growth and create jobs. Whether promoting the G-7 talks or the community development banking bill, the message is the same -- creating new jobs.

The CD Bank and CRA reform initiatives reflect a New Democrat approach to helping distressed communities create jobs and spur economic growth. Across the country, poor communities from South Central L.A. to the Mississippi Delta are reeling from a decade of declining opportunity and rising social and economic isolation. Government cannot do the whole job -- but we can be a catalyst for the private sector and bottom-up innovation in local communities. These two initiatives will result in a substantial increase in lending for distressed, underserved communities -- both by bottom-up community development institutions and by mainstream banks.

The event will include a broad range of groups and Members who are particularly supportive of these efforts. This is an historic occasion in which the major banks, community groups, the CDFI industry, and members of Congress stand together on the same platform.

The CRA Reform will be completed by regulation. Tomorrow you will send a memorandum to the four bank regulators asking them to issue performance-based regulatory reforms by January 1, 1994. Banks and community groups will be invited to participate in

the development of this regulation. Three of the bank regulators, including Gene Ludwig, will be at the event. Hugh McColl and other heads of banks with good CRA records will also be on hand to support this effort, as well as supportive community groups.

The CD Bank Bill will be transmitted tomorrow. Key members of Congress who support the bill, including Representatives Flake, Waters, and Rush as well as the Banking Committee chairs will be seated behind you and scores of Members of Congress will be in attendance.

Attached are the following documents:

- 1) a more detailed memorandum which outlines our negotiations with key constituent groups and Members of Congress;
- 2) promotional materials that will be handed out to the press and attendees, including
  - a summary of the CD Bank and CRA Reform initiatives;
  - a summary of the problems faced by credit-deprived communities (prepared with the excellent work of Alicia Munnell, Assistant Secretary for Economic Policy at Treasury);
  - highlights of the CD Bank Proposal;
  - description of the CD Banking Industry;
  - success stories;
  - highlights of CRA Reform;
- 3) a copy of the CD bank bill along with a transmittal letter and a section-by-section analysis;
- 4) a draft of the memorandum that you will send to the bank regulators; and
- 5) Q & A on both initiatives.

## THE WHITE HOUSE

WASHINGTON

July 14, 1993

## MEMORANDUM FOR THE PRESIDENT

THROUGH: GENE SPERLING, BRUCE REED

FROM: PAUL DIMOND, PAUL WEINSTEIN, SHERYLL CASHIN

SUBJECT: BACKGROUND ON CRA REFORM, CDFI INITIATIVE

## I. BACKGROUND

You are scheduled to announce your CRA Reform and Community Development Bank and Financial institutions initiatives tomorrow. The NEC and DPC staff, along with senior officials at HUD, Commerce, Agriculture, and Treasury, have engaged in extensive negotiations and coalition building among constituent groups and members of Congress. This memorandum summarizes those negotiations to give you perspective on the various positions and concerns of key groups and officials who will be present at the ceremony.

## II. SUPPORT FOR CRA REFORM, CDFI BILL

A. Community and Consumer Groups. When we first met with groups like ACORN, Center for Community Change, Community Reinvestment Coalition, ONE, Consumers Union and Consumer Federation of America, they expressed substantial concern that (1) the CDFI bill would lead to the creation of a separate and unequal system of banking for distressed communities, (2) that CRA reform by regulation could lead to diminution of lending by regulated banks and thrifts in distressed communities, and (3) that we might be contemplating a "safe harbor" from CRA for mainstream banks that invested in CDFI's. Through the careful explanations of Undersecretary Newman, Comptroller of the Currency Ludwig, Assistant Secretary Nash, and the NEC and DPC staff at a series of private discussions and presentations at public forums, these groups generally came to agree with the three principles that you set for reform of CRA by regulation:

- reform the CRA assessment criteria to focus on actual lending performance in the circumstances of the local community and particular bank
- exercise the full array of enforcement sanctions currently available so that full scrutiny and public comment is not limited to go/no-go decisions on acquisitions and mergers

- train a corps of specially trained CRA examiners to focus on lending performance, not on the extent of community public relations and image

The groups eventually expressed a strong preference for reform of CRA through regulation this year, rather than running the risk of seeking legislation in Congress that might lead to weakening CRA. They also came to understand that mainstream banks would get some credit, but not a "safe harbor," for investing in CDFIs. Despite this understanding and support, however, some community groups and some consumer groups are concerned about our rhetoric (e.g., "substitute performance for paperwork") and need constant reassurance that they will be full participants in the development of CRA regulatory reforms with the Bank regulators.

**B. CDFIs.** At the outset, there was also some concern from non-depository CDFI's (e.g., Community Development Corporations and revolving microenterprise or community development funds) and Credit Unions that they either would be excluded from our CDFI initiative altogether or would be at a disadvantage compared to depository institutions like South Shore or Elk Horn. When we explained that the basic criterion was ability to match the CDFI Fund's investments and then to leverage the resulting public-private investment to multiply the actual loans to community and economic development, they came to understand both how they were eligible and would be challenged to demonstrate their own ability to perform and to become self-sustaining.

Mainstream banks with wholly-owned CDC subsidiaries and state economic development authorities initially expressed some concern because they are not eligible directly for funding in our CDFI bill. Rather, the CDFI bill and CRA reform will encourage local CDFI's to join in lending networks and investment consortia with such mainstream banks and public finance authorities to help them fulfill their own public mission and community reinvestment activities. Although there was not great joy, most mainstream banks with CD subsidiaries came to accept and understand why we targeted resources on "bottom-up" CDFIs.

**C. Mainstream Banks.** Many mainstream banks originally wanted to support their own investment in CDFI's and a national CDFI fund in exchange for some form of interstate branching or a CRA "safe harbor." But many of these banks have come to accept that no such financial reform is or should be considered this year. Several mainstream banks have endorsed the proposal to reform CRA through regulation, while many more have agreed to participate in the process of developing regulatory reforms rather than run the gauntlet of reforming CRA through legislation. Once you ask the regulators to proceed with this process, mainstream banks and banking interests and the representatives of small banks will participate and, at this time, appear willing to accept a new focus on actual performance in exchange for avoiding paperwork related to community relations. Some mainstream banking interests have even expressed a willingness to consider using "geocoding" -- indexing loans by geographic area -- and "independent testers" to measure their community reinvestment performance rather than the current emphasis on community public relations processes and documentation.

There is a risk, however, that some mainstream banks may lobby Congress for

amendments to our CDFI bill that would seek CRA relief or major financial reform in Congress.

**D. Congress.** The House and Senate Banking Committees have dealt with a lot of bad news over the past decade and there is much pent-up demand by some for major financial reform. No one seriously believes such major reform has any chance of passage this year because of the opposition of non-regulated financial service sectors and because of tensions between mainstream banks and representatives of the small banks and the consumer and community groups. Nevertheless, there are several members, both Democratic and Republican, who might seek to add reforms onto any CDFI bill in hopes of winning broader support. We have been warned that if our CDFI bill becomes such a "Christmas tree," there will be no chance for passage.

We have therefore worked closely with the Banking Committee staffs, key members, Banking Committee Chairs, and Leadership to secure support for a narrowly focussed CDFI bill and reform of CRA by regulation. Subcommittee Chair Joe Kennedy, an early supporter of strengthening CRA by legislation, was the first to embrace your two-part strategy of strengthening CRA by regulation and a narrow CDFI bill. Chairmen Gonzales and Riegle also endorsed this approach early on. Subcommittee Chair Kanjorski, a proponent of new legislation to support secondary markets for small business loans, also agreed to support the narrow approach this year while he sought to build support for his proposed reform for next year.

Representative Waters, a proponent of strengthening CRA by legislation and of a much more ambitious CDFI bill, agreed to endorse your two-part approach, while reserving her right to press for more funding. Representative Rush, who has over 70 co-sponsors for a CDFI bill that is very similar to ours (but with a secondary market, tax advantages for deposits in CDFI's, and much greater funding) came on board after lengthy discussions and extended but friendly negotiations with Howard Paster and Treasury, OMB, and White House staff. There will be a major push from these members, and their supporters, to provide substantially more federal funding for the CDFI Fund beginning in FY 95. They understand that, at this late date in the appropriations calendar, we will be doing well to get the \$60 million that you requested for FY 94.

Representative Flake was an early opponent of CDFI legislation of any kind and supported reforming CRA by legislation and rewarding mainstream banks under his Bank Enterprise Act (BEA) for investing in distressed communities by lowering their FDIC insurance premiums on such loans. The BEA was authorized but not funded last year. Gene Ludwig, Frank Newman, and White House staff persuaded him that he could be actively involved in the CRA regulatory reform, including through his Oversight Subcommittee if necessary. Out of his personal respect and support for you, he also agreed to hold off on pressing his BEA funding request, pending completion of the CRA regulatory reform, while we studied the merit and need for the insurance premium subsidy for loans in distressed communities.

Finally, Subcommittee Chair Neal, at a meeting of Banking Committee and House Leadership, agreed to withhold his proposal for interstate branching this year in order to allow a narrow CDFI bill to proceed. With this unusual unanimity among Banking Subcommittee Chairs, Chairman Gonzales proposed a single set of hearings and mark-up before the full Banking Committee, rather than the usual round of separate subcommittee hearings, in order to assure prompt consideration and as narrow a focus as possible for your CDFI bill.

We are now just beginning the process of exploring broader Republican support in the House and the Senate for your two-part approach. All members of the Banking Committees will be invited to your White House announcement. By then, we may have a better handle on which Republicans, whether or not on the Banking Committees, may wish to support your two-part approach.

### III. NEXT STEPS AND CONCLUSION

We have come a very long way in putting together a coalition of community and consumer groups, the CDFI industry, major segments of the mainstream banking industry, and important factions in Congress to support your two-part program to strengthen CRA by regulation and to enact legislation supporting CDFIs. Your announcement of both initiatives before all segments of this nascent coalition can solidify support and set the stage for what will no doubt be difficult negotiations between the diverse interests before the Regulators on CRA reform and a challenging but doable legislative session in Congress on the CDFI bill. Because of the highly partisan atmosphere and the narrow Democratic majority in the Senate, there may well be difficult negotiations ahead in the Senate. In addition, we may face challenges in the House to keep the CDFI bill straightforward and clean.

If we do succeed in continuing to build the coalition of support for your two-part strategy, deliver a strengthened CRA through regulatory reform and enact a straightforward CDFI bill, we will have laid the foundation for substantial reinvestment in distressed communities all across America. We will have built a platform for considering greater support for community reinvestment in the years ahead, through mainstream banks and thrifts, a growing network of CDFIs, and even the unregulated financial industry on a voluntary basis. And, you will have succeeded in bringing diverse interests together behind the basic principle of investing in underserved communities.

THE WHITE HOUSE  
WASHINGTON

August 18, 1993

MEMORANDUM FOR THE VICE PRESIDENT

FROM: BRUCE REED  
SUBJECT: A FEW BIG IDEAS FOR NPR

The Performance Review is peaking at just the right moment: Public pressure for spending cuts can help drive the rest of your agenda.

Moreover, the Review teams have done some good work. The executive summary is well-written and sounds the right themes.

After reading through all the recommendations, however, I have three related concerns. *First, I think the reports offer too many little ideas and not enough big ones.* The sheer number of recommendations threatens to undermine their impact -- relatively minor suggestions get the same weight as important ones. *I urge you not to publish the monographs separately.* None of them comes close to the quality of the summary draft, and many of them are full of little landmines that will undercut the credibility of your effort. Publishing 30+ reports and 3,000 pages will make it look like you're tinkering around the edges, and killing a lot of trees in the process. (Don't assume no one will read them -- your opponents will, and they'll reread them in 1996 and beyond.) Instead, you should publish a single companion volume in late September or October that can be thoroughly vetted, rewritten, and pared down to digestible length.

*Second, you need a few recommendations that will matter to the ordinary person.* The management reforms you propose in procurement, personnel, and other areas are good for the government, but will do more to make life better for bureaucrats than for ordinary people. At the moment, it would be easy enough for opponents to argue that these recommendations will reduce the regulatory burden on federal agencies but not on small business, guarantee free training for federal employees while charging everyone else, allow the size of the federal workforce to increase when the President promised to cut it, and do little for most taxpayers except let them charge their higher taxes with plastic and pay more in user fees when they visit a national park. If you want the public to help push these recommendations through Congress, you need to give them something more tangible. I outline a few suggestions below.

*Finally, you need to reassure people that your proposals will actually save money -- and that you won't turn around and let the federal government waste the money somewhere else.* People don't simply want their government to run more efficiently; they want it to cost less. They will not be fooled if the Administration tries to take the money you save from one part of the government that doesn't work and recycle it into other government programs they think don't work, either. People have seen that shell game before. If you let the Administration divert the NPR savings into another jobs bill, worker training, or some other program most people don't trust and never see, you will squander all the credit you deserve for taking on government in the first place.

You have an enormous responsibility on your hands, which is far greater than most people in the Administration may yet understand. Your duty is not merely to make the bureaucracy work better or identify some quick savings to fund a few initiatives in FY95. The success or failure of the NPR will resound long after that. Your effort represents what may be our last best hope to start winning back the American people's faith in government -- without which the rest of this Administration's agenda will ultimately be moot.

So even though the hour is late, let me offer a few concrete suggestions:

**1. Dedicate some savings to tax relief.** The best way to capture the public imagination behind this effort is to *give the American people a downpayment toward a new government.* As I suggested to Elaine a few weeks ago, you ought to pledge to use some of the savings Congress lets you achieve through NPR to give the taxpayers some of their money back. The savings could go into a trust fund earmarked to provide tax relief for families with young children -- and nobody would get their tax cut until Congress went along with your proposed savings.

This approach would not only keep an important campaign promise and advance an idea you pioneered; it would make your message easy for the people -- and Congress -- to understand: Cut spending and give the money back. It's possible to find an excuse to vote against procurement reform; it would be very painful for members in either party to filibuster, amend, or vote against a tax cut.

The other great advantage of a Children's Tax Credit is that, unlike most other possible uses for this money, it is entirely consistent with reinventing government. As you pointed out when you were promoting Gore-Downey, it's time for government to admit that parents can do more for their children with this money than we can.

A targeted credit of \$1,000 per young child would cost between \$5 and \$10 billion. Any additional savings could be dedicated to the Deficit Reduction Trust Fund.

**2. Put a real number on your workforce reductions.** If one of our goals is to reduce the size of the federal workforce (and it should be), your report should say so, and put a real number behind it. You're right that individual managers shouldn't manage by FTE ceilings -- and while you're at it, you should get rid of congressionally mandated FTE floors

as well -- but downsizing won't happen unless the President and Cabinet secretaries have clear, unavoidable goals for personnel reduction.

A 20% reduction in operating costs is a good idea (although it does not go much beyond the existing executive order), but as a practical matter, it will be extremely difficult at most agencies to distinguish between overhead and services. Agencies complain about FTE caps for a reason -- they're the only enforceable tool we now have to make them cut government, because bodies are the one measure of overhead we know we can count. If you take that away, you need to *replace the FTE cap with real, numerical targets for reduction in personnel costs at every agency*. Otherwise, agencies will cut back the number of offices that provide services and not touch the number of unproductive middle managers.

Your report hints at personnel reductions, but shies away from a number. This is a big mistake. The estimate you're hiding is 200-300,000. You should say it. If you don't say it, you'll never get it. Moreover, you will limit the President's negotiating leverage if you trade away the only tool the Administration now has to restrain the growth of the bureaucracy for nothing concrete in return.

3. **Require Congress and the executive branch to abide by all the laws they pass, and challenge Congress to reduce their operating costs by 20%.** The President has long maintained that one way to put government back in touch with the American people is to have Congress abide by the same laws it imposes on the rest of America. (Speaker Foley is working on legislation to require Congress to observe civil rights laws.) The President also challenged Congress to follow his lead in reducing their cost of doing business. The budget battles of the last six months suggest that there is a great deal more support for these ideas than the leadership might like us to believe. This isn't a cheap shot at Congress; it's asking the same of them that we're going to ask of ourselves. And in the current atmosphere, you would actually be doing most members a favor by giving them a chance to vote for something that will play well back home.

4. **Call for enhanced rescission authority.** If you're going to call on Congress and OMB to stop using line items, you should point out that the Administration still wants some form of expedited rescission authority. The President ought to be able to rescind a portion of an agency's appropriation as a way to enforce performance.

5. **Sunset all new programs and regulations, and let the market do what the government can't.** Nothing in government should last forever unless it works. You've called for sunsetting the federal personnel regulations; you should go further, and require a sunset for all new initiatives. Likewise, you should expand the scope of your regulatory effort by pledging to review every existing or proposed regulation to see if there are market-based alternatives.

THE WHITE HOUSE  
WASHINGTON

THE PRESIDENT HAS SEEN

11/21/93

11/21 14:08

November 21, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: Paul Weinstein (DPC)  
Paul Dimond (NEC)  
Sheryll Cashin (NEC)

SUBJECT: Community development bank and financial institutions  
legislation

*Charles  
4/8/93  
prop. meeting*

On Sunday, November 21, the House of Representatives adopted your community development bank and financial institutions initiative (H.R. 3474) by voice vote. H.R. 3474 also includes a package of regulatory reforms designed to reduce administrative requirements for insured depository institutions. No significant changes were made in the bill since its passage out of the House Banking Committee on November 10. As you know, the Senate Banking Committee, by a vote of 18 to 1, agreed to similar legislation on September 21. We are hopeful the full Senate will take up this legislation upon its return in January.

cc: Carol Rasco  
Bob Rubin

November 1, 1994

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: Bruce Reed  
Michael Waldman  
Bill Galston  
Paul Weinstein

SUBJECT: Strategy for Political and Government Reform

The collapse of public trust in the institutions of government is the fundamental political fact of our time. After two decades of growing disillusion, this break between the people in office and the people who put them there dominates every aspect of American politics, from the noisy bombast of talk shows to the silence of empty voting booths.

Voters believed that Bill Clinton understood this situation, and would act to rectify it. But for all of our efforts over the past two years, the public is now more disillusioned, more embittered, than it was in November 1992. Whatever the results of the upcoming election, the President should put forward a bold, coherent set of reform initiatives to make government, Congress, and the political system work.

**I. The Case for Reform**

Why is a bold reform agenda so important?

First, the public demands it. Citizen cynicism and anger is deep and pervasive. Voters perceive a failure of government to act decisively and effectively. They see a federal government that hordes money and power, endless bickering between two seemingly outdated political parties, and a proliferation of special interests that drown out the voices of average citizens. When John Kennedy was President, 76% of the people said they trusted the federal government to do what was right all or most of the time. Today, after betrayals from Vietnam to Watergate to "Read My Lips," only 22% of the people give that same answer.

Moreover, much of this critique of Washington and government is valid. Government is bloated, irrational, and inefficient -- an ossified institution in an era of constant innovation. Special interests do have too much power; a \$300 million campaign overwhelmed health care, gun groups practically derailed the crime bill, and some 80,000 lobbyists of every pinstripe have succeeded in diluting or defeating scores of proposals. Congress is paralyzed

by partisanship and resistant to change. Changing the way Washington does business is perhaps the most significant legacy we could leave.

Finally, restoration of trust in government and politics is essential to the success of the rest of our agenda. As we have learned over the past two years, we cannot count on public support for health care, welfare reform, deficit reduction or any other issue unless we first persuade them that we understand what's wrong with government and have set about to fix it. Conversely, an agenda that links political reform with our efforts to make bipartisan progress on health care, welfare reform, reemployment, and other issues should strengthen and reinforce those efforts.

To be sure, this administration has made a real start on this front. The Vice-President's reinventing government initiative has been the quiet success story of the first two years. As a result of the NPR, we have dramatically shrunk the federal workforce, and passed sweeping procurement reform legislation. We imposed the toughest ethics requirements ever on our senior officials, and repealed the deductibility of lobbying expenses. We proposed tough and well-regarded campaign finance and lobbying reform bills. And we have taken on more vested interests than any administration in decades. But these efforts have not been enough to overcome the rising tide of public cynicism.

### **The Coming Battle**

Today's "mad-as-hell" atmosphere is not a flash in the pan, but a firebell in the night. The reform impulse was strong two years ago; by every indication, it is even stronger today. It is no longer a question of whether Congress will address reform issues; the only question is whether we will lead the fight or be left behind.

Early in the next term, we can expect the Republicans to press forward with their reform agenda:

- balanced budget amendment;
- term limits;
- cuts in congressional committees and staff.

On Election Day, voters in 8 states are expected to approve term limits referenda, bringing to 23 the number of states that have backed limits. The issue will heat up even further when the Justice Department appears before the U.S. Supreme Court to argue that these state measures are unconstitutional.

Ross Perot's 19% of the vote was the second highest by a third party candidate this century, surpassed only by Theodore Roosevelt in 1912. Polls indicate that -- if he were to run today -- Perot's vote would not slip significantly. Support for independent candidates generally is at levels not seen in half a century.

When the new Congress convenes in January, fully half its members will be freshmen or sophomores, nearly all of whom ran on a platform to "change Washington."

## **A Three-Front War**

This memorandum lays out the elements of a sustained, vigorous reform campaign. Tentative stabs at congressional or political reform, pursued separately and quietly, will neither succeed nor break through to the public. Instead, we must mount an aggressive, comprehensive campaign, as we have done on other issues, from the budget to NAFTA to the crime bill. A concerted effort to change the way Washington does business will not only offer the President the chance to rise above partisan and narrow interests, but do more to advance the rest of our substantive agenda than anything else we could do over the next few months.

Our reform agenda should do battle on three fronts:

Shifting power back to the American people, through campaign reform that requires broadcasters to provide free time to candidates; a national initiative and referendum process; and a "citizen frank" that lets citizens contact Congress for free;

Fixing Congress, with a constitutional amendment allowing states to limit legislative terms; lobby reform; a ban on gifts; a congressional pay freeze until the budget is balanced; and a 25% cut in congressional staff; and

Launching a renewed assault on bureaucracy, including the line-item veto; civil service reform to give federal managers the right to hire and fire; and a fundamental overhaul of federal regulatory agencies.

This memorandum sketches out a 3-6 month campaign to unveil and fight for these proposals.

## **II. Proposals**

### **A. Shifting Power Back to the American People**

In the end, it will not be enough to change Washington. The American people are ready to take government into their own hands. The spread of information technology makes that possible, and the collapse of political institutions makes it almost certain.

1. **Free TV Time for Candidates.** A campaign reform bill with public funding will not pass the new Congress. Instead, we should press for the changes the President called for in his campaign -- free TV time for candidates who abide by spending limits, a \$1,000 limit on PAC donations, and reforms on soft money. Free TV time has strong public support. Over the years, it has also been endorsed by Bob Dole and Ross Perot. The idea would prompt a major battle with the broadcasting industry and its champions in Congress. On the other hand, it would negate the Republicans' single most powerful public argument against reform.

2. **National Referendum.** The most dramatic and significant reform proposal the President could put forward is a national referendum that would allow the people to vote on issues of national importance. Most major democracies have national referenda. For example, in recent years, Italians have voted on divorce; Spain voted on membership in NATO; and Austria and Sweden voted on the use of nuclear power. In the U.S., 43 states allow their legislatures to submit referenda to the people, and 24 states allow citizens to sponsor initiatives. In Arkansas, some of Governor Clinton's best known legacies -- such as ethics reform -- were enacted in this way. We could call for national votes on political reform, health reform, etc., but it would be entirely up to the American people what questions are put on the ballot.

Establishing a binding national referendum or initiative process would require a Constitutional amendment. Such an amendment might provide for putting an issue to a nationwide vote if the legislatures in 3/4 of the states recommended it or signatures were gathered from 5% of the voters nationwide. As a Constitutional safeguard, the referendum would require 60% approval to be enacted and would be subject to judicial review.

A national referendum is the one truly popular reform idea that has not been appropriated by either party. The best argument for direct democracy is that it enables the broad public to make its voice heard when the congressional system is unresponsive or gridlocked. It could boost voter turnout and enthusiasm; this year, twice as many Californians say they are going to the polls to vote for or against Prop 187 as are going to vote for a particular candidate. The advance of information technology will make this process easier. This administration has helped develop a tamper-proof digital signature, which allows people to provide a legal signature by computer. Direct voting cannot be far behind.

The most frequently advanced argument against a referendum is that it could fall prey to extreme social or fiscal proposals. However, a recent comprehensive study of referenda found that in general, that has not proved to be the case. Another concern is the difficulty of controlling spending by opponents and proponents. Additional safeguards could help address these concerns, such as free TV time for supporters and opponents; a pay-as-you-go rule for proposals with budgetary impact; and limiting referenda to statutory rather than constitutional issues (so that constitutional amendments like term limits and school prayer would go through the same thorough process they do now).

At various times, this idea has been endorsed by leaders ranging from Dick Gephardt to Jack Kemp. In 1981, a Gallup poll showed 52% support for a legally binding national referendum. In recent polls, support has ranged from over 60% to as high as 84%. Among elite opinion, it will be opposed by business interests that prefer dealing directly with Congress, and by some interest groups nervous about the impulses of too much democracy.

**3. Eliminate the Congressional Frank, and Give It to the American People.** The frank is one of the most entrenched and abused symbols of incumbency. We could propose to take it away from Congress and give it to the American people instead. Any individual who wants to send a letter to their Congressman or Senator would be able to do so for free. Postcards, letters from organizations, and letters from another district or state would not be eligible (mail could be delivered directly to the district office to prevent abuse). This is how it works in Canada, where citizens can write Parliament for free.

**4. Citizens' Congress.** One dramatic experiment in direct democracy would be to run a national Citizens' Jury or Citizens' Congress that would bring ordinary citizens together to resolve a particular issue. We could invite a random group of citizens from around the country to Washington to deliberate on a given issue -- political reform, crime, community service. They would hear arguments from all sides, their deliberations would be nationally televised, and most important, we would try to take action on the basis of what they recommend. By selecting a small group of ordinary Americans entirely at random and letting them take part in government for a few days, we might spark new interest in participatory democracy and find a new way to get around the special interests to promote common-sense consensus.

**5. Take Subsidies from the Special Interests and Return the Money to the American People.** The whole point of reforming government is to give ordinary people a better deal for their tax dollars. One option would be to give them a reform dividend, by eliminating special interest subsidies and using the savings to pay for a children's allowance for middle-class families. Rob Shapiro has identified a series of special interest subsidies; an expanded deduction for middle-class families with children would cost in the neighborhood of \$20-40 billion over five years. The savings could go into a trust fund, so that nobody would get their tax cut unless Congress agreed to make the spending cuts. Established interests would attack anyone who goes after their subsidies, but we could press the simple theme that parents can do more for their children with that money than government or those interests can.

**6. Devolution of Power to State and Local Governments.** Last year, the Administration pushed two major initiatives that would have restored balance to the partnership between federal, state, and local governments. The Glenn-Kempthorne unfunded mandates bill and the President's waiver legislation drew bipartisan support on the Hill. We should aggressively push both bills next year and back it up with a broader devolution strategy. Public trust in state and local government, although weaker than decades ago, remains much stronger than confidence in the federal government.

## B. Fixing Congress

Regardless of the outcome of next week's election, we should press for major changes in the way Congress does business.

1. **Lobby Reform and Gift Ban.** We should demand that Congress pass a gift ban and a back-to-basics lobby reform bill as soon as they return. The Republicans raised several bogus objections to the lobby reform bill in the waning days; we should call their bluff, accept those changes if necessary, and pass the bill on a bipartisan basis.

2. **Apply Laws to Congress.** Legislation applying a host of laws to Congress passed the House but not the Senate this past Congress. We should press Congress to pass it immediately.

3. **Insist on Line-Item Veto.** With the Balanced Budget Amendment expected to pass easily in the next Congress, we should insist that it include a Constitutional line-item veto, and argue that it will be hard to balance the budget without it. We should insist on the strongest possible version of this veto, not the enhanced rescission authority that passed the House this time. We may also want to offer our own capital/operating budget alternative. In the campaign, the President said he could support a balanced budget amendment that separated capital and operating expenses so that long-term investments would be encouraged and operating costs reduced.

4. **Term Limits.** Republicans pledge to bring to a vote a constitutional amendment limiting congressional terms to 12 years, but they would grandfather in existing Members of Congress. Beyond principled opposition, we can respond in two ways:

a. Call their bluff. We could demand that the 12-year limit on service apply immediately (or by a date certain, such as 1996), and thereby affect sitting members of Congress; and/or

b. Let the states decide. We could support a constitutional amendment to allow states to vote to apply term limits to their own federal representatives. This would be consistent with our legal position that state-mandated term limits are unconstitutional.

5. **Cut Congressional Staff Overall by 25%:** In the campaign, the President promised not only to cut the White House staff by 25%, but to challenge Congress to do the same. The Republican Contract calls for a 25% cut in committee (not personal) staff. We could press forward with our original demand to cut overall staff by 25%.

6. **Freeze Congressional and Presidential Pay Until the Budget Is Balanced.** If we're going to make significant spending cuts to reduce the deficit, public officials should

lead by example. The American people don't get a guaranteed cost-of-living increase. Why should their leaders? A performance-based freeze on Congressional and Presidential pay is a responsible, common-sense alternative to plans to "cut their pay and send them home."

### C. A Renewed Assault on Bureaucracy

We should make the most of NPR's success by escalating our assault on the federal bureaucracy, with a relentless, sustained attack on fraud, red tape, unnecessary programs, and counterproductive rules and regulations.

**1. The Right to Hire and Fire.** NPR is preparing a sweeping civil service reform bill that will reduce the number of job classifications and give federal managers the right to hire and fire federal workers. Negotiations with unions and management are under way; the bill will be ready to introduce in January.

**2. The Right to Downsize.** NPR and OMB are preparing legislation to repeal FTE floors in existing appropriations bills, and ban the use of FTE floors in future bills. This could be coupled with a Presidential vow to veto future appropriations bills that limit our ability to downsize. We should also consider directing agencies to accelerate the mandated downsizing of the workforce to accomplish its objectives by 1996 instead of 1999. To illustrate that downsizing the bureaucracy is one of this Administration's signature achievements, we should start a Bureaucracy Clock (in a prominent place like Times Square) that would track our progress.

**3. Regulatory Overhaul.** Regulatory reform will be a top priority for NPR next year, with an extensive review that brings business leaders and others to the White House to develop a new, more market-based approach to regulation for the 21st Century.

**4. The President's Fraud Squad.** The President and Vice President could appoint a REGO SWAT team or bureaucratic bomb squad -- an elite group of troubleshooters and investigative journalists who report directly to them. Any time a story breaks about fraud or mismanagement in the bureaucracy, they would move in, get to the bottom of it, and report back within days with recommendations. They could also uncover such troubles before they become public, and demonstrate the President's desire for unfiltered information on how his government is working. This has been done before: FDR dispatched journalist Lorena Hickok around the country to see how the New Deal was really working. It would be an opportunity to make a high-profile reform appointment, by naming a prominent journalist to lead the effort.

**5. A Pork-Busting Bill.** NPR and OMB can put forward a comprehensive rescission bill, which targets pork in the recently passed appropriations bills.

6. **A Bureaucracy-Closing Commission.** As part of NPR, the President's Management Council has begun an effort to identify ways to reduce the number of federal facilities around the country, by closing field offices, regional offices, etc. We could formalize this arrangement and give it a higher profile to demonstrate our commitment to downsizing.

7. **REGO II.** NPR is preparing a detailed list of recommendations that were considered in 1993 but not included in the final package.

### III. Strategy

President Clinton has won credit for his achievements when his administration has drawn a sharp line on an issue with popular support, and then has focused on it in a concerted, systematic way over a period of months, not days.

#### Timetable

A sustained campaign would use the element of surprise, unilateral action, and the presidential bully pulpit.

**Before the election.** It would be very helpful if the President could point toward the change/reform themes before the election; otherwise, a sudden turn toward reform issues risks seeming an ex post facto rationalization. This could be done in a one-on-one interview with a reform-minded reporter, or on the campaign trip to Minnesota with Ann Wynn, who has run ads criticizing her opponent for voting against the lobby reform bill.

**Statement the day after the election.** The President's press conference statement should characterize the results as a mandate for change, one he intends to meet. It should point toward political reform as an early and important priority.

**December.** We should prepare to float some of the more dramatic reform initiatives. Because Congress will meet in early January to take up rules changes, we need to make our intentions known early.

- o DLC Speech, Dec. 6th: A chance to signal forthcoming reform efforts.
- o Post-Summit of the Americas, Dec. 12th: The President could make a pivot speech unveiling new reform proposals.
- o Speech to Incoming Freshmen: The President could bring the incoming freshmen to the White House for a speech on reform.

**January pre-SOTU.** The weeks before the State of the Union should include a series of events designed to underscore and foreshadow the reform and change theme.

- o We should convene a citizen jury or Little Rock-style conference to address what's wrong with government and politics, and how to fix it.
- o The President should make a major speech outlining his concept of how government should relate to the citizenry (something he has yet to do).
- o Announce the Fraud Squad, naming its members.
- o We should prepare a document outlining the problem and proposed solutions (this would be in addition to, or as part of, the budget document).

**State of the Union.** Reform should be a major theme of the speech, which should unveil a few of the most dramatic ideas.

### **Political Alignments**

A broad reform agenda would be popular with the general public and with non-governmental elites (e.g., press, editorialists), but would likely meet resistance from many elected officials and interest groups from both parties. A natural coalition for reform does not currently exist; we will have to bring together disparate reform groups and energize independent voters. In these circumstances, a national mobilization spearheaded by the President -- relying on prominent citizens and moderate Republicans and Democrats, use of the bully pulpit, and cross-party alliances -- would be the way to push for reform.

If the President decides to push forward with an ambitious reform agenda, further planning is needed.

*Handwritten initials/signature*

THE WHITE HOUSE  
WASHINGTON

THE PRESIDENT HAS SEEN <sup>11/27</sup>

November 25, 1994

NOV 25 5:53

Leon

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED  
MICHAEL WALDMAN  
BILL GALSTON  
PAUL WEINSTEIN  
ELAINE KAMARCK

*Agree in the concept*  
details matter

THROUGH: JACK QUINN  
CAROL RASCO  
ROBERT RUBIN

*Need agreement to discuss*

SUBJECT: Political and Governmental Reform

*That should make sense  
Do ~~some~~ lot of the lifting*

Attached for your review is a memorandum outlining options for a political and governmental reform program.

Our goal is to have a bold, coherent and plausible reform agenda, as an integral component of your overall strategy. This agenda could be included as part of a major address in December, if you decide to give one, or in your State of the Union address. As you can see, some of the proposals are conceptually "ready to go," and primarily need a political decision whether to go forward. Others require further work, as part of the budget process or in other appropriate fora.

It is clear that, to break through public cynicism and allow you to retake the mantle of reformer, this program must be both responsible and dramatic. Finding the right mix is the most significant task we now face.

We have a one-hour meeting scheduled for next Tuesday to discuss this with you.

Attachment

cc: George Stephanopoulos

## POLITICAL, CONGRESSIONAL, AND GOVERNMENT REFORM

The collapse of public trust in the institutions of government is the fundamental political fact of our time. After two decades of growing disillusionment, this break between the people in office and the people who put them there dominates every aspect of American politics, from the noisy bombast of talk shows to the silence of empty voting booths.

Voters believed that Bill Clinton understood this situation, and would act to rectify it. But for all of our efforts over the past two years, the public is still disillusioned, more embittered than it was in November 1992.

Our reform agenda should do battle on two fronts:

- Shifting power back to the American people and cleaning up Washington, through: campaign reform that requires broadcasters to provide free time to candidates; a "citizen frank" that lets citizens contact Congress for free; a sweeping effort to produce a leaner, cleaner Congress (lobby reform, a gift ban, applying private sector laws to Congress, a 25% staff cut, reducing unnecessary reports, and a pay freeze until the budget is balanced); and perhaps insisting that any term limits not grandfather current members; and
- Launching a renewed government reform program, through: reducing special interest subsidies; the elimination of one or more departments; faster downsizing of the federal workforce; and initiatives on civil service reform, privatization, devolution, state flexibility, and regulatory reform.

We need to address the role of government and, to use your words, to "repair the damaged bond between the people and their government." Then, toward achieving those objectives, you could propose specific measures from sections I and II from this memo.

### I. Giving Government Back to the People

**1. Free TV Time for Candidates.** A campaign reform bill with public funding will not pass the new Congress. Instead, we should press for the changes the President called for in his campaign -- free TV time for candidates who abide by spending limits, a \$1,000 limit on PAC donations or outright PAC ban, a ban on campaign contributions from lobbyists to the lawmakers they contact, and our soft money reforms from last year. Free TV time has strong public support. Over the years, it has also been endorsed by Bob Dole and Ross Perot. The idea would prompt a major battle with the broadcasting industry and its champions in Congress. And a campaign reform push would put the congressional GOP on the spot.

*details on frank*

**2. Eliminate the Congressional Frank, and Give It to the American People.** The frank is one of the most entrenched and abused symbols of incumbency. We could propose to drastically limit it for Congress and give it to the American people instead. Any individual who wants to send a letter to their Congressman or Senator would be able to do so for free. Members of Congress could use the frank to answer letters, but not for unsolicited mailings. Postcards, letters from organizations, and letters from another district or state would not be eligible. The citizens' frank could also be applied to letters to the White House.

**3. A Leaner, Cleaner Congress.** We should propose a comprehensive congressional reform package that presses for major changes in the way Congress does business:

*details*

**a. Lobby Reform and Gift Ban.** We should demand that Congress pass a gift ban and a back-to-basics lobby reform bill as soon as they return. The Republicans raised several bogus objections to the lobby reform bill in the waning days; we should call their bluff, accept those changes if necessary, and pass the bill on a bipartisan basis.

✓ **b. Apply Laws to Congress.** Legislation applying a host of laws to Congress passed the House but not the Senate this past Congress. We should press Congress to pass it immediately.

✓ **c. Insist on Line-Item Veto.** The Republican Contract includes a strong version of the line-item veto. We should support it, and insist that it become effectively immediately, not in some future Presidency. (Their version does not specify an effective date.)

**d. Endorse Congressional Staff Cuts.** In the campaign, the President promised not only to cut the White House staff by 25%, but to challenge Congress to do the same. We could praise Republicans for doing this, but we need to consider the effect of doing this on our Democrats.

✓ **e. Reduce Congressionally Mandated Reports.** Since 1970, the number of reports mandated by Congress has grown from 700 to 5,300. Many of these reports consume the agencies' time and the taxpayers' dollars for the members' gain; most just gather dust. We could introduce legislation to reduce or eliminate such reports. In Arkansas, the President ordered a complete review of every report produced by the Department of Education, and got rid of those no one read.

**f. Freeze Congressional and Presidential Pay Until the Budget Is Balanced.** The NEC is preparing another memo on our strategy for the Balanced Budget Amendment. One position we can take in any event is to insist that if we're going to make significant spending cuts to reduce the deficit, public officials should lead by example. The American people don't get a guaranteed cost-of-living increase. Why should their leaders? A performance-based freeze on Congressional and

Presidential pay is a responsible, common-sense alternative to plans to "cut their pay and send them home."

4. **Term Limits.** Republicans pledge to bring to a vote a constitutional amendment limiting congressional terms to 12 years, but they would grandfather-in existing Members of Congress. Beyond principled opposition, we can respond in two ways:

a. **Call Their Bluff.** We could demand that the 12-year limit on service apply immediately (or by a date certain, such as 1996), and thereby affect sitting members of Congress; and/or

b. **Let the States Decide.** We could support a constitutional amendment to allow states to vote to apply term limits to their own federal representatives. This would be consistent with our legal position that state-mandated term limits are unconstitutional.

## II. Renewed Government Reform Program

Unlike the Republicans, our goal is not cutting government for its own sake, but using government for things it can do well and getting it out of the business of things it does badly. As the President has said, we want to cut spending on yesterday's programs and deliver a government that can deal with tomorrow's problems. We should eliminate governmental functions that have outlived the purpose for which they were created. When a state or local government can do a better job, we should give them more authority and control, not new mandates. And when a government function could be done as well or better by the private sector, we should find a way to make it possible.

Such decisions are difficult and far-reaching, and should generally be made in the budget process, where the tradeoffs are fully clear. But it is essential that as we go through that process, we look for bold, compelling ways to dramatize what we're doing. In the first two years, we have made great strides in reinventing government, reducing the deficit, and downsizing the federal workforce. But public cynicism about government is so high that it may well take more visible, dramatic steps to break through. The following ideas are meant to illustrate such an approach.

### 1. Cutting Special Interest Tax Expenditures or Subsidies.

This cut-and-invest strategy, proposed by Rob Shapiro, would give us the high ground of insisting that a middle-class tax cut be fully paid for, and enable us to do so with cuts that would otherwise be off the table for deficit reduction or new investment. Alternatively, this money could be dedicated toward an education trust fund, deficit reduction, or some other worthy purpose.

Like all other means of creating resources within the budget, Rob's strategy involves difficult decisions that are likely to be hotly contested. An example of a few ideas, or partial ideas that could be considered are:

* Reduce deductibility of advertising expenses	\$17.5 billion
* Cut Energy Supply, R&D grants	\$ 6.9 billion
* Reduce government subsidies to private utilities (REA, BPA, nuclear)	\$ 3.6 billion
* Make industries pay for services government provides (market rates for water sales, inland waterways, nuclear waste disposal, CFTC, FDIC, poultry)	\$10.2 billion
TOTAL	\$38.20 billion

2. **Eliminating One or More Departments.** We could seize back the initiative in the debate over downsizing government by proposing to abolish one or more departments. The drama of eliminating a whole department far exceeds the impact of cutting numerous smaller programs. This is no easy task, and only makes sense if it could produce real budgetary and FTE savings. But we believe it is worth a careful look. *ag*

3. **Faster Downsizing.** NPR and OMB are preparing legislation to repeal FTE floors in existing appropriations bills, and ban the use of FTE floors in future bills. This could be coupled with a Presidential vow to veto future appropriations bills that limit our ability to downsize. We should also consider directing agencies to accelerate the mandated downsizing of the workforce to accomplish its objectives by 1996 instead of 1999. The current track will bring the workforce under 2 million by late 1996. To illustrate that downsizing the bureaucracy is one of this Administration's signature achievements, we should start a Bureaucracy Clock (in a prominent place like Times Square) that would track our progress. It may also be possible to accelerate downsizing by allowing early retirement without buyouts; we are looking at the cost of legislation once proposed by Roth that would give 500,000 federal employees the ability to retire early.

4. **Privatization.** A New Democratic approach to privatization would be based on a set of principles which focused on privatization not as a means to run the government but as a means to get the government out of

a) obsolete businesses such as: United States Enrichment Corporation, Sallie Mae, the Helium reserve, Alaska Power, some Department of Energy labs, etc;

b) programs that are viable private sector activities, such as: the Air Traffic Control System (an NPR recommendation that DOT is anxious to pursue), Amtrak, the Export-Import Bank, and the Overseas Private Investment Corporation (In the same vein: a number of DOD non-core missions could be privatized, but current law prevents this step.)

*William*

*I would want to go over this carefully to see what would be useful*

Good

5. **Devolution.** NPR and OMB are looking at a number of federal categorical programs that could be devolved down to the state and local level, such as: public housing programs, trade and export promotion, economic development, and perhaps job training. We are also preparing initiatives on unfunded mandates, waivers, and state flexibility. A package of initiatives could be announced at the NGA meeting in late January.

6. **Civil Service Reform.** NPR is preparing a sweeping civil service reform bill that will reduce the number of job classifications and give federal managers the right to hire and fire federal workers. Negotiations with unions and management are under way; the bill will be ready to introduce in January.

7. **Regulatory Overhaul.** There is considerable concern in the public and in the business community that the current regulatory process is too intrusive and too costly. As chair of the Regulatory Advisory Group, the Vice President is setting up a process whereby each member would convene a seminar to explore innovative approaches to regulatory reform. This process would then yield a set of less bureaucratic proposals to reform our regulatory apparatus.

↳ subvention?

→ By whom?

THE WHITE HOUSE  
WASHINGTON

March 20, 1995

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE CHIEF-OF-STAFF

FROM: MICHAEL WALDMAN *MW*  
BRUCE REED *BR*

SUBJECT: LOBBY REFORM INITIATIVE

At your request, we have prepared a set of initiatives that would put you out front on the lobby reform and political reform issue.

We believe that this issue cuts to the core of why people have lost faith in government and are angry at politics. The middle class truly believes that powerful interests hold sway, and that their voice is too often ignored. However, this very cynicism makes it hard to persuade people that we are serious, and risks bruising us if we are perceived not to be. Therefore, we believe that this issue is worth pressing only if it is done in a sharp and sustained way -- if it can become and remain a central theme over the next 18 months -- or it may not be worth doing at all. Therefore, we need a clear direction from you on how to proceed.

**I. BACKGROUND**

Political reform continues to be a core issue for the Perot voters and independents. (Public opinion research is under separate cover.) It also has the potential to be a wedge issue between you and potential Republican opponents -- who tend to favor wealthy special interests at the expense of the middle class. In fact, this is one of the few major areas where the Republicans have completely ceded the field for us, if we choose to enter it. At the same time, if we approach 1996 with few political reform achievements, we will be vulnerable to attack from Perot or some other independent candidate from outside Washington.

If a decision is made to engage on political reform, now is the time to do so, for several reasons.

- Congress' First 100 Days is ending, with a sense that not much has changed; in particular, the probable defeat of term limits will mean that Congress passed no major reform of itself. In addition, the press is finally beginning to paint the GOP Congress as a tool of the special interests. (See, for example, the *Washington Post* story detailing how lobbyists wrote the regulatory moratorium bill, and were even given a

room off the House floor from which to operate.)

- The GOP race is being heavily defined by the so-called \$20 million fundraising entrance fee.

- Your announcement of your own organizational plans will force the issue of what restrictions you are willing to put on your own fundraising. Next year, the need to raise tens of millions of dollars will bring into higher relief the question of campaign financing.

- Democrats in Congress are starting to become active on the matter once again, albeit in a guerilla fashion. Rep. Bryant (with the support of the Democratic leadership) is filing a discharge petition to bring up the ban on lobbyist gifts; Sen. Wellstone plans to seek to attach the gift ban to legislation sometime before the Easter recess.

- A bipartisan group of moderate lawmakers is becoming visibly active. A group led by Rep. Chris Shays has put forward a package of lobbying and other political reforms, and will be pressuring the leadership to act.

- You led the State of the Union with a call to act, but your Administration has not yet fleshed out those proposals in public.

## II. OPTIONS

Here is a set of initiatives that could be announced immediately. They could be announced in one major speech, or could be broken out (unilateral steps, legislative proposals, a speech on democracy and citizenship) for maximum effect.

1. Lead by example. To reengage in this debate, you will need to show that you are willing to act by restricting your own campaign committee. When you announce the beginning of campaign activities on your behalf, you can:

- *Direct the reelection campaign not to take PAC money* (you did not take PAC money during the 1992 primaries either). (We believe that Dole, Gramm, etc. are all taking PAC funds.)

- *Direct the reelection campaign not to take contributions from registered lobbyists, or allowing them to fundraise from their clients.* (This is now the standard followed by the Presidential Legal Expense Trust.) This would go beyond what you did in 1992.

Pro: You have already legislatively proposed that lobbyist campaign contributions be banned. In addition, the decision to refuse such gifts by the Presidential Legal Expense Trust has established a difficult-to-ignore precedent. (Indeed, even if we say nothing, reporters will hone in on this inconsistency);

Given the small number of lobbyists who actually register (about 7000), it may not directly cost the campaign that much money.

Con: It would raise a standard that the DNC will not be able to meet (i.e., "You won't take \$1000 from a lobbyist, but the DNC will take \$50,000 from the lobbyist's client."). Moreover, it might anger some Democratic supporters and fundraisers based in D.C. We can discuss potential fundraising consequences with you further if you desire.

Note: If the decision is made to refuse lobbyist contributions for the reelection campaign, we recommend that the Presidential Legal Expense Trust return the approximately \$12,000 that was received from registered lobbyists.

- *Asking the DNC not to raise soft money for the general election campaign, if the RNC will agree to refrain from doing so as well. In effect, this would challenge the RNC to a "mutually verifiable freeze" without "unilateral disarmament." The GOP is highly unlikely to rise to the bait. This is similar to the pledge you signed in New Hampshire in 1992.*

2. Renew the call for a ban on lobbyist gifts, meals and travel to Members of Congress. This is being pushed by Democrats in both chambers. During the State-of-the-Union, you called for Members of Congress to voluntarily give up lobbyist gifts. Because of its stark simplicity -- lawmakers being treated to tropical vacations by lobbyists, etc. -- this has the greatest resonance of any political reform proposal.

3. Renew the call for reform of the lobby disclosure laws. The current lobby disclosure laws, passed in 1946 and basically untouched since, are more loophole than law. Lobby reform legislation would require all lobbyists, for the first time, to fully disclose for whom they work, what they are paid, and what legislation they are trying to pass or kill. This measure is more complex than the gift ban, and conservative grass-roots groups (such as the Christian Coalition) may succeed in bogging it down; nonetheless, it is good policy and resonates somewhat with the public.

4. Take new action against foreign lobbyists by barring your officials from meeting with lobbyists for foreign governments or corporations. Your executive order imposing post-employment restrictions has already barred senior officials from ever lobbying for foreign governments, barred senior trade officials from lobbying for foreign firms, and barred all officials from lobbying their own agency on behalf of any client for five years. A further restriction would be to actually bar your officials from meeting with foreign lobbyists.

Pro: This is sharp, clear, and understandable; the foreign lobbying issue plays to concerns over economic nationalism as well as political reform.

Con: The argument against it is that it would be unduly harsh, is unnecessary from a

reform perspective and possibly counterproductive from a policy perspective, and would focus attention on those issues where we have worked with foreign lobbyists (e.g., NAFTA) and on former foreign lobbyists in your administration (e.g., Sandy Berger, Ron Brown, Charlene Barshevsky).

5: Spell out your free TV time proposal. Apart from your brief mention of it during the State of the Union speech, we have never fleshed out your proposal to provide free TV time for candidates. Senator Dole and House Commerce Committee chairman Bliley have proposed strong free TV bills, and the concept is supported by Ross Perot, the DLC and Common Cause. This proposal could be laid out in a speech on democracy that could be high-toned and would not necessitate a subsequent crusade.

Pro: Elite opinionmakers (such as editorial boards) will not take the other political reform measures seriously if there is not a campaign finance reform component.

Con: Since legislative success is highly unlikely, to raise this issue would potentially open us to charges of only pushing for reform when we know it won't happen -- without much payoff in return. Moreover, raising the issue will heighten scrutiny of our own fundraising.

### III. RECOMMENDATIONS

We recommend that you:

- take the unilateral steps (refusing to take PAC money or lobbyist contributions for the reelection campaign, and ask the DNC and RNC to agree jointly not to raise soft money).

Agree       Agree as amended       Reject       No action

- renew the push for a ban on lobbyist gifts

Agree       Agree as amended       Reject       No action

- renew the push for lobby disclosure legislation

Agree       Agree as amended       Reject       No action

- spell out the details of your free TV campaign finance proposal

Agree       Agree as amended       Reject       No action

We recommend against:

- barring your officials from meeting with foreign lobbyists

Agree

Agree as amended

Reject

No action

THE WHITE HOUSE  
WASHINGTON

April 4, 1995

MEMORANDUM FOR THE PRESIDENT

THROUGH: THE CHIEF-OF-STAFF

FROM: MICHAEL WALDMAN/MW  
BRUCE REED/BR

SUBJECT: LOBBY REFORM INITIATIVE

At your request, we have prepared a set of initiatives that would put you out front on the lobby reform and political reform issue.

We believe that this issue cuts to the core of why people have lost faith in government and are angry at politics. The middle class truly believes that powerful interests hold sway, and that their voice is too often ignored. At a time when Congress' unpopularity is rising, even as the GOP's overall popularity is holding steady, this issue allows you to position yourself against the part of Washington the public hates most.

However, this very cynicism makes it hard to persuade people that we are serious, and risks bruising us if we are perceived not to be. Therefore, we believe that this issue is worth pressing only if it is done in a sharp and sustained way -- if it can become and remain a central theme over the next 18 months -- or it may not be worth doing at all. Therefore, we need a clear direction from you on how to proceed.

**I. BACKGROUND**

Political reform continues to be a core issue for the Perot voters and independents. (Public opinion research is under separate cover.) It also has the potential to be a wedge issue between you and potential Republican opponents -- who tend to favor wealthy special interests at the expense of the middle class. In fact, this is one of the few major areas where the Republicans have completely ceded the field to us, if we choose to enter it. At the same time, if we approach 1996 with few political reform achievements, we will be vulnerable to attack from Perot or some other independent candidate from outside Washington.

If a decision is made to engage on political reform, now is the time to do so, for several reasons.

- Congress' First 100 Days is ending, with a sense that it has not reformed itself. In particular, the defeat of term limits will mean that Congress passed no major reform of

itself. In addition, the press is finally beginning to paint the GOP Congress as a tool of wealthy special interests -- as *Time* has put it, the GOP has granted "unprecedented access" to lobbyists. (For example, the *Washington Post* reported that lobbyists wrote the regulatory moratorium bill, and were even given a room off the House floor from which to operate; the *New York Times* reported that GOP members were refusing to talk to lobbyists who had contributed to Democrats; and it was widely reported that the GOP used lobbyists to conduct the official briefing on their regulatory reform bill.)

- The GOP presidential race is being heavily defined by the so-called \$20 million fundraising entrance fee.

- Your announcement of your own organizational plans will force the issue of what restrictions you are willing to put on your own fundraising. Next year, the need to raise tens of millions of dollars will bring into higher relief the question of campaign financing.

- Democrats in Congress are starting to become active on the matter once again, albeit in a guerilla fashion. Rep. Bryant (with the support of the Democratic leadership) is filing a discharge petition to bring up the ban on lobbyist gifts; Sen. Wellstone plans to seek to attach the gift ban to legislation sometime before the Easter recess.

- A bipartisan group of moderate lawmakers is becoming visibly active. A group led by Rep. Chris Shays has put forward a package of lobbying and other political reforms, and will be pressuring the leadership to act.

- You led the State of the Union with a call to act, but your Administration has not yet fleshed out those proposals in public.

## II. OPTIONS

Here is a set of initiatives that could be announced immediately. They could be announced in one major speech, or could be broken out (unilateral steps, legislative proposals, a speech on democracy and citizenship) for maximum effect.

### Lobby reform

1. Renew the call for a ban on lobbyist gifts, meals and travel to Members of Congress. This is being pushed by Democrats in both chambers. During the State-of-the-Union, you called for Members of Congress to voluntarily give up lobbyist gifts. Because of its stark simplicity -- lawmakers being treated to tropical vacations by lobbyists, etc. -- this has the greatest resonance of any political reform proposal.

2. Renew the call for reform of the lobby disclosure laws. The current lobby disclosure laws, passed in 1946 and basically untouched since, are more loophole than law. Lobby reform legislation would require all lobbyists, for the first time, to fully disclose for whom they work, what they are paid, and what legislation they are trying to pass or kill. This measure is more complex than the gift ban, and conservative grass-roots groups (such as the Christian Coalition) may succeed in bogging it down; nonetheless, it is good policy and resonates somewhat with the public.

### **Campaign reform**

3. Spell out your free TV time proposal. Apart from your brief mention of it during the State of the Union speech, we have never fleshed out your proposal to provide free TV time for candidates. Senator Dole and House Commerce Committee chairman Bliley have proposed strong free TV bills, and the concept is supported by Ross Perot, the DLC and Common Cause. This proposal could be laid out in a speech on democracy that could be high-toned and would not necessitate a subsequent crusade.

4. Alternately, propose a bipartisan commission to "cut the Gordian knot" on campaign reform -- and pledge to introduce its recommendations. Former FEC Chair Trevor Potter has proposed that the campaign finance reform conundrum be solved by legislation creating a base closing commission-style panel that would make recommendations for reform. The President would be required to propose the reforms unchanged, or reject them, and Congress would agree to vote on them without amendment. Senator Dole has endorsed this proposal. This commission itself would require legislation to be launched. (Alternately, you could appoint your own bipartisan commission to make recommendations, but it would not have the teeth of a base closing-type panel.)

Pro: This would actually bring us the closest to enacting some form of reform. It would also be a way to have the issue taken "off the table" for a time, and to enable us to refrain from making proposals that we do not live under.

Con: It eliminates this issue as an effective club to use against Dole, unless he is unwilling to embrace the panel's proposals. In addition, we won't know in advance what the proposal would look like -- it could be weak, or it could include proposals that are hard for Democrats to swallow.

### **Unilateral steps on campaign reform**

5. Lead by example. To reengage in this debate, you will need to show that you are willing to act by restricting your own campaign committee. When you announce the beginning of campaign activities on your behalf, you have the following options:

a. *Direct the reelection campaign not to take PAC money (you did not take PAC money during the 1992 primaries either), but impose no further restrictions on your own fundraising. (Dole, Gramm, etc. are all taking PAC funds.)*

b. *Direct the reelection campaign not to take contributions from registered lobbyists. (This is now the standard followed by the Presidential Legal Expense Trust.) This would go beyond what you did in 1992.*

Pro: You have already legislatively proposed that lobbyist campaign contributions be banned. In addition, the decision to refuse such gifts by the Presidential Legal Expense Trust has established a difficult-to-ignore precedent. (Indeed, even if we say nothing, reporters will hone in on this inconsistency); Given the small number of lobbyists who actually register (about 7000), it may not directly cost the campaign that much money.

Con: It would raise a standard that the DNC will not be able to meet (i.e., "You won't take \$1000 from a lobbyist, but the DNC will take \$50,000 from the lobbyist's client."). Moreover, it might anger some Democratic supporters and fundraisers based in D.C. We can discuss potential fundraising consequences with you further if you desire.

Note: If the decision is made to refuse lobbyist contributions for the reelection campaign, we recommend that the Presidential Legal Expense Trust return the approximately \$12,000 that was received from registered lobbyists.

c. *Direct the reelection campaign not to take contributions donated by registered lobbyists, or raised by registered lobbyists.*

Pro: This option would make sense if you wanted to refuse campaign contributions from lobbyists, but believed that the press would regard that step alone as phony or hypocritical.

Con: This would cost more money, and would raise the next question: what about lobbyists raising soft money? There may be no end to the "what next" questions.

d. *In addition to, or instead of, b. and c., publicly ask the DNC not to raise soft money for the general election campaign, if the RNC will agree to refrain from doing so as well. In effect, this would challenge the RNC to a "mutually verifiable freeze" without "unilateral disarmament." The GOP is highly unlikely to rise to the bait. This is similar to the pledge you signed in New Hampshire in 1992.*

## Foreign lobbyists

6. Take new action against foreign lobbyists by barring your officials from meeting with lobbyists for foreign governments or corporations. Your executive order imposing post-employment restrictions has already barred senior officials from ever lobbying for foreign governments, barred senior trade officials from lobbying for foreign firms, and barred all officials from lobbying their own agency on behalf of any client for five years. A further restriction would be to actually bar your officials from meeting with foreign lobbyists.

Pro: This is sharp, clear, and understandable; the foreign lobbying issue plays to concerns over economic nationalism as well as political reform.

Con: The argument against it is that it would be unduly harsh, is unnecessary from a reform perspective and possibly counterproductive from a policy perspective, and would focus attention on those issues where we have worked with foreign lobbyists (e.g., NAFTA) and on former foreign lobbyists in your administration (e.g., Sandy Berger, Ron Brown, Charlene Barshevsky).

## III. RECOMMENDATIONS

1. Renew the push for a ban on lobbyist gifts:

Agree     Agree as amended     Reject     No action

2. Renew the push for lobby disclosure legislation

Agree     Agree as amended     Reject     No action

3. Spell out the details of your free TV campaign finance proposal

Agree     Agree as amended     Reject     No action

4. In terms of unilateral steps:

a. Refuse to accept PAC contributions, as you did in 1992.

Agree     Agree as amended     Reject     No action

b. Challenge the RNC to join with the DNC in not accepting soft money, as you did in 1992.

Agree     Agree as amended     Reject     No action

c. Refuse to accept contributions from registered lobbyists for your reelection campaign (the standard used by the Presidential Legal Expense Trust).

Agree     Agree as amended     Reject     No action

d. Refusing to allow registered lobbyists to fundraise for your reelection campaign.

Agree     Agree as amended     Reject     No action

5: Barring your officials from meeting with foreign lobbyists

Agree     Agree as amended     Reject     No action

The staff unanimously recommends that you:

- renew call for ban on lobbyist gifts
- push for lobby disclosure
- discuss free TV time proposal
- unilaterally refuse to accept PAC contributions for your reelection campaign

The staff unanimously recommends against:

- barring your officials from meeting with foreign lobbyists

The staff does not have a consensus recommendation on:

- unilaterally rejecting lobbyist contributions
- unilaterally rejecting lobbyist contributions and fundraising
- challenging the DNC and RNC to agree not to raise soft money
- proposing a bipartisan commission on campaign reform

THE WHITE HOUSE

WASHINGTON

March 21, 1996

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Paul Weinstein

SUBJECT: Line-Item Veto

Background

As you know, Republicans plan to send you the line-item veto by the end of this month. Republican line-item veto conferees and leadership staff have arrived at an agreement on line-item legislation and are finalizing legislative language and the joint statement of the managers.

Enactment into law of the line-item veto means you will have fulfilled another core promise from *Putting People First*. Nevertheless, the line-item veto is not the budget deficit panacea described by its proponents and the bill agreed to by the conferees is much more restrictive than it appears at first glance. However, if used strategically, the line-item veto can reduce wasteful spending by allowing the President to highlight pork and special interest tax breaks in legislation and report language. Since passage of the Impoundment and Control Act in 1974, Presidents -- both Democrat and Republican -- have proposed \$74 billion in rescissions. Yet, Congress has agreed to only \$23.7 billion of those proposed savings. In addition, the line-item veto will increase the bargaining power of the President and can become a useful tool in protecting the priorities of the Administration.

The conferees have tentatively agreed upon the House's enhanced rescission model, rather than the Senate's separate enrollment approach. In addition, they would apply line-item veto authority to discretionary budget authority, new direct spending, and targeted tax benefits. This is consistent with your call for passage of a "strong version of the line-item veto."

Nonetheless, several aspects of the agreement should concern us:

- Republicans have included a lockbox provision (i.e. automatic cap reductions) which would be a disincentive for using the authority if the caps become tighter;
- The bill would not allow partial rescissions -- although the President could cancel individual projects which are specified in report language;
- The definition of targeted tax benefits is very narrow -- 100 or fewer beneficiaries;
- The line-item veto will not take effect until January 1, 1997.

## **Details Of The Bill**

**How it Works** -- The bill would allow the President to submit items for rescission. Budget authority, direct spending, and targeted tax benefits in such a rescission message are deemed permanently cancelled unless the Congress passes a joint resolution that would be subject to a presidential veto and subsequent congressional override.

The President will have up to 5 calendar days (excluding Sundays) to submit cancellations. The Presidential rescission would take effect unless Congress decided to disapprove the cancellation by a simple majority vote within 30 session days (days in which both the House and Senate are in session). The President could then exercise his authority to sign or veto the disapproval bill. To override the President's veto of the disapproval bill would require a two-thirds majority.

**In Whole or in Part** -- Conferees were debating whether to limit the authority to canceling provisions "in whole" or permitting cancellations "in whole or in part." The compromise they settled on was to limit cancellation authority to amounts "in whole", but to permit the authority to apply down to the level of any project specified in the joint statement of managers, committee report, or authorizing legislation. Therefore, the President could cancel down to the project level, provided the project is specifically mentioned in report language.

**Lockbox** -- The prevailing view among conferees was that the purpose of the item veto is to save money -- not to permit a President to shift priorities. The lockbox language included in the proposed conference report would require the President to: reduce the statutory discretionary spending caps to reflect rescissions of discretionary budget authority in the budget year or outyears; and to eliminate from the PAYGO scorecard any positive balance that would otherwise have accrued from applying the line item veto to new direct spending or tax benefits.

**Definition of Targeted Tax Benefits** -- The agreement limits the scope of the President's authority to cancel special interest tax provisions in two ways: first, by adopting the narrow definition of targeted tax benefit as a benefit going to 100 or fewer beneficiaries; and, second, by giving the tax-writing committees the authority to specify in their tax bills what is a tax benefit subject to the cancellation authority. Only in those rare situations when Congress fails to make its own determination does the bill give the President the authority to specify any targeted tax benefits and cancel them, but then only within the narrow definition of targeted tax benefit.

**Definition of Line-Item Veto Action** -- The conference agreement uses the term "cancel" to define line-item veto action rather than the term "veto", which improves the chances that application of the authority to direct spending and taxes will be held up in the courts.

**Signed Versus Enacted Law** -- The authority would only be available when the President has signed a bill. If the bill becomes law without the President's signature the cancellation authority would not be available.

THE WHITE HOUSE

WASHINGTON

October 30, 1996

MEMORANDUM FOR THE PRESIDENT

FROM: MICHAEL WALDMAN  
BRUCE REED

SUBJECT: CAMPAIGN FINANCE REFORM

At your request, here is a memorandum outlining the issues and arguments involving campaign finance reform.

**Why reform is needed**

It is clear that, this year, the existing system of campaign finance rules and limits has been overwhelmed by a flood of private money.

- Spending on congressional races has roughly quadrupled in the past 15 years. Incumbents are now forced to spend an inordinate amount of time fundraising. Most contributions come from lobbyists and PACs. The arguments for congressional campaign finance reform are well known and well rehearsed.
- This year, public attention has suddenly and dramatically focused on the fastest growing phenomenon – soft money. It has been estimated by the press that each party will raise at least \$100 million in soft money. Critics argue that soft money entirely negates the rules established following the Watergate scandal in 1974. In theory, they assert, a contribution to a federal candidate is limited to \$1000, but in fact individuals give hundreds of thousands of dollars. In theory, they assert, contributions to candidates directly from corporations have been illegal since 1904; in fact, through soft money they occur all the time.
- Independent expenditures are taking on a greater role this year, too. The AFL-CIO's \$35 million, countered by independent spending by business and Christian groups, is entirely outside the limits imposed by campaign spending laws.
- A recent Supreme Court decision struck down existing limits on what political parties could spend to benefit candidates.

## Your proposals

In the 1992 campaign, you proposed reform that is markedly similar to the current McCain-Feingold bill. In *Putting People First*, you proposed:

- spending limits;
- free TV time;
- PAC limits (PAC contributions reduced to \$1000);
- and a ban on soft money.

On election night and in the days after, you said that campaign reform would be one of your top priorities. In 1993-94, you proposed a plan, along with the congressional Democratic leadership, that included these elements as well as partial public funding for congressional candidates. (In a compromise with congressional Democrats, it also allowed larger PAC contributions.) This legislation passed both chambers, but the conference committee did not meet for a year. In the last week of the congressional session, the two chambers finally agreed, but it was too late; the Republicans, led by Sen. Dole, filibustered the bill to death. We were criticized for failing to push harder for reform at the time.

## The McCain-Feingold bill

This is the first genuinely bipartisan campaign finance reform legislation in over a decade. It resembles very closely the proposal you made in 1992. Its provisions include:

- *Voluntary spending limits* - These would be set at \$600,000 per candidate for the House, and at a level varying by state population for the Senate.
- *Free TV time* - Candidates would be given substantial amounts of free TV time, offered by broadcasters as a condition of receiving a license.
- *PAC limits* - The legislation bans PAC contributions. However, it includes a fallback limiting PAC gifts to \$1000 per election (\$2000 per cycle) should the ban be found unconstitutional - which DOJ believes it almost certainly would.
- *Soft money ban*. Like our 1992 and 1993 proposals, this bill would ban large soft money contributions (which it defines as money given to federal or state parties that is designed to influence a federal election). This provision would, in effect, have prevented large contributions from individuals and foreign-owned corporations. (The original McCain-Feingold bill did not specifically address non-citizen contributors or foreign-owned corporations. However, the sponsors have indicated that when they introduce the bill again, it will ban these gifts.)

You endorsed this bill in concept during the 1995 State-of-the-Union, and by name in New Hampshire the next month. Senator Dole refused to allow it to come to the floor of the Senate. After his departure, it was brought to the floor. A majority of Senators supported it (54), but it fell 6 votes short of breaking the GOP filibuster.

## The "Handshake" – a bipartisan commission

On June 11, 1995, you agreed publicly with Speaker Gingrich to set up a bipartisan commission, modeled on the base-closing commission, to devise campaign finance reforms.

When you wrote to Speaker Gingrich outlining how it could work, he rebuffed the proposal, complaining it had been made publicly. He failed to respond for months thereafter. It was clear that, under pressure from the House Republican caucus, he was backing away from the proposal.

On August 4, 1995, in a last-ditch attempt to revive the commission idea, you announced that you would appoint two distinguished citizens – John Gardner and Doris Kearns Goodwin – as your appointees to help get the commission started. On your behalf, Gardner called the Speaker's office, and was also rebuffed. Goodwin called Dole's office, who told her that they would only move forward if Gingrich did. In the fall, Gardner quietly withdrew from the effort, and the commission negotiations expired.

In June, 1996, on his last day in office, Sen. Dole introduced legislation setting up a commission that was almost identical to your proposal. He had been a public supporter of such an idea previously, as well.

Today, reform groups and the press are demanding action on legislation, not a commission. They argue that a commission is a stalling tactic, and that McCain-Feingold is bipartisan reform.

## Elements of a commission proposal

To work, a commission would have to be bipartisan, distinguished, have tight deadlines, and a mechanism for forcing congressional action. Here is the proposal you made in June, 1995 (which, at the time, was praised as a strong proposal):

- the commission would be bipartisan – 8 members, appointed by the President with the advice and consent of Congress. The President would get two appointees; the Democratic leaders would recommend two; the Speaker would recommend two; and the Senate Majority Leader would recommend two. You also proposed that the members not be Members of Congress or the administration, or officers or counsel to the political parties.
- Firm deadline – Your proposal in 1995 included a 6 month deadline for reporting to Congress.
- "Fast track" consideration for proposals – You proposed that the commission's legislative recommendations be sent first to the President, who sends them on to Congress. They would then be considered on the "fast track" – an up-or-down vote, with no amendments, within 30 days.

## Constitutional amendment

In recent years, some Democratic members of Congress have proposed a Constitutional Amendment to address campaign finance reform.

The Supreme Court's 1975 *Buckley v. Valeo* decision held that the First Amendment protects campaign contributions and campaign spending, and that the only permissible rationale for limiting them was narrowly tailored to stopping outright corruption. The court then struck down binding spending limits, and also limits on independent expenditures.

The Court has given recent indication that it intends to read this doctrine even more broadly. In June, it sided with the GOP and struck down limits on party spending.

Sen. Daschle and Rep. Gephardt both have suggested a constitutional amendment that would give Congress the power to regulate campaign spending. This would allow legislation to limit candidate spending, party spending, and independent expenditures.

Such an amendment has been defeated several times on the Senate floor, when it was offered by Sen. Hollings as an alternative to Democratic campaign finance reform legislation.

Common Cause and the other reform groups have opposed the amendment when it has been brought to a vote, because they believe reform can be accomplished under the *Buckley v. Valeo* regime, and because they see it as an evasion of the need for immediate legislation. After all, even if the amendment is passed, Congress would still have to pass campaign finance reform.

## THE WHITE HOUSE

WASHINGTON

November 11, 1996

## MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed

SUBJECT: **Background On Campaign Finance Reform For Meeting With  
Congressional Leadership**

On Tuesday, November 12, you will be meeting with Congressional Leadership to discuss the legislative agenda for the next term. During your meeting with the Leadership, you should reaffirm your strong support for the bipartisan campaign finance reform bill introduced last Congress by Senators McCain and Feingold. You should emphasize your commitment to seeing McCain-Feingold become law this year and ask that Congress consider the bill as soon as possible.

It is likely that the Republican Leadership will resist quick action on McCain-Feingold and try to shift the focus of the discussion to the question of limiting the use of union dues for political purposes and to the issue of eliminating voluntary spending limits in the bill. On the Democratic side, Senate Minority Leader Daschle supported McCain-Feingold last Congress while House Minority Leader Gephardt supported a Democratic sponsored bill similar to the one you pushed for in the 103rd Congress.

During your first four years in office you have pursued a strong, wide-ranging political reform agenda. You imposed the toughest ethics code on your political appointees, closed the tax provision that allowed corporations to deduct the cost of lobbying expenses, signed the Motor Voter law, and cut the White House staff by 25 percent. Last year, you signed two major reform bills that you had promised to enact when you ran for office in 1992. The Congressional Accountability Act which requires Members of Congress to live by the laws of the land and the Lobbying Disclosure Act.

McCain-Feingold includes many of the campaign finance reform ideas that you first championed in *Putting People First*. These include:

- **Spending Limits and Benefits:** Campaign spending limits would be based on each State's voting-age population.
- **Free Broadcast Time:** Candidates would be entitled to 30 minutes of free broadcast time.

- **Broadcast Discount:** Broadcasters would be required to sell advertising to a complying candidate at 50 percent of the lowest unit rate.
- **Reduced Postage Rate:** Candidates would be able to send up to two pieces of mail to each voting-age resident at the lowest 3rd class non-profit bulk rate.
- **New Variable Contribution Rate:** If a candidate's opponent does not abide by the spending limits or exceeds the limits, the complying candidate's individual contribution limit is raised from \$1,000 to \$2,000 and the complying candidate's spending ceiling is raised by 20 percent.
- **Political Action Committees (PAC) Ban:** The bill would ban PAC contributions to candidates. However, if the PAC ban is ruled unconstitutional, then the PAC contribution would be lowered to \$1,000.
- **Franked Mailings:** Franked mailings are banned in a campaign year.
- **Personal Funds:** Complying candidates cannot spend more than \$250,000 from their personal funds.
- **Bundling:** The bundling of campaign contributions is banned.

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THE PRESIDENT HAS SEEN

December 13, 1996

12-14-96

MEMORANDUM FOR THE PRESIDENT

FROM: JOHN HILLEY  
BRUCE REED  
PETER JACOBY  
JIM WEBER

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FSC

SUBJECT: CAMPAIGN FINANCE REFORM

As part of a strategy to make campaign finance reform a reality, we have met with key Democratic Members of Congress, labor representatives, party representatives and a core negotiating group from the outside reformers during the past several weeks.

From these meetings it has become clear that seven key issues must be addressed before a Congressional and reform group consensus can be reached on legislation that we could recommend for your support. These issues include: 1) limiting party independent expenditures; 2) curbing spending on issue advocacy; 3) banning "soft" money; 4) contribution limits for individual PACs; 5) in-state and in-district fundraising proposals; 6) proposals to codify the Supreme Court's decision in Communications Workers of America v. Beck, and; 7) restrictions on campaign contributions by non-citizens. In preparation for a meeting with you early next week, please find below the background information on these key issues and a brief summary of our progress toward the resolution of each.

*Limiting Party Independent Expenditures*

Two issues have emerged as key to successfully passing campaign finance reform. The first is limiting the ability of state and national parties to make independent expenditures on behalf of their candidates for federal office. The second, discussed below, is limiting the ability of parties and outside groups to impact federal races through issue advocacy activities. Both issues are central to a fundamental concern for all Members of Congress -- the inability to accurately predict, and effectively respond to campaign spending by forces other than the political opponent. Without a way to limit, or at least anticipate, the amount of spending by outside groups and the opponent's party, Members are reluctant to adopt a spending limits regime (such as would be imposed by McCain-Feingold) that curbs their ability to respond to such spending.

This past June in Colorado Republican Federal Campaign Committee v. Federal Election Commission, the Supreme Court held that political parties may make independent expenditures on behalf of their candidates as long as those expenditures are not made in coordination with the candidate. The decision overturned an FEC rule which had held that party activities by their nature were coordinated with candidates and therefore could be constitutionally limited under the Federal Election Campaign Act (FECA). The fallout from this ruling was felt almost

immediately during the November elections. In several key races the Republican Senatorial Campaign Committee made large independent expenditures which greatly exceeded the contribution limits that would have been applicable if the FEC's coordinated expenditures standard had remained in place. Additionally, because these were independent expenditures under FECA they could expressly advocate the election or defeat of a clearly identifiable candidate. Finally, because FECA requires that independent expenditures be made with "hard" money (i.e. money raised and disclosed under FECA's contribution limits for individuals, PACs and parties) Democratic party officials were unable to respond in kind given the party's relative "hard" money disadvantage.

Consequently one goal of reform legislation, shared by the FEC, reformers and Democrats alike, is to broaden the definition of party coordination to limit the ability of parties to undertake independent expenditures. Any effort to broaden the definition will be difficult, however, because it must necessarily address the constitutional hurdles in the Colorado decision, which require the FEC to establish actual coordination, rather than a presumption of coordination, when parties act to impact Congressional races. Legislative language to achieve this goal is currently being drafted.

### *Curbing Issues Advocacy Spending*

As noted, Members of Congress, on both sides of the aisle, have become concerned about the impact of spending by third parties on their races. This concern is especially acute with respect to issue advocacy spending. In Buckley v. Valeo, the Supreme Court's 1976 landmark campaign finance decision, the Court held that the only independent expenditures that could be disclosed and regulated under FECA were those used for communications that "expressly advocate the election or defeat of a clearly identified candidate." (This definition has since been codified in FECA) In a footnote in Buckley the Court gave examples of words of express advocacy, including "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat" and "reject." The Court created this narrow definition to draw a clear distinction between "issue discussion" or issue advocacy which has strong First Amendment protections, and the candidate-oriented speech which is the focus of campaign finance laws.

Since 1976, Federal courts have generally held that unless the magic Buckley words are used in a political advertisement or activity, that activity is issue advocacy and therefore cannot be regulated under FECA. Consequently independent groups such as labor unions, the NRA, the Moral Majority, the Christian Coalition and others may use unlimited contributions from wealthy individuals, corporate treasuries or dues-paying members to fund issue advocacy campaigns during an election cycle. Perhaps the most publicized campaign of this nature was the \$35 million media campaign by the AFL-CIO earlier this year to highlight the anti-family positions taken by Congressional Republicans. None of the union ads expressly advocated the election or defeat of these Members and were therefore issue ads outside the scope of FECA. Additionally, national and state party organizations may also run issue advocacy campaigns paid for by "soft" money contributions which, as discussed in more detail below, are

by definition unlimited contributions from corporations, unions or individuals.

Reformers, Congressional Democrats, the FEC and reform-minded Republicans have all indicated a desire to expand the definition of express advocacy to include both the magic words test and a new test that would include campaign activities that, when taken as a whole, could only be interpreted by a reasonable person as advocating the election or defeat of a clearly identified candidate. This would have the effect of bringing a broader range of issue advocacy activities under FECA, thereby limiting the impact of unlimited donations on elections. There is little question, however, that current constitutional jurisprudence favors a narrow definition of express advocacy and it will be a challenge to craft legislative language that expands the definition in a constitutionally defensible manner. We, along with the Office of Legal Counsel at the Department of Justice, are currently reviewing legislative language that purports to achieve this goal.

### *Banning "Soft" Money*

Every credible campaign finance reform initiative during the past several Congresses has contained provisions to ban "soft" money. Soft money is a term used for funds that are raised by state and national parties for party building activities, GOTV efforts, state elections and voter registration drives. Because soft money cannot be spent to directly benefit a federal candidate, it is unregulated by FECA and therefore is not subject to the Act's contribution limits or disclosure requirements. This allows parties to raise soft money in unlimited amounts directly from unions, corporate treasuries and wealthy individuals. Past reform efforts have generally sought to ban national parties from raising and spending soft money while strictly limiting state soft money spending to activities that would not influence a federal campaign.

Events during the November elections have renewed the interest of reformers in banning soft money while causing Democratic party leaders to rethink their past support of ban initiatives. The reformers' renewed zeal stems from the unprecedented levels of soft money raised and spent during this past cycle. Party leaders, however, argue that soft money, which was used extensively by the party to fund issue advocacy campaigns in competitive races, helped Democrats win in many races. Consequently, a resolution of this issue will hinge on an acceptable compromise which provides parties with some sort of new benefit, such as free television time or reduced mailing costs, to offset the loss of soft money resources.

We are currently reviewing legislative language banning soft money and have asked the Democratic leadership for their input on potential offsetting benefits.

### *Contribution Limits for Individual PACs*

Campaign finance reform efforts in the past, including last year's McCain-Feingold bipartisan campaign finance reform bill, have generally proposed to eliminate all PACs from

federal election campaigns. It appears, however, that Senators McCain and Feingold will concede that a PAC ban is unconstitutional and delete the ban from their reform proposal in the new Congress. Instead, the Senators' new proposal, which should be introduced on the first day of the new session, will likely lower the contribution limits for individual PACs giving to a federal candidate from the current \$5,000 per election (\$10,000 per cycle) to \$1,000 per election (\$2,000 per cycle).

Deletion of the PAC ban is favored by both Congressional Democrats and Republicans. However, in the House, where Members raise a high percentage of their contributions from PACs, House Democrats and Republicans will likely oppose the new \$1,000 contribution limit and insist on a significantly higher limit. The House Democratic leadership bill during the last Congress included a \$4,000 per election (\$8,000 per cycle) limit while the House Republican leadership bill lowered the current level to \$2,500 per year. Early indications from House Democrats are that they may accept a \$6,000 per cycle limit, if a contributing PAC is allowed to give up to \$5,000 in a primary election. In the Senate, individual PAC limits have been less controversial since many Senators raise the bulk of their contributions from individuals.

The outside reform groups may accept the deletion of the PAC ban from the McCain-Feingold legislation. It is unclear whether they will endorse a PAC limit higher than the \$1,000 per election level being contemplated by Senators McCain and Feingold. Because we believe that House passage of any campaign finance reform bill will hinge on preserving a substantial portion of the current individual PAC contribution level, we have urged the outside groups to support and ultimately persuade Senators McCain and Feingold to raise their proposed contribution limit.

In the past, you have endorsed legislation banning PACs. If the McCain-Feingold legislation does not contain a ban, it is our recommendation that you endorse a reduction in the current \$5,000 per election contribution level for individual PACs. We are researching the impact of each likely reduction to determine exactly what the new limit should be.

### ***In-State and In-District Fundraising***

The McCain-Feingold reform legislation from last Congress required a candidate to raise sixty percent of campaign funds in-state to qualify for the legislation's benefits, such as free television time. The measure also contained, however, a provision for small states which would allow the sixty percent threshold to be met by showing that sixty percent of a candidate's campaign contributors resided in-state. While McCain-Feingold applied the in-state provision exclusively to Senate races, House Democrats greatly fear any reform that would require them to raise a majority of their funds either in-state or in-district. For their part, the outside reform groups do not place either in-state or in-district requirements high on their agenda. Consequently, we have asked House Democrats to consider whether an in-state requirement that can be met by showing that either sixty percent of contributions were raised in-state or sixty percent of contributors resided in-state would be acceptable.

### *Codifying the Supreme Court's Beck Decision*

In 1988 the Supreme Court decided a landmark labor law case involving the rights of individual employees to limit a union's use of membership fees and dues. In Communication Workers of America v. Beck the Court held that a union may not, over the objections of *dues-paying nonmember employees*, expend funds collected from them on activities unrelated to collective bargaining activities. As a result of this decision, dues-paying nonmembers may demand a pro-rated return of union dues and fees earmarked for political activity.

Since 1988, Congressional Republicans have pursued efforts to codify the Beck decision. In doing so, however, Republicans have proposed extremely broad interpretations of the Supreme Court's decision, effectively seeking to gut organized labor's participation in the national electoral debate and disable internal union to member communications. The AFL-CIO and its affiliates oppose "codification" of Beck. Congressional Democrats seem, ironically, less energized. Many Hill Democrats appear willing to consider enacting a narrow codification.

Republicans are certain to press Beck issues in the upcoming congressional debate on campaign reform. While Senate Democrats may well filibuster unreasonable Beck provisions, the possibility exists that Republicans may be able to force through unacceptable Beck provisions which they would trumpet as "reform." Such a scenario could result in the choice of either signing a distinctly anti-labor bill or risk being attacked as opposed to reform.

As a result, we may consider whether to pre-empt the Republicans on Beck by including a narrow "codification" as a part of bipartisan reform legislation.

### *Prohibiting Non-Citizens from Contributing to Federal Campaigns*

During the closing weeks of the campaign you publicly stated your support for banning federal campaign contributions from those who cannot vote. Banning non-citizen individuals from federal campaign giving is relatively easy to implement and it has widespread support on both sides of the Hill and on both sides of the aisle. A more difficult question, both from a political perspective and as an implementation issue, is whether such a ban should apply to corporate PAC donations by the U.S. subsidiaries of foreign corporations.

Such a ban will be strongly opposed by companies with U.S. subsidiaries who will fear a diminution in their ability to petition the federal government. Additionally, determining which company is beneficially owned by a foreign interest could prove difficult as a matter of law and enforcement. We are currently reviewing legislative language which purports to ban federal campaign contributions from both individuals and all foreign-owned entities.

cc: Vice President Gore  
Leon Panetta  
Erskine Bowles  
Harold Ickes  
Jack Quinn

Book

THE WHITE HOUSE

WASHINGTON

January 22, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed

SUBJECT: Summit on Service

Before we agree to hold a White House event to announce the Philadelphia summit on citizen service, you should review the attached memo from Harris Wofford, which spells out what the summit is designed to accomplish and what will follow from it. Recent developments in Wofford's negotiations with Ray Chambers, the co-organizer who represents Bush's interests, have caused some concern. In particular, concerns have been raised about the long-term effort that will come out of the summit, and Colin Powell's role in it. The summit may still be the right thing to do for the country, but we should go into it with our eyes wide open.

I. Background

The Wofford memo outlines the basic purpose of the summit -- to raise the profile of volunteer service -- and its potential benefits to Americorps and to the Administration. He believes the summit will restore bipartisan support for service, give you another platform to advance the ethic of service, and produce tangible commitments from corporations and service organizations to expand their efforts.

The structure and content of the summit have changed repeatedly in recent weeks, and remain under negotiation. Erskine and Wofford had a conference call this morning with Ray Chambers, who informed us that he intends to raise \$100 million for a non-profit to oversee the summit and follow-up, and that Powell has agreed to be general chairman of the whole enterprise. Chambers had Bill Bradley in mind as vice-chair, but was open to other names instead. (Erskine suggested Henry Cisneros). Chambers said that Powell plans to make service and the follow-up to the summit the central focus of his life over the next few years. Because the magnitude of the effort was news to us (and apparently, to Wofford), Erskine told Chambers that he needed to think about it before committing to any announcement.

II. Options

There is general agreement that the summit, and Powell's involvement, could be a boost for the idea of service. The question is whether we can define the summit and Powell's role in a way that does not inadvertently hand Powell a well-funded political platform or bless something that might go on to eclipse Americorps.

One option is to downplay our involvement, and let Wofford and Chambers announce the summit themselves, with no guarantee that we'll participate. That would reduce press interest in the event, and let us play it by ear over the next three months. If the effort catches on, we could align ourselves with it, but we would not rush into a project that could eclipse our own efforts. The risk of this course is that Powell -- and Bush -- might drop out entirely, and make it more difficult for the summit to succeed in raising the profile of service. The alternate risk is that Powell and Bush might go forward without us, and get all the credit.

A second option is to insist on giving Cisneros a strong, though not necessarily equal, role in the project (e.g., vice-chair). Cisneros would vigorously protect the Administration's interests, and together, Powell and Cisneros would send a powerful signal about service as a way to strengthen community. We could also insist that you and Bush serve as honorary co-chairs, that the summit be called "The Presidents' Summit on Service," and that the CEO of the non-profit be someone we can trust. With the right launch, either in a White House event or the State of the Union, you could make it clear that Powell and Cisneros were both part of a broader, Administration-backed effort. We might still run the risk that Powell might use this as a launching pad, or that this effort would detract attention from Americorps.

A third, high-risk option is to play hardball, and insist that Cisneros have an equal role to Powell's. Having an equal counterweight to Powell clearly would serve the Administration's interests. If this effort is as ambitious as Chambers makes it sound, and Powell plans to make it the major focus of his public life, he might decide not to walk away. But Powell no doubt has a host of other offers to choose from, and Chambers believes he would walk (and Bush might go with him).

The Vice President's office has no strong preference among these options. Ron Klain says that from their standpoint, the question is not so much about Powell -- who will be part of the landscape in any case -- as it is about whether this enterprise will help Americorps or subsume it.

If we do proceed with an announcement, we would envision an East Room ceremony Friday afternoon, with you, the Vice President, President Bush, Powell, and Cisneros speaking to an audience of service enthusiasts. Bush is available Friday, but would also be willing to reschedule for another day.

## THE CITIZENS SERVICE SUMMIT.

The Announcement – On Friday, you and President Bush will announce the Summit to be held in Philadelphia on April 27-29 and some of the initial commitments. You can also announce that Colin Powell has agreed to your and President Bush's invitation to serve as a General Chairman of the Summit itself. The Summit is being jointly organized by the Corporation for National Service and the Points of Light Foundation.

The First Commitments – You will be able to announce that this process has already resulted in more than twenty significant pledges from major institutions to address major social problems. Examples include:

- Columbia/HCA has committed to fully immunize one million children through their health care facilities through the year 2000.
- Big Brothers/Big Sisters – has pledged to double their mentoring relationships, reaching 200,000 matches through the year 2000. They pledge that the "Bigs and Littles" will perform service together as an integral part of the program.
- LensCrafters will provide one million free eye exams for children by the year 2003.
- ABC, CBS and HBO have committed to providing programming and Public Service announcement to promote mentoring.

Other organizations already making commitments include the Greek Orthodox Church, IBM, the California University system, and the city of Tucson. By the time of the summit, we will have secured many, many more.

The Summit Goals – The goal of the summit is to insure that that each disadvantaged child has: 1) an ongoing relationship with a caring adult 2) a safe place for structured activities during non-school hours; 3) a healthy start; 4) economic opportunity through education, including the ability to read 5) and opportunities to give back to others. In the weeks leading up to the summit, task forces of leaders from business, organized labor, the media, religion, education and philanthropy will work to set specific numerical targets.

The Summit Event – First, the President and First Lady, former President Bush and Ford and the participating First Ladies will join together at Independence Hall in Philadelphia in a historic call to service. Second, local, state and national leaders from all sectors will announce organizational commitments to action. Third, representatives from 100 communities from 50 states will work together to organize local efforts to reach the goals.

The Summit Funders – The Summit is being funded by Kellogg Foundation, Pew Charitable Trusts, Robert Wood Johnson Foundation, the David and Lucile Packard Foundation and the Kauffman Foundation.

Post-Summit – A 501c3 partnership will be created to promote service and volunteering to meet these goals. General Powell will be its Chairman of the Board and an experienced CEO will run the operation. This partnership will work to secure funding from major foundations and then distribute smaller grants to local organizations that address these major challenges.

January 22, 1997

**MEMORANDUM TO THE PRESIDENT**

From: Harris Wofford *Harris*  
Subject: Progress report on the Summit

CORPORATION  
FOR NATIONAL  
SERVICE

Erskine asked me to give you an update on the plans for the Summit in Philadelphia, April 27-29, and information on the scope of our hopes for the aftermath to the Summit. And I want to stress as strongly as I can the need to go ahead with the announcement Friday.

The Summit ties together several of the key themes of your presidency. You have called for citizens to come together to address the challenges of their communities. The Summit is designed to dramatically increase public awareness about the role of service and volunteering to solve problems, to de-politicize the issue of national service, and to stimulate specific commitments for problem solving. In convening the Summit with President Bush you are showing your commitment to bipartisanship and your ability to catalyze action without creating a big new federal spending program.

When we talked about the Summit on the trip to your Commencement talk at Penn State, I told you why the Summit was a central part of the strategy to establish National Service as a widely-supported, non-partisan institution in American life, and to have the Corporation for National Service act as a catalyst for a large national coalition "to crack the atom of civic power".

In my November 14<sup>th</sup> memorandum, I wrote:

A major, historic opportunity to make service non-partisan will be the Citizen Service Summit, now scheduled for April 27-29 in Philadelphia. President Bush has committed to joining you in the call for service, and we are working on getting Nancy Reagan and Presidents Carter and Ford. We have reason to hope that Colin Powell will agree to some high profile role at the summit. Organizations and institutions invited to the Summit will be asked to come with tangible commitments to new action that will help create the conditions for the success of American youth.

\*\*\*

1201 New York Avenue, NW  
Washington, DC 20525  
Telephone 202-696-5000

Getting Things Done.  
AmeriCorps, National Service  
Learns and Serve America  
National Senior Service Corps

Together, these proposals provide a grand theme for your presidency - a government helping citizens to solve problems through service, and in the process, expanding educational opportunity. By emphasizing local, volunteer-oriented solutions, you recognize that while the era of big government is over -- the era of big citizens -- and big citizen action -- had better begin. It would demonstrate that you have far-reaching, far-sighted and effective ideas for addressing the problems facing American families.

By reaching out to Republicans, you will be showing yourself to be above partisan politics, using common sense to find the common good.

We had wanted to launch this before the campaign season began, but when that proved impossible, I sent you the attached Nov. 5<sup>th</sup> memorandum, and I then met with Bruce Reed and Gene Sperling. When the cabinet selection process was completed, I asked Erskine to arrange a meeting with you as soon as possible.

The hoped-for "high profile" role for General Powell (which was in our original plans of 1995 when we stated our hope he would be chair of the Summit) was not mentioned in my November 5<sup>th</sup> memorandum because at that time he had turned us down. Since then, Ray Chambers became the chair of our joint Points of Light Foundation--Corporation for National Service Steering Committee, and set out to persuade Powell to be General Chairman of the Summit and of whatever continuing partnership emerged. Recently, he succeeded in getting Powell, who now says the Summit and aftermath efforts will get a lot of his time and attention.

Since then as well, President Ford has agreed to come for the morning of April 28<sup>th</sup> but must leave later for Atlanta for some international event being convened by President Carter -- who says he cannot come to Philadelphia because of that prior commitment. Rosalyn Carter may be able to come and some electronic connection to President Carter is expected. Nancy Reagan has said she will come while Lady Bird Johnson has declined because of her eye sight and health problems, but may arrange a video.

Since then, too, the Summit has been presented to the Republican Governors Conference by Governors Weld and Engler. Governor Dean of the Democratic Governors Association is actively working with us. So is Dick Celeste and Richard Gordon, the former policy advisor to Governor Bayh. All Governors are being invited and we expect a number to attend. Governor Engler expects to announce the Summit, to be seconded by Governor Carper, at the closing plenary of the NGA winter meeting February 4<sup>th</sup>.

The Mayor of each of the 100 communities will be invited as part of their community delegations, and a number are expected to attend. Mayor Rendell is enthusiastically organizing plans to make Philadelphia a "five-star host city" -- with notable commitments

for each of the five goals. Mayor Menino and I talked of the Summit to the U.S. Conference of Mayors session last Saturday, and Mayor Victor Ashe, our newest Corporation board member, is representing us actively, as is our staff colleague, Jim Scheibel, former Mayor of St. Paul.

Erskine wants me to indicate, as far as I can, the process likely to go on, in the coming years. My memorandum outlined what we have proposed:

The 1,500 participants are being invited to Philadelphia to launch a strategy for citizen service and community leadership to "turn the tide" by the turn of the century on many of the challenges facing so many young people today. Organizations and institutions invited to the Summit will be asked to come with a tangible commitment to new action that will help create the conditions for the success of American youth.

... Following the Summit, community teams and local summits will further develop and refine measurable targets. The Summit should be seen as the beginning of an on-going process through the year 2000. It will provide an organizing model for many others who find this model an impetus to new action. We would hope to track some of the progress being made in communities over the next few years and reconvene a Summit in the year 2000 to see if together we are actually solving some of the problems confronting children and youth and celebrate what is being achieved.

The specific targets (in that memorandum) for additional mentors, tutors, and other volunteers engaged in work with the young, and additional youth engaged in service, are not now proposed for the announcement Friday. But such targets are very much a part of the plan for the Summit and the aftermath.

We've been actively involved in assembling the initial commitments -- some of the most notable of which I attach. Major foundations -- led by Pew, Kellogg and the Robert Wood Johnson Foundation, each of which has invested more than \$400,000 each -- are considering much larger investments in funding local and national programs to achieve the five goals. Ray Chambers has had talks that make him believe a post-summit fund for service of \$100 million is in sight.

That is the kind of quantum leap in non-governmental support we have been dreaming of. I add that all of this has been put together before General Powell recently agreed to be Chairman, Corporation for National Service and Points of Light staff and I, and more recently Ray Chambers and his personal network, have made this possible.

Ray reports that the major foundations interested suggest a 501 (c) (3) corporation to be the funding mechanism, to receive some of the funds and allocate them to programs working on the goals. Note that many of the programs utilize AmeriCorps members and

could be aided in meeting our requirements for private sector match. Indeed, one of the latest commitments -- from IBM -- for a Technology Corps proposes to pay half of the costs of utilizing 40 AmeriCorps\*VISTA members. Another example: at the national board of the Big Brothers/Big Sisters, after my presentation, a resolution was adapted (enthusiastically seconded by Senator Dan Coates) to make as their commitment for the Summit: the doubling of Big Brothers/Big Sisters from 100,000 to 200,000, by the year 2,000, and the requirement that all 200,000 matches jointly do a sustained project of community service. This idea grew out of their AmeriCorps and Corporation Learn and Serve America grants.

Also, the commitments strategy, before and after the Summit, will give powerful new momentum for securing the 100,000 Work Study commitments for the Reading Initiative - - and the goal of half of the nearly one-million work-study jobs going into community service.

So you see why your continued support of this is essential to the cause, and to my own continued leadership of the Corporation for National Service.

More importantly, this is an unprecedented opportunity for your continued leadership of citizen service. It is the occasion when you can reach beyond AmeriCorps to embrace and salute and support the far larger family of service in the country.

I need your confidence and support.

THE PRESIDENT HAS SEEN

4/15/97

Q: What does VP/Deputy group say? —

File: PONS memo Children's Health

THE WHITE HOUSE

WASHINGTON

April 11, 1997

Might want to see better a lot by requiring analysis of subject risks & explanation of why preferred to least viable alternative — list of out @ below

MEMORANDUM FOR THE PRESIDENT

FROM: TODD STERN

SUBJECT: Executive Order to Protect Children from Health/Safety Risks <sup>if wanted to sign in major term of potential high risk</sup>

As a lead-in to the zero-three conference next week, you are tentatively scheduled to sign an Executive Order directing agencies to enhance their efforts to protect kids against environmental health and safety risks. There is broad agreement about most elements of the E.O., but disagreement as to the pivotal section, Section 5. The attached memo seeks your approval of one of three options concerning Section 5.

**Background.** The proposed E.O. is designed to ensure a more coordinated approach to children's issues by (1) requiring all agencies to make protection of children a high priority in carrying out their statutory responsibilities and overall missions; (2) creating an interagency Task Force to establish a coordinated research agenda and initiatives for the Administration; and (3) requiring agencies to analyze and explain the effects of their regulations on children. It is this last requirement that is the subject of disagreement.

**Section 5 — Federal Regulatory Analysis.** As drafted, Section 5 would require agencies to (1) assess the effects of proposed regulations on children if the proposed regs are economically significant and may have a disproportionate impact on kids; (2) assess the effects of reasonable alternatives to the planned reg that provide more or less protection for children than the planned reg; and (3) explain why the planned reg is preferable to the alternatives. Pros and cons are laid out in detail in the memo, but, in essence, the options and arguments are:

This is a significant issue

**Option 1 — approve proposed Order with Section 5 as drafted.** Proponents argue that Section 5 provides the teeth to ensure that agencies will adhere to the policy of the Order and that without it the Order would be regarded as largely hortatory. *Supported by DPC and CEO.*

**Option 2 — omit Section 5.** Opponents argue that this is a novel requirement with unpredictable consequences, that it would impose a significant new regulatory burden, and that the requirement to explain why a more protective alternative wasn't chosen will open agencies to undue criticism. They argue that rather than imposing a new requirement in the E.O., the Task Force should consider appropriateness of regulatory standards. *Supported by Treasury, Commerce and HHS.*

**Option 3 — modify Section 5.** The requirement that agencies analyze the effects of a proposed regulation on children would be retained, but the requirement for agencies to analyze more or less protective alternatives and to justify their decisions would be omitted. *Supported by NEC.*

Option 1

Option 2

Option 3

Discuss

Copied  
Reed  
Spencer  
McGinty  
mc

**DECISION**

- Approve the Executive Order as drafted
- Modify Section 5 of the Executive Order
- Omit Section 5 of the Executive Order

**ATTACHMENT**

Proposed Executive Order

**DRAFT**

Executive Order

3-27-97

10:30am

Protection of Children from Environmental  
Health Risks and Safety Risks

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

Section 1. Policy.

1-101. A growing body of scientific knowledge demonstrates that children may suffer disproportionately from environmental health risks and safety risks. These risks arise because: children's neurological, immunological, digestive and other bodily systems are still developing; children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults; children's size and weight may diminish their protection from standard safety features, and children's behavior patterns may make them more susceptible to accidents because they are less able to protect themselves. Therefore, to the extent permitted by law and appropriate and consistent with the agency's mission, each federal agency:

- (a) shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children; and
- (b) shall ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.

1-102. Each independent regulatory agency is encouraged to participate in the implementation of this Executive order and comply with its provisions.

Sec. 2. Definitions. The following definitions shall apply to this order.

2-201. Federal agency means any authority of the United States that is an agency under 44 U.S.C. 3502(1) other than those considered to be independent regulatory agencies under 44 U.S.C.

3502(5). For purposes of this order, military departments, as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

2-202. Covered regulatory action means any substantive action in a rulemaking initiated after the date of this Executive order, or for which a Notice of Proposed Rulemaking is published within one year of the date of this order, that is likely to result in a rule that may:

- (a) be "economically significant" under Executive Order 12866 (a rulemaking that has an annual effect on the economy of \$100 million or more or would adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities); and
- (b) concern an environmental health risk or safety risk that the agency has reason to believe that may disproportionately affect children.

2-203. Environmental health risks and safety risks mean risks to health or to safety that are attributable to products or substances which the child is likely to come in contact with or ingest (such as the air we breath, the food we eat, the water we drink or use for recreation, the soil we live on, and the products we use or are exposed to).

Sec. 3. Task Force on Environmental Health Risks and Safety Risks to Children.

3-301. There is hereby established the Task Force on Environmental Health Risks and Safety Risks to Children ("Task Force").

3-302. The Task Force will report to the President in consultation with the Domestic Policy Council, the National Science and Technology Council, the Council on Environmental Quality, and the Office of Management and Budget ("OMB").

3-303. Membership. The Task Force shall be composed of the:

- (a) Secretary of Health and Human Services, who shall serve as a Chair of the Council;
- (b) Administrator of the Environmental Protection Agency, who shall serve as a Chair of the Council;
- (c) Secretary of Education;
- (d) Secretary of Labor;
- (e) Attorney General;
- (f) Secretary of Energy;
- (g) Secretary of Housing and Urban Development;
- (h) Secretary of Agriculture;
- (i) Secretary of Transportation;
- (j) Director of the Office of Management and Budget;
- (k) Chair of the Council on Environmental Quality;
- (l) Chair of the Consumer Product Safety Commission;
- (m) Assistant to the President for Economic Policy;
- (n) Assistant to the President for Domestic Policy;
- (o) Assistant to the President and Director of the Office of Science and Technology Policy;
- (p) Chair, Council of Economic Advisers; and
- (q) Such other officials of Executive departments and agencies as the President may, from time to time, designate. Members of the Task Force may delegate their responsibilities under this order to subordinates.

3-304. Functions. The Task Force shall recommend to the President Federal strategies for children's environmental health and safety, within the limits of the Administration's budget, to include the following elements:

- (a) statements of principles, general policy, and targeted annual priorities to guide the federal approach to achieving the goals of this order;
- (b) a coordinated research agenda for the Federal Government, including steps to implement the review of research databases described in section 4 of this order;

- (c) recommendations for appropriate partnerships among Federal, State, tribal and local governments and the private, academic, and non-profit sectors;
- (d) proposals to enhance public outreach and communication to assist families in evaluating risks to children and in making informed consumer choices;
- (e) an identification of high-priority initiatives that the Federal Government has undertaken or will undertake in advancing protection of children's environmental health and safety; and
- (f) a statement regarding the desirability of new legislation to fulfill or promote the purposes of this Executive order.

3-305. The Task Force shall prepare a biennial report on research, data, or other information that would enhance our ability to understand, analyze, and respond to environmental health risks and safety risks to children. For purposes of this report, cabinet agencies and other agencies identified by the Task Force shall identify and specifically describe for the Task Force key data needs related to environmental health risks and safety risks to children that have arisen in the course of the agency's programs and activities. The Task Force shall incorporate agency submissions into its report and ensure that this report is publicly available and widely disseminated. The White House Office of Science and Technology Policy and the National Science and Technology Council shall ensure that this report is fully considered in establishing research priorities.

3-306. The Task Force shall exist for a period of four years from the first meeting. At least six months prior to the expiration of that period, the member agencies shall assess the need for continuation of the Task Force or its functions, and make appropriate recommendations to the President.

Sec. 4. Research Coordination and Integration.

4-401. Within six months of the date of this order, the Task Force shall develop or direct to be developed a review of

existing and planned data resources and a proposed plan for ensuring that researchers and federal research agencies have access to information on all research conducted or funded by the Federal Government that is related to adverse health risks in children resulting from exposure to environmental health risks or safety risks. The National Science and Technology Council shall review the plan.

4-402. The plan shall promote the sharing of information on academic and private research. It shall include recommendations to encourage that such data, to the extent permitted by law, is available to the public, the scientific and academic communities, and all federal agencies.

Sec. 5. Agency environmental health risk or safety risk regulations.

5-501. For each covered regulatory action submitted to OMB's Office of Information and Regulatory Affairs ("OIRA") for review pursuant to Executive Order 12866, the issuing agency shall provide to OIRA the following information developed as part of the agency's decisionmaking process, unless prohibited by law:

- (a) an evaluation of the environmental health or safety effects of the planned regulation on children;
- (b) an assessment of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agency or the public, that provide different degrees of protection to children; and
- (c) an explanation of why the planned regulation is preferable to the identified potential alternative(s).

5-502. In emergency situations, or when an agency is obligated by law to act more quickly than normal review procedures allow, the agency shall comply with the provisions of this section to the extent practicable. For those covered regulatory actions that are governed by a court-imposed or statutory deadline, the agency shall, to the extent practicable, schedule rulemaking proceedings so as to permit sufficient time for completing the analysis required by this section.

5-503. The analysis required by this section may be included as part of any other required analysis, and shall be made part of the administrative record for the covered regulatory action or otherwise made available to the public, to the extent permitted by law.

Sec. 5. Interagency Forum on Child and Family Statistics.

6-601. The Director of the OMB ("Director") shall convene an Interagency Forum on Child and Family Statistics ("Forum"), which will include representatives from the appropriate Federal statistics and research agencies. The Forum is to produce an annual compendium ("Report") of the most important indicators of the health and well-being of children.

6-602. The Forum shall determine the indicators to be included in the Report and identify the sources of data to be used for the indicators. The Forum shall provide an ongoing review of Federal activity in the collection of data on children and families, and shall make recommendations to improve the coordination of data collection and to reduce duplication and overlap.

6-603. The Report shall be published by the Forum in consultation with the National Institute for Child Health and Human Development. The Forum shall issue the first annual report to the President, through the Director, by July 31, 1997. The report shall be submitted annually thereafter, using the most recently available data.

Sec. 7. General provisions.

7-701. This order is intended only for internal management of the Executive Branch. This order is not intended, and should not be construed to create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or its employees. This order shall not be construed to create any right to judicial review involving the compliance or noncompliance with this order by the United States, its agencies, its officers, or any other person.

7-702. Executive Order 12506 of September 2, 1987 is  
revoked.  
THE WHITE HOUSE,