

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. note	Sean Maloney to Mr. President re: IDAs (1 page)	06/16/1998	P5
002. memo	Gene Sperling and Bruce Reed to The President re: Individual Development Accounts (4 pages)	06/14/1998	P5
003. note	Sean Maloney to Mr. President re: IDAs (1 page)	06/16/1998	P5
004. memo	Gene Sperling and Bruce Reed to The President re: Individual Development Accounts (4 pages)	06/14/1998	P5
005. memo	Robert Rubin et al. to The President and Vice President (partial, pages 3 and 4 in full) (3 pages)	05/04/1999	P5
006. memo	Gene Sperling et. Al to The President re: Long-Term Care Initiative (8 pages)	08/11/1998	P5
007. memo	Bruce Reed and Rahm Emanuel to The President re: "Sporterized" Assault Weapons Directive (3 pages)	10/30/1997	P5

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
David Sewell
OA/Box Number: 20725

FOLDER TITLE:

Miscellaneous Memos from Bruce Reed to President Clinton

2010-1111-S

rc456

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Staff Records Inventory

David G. Sewell

Domestic Policy Council

Box 1 of 1

Files:

Miscellaneous memos from Bruce Reed to the President

Outlines for Administrative History Project with DGS notes

Press Releases: Children, Families, Communities, Government Reform

Notes – 2000 Meetings

State of the Union Addresses 1993-1996

State of the Union Addresses 1997-2000

Miscellaneous Articles on History of Domestic Policy in White House

Early Lists of Executive Orders & Other Executive Actions

Welfare Reform Documents, 1993-2000

Crime Documents, 1993-2000

White House Council on Youth Violence Documents

Copy of History of White House Domestic Policy Council 1993-2001 by David G. Sewell

Enclosures filed in

Oversize Attachments #

20725

VARA # 17931

THE WHITE HOUSE

WASHINGTON

February 8, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED *BR*

SUBJECT: Proposed Presidential Memorandum To Reduce Various Perks

I. ACTION-FORCING EVENT: You are tentatively scheduled to announce reductions in executive branch perks and privileges on Wednesday, February 10, 1993.

II. BACKGROUND/ANALYSIS: The Presidential Memorandum would reduce perks of Executive Branch employees in the following ways:

Executive Dining Facilities - The Memorandum directs departments and agencies to recover costs for meals served in Executive Dining Rooms, including the White House Executive Mess. It also encourages Secretaries to voluntarily close dining rooms if they are not essential for the conduct of government business.

Fitness Club Facilities - The Memorandum ends the practice of paying for employees' membership at private health clubs (except where an employee's official duties require maintaining physical fitness). Agencies are directed to recover operating and equipment costs from employees who use fitness rooms provided by the agency.

Golf Courses - Government-owned golf courses would be opened to the public (except where the Secretary of Defense designates the course as exempted for security purposes in exceptional circumstances). The Memorandum directs that the costs of operation be recovered from users except in certain limited circumstances.

Conferences - The Memorandum requires that decisions on conference sites and employee attendance be based upon cost effectiveness. The Office of Management and Budget will issue further instructions necessary to implement this requirement.

Medical Services - Agencies are directed, to the extent permitted by law, to charge at least a nominal fee for medical services provided to their employees by the Public Health Service. Certain services, such as emergency care and occupational health

screening, are exempted. Military personnel and their dependents are also exempted from the fee requirement.

Agency Souvenirs and Gifts - Agencies are prohibited from using appropriated funds for the purchase of agency souvenirs or gifts.

OMB is directed to implement and ensure compliance with the requirements contained in the Memorandum.

III. RECOMMENDATION: I recommend that you approve issuance of this proposed Presidential Memorandum.

IV. DECISION:

☐ Approve ☐ Approve as amended ☐ Reject ☐ No Action

THE WHITE HOUSE

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OMB is directed to implement and ensure compliance with the requirements contained in the Memorandum.

III. RECOMMENDATION: I recommend that you approve issuance of this proposed Presidential Memorandum.

IV. DECISION:

☐ Approve ☐ Approve as amended ☐ Reject ☐ No Action

FEBRUARY 8, 1993

MEMORANDUM FOR JOHN PODESTA

FROM: Bruce Reed *BR*

SUBJECT: Reinventing Government Decision Memos

I am sending along decision memos for the executive orders and Presidential memoranda you should have received from OMB:

1. Executive Order to Reduce the Bureaucracy by 100,000
2. Executive Order to Cut Administrative Costs
3. Executive Order to Reduce Advisory Commissions by 33%
4. Memorandum to Restrict Use of Government Aircraft
5. Memorandum to Reduce Use of Government Vehicles
6. Memorandum to Reduce Various Perks

I have been working under the assumption that the White House staff cuts would be announced on Tuesday, and that these other measures would be announced on Wednesday. Let me know if that has changed.

THE WHITE HOUSE

WASHINGTON

February 8, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED *BR*

SUBJECT: Executive Order Reducing the Bureaucracy by at Least 100,000 Positions

I. ACTION-FORCING EVENT: You are tentatively scheduled to announce reductions in the federal bureaucracy on Wednesday, February 10, 1993.

II. BACKGROUND\ANALYSIS: This Executive Order seeks to satisfy your campaign pledge to cut the federal bureaucracy by at least 100,000 positions through attrition, as a way to eliminate unnecessary layers of management and improve productivity.

One of every six dollars we spend on domestic programs goes to wages and benefits for federal workers -- not counting administrative costs. Eliminating 100,000 positions in the bureaucracy would save \$3-4 billion a year by FY 1996.

This measure will reduce the government's civilian workforce of 2.2 million people by four percent over the next three years. It orders OMB to issue detailed instructions directing executive departments and agencies with over 100 employees to achieve 25 percent of the cuts in FY 1993, 62.5 percent by the end of FY 1994 and 100 percent by FY 1995. At least ten percent of the reductions would come from management (Senior Executive Service, GS-14 and GS-15). Independent agencies are requested to make similar reductions voluntarily.

III. RECOMMENDATION: This action will help fulfill one of your most visible campaign promises. I recommend that you approve the proposed Executive Order.

IV. DECISION:

☐ Approve ☐ Approve as amended ☐ Reject ☐ No action

THE WHITE HOUSE

WASHINGTON

February 8, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED *BR*

SUBJECT: Proposed Executive Order To Cut Administrative Costs

I. ACTION-FORCING EVENT: You are tentatively scheduled to announce reductions in executive branch administrative costs on Wednesday, February 10, 1993.

II. BACKGROUND\ANALYSIS: This proposed Executive Order is intended to satisfy your campaign pledge to cut administrative costs in the executive branch by three percent. The Order directs executive agencies and departments to break out administrative costs (to be defined by the Office of Management and Budget) as a separate line item category in their budget requests to OMB. The Order further directs that future budget requests must reflect reductions in the agencies' and departments' administrative expenses of one percent in FY 1994, three percent in FY 1995, six percent in FY 1996, and eleven percent in FY 1997 off the 1993 baseline. Independent agencies are requested to reduce their administrative expenses by the same amounts.

OMB estimates that these cuts would save \$2.4 billion a year by FY 1997.

III. RECOMMENDATION: I recommend that you sign the proposed Executive Order.

IV. DECISION:

☐ Approve ☐ Approve as amended ☐ Reject ☐ No action

THE WHITE HOUSE

WASHINGTON

February 8, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED *BR*

SUBJECT: Proposed Executive Order Reducing Advisory Commissions

I. ACTION-FORCING EVENT: You are tentatively scheduled to announce reductions in unnecessary advisory commissions on Wednesday, February 10, 1993.

II. BACKGROUND/ANALYSIS: This Executive Order seeks to eliminate unnecessary executive branch advisory commissions. There are over 1,100 advisory commissions, approximately 700 of which have been created even though they are not required by statute.

These commissions issue 1,000 reports a year, cost taxpayers approximately \$150 million per year, and are spreading like kudzu. The State Department has an Advisory Committee of the International Commission on the Conservation of Atlantic Tunas and an Advisory Committee to the Inter-American Tropical Tuna Commission. The Transportation Department has a Commercial Fishing Industry Vessel Advisory Committee, a National Boating Safety Advisory Committee, a National Offshore Safety Advisory Committee, a Navigation Safety Advisory Council, and a Towing Safety Advisory Committee.

This proposed Order directs ^{each} the Office of Management and Budget (OMB) to ensure that ~~executive agencies~~ and departments ~~terminate~~ not less than one-third of those advisory commissions not required by statute. Within 90 days after the date of the Order, executive agencies would be required to submit to OMB: 1) a justification for the continued existence or a recommendation for the termination of each nonstatutory committee and 2) a recommendation to Congress to continue or to terminate any advisory committee required by statute. Agencies and departments would be prohibited from creating or sponsoring any new advisory commission except in compelling circumstances and only with the

approval of the Director of OMB. Independent agencies are requested to comply voluntarily.

III. RECOMMENDATION: It is time to clean house in Washington. I recommend that you approve the proposed Executive Order.

IV. DECISION:

☐ Approve ☐ Approve as amended ☐ Reject ☐ No action

THE WHITE HOUSE

WASHINGTON

February 8, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED *BR*

SUBJECT: Restricted Use of Government Aircraft

I. ACTION-FORCING EVENT: You are tentatively scheduled to announce reductions in government perks and privileges on Wednesday, February 10.

II. BACKGROUND/ANALYSIS: This Memorandum limits use of government aircraft to select officials (Secretary of State, Secretary of Defense, Attorney General, Director of the FBI, and Director of the CIA), and requires that they (1) use the authority only when the particular circumstances require its use and upon approval of the ~~White House Counsel Office~~; and (2) reimburse at full coach fare. This differs from current practice which allows agency heads to decide for themselves what represents "required use."

This action would make it explicit that you intend only a limited number of officials to have special access, and remove the presumption that every trip by even that limited group must be on government aircraft.

III. RECOMMENDATION: The memory of John Sununu is still fresh. I recommend that you approve issuance of this Presidential Memorandum.

IV. DECISION:

☐ Approve ☐ Approve As Amended ☐ Reject ☐ No Action

*Office of
Counsel to
The President*

THE WHITE HOUSE

WASHINGTON

February 8, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED *BR*

SUBJECT: Proposed Presidential Memorandum Reducing Use Of Government Vehicles By High-Level Government Officials

I. ACTION-FORCING EVENT: You are tentatively scheduled to announce reductions in executive branch perks and privileges on Wednesday, February 10, 1993.

II. BACKGROUND/ANALYSIS: The Presidential Memorandum would reduce the use of limousines by high-level government officials as follows:

Under current law, the President may designate six Executive Branch employees and ten additional officers for daily home-to-work transportation. In addition, each member of the Cabinet is authorized to designate a principal deputy to receive this "portal-to-portal" service.

The proposed Presidential Memorandum would limit portal-to-portal service to Cabinet members, the National Security Advisor and the White House Chief of Staff.

The proposed Memorandum also directs each federal department or agency to reduce the number of executive motor vehicles (except armored vehicles) that it owns or leases by 50 percent by the end of fiscal year 1993.

III. RECOMMENDATION: Portal-to-portal service was one of the most brazen abuses of privilege in the Bush Administration. Reducing home-to-work service will demonstrate your commitment to saving taxpayer dollars (without decreasing government efficiency) and show that you're not going to let your Administration lose touch with ordinary people. I recommend that you approve issuance of this proposed Presidential Memorandum.

IV. DECISION

☐ Approve ☐ Approve as amended ☐ Reject ☐ No Action

January 4, 2000

MEETING WITH DEMOCRATIC LEADERS DASCHLE AND GEPHARDT

DATE: Wednesday, January 5, 2000
LOCATION: Oval Office (Meeting)
Roosevelt Room (Statement)
TIME: 4:00 pm – 5:00PM (Meeting)
5:00 pm – 5:20PM (Statement)
FROM: Chuck Brain
Bruce Reed
Gene Sperling

I. PURPOSE

To meet with Congressional Democratic Leaders Daschle and Gephardt to highlight the Democratic agenda for the second session of the 106th Congress.

II. BACKGROUND

While there were several major accomplishments during the first session of the 106th Congress, including money to hire additional cops and teachers, financial services overhaul, and the Jeffords-Kennedy bill; there still remains a major unfinished agenda that includes gun safety, minimum wage, the Patients' Bill of Rights, and prescription drug benefits for Medicare beneficiaries. In addition, your budget will contain new initiatives and provide for more responsible budgeting than the Republicans have resorted to in recent years.

UNFINISHED AGENDA

A. Patients' Bill of Rights

As you know, both the House and Senate have passed different versions of a Patients' Bill of Rights. The House-passed Norwood-Dingell bill is much stronger than its Senate counterpart. It is now important that we work closely with the Democratic leadership in both the House and Senate for a conference report that reflects our goals for true managed care reform. The Republican leadership would like to see something enacted into law to respond to public pressure on the issue of HMO reform, but their idea of a good bill will differ greatly from yours. This will be a challenge because they have tried to stack the conference against those who support meaningful reform. You sent a letter to the Speaker of the House on

November 4 expressing concern that only one of the 13 Republican conferees appointed to the conference voted for the Norwood-Dingell bill and that the members of the conference committee are heavily weighted to special interests who oppose the legislation.

The House-passed Norwood-Dingell bill would provide new patient protections to all Americans in all health plans, and hold health plans accountable when their actions cause harm to patients. It provides meaningful patient protections, such as the right to emergency care wherever and whenever a medical emergency arises; the right to access the health care specialists that a patient needs; the right to ensure care is not disrupted during treatment; the right to an unbiased internal appeals process and an independent external appeals process that allows patients to get the care they were promised; and the right to hold health plans accountable for actions that harm patients.

Unfortunately, through a procedural mechanism, the Republican leadership in the House attached this bill to H.R. 2990, the Quality Care for the Uninsured Act, also known as the Talent "access bill" (passed, 227-205). Your administration strongly opposes this narrowly-passed legislation. The bill is unfunded, would spend some \$50 billion of the Social Security Surplus, and expands the availability for Medical Savings Accounts and association health plans. Although called an access bill, analysis suggests that it would provide additional coverage to less than 1% of the current uninsured population. It does contain some provisions that we support including a 100 percent deduction for health insurance premiums for the self-employed.

The Senate Democrats voted as a block for all Democratic amendments to S. 1344 and against all Republican amendments and final passage of the bill. Opposition to the bill focused on the fact that the bill covers only those 48 million Americans who are enrolled in health plans exempt from state regulations, and not the additional 113 million people in state regulated plans. In addition, the final bill did not include a provision that would have allowed patients to sue their health plans in state court for damages if they were harmed because their plan refused to provide treatment.

In conference we will need to ensure that, consistent with your letter to the House Leadership on October 7, costs associated with the final bill are fully offset. The House Republican Leadership refused to allow offsets to be included in the legislation, hoping that the fact that it was not paid for would be a disincentive for some members to support the final combined bill.

B. Minimum Wage

On November 9, 1999, during consideration of the Bankruptcy Reform Act of 1999 (S. 625), the Senate considered an amendment by Senator Kennedy

(D-MA) to raise the minimum wage by \$1.00 over two years and provide \$9.5 billion in small business tax cuts. The amendment to the Bankruptcy Reform Act of 1999 (S. 625), was tabled (50-48). Senator Domenici (R-NM) then offered a successful (54-44) amendment to the bankruptcy bill to raise the minimum wage by \$1.00 over three years and provide \$18.4 billion in tax cuts over five years. The amendment also included a provision that would undermine overtime pay for hourly employees by excluding bonuses and commissions from the rate of pay used to determine overtime pay.

In a Statement of Administration Policy issued November 8, 1999, you threatened to veto S. 625 if language delaying an increase in the minimum wage, threatening overtime pay for hourly workers, and targeting tax breaks away from working families remains in the bill. The bankruptcy bill is still pending before the Senate.

Senate Democrats will again push their legislation to raise the minimum wage by \$1 over two years in 2000. While the Republican leadership opposes any increase, their caucus has forced them to offer an alternative minimum wage bill.

The House bill (H.R. 3081) would have raised the minimum wage \$1.00 an hour over three years, and provided huge, untargeted, unfinanced tax cuts. Efforts by several moderate Republicans and Democrats to move this bill stalled. The bill was approved by the Ways and Means Committee on November 9 (23-14), but did not reach the floor before the House recessed for the year.

C. Gun Safety

As you know, last June, the Senate passed juvenile crime legislation containing a number of gun provisions including: background checks at gun shows; child safety locks for handguns; a ban on importation of large capacity ammunition clips; and a permanent bar on violent juveniles from owning guns. The House voted down similar gun provisions later in the fall. Chairman Hyde and Congressman Conyers engaged in lengthy internal negotiations prior to adjournment, but were unable to reach agreement on the gun measures – with gun shows remaining a particular sticking point. And despite repeated attempts by the Democratic leadership to urge the conference to convene and include gun provisions in the final bill, the conference committee met only once and the juvenile crime bill remained stalled through the end of the session.

Gephardt and Daschle may raise the issue of whether the gun debate should remain focused solely on passing the more limited Senate-passed gun provisions, or whether the debate should press forward on new gun proposals such as gun licensing and registration. We should try to get a better sense from them about where the Democratic caucus is on broadening the gun debate. You should also know that the FY 2001 budget will include significant new resources to enhance enforcement of

gun laws with additional ATF agents, inspectors, and local and federal gun prosecutors. Finally, if the leaders inquire about out talks with the gun industry, you should signal that negotiations are about to get underway and also gauge their support for our strategy of threatening a HUD-led lawsuit.

D. Prescription Drugs

Last June, you announced the specifics of your Medicare plan that included a proposal to establish a new voluntary Medicare "Part D" prescription drug benefit.

Your drug benefit, in the context of broader reform, has a zero deductible and pays for half of all drug costs up to \$5,000 when fully implemented. It uses private sector purchasers to negotiate discounts for Medicare beneficiaries that are also accessible after the cap has been reached. On October 25, 1999 you announced that you would send legislation to Congress to reserve one-third of the non-Social Security surplus for Medicare, including a prescription drug benefit.

Particularly among the House Democrats, there has been an enormous increase in interest in this issue. Not only because it is impossible to reform Medicare without offering some prescription drug coverage, but also because this issue has become one of the highest priority domestic policy issues for the electorate. House and Senate Democrats want to work closely with us on this issue -- both on message and legislative strategy -- during the next session.

The vetoed Republican tax package included a tax deduction to offset the cost of prescription drug insurance for seniors. But the proposal was widely criticized because the seniors who most need the drug benefit do not file taxes and would not be eligible for the tax deduction, and because the proposal does nothing to make affordable insurance more accessible. The Republican leadership continues to quietly support the status quo by failing to move forward any of the bills designed to address this challenge.

The Democrats have responded with a number of proposals in three distinct areas. Rather than endorse a particular approach, we have tried to use their bills as illustrations of the importance of moving ahead on the prescription drug cost and coverage issue. Their proposals can be used to underscore the numerous problems Americans face in accessing affordable prescription drugs, as well as to highlight the unwillingness of this Congress to act.

The Democrats' proposals fall within three distinct areas: (1) Expanding prescription drug coverage: Congressmen Stark and Dingell, and Senators Kennedy and Rockefeller have introduced a more expensive and comprehensive, but complicated, prescription drug benefit. While promising front end and catastrophic coverage, it leaves seniors with drug costs of \$1,500 to \$3,200 exposed and vulnerable. With a 75 percent premium subsidy, our actuaries estimate that it costs nearly \$300 billion

over 10 years (compared to our \$116 billion).

(2) Reducing prices of prescription drugs: Congressmen Allen, Waxman, Turner, and Berry have introduced legislation (the "Allen bill") that would require pharmacists serving seniors to provide them with access to the same discounts they provide to Federal and corporate purchasers. This policy is viewed by the drug industry as price controls, and this criticism has been validated by a number of businesses, insurers, and elite policy validators. Congressman Allen counters that this policy is not price controls, since the drug industry can choose the level of discounts it provides to large purchasers and thus the discount provided to Medicare beneficiaries through their local pharmacists. The bill has a broad coalition of Democratic sponsors (over 130 sponsors including Blue Dogs, New Dems, and traditional liberals), but is not going anywhere and has very few advocates in the Senate. It is attractive to many however, because there are no new Federal costs since it provides no new insurance coverage.

It simply requires access to discounts that are currently unavailable. To terrific press, the House Democrats, led by Representative Waxman have released studies in more than 40 states outlining the impact of the existing price discrepancy and how it harms seniors.

(3) International drug parity: Congressman Sanders and Berry and Senators Dorgan and Wellstone introduced legislation permitting the re-importation of prescription drugs from Canada to pharmacies in the United States in order to access the discounts that Canadian pharmacists receive. The FDA has raised strong safety concerns about this legislation, but it is an example of the frustration members of Congress, and the public at large, are having with the price differentials between drugs sold in Canada and the United States, even though these medications were initially manufactured in this country.

In the Senate, Senators Wyden and Snowe have introduced legislation to provide subsidies for HMOs and Medigap plans to offer prescription drug coverage. We have criticized this legislation because it is a block grant approach that undermines Medicare's guarantee of coverage and does not provide for a workable fee-for-service benefit, thus making access to affordable prescription drugs impossible for millions of beneficiaries living in rural communities. Senators Breaux and Frist offered a prescription drug benefit in the context of broader Medicare reforms; at the time of the release of their plan, they had suggested a Medicaid benefit for beneficiaries up to 150 percent of the poverty level. We have criticized this benefit as inadequate because over half of the seniors without prescription drug coverage have incomes over 150 percent of the poverty level.

Under legislation introduced in October by Senator Jeffords, the Federal government would purchase Medicare supplemental insurance policies covering prescription drugs for low-income seniors. All beneficiaries enrolled in Medigap would be eligible to purchase new drug-only plans "DrugGap".

NEW AGENDA

School Construction and Modernization Approach

In your FY 2001 budget proposal, you will demonstrate your commitment to investing in school construction and modernization. Nationally, there is an urgent need for school modernization. One-third of all schools need extensive repair or replacement. The average public school in America is 42 years old, and school buildings begin rapid deterioration after 40 years. \$112 billion is needed just to repair the existing schools across the nation. A record 52.7 million children are enrolled in elementary and secondary school today, and this number will climb to 54.3 million by 2008. Twenty-four hundred new public schools will be needed by 2003 to accommodate rising enrollments.

- (1) School modernization and tax credit bond proposal: This new type of bond – a tax credit bond – would provide interest-free financing to help state and local governments pay for school construction and renovation to help address issues of aging facilities and overcrowding. Instead of paying the interest and principal on school construction bonds, the issuer would only be responsible for repaying the principal. The federal government would provide tax credits to the bondholders in lieu of interest payments. The Administration's proposal would support nearly \$25 billion in bonds over the next two years to help states and districts build and modernize up to 6,000 public schools. Senator Daschle and Representative Rangel are the main sponsors of the Senate and House bills, respectively.
- (2) School renovation loan and grant program: This will be your new proposal regarding school infrastructure. The School Renovation program would provide interest free federal loans and grants to needy school districts to fund urgent renovations. The loan program would be targeted to those districts unable to finance the interest cost associated with facilities renovation. The smaller direct grant program would provide direct funding to the needy school districts unable to finance the capital expenditures associated with school renovation. Renovations funded through loans and grants could include repairs to roofs, climate control systems, or plumbing. Loans and grants could also fund school modernization to improve technology capability, if no other source of funds is available.

BUDGET FRAMEWORK

Last month, several members of your Economic Team met with Senator Daschle and Representative Gephardt to begin discussions on the budget framework, including caps, the baseline, and initiatives. The leaders believe that: (1) having issues on

which to fight over the next year is imperative; (2) we cannot produce a budget within the caps; and (3) we must work together to craft a rollout strategy on the caps issues that will maximize the benefit to Democrats.

Caps are the most pressing issue, beyond the school construction announcement, that we will face with our Democrats. The basic story we plan to use is:

- **PAYGO and caps worked.** In the era of large federal deficits, PAYGO and caps provided the necessary fiscal discipline. However, under budget surpluses, PAYGO and the caps were overtaken.
- **Last year's budget shredded the caps.** Republicans relied on gimmicks and tricks to stay within the caps, and the real constraint was the Social Security surplus.
- **The Administration's FY2001 budget is going to come clean.** The Administration's FY2001 budget removes last year's gimmicks and tricks, and provides realistic out-year numbers for discretionary spending and surpluses.

Your Economic Team will continue to work with the leaders to coordinate the rollout of the budget. To maximize the Democrats' leverage, two strategic issues need to be addressed:

- **Neutralizing tax-and-spend attacks on Democrats.** Coming clean in the FY2001 budget will inevitably result in Republican tax-and-spend attacks against Democrats. We will need to anticipate this and be prepared to respond.
- **The Republicans' response to our caps strategy.** In response to our rollout of the caps strategy, the Republicans may (1) try to stay within the caps or (2) raise the FY2001 caps and have unrealistic out-year caps to pay for a tax cut. While the first strategy will ultimately fail, it would produce a chaotic budget process. The second could result in making it easier for the Congress to get out of town in the fall with perhaps more of our priorities funded. House Democrats may prefer more chaos to achievements in this area.

TAXES

Last year we avoided an irresponsible \$782 billion tax package by clearly being able to sustain a veto if the Republican Leadership attempted an override. It is imperative to preserve our ability to sustain a veto. Two components of your budget are important in this regard: your proposed tax bill and your desire to do "first things first."

While your tax bill is still underdevelopment, the aim is to approximate the size of last year's tax proposal (approximately \$250 billion set over 10 years) and to focus on working families. These provisions are likely to include provisions involving the EITC, health care, education, marriage penalty relief, and a smaller version of USA accounts.

Regarding "first things first," it is important to Democrats on the Hill to make the tax cut contingent. However, this contingency must be credible. You should solicit their views as to whether or not saving Social Security or solving Medicare meets the credibility test.

III. PARTICIPANTS

Pre-Brief

President

John Podesta

Steve Ricchetti

Joel Johnson

Doug Sosnik

Chuck Brain

Jack Lew

Gene Sperling

Bruce Reed

Charles Burson

Monica Dixon

Chris Jennings

Meeting

President

John Podesta

Joel Johnson

Chuck Brain

Jack Lew

Gene Sperling

Bruce Reed

Steve Ricchetti

Charles Burson

Bill Corr, Senator Tom Daschle's Chief of Staff

Steve Elmendorf, Representative Gephardt's Chief of Staff

IV. PRESS PLAN

Closed Press.

V. SEQUENCE OF EVENTS

-- **You** meet with Democratic Leaders Daschle and Gephardt in the Oval Office.

-- **You** proceed to the Roosevelt Room to for Statement with Leaders Daschle and Gephardt.

--**You** make remarks.

--Senator Tom Daschle makes brief remarks.

--Representative Richard Gephardt makes brief remarks.

--**You** depart.

VI. REMARKS

To be provided by Speechwriting.

VII. ATTACHMENTS

February 24, 2000

MEMORANDUM FOR THE PRESIDENT

From: Karen A. Tramontano
Thomas Freedman

Subject: Long Term Planning Follow-Up

This updated memorandum reflects the themes and issues we discussed with you during the long-term strategy meeting last week. Based on that meeting, we are working with communications, press and the policy councils to develop strategies to implement those themes and issues.

At our meeting, we agreed there are two key times during which you can maximize opportunities to shape the public legislative debate. The first runs from late March (at the conclusion of the nominating process) until late July (the Republican convention). The second occurs during the appropriations end game in September and October. Our planning will fully utilize these times. Since the most important congressional votes and legislative work will take place before each recess and immediately before the session ends, scheduling will hold May 22 – 26; June 26-30; July 24 – 28; September 25 – 30 and the relevant part of October. In addition to your formal meetings with members of Congress to discuss pending legislative business, we will also sometimes schedule informal congressional meetings on those evenings when you are working.

I. Major Themes

A. World Stewardship

We have segmented foreign policy issues into four groupings. The first group of issues are those where the stakes are high, a significant amount of your time is required and success depends upon your personal involvement at the highest level. Because we do not know exactly when you will be needed to work on these issues, we will keep your schedule somewhat flexible. Throughout the year, these matters will continue as high priorities; we will adjust your schedule, as circumstances require.

- ◆ Middle East (March/April) (Prior to September deadline)
- ◆ Northern Ireland (Prior to May)
- ◆ Russia (Elections & Aftermath—March 26 and April 16)
- ◆ NMD, ABM, CTBT
- ◆ China PNTR/WTO (February-July)

We agreed that China requires special emphasis. As a result, your schedule will reflect what it will take to win that vote. A fair amount of your time will be needed to retail and publicly frame this issue. We will set time aside for the following:

- ◆ Congressional meetings (4 each month)
- ◆ Business meetings (February 24, 2000)
- ◆ Speeches (March 1 & March 8, 2000)
- ◆ Elite Press
- ◆ National Press
- ◆ Regional/District Press
- ◆ Kick-Off with Former Presidents (March 28, 2000)

The second group reflects high priority areas requiring less direct attention from you. Scheduling for these matters is much more likely to be within our control. There are other objectives in this grouping e.g. Africa Trade/CBI that may require your attention but will be primarily carried by others.

- ◆ Columbia
- ◆ Greece-Turkey-Cyprus
- ◆ Kosovo/Southeast Europe—Making the case for US engagement
- ◆ International Debt-Relief
- ◆ Vaccines (March 2, 2000)
- ◆ Africa Trade/CBI

The last two groups identify planned trips and other potential travel you asked us to consider:

- ◆ Asia (India) (March 18– 26)
- ◆ Germany (April – May)
- ◆ G-7 Summit (July 21 – 23)
- ◆ APEC (November 15 – 16)

Potential Travel:

- ◆ Columbia + another Latin American Country
- ◆ Russia (After elections)
- ◆ Middle East (Depending upon events)
- ◆ Nigeria & Portugal (May-June)
- ◆ Ireland
- ◆ Additional stops in Asia trips, e.g. Korea, others
- ◆ Consider adding Alaska & Hawaii to Asian trips

B. Economic Stewardship

We have focused this section on your economic stewardship, the benefits of the new and expanding economy, and the need to do more to ensure that all citizens have a share and a stake in our nation's economic growth. We plan to showcase throughout the year your record on fiscal discipline and show how you continue to make the hard choices to ensure a strong economy. You asked that we consider focusing on poverty as a discrete issue including a review of welfare-to-work programs and an analysis of the nature of poverty. In addition we will highlight the following:

- ◆ The Economic Summit - a one-day summit (April 5).
- ◆ New Markets' Tour/Closing the Digital Divide (April 10 – 12)
- ◆ Round table—Community Reinvestment Act (May)
- ◆ The New Economy - Major Speech at UPENN (February 24)
- ◆ The President's Record on Fiscal Discipline
- ◆ Medicare solvency
- ◆ Social Security - transferring interest savings
- ◆ Paying down the public debt
- ◆ Working Families tax package:

Long-term care
Retirement Accounts
EITC - Marriage Penalty
Medicare buy-in
Child Care
Tuition Tax Credit

C. Domestic Leadership

This section addresses issues where you are an established leader, where we want to continue your leadership, and where you are likely to achieve some of your SOTU initiatives.

1. Education

We agreed that education would get attention only if it is at the center of a battle—either in the Congress or in the states. As we develop a strategy we will look for fights that will bring education into sharp focus.

You asked that we consider developing a 2-day education tour where we highlight a failing school that is improving in venues like East LA. We are tentatively holding May 11 –12 for the tour which will begin with a National Teacher of the Year event. In April we are proposing that you travel to Atlanta to speak to education writers at the Education Writers' Conference.

Here in Washington the debate will begin with the reauthorization of ESEA. The elements of the reauthorization debate are outlined below:

- ◆ ESEA Reauthorization (February through June)
 - Social Promotion
 - Education Reform including low performing schools
 - School Accountability
 - Education Standards

As in the past, the education debate will re-engage during the congressional appropriations battle. The funding battle will provide another opportunity to highlight education.

- ◆ Education funding - September through October
 - 100,000 teachers
 - School Construction
 - After-school care
 - Head Start
 - GEAR-UP

2. Environment

We agreed to plan a few major environmental events using dates when the public pays attention to the environment like Earth Day, Memorial Day and the 4th of July. Major initiatives, like Lands' Legacy, Monuments and Roadless, could be unveiled in big events on these key dates to underscore their importance and improve the chances that you will successfully drive the issue. You asked that we add the Redwoods and the Everglades issues to this list. You also asked us to consider travel to the Rio Grande and Nevada to showcase other environmental initiatives. Plans are underway to highlight your accomplishments in the run-up to Earth Day including events on new generation vehicles, monuments and the 30th Anniversary of Earth Day on the Mall.

- ◆ Power Generation (prior to Earth Day)
- ◆ Lands' Legacy (September-October)
- ◆ *Executive Actions - Sequoia National Monument (April 15)*
- ◆ *Bacca Ranch*
- ◆ Roadless Forests - Final Rule November/December
- ◆ Redwoods
- ◆ Everglades

Three related and no less important issues are:

- ◆ Kyoto/Climate Change
 - Although progress in the Senate on the Kyoto treaty is highly unlikely, the Kyoto negotiations may bear some fruit. If progress is achieved, we will

highlight it but also make clear that progress on Kyoto is a good deal for business (November). We continue to work on a power generation proposal for release in April before Earth Day (April 22).

- ◆ **Fuel Efficiency**

If we complete a "declaration of intent" with the trucking industry to conduct research that will lead to fuel efficiency, air emissions and safety improvements, much like PNGV, you could sign the declaration (April/May). We will evaluate whether electricity deregulation could pass the Congress this year and develop a strategy to improve its chances. We will also look at showcasing bio-fuels research, energy improvements in housing and energy conversion opportunities.

- ◆ **New Generation Vehicles**

Similarly, we are working with the auto industry on an agreement to include SUVs in their new research and development effort on fuel efficiency for new generation vehicles. SUVs are the auto industry's biggest market, expanding this partnership to SUVs would be a big victory. Tentatively we are looking at a meeting between the auto industry and you in late March to highlight the successes of the Partnership for New Generation Vehicles and to showcase the new demos that get better than 70 mpg. We may also be ready to announce an Executive Order to improve fuel efficiency in the federal fleet.

3. Science & Technology

- ◆ **Research – The 21st Century Research Fund** includes a \$3 billion increase in research. Since the Republicans will top your investment, we will work with OSTP on a strategy to ensure that additional increases are not exclusively directed for NIH. We will also include the Livermore, Huntsville and Brookhaven labs as vehicles to demonstrate the government's investment in research.

- ◆ **The Human Genome Project** – The first sequence draft will be completed this year. The draft represents 90% of the human genome sequence. An announcement could be ready by May. You indicated that this is a priority and you very much want to be involved. We will also look for ways to demonstrate how the genome project will improve people's lives.

- ◆ **Genome Privacy**—As technological advancements progress, there is tremendous public concern about the release and use of personal medical data. On February 8th, you issued an Executive Order on Genetic Discrimination. In May, you and Tony Blair will sign a Joint Statement opening access to research data.

- ◆ Research Ethics – There is also growing concern about the use of gene therapies. Your Bioethics Advisory Board will recommend a government-wide office to oversee the government's involvement in gene therapy research and use. If you embrace these recommendations you could create a new office on "Human Research Subjects Protections." The Board is also likely to issue findings regarding human subjects protections. You could announce these findings as well. (April-June)
- ◆ Research Misconduct—Work is underway to develop new guidelines regarding scientific research and misconduct. We believe these guidelines will be well received and very appropriate for you to announce. (September-November)

Technology

As Internet technology expands, questions about cyber access and personal privacy are growing. You have been ahead of the curve on these issues. Throughout the year, we will highlight your initiatives in the following areas:

- ◆ Closing the Digital Divide:
Advocates applauded the Digital Divide budget initiative you announced in DC. The New Markets' Tour in April will provide another platform for you to talk about your proposals to close the digital divide. Americorps is working locally with Steve Case and America On-line on a digital divide project that has been quite successful—we will look for ways to include Americorps in an event on this topic.
- ◆ Connecting Schools to the Internet:
The Department of Education released a report showing that we have made some progress in achieving our goal. The Vice President declined the announcement. Bruce Reed will provide the details to you. Another vehicle to get more schools connected to Internet will be your school modernization proposals. Our campaign to enact school modernization will provide additional opportunities for you to highlight this progress.
- ◆ Technology and Disabilities
There is growing interest about the use of technology to assist people with disabilities and technology's use in telemedicine. You could demonstrate these advancements and the government's investments in research by going to sites where these technologies are being made available to the disabled.
- ◆ The International Space Station
You could visit the American crew before their departure to the Space Station. Alternatively, you could call the space station sometime between August and December to talk to the crew. These events would highlight scientific advances made during your Administration.

- ◆ Privacy

There is growing public concern about invasions into personal privacy as a result of technological changes. Work is underway to develop the rules of the road for cyber-privacy

- ◆ Webisode Chats

You indicated an interest in continuing webisode chats. We will begin these chats with the five constituent groups Loretta Ucelli outlined for you.

4. Health

In addition to the Medicare Reform debate and the political debate on the Patients' Bill of Rights, we believe there will be three vital health care debates where you can promote your SOTU initiatives and in the case of medical errors, take additional executive actions.

- ◆ Health Care Expansion
- ◆ Prescription drugs
- ◆ Medical errors (February 22)

You asked that we also consider a White House Conference or a Summit that would focus the public's attention on Medicare and Aging, CHIPS-Parents and/or Prevention. In addition, the HHS and USDA are hosting a conference on nutrition; we will look for ways to involve your Council on Physical Fitness, too.

5. Crime

Successfully concluding the gun issue is less likely this year given the nature of the political debate and the current make-up of Congress. Nonetheless we are suggesting ways to focus and engage the debate. Dates that are important to note are the Million-Moms' March, the Columbine Anniversary and the anniversaries of the school shootings in Arkansas, Oregon and Kentucky. Since Colorado failed to pass a gun licensing law by one vote last week, citizens have announced that they will launch a ballot initiative in April. We have a tentative hold on your schedule for April 12 to travel to Colorado to announce the initiative.

- ◆ We will continue to work aggressively to facilitate a settlement with gun manufacturers. If a settlement appears unlikely, we will recommend becoming more directly involved in the litigation. The discussions with the gun manufacturers are ongoing and could continue through August.
- ◆ Like last year, we will engage in an appropriations battle with Congress to fund 50,000 more cops. We will schedule events to highlight your accomplishments and leadership. (September – October)

- ◆ In addition to the report you announced on February 4th, there will be other opportunities to promote your gun enforcement initiative. In March/April the Treasury will issue another report on illegal gun trafficking. To bring more attention to your initiative you could roll out the report at a responsible gun manufacturer like Smith & Wesson.
- ◆ To promote your "Smart Guns" initiative and to continue the gun debate you could also visit a manufacturing venue that uses this new technology. (March-July)
- ◆ There are 12 states that have gun-licensing statutes--the Massachusetts law is most like your proposal. To focus attention on your licensing initiative, you could visit a state with similar laws and take a gun safety class or register for a license. (February-October)
- ◆ This month the Youth Violence Initiative will announce its new board including Steve Case and perhaps Oprah Winfrey. Throughout the year, the Initiative will have additional policy announcements and accomplishments to announce with you.

6. National Service

This is one of your signature programs and we must continue to highlight this theme. Last year we developed a communications plan to give Americorps a higher profile, with your help Americorps' profile rose. This year Americorps is on the path to reach 100,000 volunteers. We plan to showcase this achievement by adding service events with Americorps volunteers to your schedule.

Americorps would like you to participate in National Service Day on April 17; we are tentatively holding a couple of hours on your schedule for service. We will also ask the Vice President whether he is interested in speaking at the CityYear event.

7. Race

As President, you have effectively used public speeches, the Race Initiative and now the "One America" office to elevate and redefine the American dialogue on race. We will continue to weave these issues into the fabric of everything we do. As you know, you will travel to Selma, Alabama on March 5 to join the walk across Pettus Bridge. We will also look for more communities like Fairfax, Virginia to highlight the multi-ethnic nature of America. We recommended establishing a process to help bring the race book to completion. Your guidance is needed on whether to proceed.

D. Unfinished legislative business

This section outlines some of the issues that will be at the center of the political debate. Some pundits are predicting that nothing will get done legislatively—especially on these issues. We believe, however, these issues can be raised above political cynicism and, in some cases, passed into law. The issues are:

- ◆ Patients Bill of Rights
- ◆ Minimum Wage
- ◆ School Construction (tax proposal)
- ◆ Common Sense Gun Control
- ◆ Campaign Finance Reform
- ◆ Hate Crimes
- ◆ Equal Pay

E. Consumer Protection

You have been very successful in demonstrating how government can protect citizen consumers. Work is being done on the following issues to produce policy initiatives and executive actions for your review that will continue your success in these areas.

- ◆ Food Safety - including GMOs
- ◆ Airline Safety
- ◆ Medical Privacy
- ◆ Financial Privacy

II. Message Vehicles & Venues

As we discussed, it will become increasingly difficult to dominate the news. In addition to honing our message, delivery and amplification, we will need more of your time to maintain public leadership on key initiatives. You agreed to the strategic options set out below as additional means to improve the media's coverage of the issues.

◆ The Press

- ◆ Continue to hold one press conference each month
- ◆ For key issues, put time aside for one-on-one press interviews and roundtable discussions to build up to or to amplify an issue or event
- ◆ Write "op eds" and other articles to amplify specific initiatives or positions
- ◆ As your administration draws to a close, develop a strategy for print and electronic media to put your imprimatur on the "legacy" stories that will be written.

◆ Speeches

The speech format is an excellent medium for you to deliver your message and vision. The challenge is to find topics that will leave a lasting impression while being sufficiently provocative to generate news.

In addition, to giving some key speeches, we also recommend that you consider using this year's commencement addresses to outline your vision for the future as you discuss your accomplishments and to outline your vision for the future as you discuss your accomplishments and to outline your vision for the future as you discuss your accomplishments. One suggestion is to mirror your three 1992 speeches on foreign policy, the economy and opportunity. Returning to this format would allow you with a "book-end" opportunity to remind your audience of your progress while discussing your accomplishments. As we develop a list of colleges and universities for your consideration, we will include community colleges and colleges where the tuition tax credit would make a big difference.

Anniversaries

We will take full advantage of anniversaries to lift topics and initiatives that may be more difficult to bring to focus in this political year. You indicated an interest in being involved in the dates that are in **bold**. We are currently reviewing a proposal to dedicate a memorial to the victims of the Oklahoma bombing.

Autts Day—April 5
Health Day—April 7
Youth Service Day—April 17
City Bombing—April 19
Anniversary—April 20
April 22
's/Million Mom March—May 14
General Assembly—June 5-9
sary—June 23
—July 26
Act—August 5
l—August 22
pt 5 - 8
December 1



◆ Domestic Travel

Traveling to specific venues may provide unique opportunities to increase exposure for some initiatives like National Monuments, Lands Legacy, Agriculture and guns. Additionally, there is also one state you have not visited—Nebraska. We will work on planning a trip to Nebraska. You indicated you are interested in returning to Alaska and Hawaii.

You asked that we carefully review the states where we will hold message events to maximize coverage and impact. We are reviewing the following states: Pennsylvania—outside Philadelphia, Ohio, Missouri, Michigan, Minnesota, Wisconsin, Connecticut, Vermont, Maine, Washington and Oregon.

◆ National Conventions

We will review the list of organizations that will be hosting national conventions in Washington, DC. Where appropriate we will use these venues as opportunities for you to speak to a specific issues or “drop-by” the event.

◆ Fundraising Venues

Throughout the year you will be speaking at a number of fundraising events. We suggest using these venues from time to time to discuss policies that you have officially announced earlier in the day. For example, on February 29 we are planning to have a state-by-state report on Medicare prescription drug coverage. Your fundraising speeches later in the day may provide a perfect venue to amplify the report.

◆ The White House

You would like to use the ceremonial power of the White House to recognize individuals who have benefited from your policies. Additionally, you indicated that you would like to invite supporters, members of your cabinet and others to Camp David or to the White House to thank them. Nancy will follow-up.

THE WHITE HOUSE
WASHINGTON

Executive Orders

April 10, 2000

MEMORANDUM FOR BRUCE REED

FROM: ANN O'LEARY

CC: ERIC LIU
TOM FREEDMAN
HEATHER HOWARD

SUBJECT: EXECUTIVE ORDERS

This memo is intended to provide you with a list of outstanding and suggested executive orders from the children and families team. Please provide us guidance on which orders you would like to move forward, release, or, alternatively, no longer consider.

Executive Orders Already Announced by the President:

Ending Parental Discrimination in the Federal Workplace

First Announced: State of the Union in 1999

Substance: This EO would prohibit discrimination against parents in the Federal workplace, specifically with regards to hiring and promotion.

Legislative action: Senators Dodd and Kennedy introduced the "Ending Discrimination Against Parents Act of 1999" in November 1999 and the President released a statement of support at the time of introduction.

Possible rollout: This EO could be rolled-out at the White House Conference on Teenagers as part of the message that we need workplaces that support parents in their roles as parents. This EO would send a basic message that individuals should not be discriminated against based on their status and role as parents. The release of the EO would also allow us to highlight the Dodd-Kennedy bill once again.

Status of EO: Draft completed (see attached). Needs to be cleared through OMB.

Nondiscrimination in Federally Conducted Education and Training Programs

- First Announced:** June 17, 1997 at a speech commemorating the 25th Anniversary of Title IX of the Education Amendments of 1972
- Substance:** This EO would prohibit discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent in educational or training programs offered by the Federal government.
- Current Law:** While Title IX prohibits discrimination based on sex – and Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin – in education programs that receive Federal financial assistance, these laws do not apply to comparable educational programs conducted by the Federal government.
- Possible rollout:** This EO could be released with a press statement from the President or as part of a departure statement.
- Status of EO:** Draft completed (see attached) and cleared through OMB.
- NOTE:** The women's groups have been most vocally and actively calling for the completion of this EO given its original tie to the anniversary of Title IX.

Possible Executive Orders (Not yet signed-off on or announced):

Expand FMLA to include broader definition of families for Federal employees

- First Considered:** As part of SOTU 2000 development under discussion of domestic partner benefits.
- Substance:** This EO would broaden the definition of “family” for Federal employees who use FMLA. There are two options for broadening the definition: (1) use the definition created by OPM for sick leave policies, which leaves out the words “domestic partner,” but provides for individual or agency discretion (2) spell out the exact “family” members included.
- Under sick leave policies, OPM has issued a proposed regulation stating that “family member” is defined as an employee’s children, parents, spouse and spouse’s parents, brothers and sisters and spouses thereof, and “any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.”

Under Congresswoman Maloney's bill, family member is expanded to include domestic partner, grandparent, parent-in-law, adult child, or sibling.

- Legislative Action: In June 1999, Maloney introduced her bill to amend FMLA in order to expand the definition of family member.
- History of Issue: During promulgation of regulations, OPM was asked to adopt a broad definition of "family" and "spouse," but declined citing Congressional intent and DOMA.
- Pros: The expansion of family member recognizes the changing nature of the American family. With a broad definition that does not only focus on the domestic partner issue, it is one that the Administration could claim credit for with grandparent groups, long-term caregivers, as well as gay rights groups.
- Cons: By highlighting this issue through EO, Congress could strike out against other OPM policies that have allowed for the broader definition of family. In addition, opening up FMLA through EO could provide Congress with an impetus to provide legislative "fixes" to other perceived FMLA problems, such as restricting the definition of "serious illness."
- Recommendation: I would recommend this EO with the OPM definition of family member which leaves out the domestic partner language, but clearly intends to signal the inclusion of domestic partners. This EO signals that the WH understands the changing nature of the family and is providing a model workplace for employees.
- Status of EO: Not yet drafted

Non-discrimination on basis of sexual orientation in Federal Contracts

- First Considered: As part of a WH working group on issues of sexual orientation and domestic partner benefits. The group includes WH Counsel (Eddie Corriea, Paul Oetken), OPL (Jullian Potter), and DPC (Mary Smith and myself).
- Substance: This EO would prohibit discrimination based on sexual orientation by any Federal contractor.
- History: In June 1941, President Roosevelt issued EO 8802 forbidding race-based discrimination by Federal contractors and shortly thereafter, he issued EO 9001 forbidding defense contractors to discriminate on the basis of race.

Pros: This EO would signal the Administration's continuing commitment to non-discrimination based on sexual orientation. In May 1998, the President issued EO 13087 prohibiting discrimination based on sexual orientation in Federal civilian employment. In addition, non-discrimination based on sexual orientation has been part of the Administration's Hate Crimes legislation message. This EO would provide further proof that the Administration will not tolerate such discrimination.

Cons: There is some concern among the working group that this EO could infringe about religious rights of Federal contractors.

Recommendation: At this point, I would recommend that this EO be more thoroughly vetted through the government to determine what type of impact it would have on Federal procurement.

Status of EO: Rough draft has been completed, but it has gone through no informal or formal clearance process (see attached).

Executive Memorandum Opening Federal Buildings and Spaces for use in Non-School Hours

First Considered: This suggestion came up as part of our brainstorming around the White House Conference on Teenagers.

Substance: This executive memorandum would encourage Federal agencies to invite local government-community partnerships to use available Federal space during non-school hours for after-school activities.

History: The Clinton Administration has encouraged such partnerships between Federal agencies and local community organizations or schools. In addition, the Administration has encouraged agencies to allow Federal employees to volunteer for up to two hours during a regular workweek.

Pros: Space issues are often a problem for community based after-school programs. This executive memorandum would allow Federal agencies to do their part in providing safe spaces for children after school.

Cons: The use of Federal space could potentially be of high-cost to the government by keeping buildings open and needing to provide additional security. In addition, the Federal government would need to ensure that liability was assumed by the community-based organization.

Recommendation: If this executive memorandum were of interest, it would need to be studied further to determine costs and potential difficulties in implementation.

EXECUTIVE ORDER

FURTHER AMENDMENT TO EXECUTIVE ORDER 11478, EQUAL EMPLOYMENT OPPORTUNITY IN FEDERAL GOVERNMENT

By the authority vested in me as President by the Constitution and the laws of the United States, and in order to provide for a uniform policy for the Federal Government to prohibit discrimination based on an individual's status as a parent, it is hereby ordered that Executive Order 11478, as amended, is further amended as follows:

Section 1. Amend the first sentence of section 1 by substituting "sexual orientation, or status as a parent." for "or sexual orientation."

Sec. 2. Insert the following new sections 6 and 7 after section 5:

"Sec. 6. An individual has the status of a parent, if, with regard to another individual who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, that individual –

- (a) stands in loco parentis to such other individual; or
- (b) has the status of –
 - (i) a biological parent;
 - (ii) an adoptive parent;
 - (iii) a foster parent
 - (iv) a stepparent;
 - (v) a custodian of a legal ward; or
 - (vi) a person who is actively seeking legal custody or adoption.

"Sec. 7. The Office of Personnel Management shall be responsible for developing and implementing guidance to effectuate the provisions of this order prohibiting discrimination on the basis of an individual's sexual orientation or status as a parent."

Sec. 3. Amend section 4 by substituting "and appropriate to carry out its responsibilities under this Order" for "appropriate to carry out this Order."

Sec. 4. Renumber current sections, 6, 7, and 8 as sections 8, 9, and 10, respectively.

Sec. 5. Add a section 11 to read as follows:

"Sec. 7. This Executive Order does not confer any right or benefit enforceable in law or equity against the United States or its representatives."

WILLIAM J. CLINTON

THE WHITE HOUSE
[date]

Executive Order

NONDISCRIMINATION ON THE BASIS OF RACE, SEX, COLOR, NATIONAL
ORIGIN, DISABILITY, RELIGION, AGE, SEXUAL ORIENTATION,
AND STATUS AS A PARENT IN FEDERALLY CONDUCTED EDUCATION
AND TRAINING PROGRAMS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 921-932 of title 20, United States Code; section 2164 of title 10, United States Code; section 2001 et seq., of title 25, United States Code; section 7301 of title 5, United States Code; and section 301 of title 3, United States Code, and to achieve equal opportunity in Federally conducted education and training programs and activities, it is hereby ordered as follows:

Section 1. Statement of policy on education programs and activities conducted by executive departments and agencies.

1 -101 . The Federal Government must hold itself to at least the same principles of nondiscrimination in educational opportunities that it applies to the education programs and activities of State and local governments, and to private institutions receiving Federal financial assistance. Existing laws and regulations prohibit certain forms of discrimination in Federally conducted education and training programs and activities -- including discrimination against people with disabilities, prohibited by the Rehabilitation Act of 1973, 29 U.S.C. 701 et seq., as amended, employment discrimination on the basis of race, color, national origin, sex, or religion, prohibited by Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-17, as amended, discrimination on the basis of race, color, national origin or religion in educational programs receiving Federal assistance, under Title VI of the Civil Rights Acts of 1964, 42 U.S.C. 2000d, and sex-based discrimination in education programs receiving Federal assistance under Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq. Through this Executive order, discrimination on the basis of race, sex, color, national origin, religion, sexual orientation, age,

disability, and status as a parent will be prohibited in Federally conducted education and training programs and activities.

1-102. No individual, on the basis of race, sex, color, national origin, religion, sexual orientation, age, disability, or status as a parent, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in, a Federally conducted education or training program or activity.

Sec. 2. Definitions.

2-201. "Federally conducted education and training programs and activities" includes programs and activities conducted, operated, or undertaken by an executive department or agency.

2-202. "Education and training programs and activities" include, but are not limited to, formal schools, extracurricular activities, academic programs, occupational training, scholarships and fellowships, student internships, training for industry members, summer enrichment camps, and programs to train teachers.

2-203. The Attorney General is authorized to make a final determination as to whether a program falls within the scope of education and training programs and activities covered by this order, under subsection 2-202, or is excluded from coverage, under section 3.

2-204. "Military education or training programs" are those education and training programs conducted by the Department of Defense or, where the Coast Guard is concerned, the Department of Transportation, for the primary purpose of educating or training members of the armed forces or meeting a statutory requirement to educate or train Federal, State, or local civilian law enforcement officials pursuant to 10 U.S.C. Chapter 18.

2-205. "Armed forces" means the Armed Forces of the United States.

2-206. "Status as a parent" is defined as follows: an individual has the status of a parent, if, with regard to an individual who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, that individual has the status of :

- (a) ab a biological parent;
- (b) ab an adoptive parent;
- (c) ab a foster parent;

- (d) ab a stepparent;
- (e) ab a custodian of a legal ward;
- (f) ab a person who is actively seeking legal custody or adoption; or
- (g) ab a person who stands in loco parentis to such an individual.

Sec. 3. Exemption from coverage.

3-301. This order does not apply to members of the armed forces, military education or training programs, or authorized intelligence activities. Members of the armed forces, including students at military academies, will continue to be covered by regulations that currently bar specified forms of discrimination which are now enforced by the Department of Defense and the individual service branches. The Department of Defense shall develop procedures to protect the rights of and to provide redress to civilians not otherwise protected by existing Federal law from discrimination on the basis of race, sex, color, national origin, religion, sexual orientation, disability, or status as a parent and who participate in military education or training programs or activities conducted by the Department of Defense.

3-302. This order does not apply to, affect, interfere with, or modify the operation of any otherwise lawful affirmative action plan or program.

3-303. An individual shall not be deemed subjected to discrimination by reason of his or her exclusion from the benefits of a program limited by Federal law, or a program established consistently with Federal law, to individuals of a particular race, sex, color, national origin, religion, sexual orientation, age, disability, or status as a parent different from his or her own.

3-304. This order does not apply to ceremonial or similar education or training programs or activities of schools conducted by the Department of Interior, Bureau of Indian Affairs, that are culturally relevant to the children represented in the school. "Culturally relevant" refers to any class, program, or activity that is fundamental to a tribe's culture, customs, traditions, heritage, or religion.

3-305. This order does not apply to (a) selections based on national origin of foreign nationals to participate in covered education or training programs, if such programs primarily concern national security or foreign policy matters; or (b) selections or other decisions regarding

participation in covered education or training programs made by entities outside the Executive Branch. It shall be the policy of the Executive Branch that education or training programs or activities shall not be available to entities that select persons for participation in violation of Federal or State law.

3-306. The prohibition on discrimination on the basis of age provided in this order does not apply to age-based admissions of participants to education or training programs, if such programs have traditionally been age-specific or must be age-limited for reasons related to health or national security.

Sec. 4. Administrative enforcement.

4-401. Any person who believes himself or herself to be aggrieved by a violation of this order or its implementing regulations, rules, policies, or guidance may, personally or through a representative, file a written complaint with the agency that such person believes is in violation of this order or its implementing regulations, rules, policies, or guidance. Pursuant to procedures established by the Attorney General, each executive department or agency shall conduct an investigation of any complaint by one of its employees alleging a violation of this Executive order.

4-402. (a) If the office within an executive department or agency that is designated to investigate complaints for violations of this order or its implementing rules, regulations, policies, or guidance concludes that an employee has not complied with this order or any of its implementing rules, regulations, policies, or guidance, such office shall complete a report and refer a copy of the report and any relevant findings or supporting evidence to an appropriate agency official. The appropriate agency official shall review such material and determine what, if any, disciplinary action is appropriate.

(b) In addition, the designated investigating office may provide appropriate agency officials with a recommendation for any corrective and/or remedial action. The appropriate officials shall consider such recommendation and implement corrective and/or remedial action by the agency, when appropriate. Nothing in this order authorizes monetary relief to the

complainant as a form of remedial or corrective action by an executive department or agency.

4-403. Any action to discipline an employee who violates this order or its implementing rules, regulations, policies, or guidance, including removal from employment, where appropriate, shall be taken in compliance with otherwise applicable procedures, including the Civil Service Reform Act of 1978, Pub. L. No. 95-454, 92 Stat. 1111.

Sec. 5. Implementation and Agency Responsibilities.

5-501. The Attorney General shall publish in the Federal Register such rules, regulations, policies, or guidance, as the Attorney General deems appropriate, to be followed by all executive departments and agencies. The Attorney General shall address:

- a. ab which programs and activities fall within the scope of education and training programs and activities covered by this order, under subsection 2-202, or excluded from coverage, under section 3 of this order;
- b. examples of discrimination conduct;
- c. applicable legal principles;
- d. enforcement procedures with respect to complaints against employees;
- e. remedies;
- f. ab requirements for agency annual and tri-annual reports as set forth in section 6 of this order; and
- g. ab such other matters as deemed appropriate.

5-502. Within 90 days of the publication of final rules, regulations, policies, or guidance by the Attorney General, each executive department and agency shall establish a procedure to receive and address complaints regarding its Federally conducted education and training programs and activities. Each executive department and agency shall take all necessary steps to effectuate any subsequent rules, regulations, policies, or guidance issued by the Attorney General within 90 days of issuance.

5-503. The head of each executive department and agency shall be responsible for ensuring compliance within this order.

5-504. Each executive department and agency shall cooperate with the Attorney General and provide such information and assistance as the Attorney General may require in the performance of the Attorney General's functions under this order.

5-505. Upon request and to the extent practicable, the Attorney General shall provide technical advice and assistance to executive departments and agencies to assist in full compliance with this order.

Sec. 6. Reporting Requirements.

6-601. Consistent with the regulations, rules, policies, or guidance issued by the Attorney General, each executive department and agency shall submit to the Attorney General a report that summarizes the number of nature of complaints filed with the agency and the disposition of such complaints. For the first three years after the date of this order, such reports shall be submitted annually within 90 days of the end of the preceding year's activities. Subsequent reports shall be submitted every three years and with 90 days of the end of each three-year period.

Sec. 7. General Provisions.

7-701. Nothing in this order shall limit the authority of the Attorney General to provide for the coordinated enforcement of nondiscrimination requirements in Federal assistance programs under Executive Order 12350.

Sec. 8. Judicial Review.

8-801. This order is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees. This order is not intended, however, to preclude judicial review of final decisions in accordance with the Administrative Procedure Act, 5 U.S.C. 701, et seq.

THE WHITE HOUSE,

Employment Nondiscrimination in Federal Contracts

Employment non-discrimination directly promotes efficient economic performance and productivity. When Federal contractors engage in discrimination on the basis of sexual orientation, the unavoidable consequence is a serious adverse impact upon the Federal Government's economy, efficiency, and cost of operations. In order to operate as effectively as possible, the Federal Government must demand that the entities with which it has contractual relations not discriminate on the basis of sexual orientation.

The adverse effects of employment discrimination on federal procurement are demonstrated by the straightforward application of basic principles of market economics. When Federal contractors discriminate, the supply of labor is artificially reduced. Other factors being equal, this decrease in supply will cause an increase in the cost of labor. It is the policy of the Federal government to secure goods and services, to complete Federal contracts, and to see federally assisted construction contracts completed in the most economical and efficient manner possible. Therefore, it is the policy of the Executive branch not to tolerate employment discrimination by Federal contractors.

Every President since Franklin Delano Roosevelt has recognized and acted on the force of this argument. In June 1941, President Franklin Roosevelt issued Executive Order 8802 forbidding race-based discrimination by Federal contractors. Less than three weeks after entering World War II, President Roosevelt issued Executive Order 9001 forbidding defense contractors to discriminate on the basis of race. Thus, when economical and efficient procurement has been most vital to the national interest, Presidents have insisted on the non-discrimination principle as crucial to maximizing our procurement efforts.

NOW, THEREFORE, to ensure the economical and efficient administration and completion of Federal Government contracts, and by the authority vested in me as President by the Constitution and the laws of the United States of America, including 40 U.S.C. 486(a) and 3 U.S.C. 301, it is hereby ordered as follows:

Section 1. It is the policy of the executive branch to oppose all forms of discrimination, including discrimination on the basis of sexual orientation.

Sec. 2. It is the finding of the executive branch that discrimination on the basis of sexual orientation interferes with the economical and efficient administration and completion of Federal contracts and federally assisted construction contracts.

Sec. 3. All Federal contractors are hereby forbidden to engage in discrimination on the basis of sexual orientation.

Sec. 4. The Office of Management and Budget is directed to issue regulations to enforce this Executive Order. These regulations shall establish:

(a) procedures by which individual allegations that a Federal contractor has engaged in

discrimination on the basis of sexual orientation may be received, investigated, and resolved;

(b) protections for individuals who make an allegation under subsection (a) against retaliation by a Federal contractor;

(c) specific measures to respond to a determination that a Federal contractor has engaged in discrimination on the basis of sexual orientation. These measures should include, without limitation, termination of contract(s) for convenience, suspension, and debarment; and

(d) mechanisms to encourage equal employment opportunity practices by Federal contractors. These mechanisms may include posting of notices to employees of the equal employment opportunity policies of this Order and positive incentives to Federal contractors that foster a work environment of non-discrimination on the basis of sexual orientation.

The Director shall issue these regulations within 60 days of the effective date of this order.

Sec. 5. For the purposes of this Order, it shall be considered "discrimination on the basis of sexual orientation" for a Federal contractor, or any organizational unit thereof,

(a) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual, because of such individual's sexual orientation;

(b) to limit, segregate, or classify the employees or applicants for employment of the employer in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the status of the individual as an employee because of the individual's sexual orientation; or

(c) to discriminate against any individual because of the sexual orientation of the individual in admission to, or employment in, any program established to provide apprenticeship or other training.

Sec. 6. For the purposes of this Order, "sexual orientation" means homosexuality, bisexuality, or heterosexuality, whether the orientation is real or perceived.

Sec. 7. This Order does not, and the implementing regulations shall not, authorize or require:

- (a) adoption or implementation of a quota on the basis of sexual orientation;
- (b) preferential treatment for any individual on the basis of sexual orientation;
- (c) entering into an order or consent decree that includes a quota, or preferential treatment to an individual based on sexual orientation; or
- (d) collection of statistics on sexual orientation.

Sec. 8. The fact that an employment practice has a disparate impact, as that term is used in section 703(k) of the Civil Rights Act of 1964, on the basis of sexual orientation does not establish a prima facie violation of this Order, or the implementing regulations.

Sec. 9. This Order does not:

- (a) repeal or modify any Federal, State, territorial, or local law, creating a special right or preference concerning employment or an employment opportunity for a veteran;
- (b) prohibit the enforcement of rules regarding nonprivate sexual conduct, if the rules of conduct are designed for, and uniformly applied to, all individuals regardless of sexual orientation; or
- (c) require the provision of employee benefits to an individual for the benefit of the domestic partner of such individual.

Sec. 10. This Order shall not apply to a Federal contractor that is a religious organization, except that this Order shall apply to employment or an employment opportunity for an employment position of a Federal contractor that is a religious organization if the duties of the position pertain solely to activities of the organization that generate unrelated business taxable income subject to taxation under section 511(a) of the Internal Revenue Code of 1986.

Sec. 11. Nothing in this Order shall be construed to prohibit a covered entity from enforcing rules regarding nonprivate sexual conduct, if the rules of conduct are designed for, and uniformly applied to, all individuals regardless of sexual orientation.

Sec. 12. Each contracting department and agency shall cooperate with the Office of Management and Budget and provide such information and assistance as it may require in the performance of the its functions under this Order.

Sec. 13. The Director of the Office of Management and Budget may delegate any function or duty under this order to any officer in the Office of Management and Budget or to any other officer in the executive branch of the Government, with the consent of the head of the department or agency in which that officer serves.

Sec. 14. This Order is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees. This order is not intended, however, to preclude judicial review of final agency decisions in accordance with the Administrative Procedure Act, 5 U.S.C. 701 et seq.

Sec. 15. This Order shall apply only to contracts in excess of the Simplified Acquisition Threshold.

Sec. 16. This Order is effective immediately.

WILLIAM J. CLINTON

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. note	Sean Maloney to Mr. President re: IDAs (1 page)	06/16/1998	P5

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
David Sewell
OA/Box Number: 20725

FOLDER TITLE:

Miscellaneous Memos from Bruce Reed to President Clinton

2010-1111-S

rc456

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
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- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
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Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. memo	Gene Sperling and Bruce Reed to The President re: Individual Development Accounts (4 pages)	06/14/1998	P5

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
David Sewell
OA/Box Number: 20725

FOLDER TITLE:

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APPENDIX: BACKGROUND ON CRA

Current Law. CRA requires a bank to serve the convenience and needs of all communities in which it operates. The Fed, OCC and OTS examine the banks they each regulate periodically (every 24-36 months) for CRA compliance, and make these CRA evaluations public. However, enforcement comes only when a bank files an application to merge with another bank or opens a new branch. (A bank's CRA record is not currently scrutinized in connection with applications to affiliate with non-banking companies.) In considering an application, the regulator must take into account the bank's CRA and the public has an opportunity to comment. Regulators issued regulations in 1995 in response to your request that CRA focus on performance not paperwork. CRA ratings are now based on a three-pronged test: lending, services, and investments. In addition, regulators revised and streamlined the examination process, particularly for smaller institutions.

Effectiveness of CRA. Evidence suggests that public disclosure of CRA ratings, together with the changes made by the regulators under your leadership, have significantly contributed to improved performance by financial institutions in meeting the needs of low and moderate income communities and minorities. Since 1993, the number of home mortgage loans to African Americans increased by 58 percent, to Hispanics by 62 percent, and to low and moderate income borrowers by 38 percent, well above the overall market increase. Since 1992, nonprofit community organizations estimate that the private sector has pledged over \$1 trillion in loans and investment under CRA. In 1997, banks and thrifts subject to CRAs reporting requirement made 2.6 million small business loans for a total of \$159 billion, two-thirds of all small business loans made that year. More than one-fifth of those loans were made to small businesses in low and moderate income communities.

Changing Nature of the Financial Services Industry. Commercial banks have seen their share of total financial intermediary assets decline from about 60 percent at the end of World War II, to roughly 25 percent today. In the future, the relative importance of banking merger applications -- and, thus, occasions for reviewing a bank's CRA record, may decline and the establishment of non-bank financial activities will become increasingly important. Communities groups are likely to oppose any financial modernization legislation unless CRA were extended to securities and insurance providers, which Treasury has not supported in the past, which stands no chance of success in the current or foreseeable political environment, and which presents practical and theoretical difficulties.

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THE WHITE HOUSE

WASHINGTON

May 4, 1999

MEMORANDUM FOR THE PRESIDENT
VICE PRESIDENT

FROM: ROBERT RUBIN
BRUCE REED
CHUCK RUFF
GENE SPERLING
LARRY STEIN

SUBJECT: COMMUNITY REINVESTMENT ACT (CRA) STRATEGY

Action Forcing Event

CRA will be a central issue in the Senate floor debate on financial modernization legislation scheduled to begin as early as Monday. The Gramm bill, voted out of committee on a straight party-line vote, would significantly weaken CRA. We expect that both sides will offer CRA amendments. Democrats have made procedural demands in exchange for their cooperation in bringing the bill to the floor.

We will work to focus the message on a unified Democratic position on CRA. Earlier today Secretary Rubin spoke to the Democratic Caucus where he reiterated your veto pledge on CRA, and he will also testify on financial modernization in the House Commerce Committee tomorrow (5/5). Just as he was today, we expect that he will be asked to clarify the items you cited in your letter threatening to veto the Gramm bill tomorrow as well. Specifically, we expect that he will be asked whether, if all other problems with the financial modernization bill were resolved, you would veto a bill that fails to require that banking organizations "have and maintain" an adequate CRA record as a condition for engaging in newly authorized financial activities.

Background

You sent a letter on March 2, 1999 (attached) to the Senate saying that you would veto the bill for four reasons, including concern that the bill would weaken CRA. Your letter did not specify how the Gramm bill would seriously weaken CRA, but it does so in three ways:

1. Its "safe harbor" provision exempts any bank that received a satisfactory CRA rating in a previous banking examination from regulators' review -- and community groups' input -- at the time of an application to merge or expand.
2. Its "small bank exemption" provision removes some 4,000 banks and thrifts with under \$100 million in assets, located outside metropolitan areas (38% of all banks and thrifts) from CRA.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
005, memo	Robert Rubin et al. to The President and Vice President (partial, pages 3 and 4 in full) (3 pages)	05/04/1999	P5

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
David Sewell
OA/Box Number: 20725

FOLDER TITLE:

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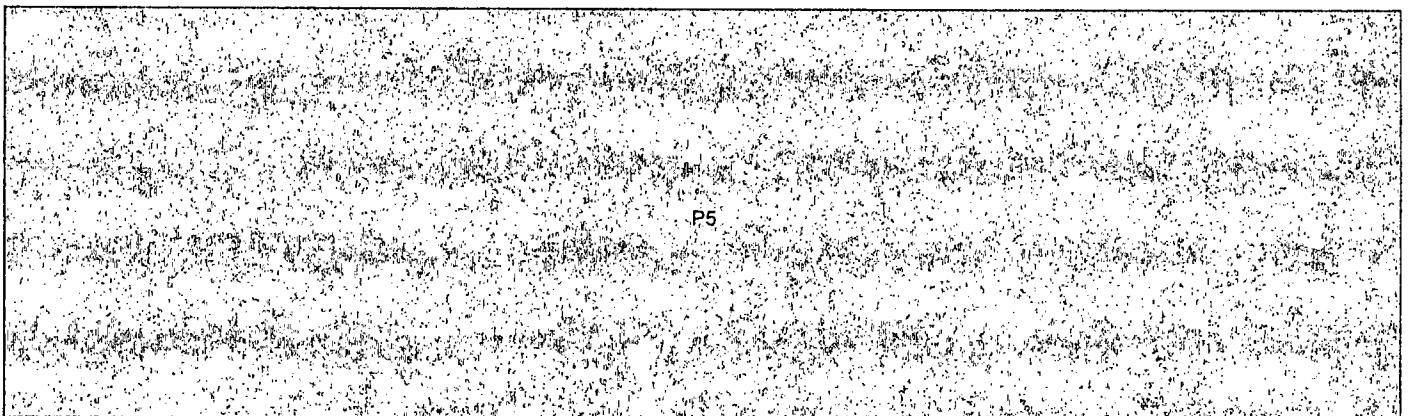
3. It fails to include a requirement that banking organizations both *have* a satisfactory CRA rating as a precondition to engage in newly authorized financial activities and *maintain* their CRA rating in order to continue engaging in these activities. Chairman Gramm considers this requirement an expansion of CRA. We, on the other hand, believe that failure to include this provision would seriously erode CRA's relevance over time, as banking organizations increasingly focus on these new activities. (See appendix.)

In the House, the Banking Committee reported out a bipartisan bill (51-8), that we endorsed, that does not contain any anti-CRA provisions. The House Banking bill includes the "have and maintain" requirement. If a bank fails to maintain its rating it must develop and implement a compliance plan or risk penalties -- including the possibility of forced divestitures of the newly approved activities and, according to some interpretations of the bill, civil money penalties.

When the Senate bill comes to the floor, Democrats currently plan to introduce both a Democratic substitute bill, and a comprehensive CRA amendment striking the anti-CRA provisions and adding the "have and maintain" requirement. Democrats will likely vote for the amendment -- although support for individual pieces may vary -- and against final passage if the amendment fails. Republicans may offer anti-CRA amendments. In addition, there may be amendments offered by members of either or both parties with respect to permitting banking organizations to conduct new activities through operating subsidiaries, and limiting the unitary thrift provisions. We support such amendments as consistent with your veto letter, although there is some question about our likelihood of success on the floor. Our strong support for the "have and maintain" requirement for CRA is likely to further bolster our support from Democrats for these other amendments. If the Democratic CRA amendment fails, Democrats are likely to be unified in opposing the bill on final passage, and we may have more leverage to fix other issues in conference, such as banking and commerce or the operating subsidiary. If the CRA amendments succeed, we may be in a weaker position to make other changes to the legislation in conference.

Community groups strongly support our opposition to the Gramm bill, but believe that the House-passed version, with its "have and maintain" requirement, is at best minimally acceptable. They are likely to oppose any financial modernization legislation that does not significantly expand CRA.

Recommendation



THE WHITE HOUSE
WASHINGTON

December 8, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
CHRIS JENNINGS

SUBJECT: New AIDS Initiative

We have developed a \$115 million initiative for your FY 1999 budget to improve AIDS treatment and prevention programs. This increase would go to expand programs that are critical to preventing and treating this epidemic, including the AIDS Assistance Drugs Program (ADAP), which extends life-saving new treatment therapies to low-income and underserved populations.

Background on AIDS Funding

Since you came into office, AIDS programs that focus on treatment and prevention have improved dramatically. Medicaid, which provides coverage for half of all people with AIDS, now covers protease inhibitors. Funding for the Ryan White Program has increased by 200 percent since FY1993, funding for research at NIH has increased by 50 percent since that year, and funding for the ADAP program has increased 450 percent since 1996.

The AIDS community, however, has expressed disappointment with the Administration's recent efforts in this area. AIDS groups criticized the Administration for failing to propose major increases in discretionary spending in FY1998, which allowed Congress to outspend us in this area. And in just the last few weeks, the AIDS community reacted negatively to HCFA's conclusion that budget neutrality requirements prohibit establishing a Medicaid demonstration to provide early treatment to relatively healthy HIV-infected individuals. There is no doubt that the AIDS community will be examining the Administration's FY 1999 budget submission very closely.

Proposal

The AIDS office is recommending, and we agree, that you propose an \$115 million increase in your FY 1999 budget for AIDS treatment and prevention. (OMB is currently recommending \$100 million). All of this spending would go to existing discretionary programs that emphasize prevention and treatment. We would recommend that the majority of this increase go to the ADAP program, because new and effective treatments of this disease are currently not reaching many who need them. We also would recommend modest increases to CDC prevention education programs, as well as a range of programs providing funds to states,

cities, and community health centers.

Although the \$115 million that we are suggesting falls far short of the \$400 million the AIDS advocates are pushing, it is a significant investment that will improve AIDS treatment and prevention and soften criticism from the community.

Finally, in the wake of HCFA's decision on the Medicaid demonstration program discussed above, Nancy-Ann Min DeParle is looking into the possibility of a legislative proposal (which of course need not be budget neutral) for a model pilot project to expand eligibility to Medicaid for people with HIV earlier in the progression of their disease. As of this writing, we have significant questions about whether such a proposal is feasible and whether it could be done in time for the budget process. At the request of the Vice President, however, we are reviewing all options in this area closely.

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THE WHITE HOUSE
WASHINGTON

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed, Assistant to the President for Domestic Policy
Sandra Thurman, Coordinator for National AIDS Policy

SUBJECT: International Studies on Reducing Maternal-Infant HIV Transmission

This memorandum will provide background on the controversy over an ongoing group of U.S.-supported international clinical trials studying options to reduce maternal transmission of HIV in developing countries. A brief overview of current knowledge, the rationale for further research, the World Health Organization position, concerns of domestic public interest groups, and the Department of Health and Human Services' position will be covered. Attached separately are talking points and Q&A's prepared by HHS on the issue.

Perinatal Transmission The World Health Organization (WHO) estimates over 1,000 HIV+ infants are born each day. Women with HIV disease have a 15%-40% risk of transmitting HIV to their baby with each pregnancy. The National Institutes of Health demonstrated that this transmission risk can be lowered to 8.3% by the administration of the drug AZT to women orally during pregnancy and intravenously during labor, and to their newborn infants orally for 6 weeks. This NIH study, known as ACTG 076 - comparing AZT with a placebo - was halted and published in 1994 when these dramatic results were evident. It has become the standard of care to offer all HIV+ pregnant women AZT therapy in the U.S.

An important unanswered research question is at what point during pregnancy or birth do women transmit HIV to their babies -- and if it is necessary to administer AZT over many months to prevent HIV infection in infants. Because many developing countries cannot afford expensive drug therapies for their citizens, pinpointing the critical period in which to administer AZT to prevent perinatal transmission is important so that the greatest number of women could be offered treatment.

Research Study Design Issues The public health leadership of several WHO member countries collaborated with the NIH and Centers for Disease Control and Prevention (CDC) to design and develop research studies to prevent perinatal HIV transmission in countries with limited health care infrastructure and resources. Each research study included an informed consent document outlining the research question, the randomization to an AZT or placebo group, and a detailed description of potential risks study participants may incur. All study protocols were reviewed and approved by the NIH and CDC Institutional Review Boards (IRBs) and the host countries. The political leadership of each host country were also fully informed of the study methodologies and concurred with their implementation. The first studies proposed by this international collaborative group began in 1993 with funding support from the U.S. (NIH, CDC) and France.

World Health Organization Activity In June 1994, the WHO hosted a meeting of researchers and public health practitioners from the U.S., Europe, and countries in Africa, Asia and the Caribbean which have a high incidence of HIV disease. The purpose of the meeting was to examine the results of the NIH ACTG 076 trial in terms of their applicability internationally. The following recommendations were issued from this meeting:

- 1) Encourage the use of AZT as outlined by the NIH ACTG 076 study in industrialized countries; and
- 2) Immediate exploration of alternative regimens that could be used to achieve prevention of perinatal HIV prevention in the developing world.

WHO participants established parameters for the conduct of research studies in developing countries. The studies supported by the U.S. and France were consistent with these parameters.

Concerns of Some U.S. Public Interest Groups Dr. Sidney Wolfe of the Public Citizen Health Research Group wrote a long critique of U.S. involvement and support for these international perinatal HIV prevention studies in a letter to Secretary Shalala. The letter was broadly distributed to the media. Key concerns raised were:

- o Some research designs include a placebo arm when AZT has proven benefit. Such a research design would never be allowed in the U.S.
- o The studies violate major international ethical guidelines, specifically: the World Medical Association's 1975 Declaration of Helsinki; four of the Nuremberg codes for human experimentation; and the International Ethical Guidelines for Biomedical Research Involving Human Subjects designed to address ethical issues in developing countries
- o There is no guarantee that women and infants in host countries will benefit from the research knowledge gained
- o The lack of appropriate care in host countries does not justify study designs with placebo arms that have no benefit. The standard of care in many countries does not include access to prenatal care, medications, hospital births or intravenous infusions
- o Comparison of these studies to the Tuskegee syphilis study; criticism that IRBs should ensure that risks to subjects are minimized and subjects are not unnecessarily exposed to risk; this is colonialism at its worst

Senator Carol Moseley-Braun (D-IL) has also voiced her concern regarding study designs with a placebo arm when there is a known effective treatment for HIV prevention. She is alarmed that such studies are supported with U.S. funds, and thinks it is inappropriate to continue such funding in face of the apology being offered to the Tuskegee survivors this Friday.

Department of Health and Human Services The Department of Health and Human Services has conducted a review of the U.S.-funded studies in question and continues to support both the study designs and public health importance of completing them. They are ongoing as of this date. HHS testified to this effect before the House Government Reform and Oversight Committee last week. There was very little discussion of the issue among Representatives present.

In brief, the HHS position maintains:

- o The studies address a pressing need in the global control of the spread of HIV, defining interventions that will result in reductions in maternal-infant transmission which can be safely and routinely implemented in the developing world;

- o The studies are based on the assumption that the NIH ACTG 076 regimen is not a feasible therapeutic intervention in developing countries due to lack of medical infrastructure and cost constraints; the research design examines options for treatment which are viable and affordable within the medical care delivery systems of the study countries

- o All ongoing studies are in full compliance with U.S. and in-country regulations and laws, have gone through extensive in-country and U.S. ethical review processes and an international ethical review, and all studies have strong in-country support; an independent Data and Safety Monitoring Board continues to provide oversight of research findings at regular intervals

- o Broadly accepted ethical principles for international research recognize a role for the local standard of care when testing the effectiveness of a new intervention. In the case of developing host countries, the local standard is minimal to no health care access.

Studying new research options of AZT administration at specific times during pregnancy offers a new benefit to individuals who would not otherwise have had it, while defining research knowledge that may allow many individuals to benefit if shorter courses of AZT prove effective for HIV prevention. The placebo arm is equivalent to the local standard of care.

Attached are Q&As and talking points which support the HHS position on this issues.

THE WHITE HOUSE
WASHINGTON

QUESTIONS AND ANSWERS

Q. Did you know about the NIH supported clinical trials using AZT and placebos in HIV infected pregnant women in developing countries?

A. I am aware that NIH is funding some research into how to improve prevention of mother to infant transmission of HIV in some developing countries. I understand that AZT is the drug that is being used in these studies.

I have asked the Secretary of Health and Human Services to provide me with a report on these NIH studies. I also asked for an evaluation of how these studies will help the women and infants involved and how the studies are helping to curb maternal transmission of HIV in these countries.

Q. Some of the women in these studies are not receiving AZT, they are getting a placebo. How does this compare with the U.S. position that all HIV infected pregnant women and their infants should be offered AZT?

A. That question will be addressed in Secretary Shalala's report. Just let me say that in many developing countries no HIV treatment at all is available for pregnant women or their infants. It is totally different situation than what we have in this country where AZT is readily available.

Q. Some critics are saying that the NIH funded AZT studies in developing countries are not different from what happened in the Tuskegee study where treatment was withheld from some of the participants. How do you answer that?

A. Well, I will need to see the report from HHS before I can fully address that. But I must emphasize that in the Tuskegee study, treatment that was widely available in this country was deliberately withheld from some of the participants. In the AZT studies overseas, the only AZT treatment available is the treatment provided to participants in the study.

Q. Some critics are saying that there is an issue of violation of international ethical codes in the AZT studies. Is this true?

A. I will know more about the studies and the specific concerns surrounding it when I review Secretary Shalala's report. Until then, I can't say anything further on this. I can assure you that we will not support any studies where such violations occur.

QUESTIONS AND ANSWERS
MOTHER-INFANT TRANSMISSION OF HIV

Q. Why is the U.S. government supporting these studies around the world?

A. HHS has been criticized for conducting 9 studies in different parts of the developing world.

All nine were designed in cooperation with public health officials in the countries themselves.

All are aimed at finding ways to reduce mother-infant transmission of HIV in those specific countries. They were devised after completion of the AIDS Clinical Trial Group (ACTG) protocol 076 showed dramatic, positive results of an AZT treatment regimen in the U.S.

All nine were developed following a June 1994 WHO meeting in Geneva at which researchers and public health practitioners from around the world called for 1) use of the 076 regimen in the industrialized world where feasible and, 2) immediate exploration of alternative regimens that could be used in the developing world. They were designed in accord with guidelines developed at that meeting.

Q. Why can't the 076 regimen be used everywhere?

A. According to consensus among researchers and public health practitioners in all the cooperating countries, the 076 regimen is simply not feasible as a standard of prevention in much of the developing world. Let me explain:

- * The regimen requires that women be reached early in pregnancy and have blood drawn and tested for HIV. Once the woman knows she is positive for HIV she must take AZT three times daily for weeks, then receive AZT intravenously during labor and delivery. Once the baby is born the newborn must receive AZT in syrup for 6 weeks. In the developing world women are most often not seen in health care delivery systems before delivery.**
- * Drug costs alone for the 076 AZT regimen are estimated to be \$800, an amount that is 80 times the annual health budget per person in many countries involved in these studies, and not available outside the research setting.**
- * In addition, the 076 regimen simply cannot be assumed to work everywhere. The U.S. study looked at women with greater than 200 CD4 counts who were not breast feeding, while most of the women in host countries would breast feed their infants. In addition, the biology of the HIV virus itself (different strains) may be significantly different in other countries.**

Q. Why do some of these studies use a placebo control arm? The Public Citizen groups says this is wrong.

A. The panel convened in Geneva recommended that since the 076 regimen is not applicable in the developing world, "placebo-controlled trials offer the best option for obtaining rapid and scientifically valid results."

They explained that in parts of the world where the 076 regimen is not applicable, the choice of a placebo for the control group in a trial would be appropriate as there is currently no available effective alternative for HIV-infected pregnant women in these countries. This is the quickest way to find appropriate interventions that can be used to benefit the people in these countries.

Although it has been argued that we could use a low dose of AZT in these studies, we believe that low dose AZT would not be an appropriate control because 1) it offers no known benefit to the individual (low dose AZT has not been prove useful anywhere) and 2) this type of study could fail to achieve useful results.

Q. Why is the placebo arm in some studies no intervention at all?

A. Unfortunately, the current standard of perinatal care in much of the developing world is no prevention intervention at all. That is a fact of life. Using this standard care as the placebo control in these studies will result in the most rapid, accurate, and reliable assessment of the value of the intervention being studied compared to the local standard of care.

Q. Are these studies ethically acceptable?

A. They are. The ethical dilemmas are complex and difficult. But the human subjects issues of these studies have been reviewed intensively since the 1994 Geneva meeting. These matters have been discussed in many formal meetings and at forums; reviews have been conducted in the U.S. and the countries where the clinical trials are being carried out (or where they will be carried out).

Q. Public Citizen says that it is unethical to conduct a trial unless it offers all participants a chance to receive an effective intervention if such is available anywhere in the world, not just at the site of the clinical trials. What is your response to that?

A. After thorough review, HHS, and WHO agree that to meet the standards of the World Medical Association Declaration of Helsinki, these studies must employ the best current diagnostic and therapeutic methods available in the country where they are to be performed. Holding other countries accountable to a standard of care unavailable

to its citizens and denying the opportunity for research advances that might benefit them raises another set of difficult ethical issues not addressed by advocacy groups.

Q. Are you going to have these studies re-reviewed or modified, as many have suggested?

A. No. The ethical review of these studies has been rigorous. It has included community and scientific participation in reviews by the relevant institutional review boards (IRBs) in the U.S. and the local IRBs in the countries where the trials are carried out. Support from local governments is obtained and review by an independent Data and Safety Monitoring Board is required when deemed appropriate.

Q. How are these studies any different than the Tuskegee study?

A. The fundamental difference is that the Tuskegee study withheld treatment of known benefit in a country where the treatment was widely available. The AZT trials are being conducted in certain developing countries where the standard of care for HIV+ pregnant women does not include treatment for HIV or any prevention options for perinatal transmission.

THE WHITE HOUSE

WASHINGTON

March 12, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed, Assistant to the President for Domestic Policy
Eric Goosby, Interim Director, ONAP

RE: Update on Status of Needle Exchange Programs

There have been a number of recent events involving needle exchange programs. On February 13, a National Institutes of Health Consensus Conference Statement recommended lifting the ban on use of federal funds for needle exchange programs. On February 18, HHS sent a Congressionally requested report to the Senate Appropriations Committee reviewing the scientific data on needle exchange programs to date. This memo provides background to put the issue in context, with a discussion of these recent events.

Current Statute. There are three statutory restrictions on the use of federal funds for needle exchange programs. (1) The Substance Abuse and Mental Health (SAMHSA) block grant prohibits use of federal funds for needle exchange unless the Surgeon General determines that they are effective in reducing the spread of HIV and the use of illegal drugs. The statute does permit federal research and evaluation of existing needle exchange programs. (2) The 1996 Ryan White CARE Act reauthorization places a flat prohibition on the use of Ryan White funds for needle exchange. (3) The Labor/HHS Appropriations bill prohibits funding of needle exchange unless the Secretary determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs.

Epidemiology of HIV Infection. Thirty six percent of AIDS cases are directly or indirectly caused by IV drug use. Up to fifty percent of new HIV infections may be related to IV drug use. The effects of IV drug use have become a driving force in the HIV epidemic.

Number of Needle Exchange Programs. There are over 100 needle exchange programs in the US, with most programs distributing through two or more sites. As of 1996, twenty-eight States had local needle exchange programs.

Federally Sponsored Research. The National Institute on Drug Abuse (NIDA) at NIH has funded 15 demonstration projects to evaluate the impact of needle exchange programs on rates of HIV infection and patterns of drug use (including the effectiveness of these programs as gateways to substance abuse treatment). Only two of the 15 studies are completed at this time. There has also been a significant amount of privately funded research on needle exchange programs through foundations and other nonprofit groups.

State and Local Government. At their recent winter meeting, the National Governors Association passed a resolution stating: "Federal restrictions or requirements on the use of available funding interfere with the ability of States to develop comprehensive prevention strategies." The Association of State and Territorial Health Officers (ASTHO) passed the following resolution in December 1995: "The federal government should repeal the ban on the use of federal funds for needle exchange services to allow interested States and localities the financial flexibility to support successful prevention and treatment initiatives within their jurisdictions." The US Conference of Mayors also supports lifting the ban on use of federal funds for needle exchange.

HHS Report to Senate Appropriations. Report language was included in the September 1996 Senate L/HHS Appropriations bill requesting that HHS provide a report on the status of current research projects, an itemization of previously funded research, and findings-to-date regarding the efficacy of needle exchange programs for reducing HIV transmission and not encouraging illegal drug use. The report prepared by HHS reviewed all published studies of US needle exchange programs, including one by the Institute of Medicine; it did not attempt to determine if the Congressional standard has been met for lifting the ban on federal funding. The summary section of the report contains the following: "Overall these studies indicate that needle exchange programs can have an impact on bringing difficult to reach populations into systems of care that offer drug dependency services, mental health, medical and support services. These studies also indicate that needle exchange programs can be an effective component of a comprehensive strategy to prevent HIV and other blood borne infectious diseases in communities that choose to include them."

NIH Consensus Conference. A NIH Consensus Development Conference on Interventions to Prevent HIV Risk Behaviors was held February 11-13, 1997. This conference was developed and directed by a non-Federal panel of experts, predating the Congressional request for an HHS report. The resulting Consensus Conference Statement is an independent report of an expert panel, not a policy statement of the NIH. This Statement, released on February 13, concluded that needle exchange programs are effective in reducing both HIV transmission and IV drug use and recommended lifting the legislative restrictions on needle exchange programs.

Analysis of Evidence on Needle Exchange Programs and IV Drug Use. The preponderance of data collected so far suggests a stable or declining level of drug use among needle exchange participants. About half of the studies on the effects of needle exchange show a decline in drug use. Two studies show an increase in drug use, but these studies have been discounted by expert panel as outliers. In addition, almost all studies indicate that needle exchange program participants tend to be older (median age 33 to 41 years old) and tend to be long-term users (duration of use 7 to 20 years). There is no data to suggest needle exchange programs increase new initiates into drug use, and the age of participants often increases over time.

It is important to note, however, that most studies have methodological weaknesses, inherent to the population and subject, that are nearly impossible to overcome. These methodological problems include: 1) reliance upon individuals' self-reporting of drug use; 2) the difficulties of creating a control group that does not receive clean needles yet continues participating in the

study; and 3) the difficulties of isolating the effects of needle exchange programs from the many other factors that may influence drug use in a given population.

The Administration's Response. HHS, ONDCP, and the White House jointly developed a response to questions about the HHS report and NIH Conference Statement. This response states that data on the effect of needle exchange programs in reducing HIV seroprevalence is solid, but that data on the effect of these programs on drug use patterns is less clear. The response further states that HHS will continue research efforts to evaluate new data on needle exchange programs and will work with the Congress on effective HIV prevention strategies. General McCaffrey strongly believes that the Administration should not challenge or raise questions about the current legislative restrictions on needle exchange programs.

Next Steps for HHS in Evaluating Effects on Drug Use. HHS will conduct a scientific review of the data presented at the NIH Consensus Conference. The data has not yet been through the peer review process required for publication and needs close examination. A second step will be an analysis of data already collected through the NIDA demonstration projects, which have not yet been specifically studied for effect on drug utilization patterns.

Congressional Climate and Community Expectations. The HHS report was released during the Congressional recess, and Hill reaction has been muted to date. Harold Varmus, Director of the NIH, received direct questions on needle exchange from Reps. Dickey (R-AR) and Wicker (R-MS) during an NIH Appropriations hearing. Secretary Shalala also received one question on lifting the federal funding ban prior to release of the report.

Both the House and Senate generally have punted the issue of needle exchange programs to HHS. The exception is last year's prohibition on use of Ryan White treatment funds for needle exchange programs, which passed unanimously. The Congressional response to any attempt to lift restrictions on funding likely would be hostile. The climate, however, may be softening somewhat. Senator Specter, Chair of the L/HHS Appropriations Subcommittee, has come to support needle exchange programs (Philadelphia has one of the largest); Rep. Rangel, once adamantly opposed to needle exchange programs, is reported to be shifting in his stance; and the state flexibility arguments advanced by NGA and ASTHO may also start to have an effect.

The AIDS community is united in seeking an end to the ban on federal funding of needle exchange programs. With some exceptions, however, the national AIDS organizations understand the downside of demanding that the ban be lifted before the necessary educational and political groundwork is laid. What the community wants from the Administration at this point is not so much an immediate lifting of the restrictions as a strong indication that the Administration generally will let science guide policy in combating HIV transmission.

THE WHITE HOUSE

WASHINGTON

May 21, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: GENE SPERLING
LARRY STEIN
BRUCE REED
CHRIS JENNINGS

SUBJECT: KEY MEDICARE ISSUES AND LEGISLATIVE UPDATE

Breaux-Thomas Proposal and the Medicare Commission. Despite failing to receive the endorsement of the Medicare Commission, Senator Breaux and Congressman Thomas have committed to introducing their Medicare reform proposal and may do so as early as next week. Their proposal's centerpiece is a premium support option that changes the way that Medicare pays health plans, including traditional Medicare. It includes a limited, although inadequate prescription drug benefit. And, most notably, it does not include your surplus proposal or any explicit commitment to add needed new financing for the Medicare program to deal with the doubling of the beneficiary population – from 40 to 80 million over the next 35 years.

Our major criticism of the premium support proposal is that its design, according to the Medicare actuary, would explicitly increase Medicare premiums for the traditional program by between 10 and 20 percent. This would have the effect of financially coercing Medicare beneficiaries into HMOs – not encouraging them through lower premiums for private plans. Although the Breaux-Thomas proposal maintains the current premium for beneficiaries who live in counties with no private plan options, this exemption would, for the first time in Medicare history, create different premiums for traditional Medicare based on where a beneficiary lives. Moreover, it creates a false sense of security – should even one small HMO plan enter an area, the premium protection would end. This would leave some beneficiaries the “choice” of joining the new plan or paying 10 to 20 percent more to stay in traditional Medicare. Other criticisms of the Breaux-Thomas plan include: the lack of any new financing, raising the age eligibility to 67 percent without any policy to protect against increasing uninsured, and a Medicaid rather than Medicare prescription drug benefit that only helps beneficiaries whose income is below \$11,000 (single), and, while some limited copays may deserve consideration, they have an open-ended 10 percent home health copay that could impose significant costs on the sickest beneficiaries.

Publicly, we have praised Senator Breaux for tackling such an important challenge and thanked him for including certain policies like the modernizing the traditional program and recognizing the importance of prescription drugs. However, as we commend Senator Breaux for his constructive contributions, we also point out the shortcomings in his plan. As we do this, we reiterate your statement that it is incumbent upon us to put forward an alternative that: (1) makes Medicare more efficient and competitive; (2) maintains and modernizes Medicare's guaranteed benefits, including a prescription drug benefit; and (3) assures adequate financing by dedicating part of the surplus for Medicare.

Status and Timing of Reform Plan. While we have been careful to not commit to any specific release date for your proposal, we have said that you wish to get it out with enough time left for the Congress to act this year. With this in mind, we are working toward having a plan available for public presentation as soon as mid-June. We are scheduled to meet with you in early June to review options and present recommendations.

If asked about timing, we would recommend that you say that it is your hope to get the proposal out early this summer and preferably in June. However, you should reiterate that you do not think it is wise to commit to a specific date; it is far more important that we get the policy work done right, have all the provisions scored by the Medicare actuary, and develop and implement an effective roll-out of the policy with the Democratic Leadership and others.

Provider Concerns about Balanced Budget Act. Provider savings will not be easy to come by this year, since all major provider groups have launched a campaign not just against additional savings for reform, but to support “give backs” from the Balanced Budget Act itself. Even conservative Democrats like Senators Conrad, Moynihan, Baucus and Bingman are considering “fixing” or undoing BBA '97 reductions, especially for academic health centers, rural hospitals, nursing homes, home health care providers and others.

Our goal is to have some fixes where clearly well justified while still getting some moderate new savings. As such, we are proactively seeking administrative interventions that could moderate the effects of the BBA. Administrative actions would be the priority since, pending OMB approval, this spending would neither require legislation nor offsets. Moreover, acting administratively rather than legislatively could avert, or at least postpone, opening up the Balanced Budget Act which could drain away the resources necessary to help fund a prescription drug benefit. We are examining legislative options for your consideration, bearing these risks in mind. If we conclude that administrative actions are inadequate, limited legislative fixes could help avoid a negative response to your Medicare reform proposal.

In response to questions, we would recommend that you acknowledge the many serious concerns being raised by providers about their financial status. You can advise the members that we are reviewing these concerns carefully to evaluate whether there is justification for administrative and/or Medicare interventions. If there is, we believe that we should include them. You should advise them, however, that it would be dangerous to open up the BBA in the absence of detailed evidence that Medicare is the problem and should be the solution. If we over-react or act prematurely, we risk starting a bidding war that could seriously undermine our recent successes in strengthening the Medicare program and balancing the budget.

SPECIFIC POLICY ISSUES:

1. **Competitive Alternatives to Premium Support.** Modernization can be divided into two categories: modernization of the traditional Medicare program and competition among managed care plans. One of the positive contributions of the Medicare Commission was to unanimously support making the traditional Medicare program more competitive (e.g., allow for more competitive pricing; greater ability to contract out for services; high-cost case management). Your Medicare advisors also think that these ideas are worth pursuing.

Most of the controversy, however, surrounds whether there can be competition in managed care that avoids the downside (higher traditional Medicare premiums) of the Breaux-Thomas plan. We are reviewing policies for price competition in managed care that meet several criteria: the traditional Medicare premium is protected to avoid financial coercion into managed care; Medicare's benefits are clear and strongly guaranteed; and competition is based on price and quality, not benefits which are easier to manipulate to attract healthy beneficiaries. Although these options do not produce large savings, they have the potential to bridge the differences between advocates of premium support and the traditional program. Supporters could view this as a step in the right direction since, for the first time, beneficiaries could get lower premiums for choosing low-cost plans. Opponents could be assured that their major concern about premium support – that it undermines traditional Medicare – has been addressed. Conversely, conservative Democrats could argue that it does not go far enough, while base Democrats could continue to fear that Republicans will hijack the proposal to set us on the path towards a capped voucher system that privatizes Medicare.

Given the sensitivity of this issue, we recommend that you simply state that you are examining all options, but will not veer from your principles. Specifically, you will reject competition that results in higher traditional Medicare premiums but you are also open to new ways to inject more competition into the Medicare program. You can stress the importance of choice, not coercion.

2. **Drug Benefit: Design.** All health care providers and experts agree that a plan to reform Medicare for the twenty-first century must include prescription drug coverage. Prescription drugs have become an essential part of health care. They complement medical procedures (e.g., anti-coagulants with heart valve replacement surgery); substitute for surgery and other interventions (e.g., lipid lowering drugs that lessen need for bypass surgery) and offer new treatments where there previously were none (e.g., drugs for HIV/AIDS). Their importance will grow as the understanding of genetics increases. The potential for health improvements and possibly lower health care costs is greatest for the elderly and people with disabilities, whose health conditions often can be effectively managed through drugs.

Although the Breaux-Thomas plan acknowledges the importance of prescription drug coverage, it provides an affordable option only for beneficiaries with incomes below 135 percent of poverty (\$11,000 for a single beneficiary). Moreover, the current sources of coverage for Medicare beneficiaries – retiree health insurance and Medigap – have become more expensive and less accessible. Those beneficiaries with coverage have seen the amount of this coverage decline. Less than half of beneficiaries enrolled in Medicare managed care have coverage for expenses above \$1,000 or 2,000. This makes targeting only the uninsured or low-income inefficient and inequitable. As such, we are examining options that provide a voluntary, affordable Medicare insurance option for all beneficiaries.

The challenge is to design a drug benefit that is meaningful and affordable to both the program and its beneficiaries. We are also contemplating an option to provide for catastrophic coverage once the cap is met. It is important to note that, whatever design we chose, beneficiaries can use the 10 to 15 percent discount that the private contractors or pharmacy benefit managers (PBMs) get through negotiation before, during and after the coverage ends. This is a big advantage for beneficiaries who now buy drugs at retail prices. Medicaid would pay for the premiums and cost sharing for low-income beneficiaries through the QMB and SLMB programs.

A number of Senators have strong opinions on how the drug benefit should be designed. Senators Kennedy and Rockefeller proposed a more costly benefit that includes both some up-front coverage (20 percent coinsurance after a \$200 deductible, up to \$1,500 in spending) and some catastrophic coverage (0 percent coinsurance after \$4,200 in total expenses or \$3,000 in out-of-pocket spending). This reflects the desire to ensure that beneficiaries with low to moderate costs are helped while protecting the sickest. You should praise them for their leadership on this issue. Senators Graham and Wyden suggest that costs should be reduced by either raising the deductible, limiting the types of drugs covered, or restricting the coverage to low-income beneficiaries only. We have concluded that these are unworkable or flawed approaches, but would also recommend that they be acknowledged for their interest in this issue.

We feel it is important to not signal the direction of our benefit, but you should know that we are currently exploring an option with no deductible, where we would pay half of the costs of prescription drugs up to \$5,000.

3. **Drug benefit: Costs and Offsets.** The options that we are considering have 10-year costs that fall between \$150 and 200 billion, significantly less than Kennedy-Rockefeller legislation whose costs are at least \$300 billion over 10 years (note: we do not advise that you discuss numbers with Senators since they are not public). These costs are net of beneficiary premium payments.

Your advisors have been striving to fully fund the prescription drug benefit from savings from competition, providers, and beneficiaries. However, the constraints on these savings options make it clear that only a very limited drug benefit can be financed in this way. As such, we are examining options for additional financing that include an additional tobacco tax, a portion of the surplus dollars dedicated to Medicare, and/or additional provider and beneficiary contributions.

Some Congressional Democrats (mostly the base) have advocated for using either part of Medicare's 15 percent, or an extra amount from the surplus, for prescription drugs. The primary rationale is the enormous contribution that Medicare has made to the balanced budget and surplus; the Medicare Trustees and the Congressional Budget Office project that Medicare spending is over \$200 billion lower than originally projected when the BBA was passed. It also appears possible that the trust fund could still be extended to 2025 or so with approximately one-third of the surplus used for the drug benefit. Others, particularly the moderate Senators and the Blue Dogs, have expressed concerns that this would undermine your surplus framework. Instead, they recommend proposing additional tobacco tax revenue for the benefit as well as larger beneficiary and provider cuts. Some within your economic team would advocate taking this approach as an opening position, recognizing that the surplus would likely be used to fund the benefit in the bill that gets signed. We are examining these options' policy or political viability. Since there is a clear split in Congress, and differences of opinion among your budget advisors as well, we suggest that you avoid any comments on financing sources at this point, but reassure the Senators that our plan will be fully, credibly financed.

4. **Surplus for Medicare Solvency.** A few Senators (Breaux, Kerrey, Hollings) and some conservative House members continue to express concerns over dedicating 15 percent of the surplus to Medicare. In Senator Hollings' case, it stems from a belief that this is more of a budget game than a serious approach buying down debt. Senator Breaux adopts the same IOU criticism, but the primary reason for his current opposition is that he believes that it fractures his bipartisan coalition for his reform package, since Republicans are adamantly opposed to the surplus dedication. Only Senators Breaux and Kerrey voted against using the surplus for Medicare in the budget resolution.

Clearly, major structural reform, program savings and beneficiary contributions combined cannot offset the costs associated with the doubling of Medicare enrollment that will occur when the baby boom generation retires. In fact, if reductions in growth alone were used to extend the life of the Medicare Trust Fund, spending growth per beneficiary would have to be limited to below inflation, 3 percent per year -- in every year -- to get to 2025. Every independent Medicare expert affirms that greater revenue is needed to fund the program into the future (note: 15 percent of the surplus gets to 2027 on the 1999 trustees' baseline). This rate is well below projected private health insurance spending per person (7.3 percent). Moreover, since this growth rate is below general inflation, the value of Medicare spending per beneficiary would erode.

Senator Kerrey argues as if the general revenues going to Medicare would somehow be reserved for non-defense discretionary if they were not dedicated to Medicare. Most feel, however, that without a "Medicare block," the general revenue would go to a fiscally irresponsible tax cut as opposed to a fiscally responsible plan to pay down debt and to help Medicare solvency.

5. **Income-Related Premium.** We are contemplating an income-related premium in our policy review. You have supported this policy in the past (1992, 1993, and 1997) as a progressive form of increasing beneficiary contributions in the context of an acceptable package of broader reforms. In the past, our support has been conditional on several parameters. First, the 75 percent premium subsidy would not be fully phased out, in order to keep high-income beneficiaries in the program. Second, it should target truly high-income beneficiaries and be indexed to keep up with inflation (an earlier version of the Commission plan began at \$24,000 for single beneficiaries, \$30,000 for couples, affecting about 30 percent or 12 million beneficiaries, which is problematic). And, third, it should be administered by Treasury since it can collect this premium more efficiently than HHS, thus producing more revenue.

Large numbers of moderate/centrist Democrats and Republicans strongly support the income-related premium as do elite validators (other than those who consider Medicare a pure social insurance program). Interestingly, the far left of the Democratic party (Gephardt, Waxman, Kennedy) and the far right of the Republican party (Senator Gramm) oppose this proposal. The Democrats' main arguments are that the income-related premium opens the door to means-testing since it could easily be lowered in the future, and if it only hits the highest income, it does not raise enough revenue to justify the policy. In contrast, Senator Gramm insisted that the income-related premium be dropped from the final Breaux-Thomas proposal because he believes it to be a tax that affects one of the Republican core constituencies.

Given your past support for this policy and the need to come up with beneficiary as well as provider savings, you probably should indicate an openness to the income-related premium if asked. Almost all of your advisors support this. The base Democrats concerns can be allayed somewhat if you reassure them that it will be targeted truly at the higher income beneficiaries. More importantly, it is useful to remind them that it is much more progressive than an across-the-board premium increase or aggressive cost sharing increases, which would be needed to raise comparable contributions.

6. **Cost Sharing.** The Breaux-Thomas proposal includes reforms intended to rationalize Medicare's patchwork of cost sharing. In some cases, this means adding copays where none exist, and other, it is reducing excessive or unnecessary cost sharing. Specifically, it would eliminate preventive service cost sharing and hospital copays after 60 days, and create one, combined, budget-neutral deductible of \$400 (today, the Part A deductible is \$768 per hospitalization and \$100 for Part B). It would also add an unlimited home health copay of 10 percent and 20 percent lab and nursing home coinsurance. Finally, it would prohibit Medigap from covering the new \$400 deductible. Although the intent was to produce a budget-neutral package, it ended up saving \$20-40 billion over 10 years.

Centrist Democrats are inclined to support beneficiary cost sharing because they believe it has a positive impact on excess utilization of services. Base Democrats argue that it will not affect utilization since most beneficiaries have supplemental coverage, and for those without coverage, it will significantly increase costs.

Your advisors are reviewing options with the primary goal of simplifying Medicare's cost and making it more similar to that of private health plans. We are contemplating eliminating cost sharing for preventive services (since cost sharing discourages use); rationalizing the nursing home copay (from nearly \$100 per day for days 21 to 100 to a straight 20 percent coinsurance); and adding a new Medicare option to purchase (without subsidies) lower cost sharing (a Medicare version of Medigap). This last option, of eliminating the need for supplemental coverage by offering better coverage within Medicare, is widely recommended by experts like Bob Reischauer and Laura Tyson. Additionally, we are reviewing options to add copays where there currently are none: a reduced, capped home care copayment and 20 percent coinsurance on clinical lab services. This package of cost sharing savings could either be budget neutral or save money, which may be justifiable in the context of adding a new prescription drug benefit. If asked, we would recommend that you be non-committal in this area, but acknowledge that cost sharing options are being considered.

7. **Age Eligibility Increase.** The Breaux-Thomas proposal would increase the Medicare age eligibility from 65 to 67. Some support this policy, arguing that it conforms Medicare to Social Security. However, Social Security provides the option for a partial benefit at age 62 and through age 67. In contrast, the Breaux-Thomas proposal provides for no such option for people at age 62 and no specific coverage option for people ages 65 to 67.

Per your guidance, we are opposing this policy for several reasons. First, people in their early 60s are already at risk of becoming uninsured. The fastest growing number of uninsured Americans are those between the ages 55 and 65. One recent study projects that the number of uninsured ages 61-64 will increase by over 40 percent by 2005 (from 3 million to 4.25 million). As a consequence, people ages 55 to 65 are twice as likely as younger people to purchase individual private health insurance -- despite the fact that, in virtually all states,

it is the most expensive and inaccessible insurance option for older Americans. It was for these reasons that you proposed allowing certain people ages 55 to 65 to buy into Medicare. As a note, Senator Daschle feels strongly that you include this budget proposal in your Medicare reform plan as well.

These problems would be worse for people ages 65 to 67 if they did not have Medicare. Nearly one in ten or about 4 million Medicare beneficiaries are age 65 to 67. If they were to lose Medicare and their uninsured rate is the same as that of 64 year olds, it could be assumed that nearly 600,000 people would become uninsured. This would likely be higher since more people in this age group have health problems and would be unable to access or afford private individual health insurance. This policy would also likely increase employer and state Medicaid costs, since these payers would continue to be the primary insurer for these beneficiaries.

Some proponents of raising the age eligibility have suggested that these problems can be avoided if coupled with a Medicare buy-in for people ages 66 and 67. It is true that, relative to the coverage options facing people ages 55 to 65, it is an affordable, attractive option, even without a subsidy. However, it is not designed to be a substitute for Medicare. According to the Congressional Budget Office, about 9 percent of the uninsured and 5 percent of the total eligible population ages 62 to 65 would participate in the buy-in. If similar take-up rates occurred in the 65 to 66 year old population, only a small number of those who would lose Medicare would opt for coverage through the buy-in. The Medicare buy-in proposal could be subsidized to encourage low-income people to participate. However, since about over half of people ages 65 and 66 have income below 300 percent of poverty (about \$27,000 for a single), the cost of subsidies would be high.

There appears to be a growing recognition of the shortcomings of increasing Medicare's eligibility age. As a consequence, although the Finance Committee supported this provision in 1997, it is unclear whether this policy could pass today. In fact, Senator Breaux has recently indicated that he would likely drop this provision from his package. We would therefore recommend that you reiterate your strong opposition to this policy, particularly since there is no viable policy to address the problems that recent studies affirm will occur.

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
006. memo	Gene Sperling et. Al to The President re: Long-Term Care Initiative (8 pages)	08/11/1998	P5

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
David Sewell
OA/Box Number: 20725

FOLDER TITLE:

Miscellaneous Memos from Bruce Reed to President Clinton

2010-1111-S

rc456

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
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- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
007. memo	Bruce Reed and Rahm Emanuel to The President re:"Sporterized" Assault Weapons Directive (3 pages)	10/30/1997	P5

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
David Sewell
OA/Box Number: 20725

FOLDER TITLE:

Miscellaneous Memos from Bruce Reed to President Clinton

2010-1111-S

rc456

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4-21-99

THE WHITE HOUSE
WASHINGTON

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Podesta*

April 20, 1999

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Jose Cerda III

SUBJECT: Rep. Carolyn McCarthy's Gun Legislation

Rep. McCarthy has introduced omnibus gun legislation, much of which we can probably support. As noted below, a few provisions of her bill involving federal regulation of gun manufacturing and safety may be more controversial and less likely to be enacted than your existing proposals in those areas.

As we outline in a separate memo on potential policy responses to the Littleton shootings, we were already finishing up a comprehensive gun bill for you to announce as part of your 21st Century crime initiative. We will incorporate as many of Rep. McCarthy's provisions as possible, as well as any other solid proposals that may emerge as we learn the facts of this case.

The provisions in Rep. McCarthy's bill that most directly affect juveniles are:

- Expanding our Youth Crime Gun Interdiction Initiative to 75 cities by 2003. This program is currently in place in 27 cities. Our FY 2000 budget would increase that number to 37. Her bill also authorizes grants for additional ATF and law enforcement personnel to combat illegal gun trafficking, which we also fund in our FY 2000 budget.
- Amending the juvenile handgun ban to include semiautomatic assault rifles manufactured before the assault weapons ban went into place. Currently, an 18-year-old can legally possess rifles, including assault rifles manufactured before Sept. 13, 1994. This provision would generally ban the possession of such assault rifles until the age of 21. As part of your crime bill, we also plan to reintroduce a provision that would make a violation of this statute a felony offense. Since existing law only provides for mandatory probation, federal prosecutors have been reluctant to bring any of these cases.
- Increasing the penalty for giving or selling a handgun or assault weapon to a juvenile for use in a violent crime. Her bill would increase the maximum penalty for this offense from the current 10 years to 20 years. In our crime bill, we planned to reintroduce the provision from your juvenile crime bill that would establish a mandatory minimum penalty of 3 years, but would maintain the current maximum of 10 years.

- Creating criminal penalties for adults who give juveniles access to certain firearms. This is similar to Durbin's "Child Access Prevention" (CAP) legislation, which we supported in principle in the wake of the Jonesboro shootings. Our crime bill will include a narrowly tailored version of this provision, which reflects Justice's concerns that a federal CAP statute should only target the most egregious cases of parental recklessness, and accordingly should be a felony offense with a stiffer penalty. The McCarthy and Durbin legislation, on the other hand, would simply make it a federal misdemeanor offense for adults to allow negligent access to firearms.

● Creating a \$50 million grant program for children's gun violence prevention education in schools. This would authorize grants to local education agencies to work with law enforcement to educate children about preventing gun violence. We will look at whether we can incorporate this kind of education into our Safe and Drug-Free Schools proposal.

Rep. McCarthy's bill includes three other provisions that the Administration could conceivably support, but which are more controversial and less likely to be enacted than your own proposals in these areas:

- Prohibiting the manufacture and importation of "unsafe guns". The legislation would give Treasury broad regulatory authority to ensure that guns are designed to be child-proof or that they include safety devices that make them so. Our child triggerlock legislation requires federal gun dealers to provide a child safety-locking device with every gun sold, but does not seek any new regulatory authority over how guns or gun-safety devices are made.
- Requiring a Consumer Products Safety Commission study on handgun safety. The legislation would authorize up to \$1.5 million for a CPSC review of how to prevent the unauthorized use or discharge of handguns by children. ATF would be in a better position to conduct such a study, since the CPSC is currently prohibited from studying any firearms issues and there is little support in Congress for giving them this authority.
- Establishing a CDC program to maintain a children's firearm-related injury surveillance system. The legislation would give CDC authority to award \$5 million a year in grants to state and local governments to establish comprehensive data bases on the nature of gun-related injuries to youths under the age of 21 in their communities. Your existing youth gun crime tracing initiative is already spurring communities to gather much of this data in ways more likely to reduce gun violence.

*But should
USAGM*

THE WHITE HOUSE
WASHINGTON

cc: Melanne
Dan B.
Mark Penn
Ann Lewis
Rahm
Gen S.
Maria E.

April 5, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
MIKE COHEN

SUBJECT: National Standards and Testing: Progress Report and Strategy

With much of our education agenda tied up in the budget debate, we continue to look for opportunities to promote initiatives that don't hinge entirely on Congressional action. This memo provides you with a progress report and strategy for the two major challenges to states -- national standards and testing, and charter schools. In the near future we will provide you with updates on other legislative and budget-related initiatives.

I. NATIONAL STANDARDS AND TESTS

Our objective is to have 30-40+ states participate in the initial 1999 administration of the national tests. To reach this objective, we are working on several interrelated fronts:

A. Developing the Tests: By the end of April, the Education Department will release a Request for Proposals (RFP) for the development of the 4th grade reading and 8th grade math tests. A draft is already circulating for public comment. Contracts will be awarded by September 1. We do not yet know whether each test will be developed by a separate contractor, or whether one test developer will successfully bid to develop both. In addition, the Education Department and the test developers will establish a number of technical advisory groups and evaluation studies to assure the technical quality of the tests.

As part of the process of developing the RFP, the Education Department has held a number of public meetings with testing experts, state testing officials, test publishers, and others in the education and civil rights communities. (The Education Department has made the transcripts of these meetings, and other related documents, widely available on the Internet.)

These sessions have raised a number of important issues which will be addressed as the work proceeds.

First, virtually all groups have stressed the importance of ensuring the technical quality of the tests, and of helping parents and the public understand the nature and purposes of the tests. This is particularly important in light of experiences in a number of states in which technical problems or public misunderstandings have led to heated debate about the testing program. Some urged that the time line be slowed down to accommodate these concerns, but the Education Department continues to believe that the time line is realistic and appropriate. We agree, and see no reason to delay the Spring 1999 date for the initial test administration.

Second, a number of states anticipate a challenge in integrating these new tests into their ongoing testing programs, especially states that are now well along in developing new tests aligned with recently developed state standards. Some states would find it easier to "embed" a small number of additional test items into their existing tests, rather than administer a separate and additional test. But this approach does not appear to be technically feasible if we are to have a valid test. Other states have suggested that a 4th grade reading test would be more valuable to them if it were administered in the Fall rather than the Spring, since their goal -- like yours -- is for students to read independently by the end of the 3rd grade. The Education Department is studying this possibility.

Third, many testing experts suggested that the 8th grade math test be based on the NAEP framework rather than on the TIMSS framework. They argued that the NAEP framework is more explicit and more widely accepted among the states, and that student scores could then be reported according to the NAEP achievement levels (basic, proficient and advanced) as will be the case with the reading test. The Education Department has determined that this would be a preferable approach, and that it will still be possible to provide individual student scores in terms of the TIMSS as well, because of the very high overlap in the content of NAEP and TIMSS. Therefore, the final test will still meet your initial commitment of providing students with internationally benchmarked scores.

B. A Governing Body to Ensure the Tests Are National, Not Federal: We are working to determine how best to establish an advisory or governing body that can provide bipartisan support for this effort, and assurance that the tests measure what they are supposed to based on the widely accepted NAEP frameworks. Mike Cohen, Mike Smith and other Education Department officials have been consulting with governors of both parties, Congressional staff and others, with the aim of establishing an advisory mechanism that will garner strong bipartisan support among governors and in the Congress. Secretary Riley met last week with Gov. Thompson, and is working to set up a meeting in mid-May with a bipartisan group of 8-10 governors, hopefully including Romer, Hunt, Zell Miller, Bob Miller, Thompson, Engler, and Voinovich. Secretary Riley, Mike Smith and Mike Cohen will also continue meeting with members of Congress over the next several weeks. While the additional consultations may change our thinking significantly, our current plan is as follows:

- Create an interim, bipartisan advisory council, in consultation with governors and members of Congress in both parties. We would probably appoint governors, business leaders, and educators currently serving on related groups such as the National Education Goals Panel, ACHIEVE (the group established to follow-up last year's education summit in Palisades), and the National Assessment Governing Board (NAGB), as well as teachers, testing experts and others. The announcement of this council would be an opportunity to demonstrate bipartisan Congressional and gubernatorial support for the testing initiative. Staff-level conversations suggest that key House Republicans, including Reps. Frank Riggs, John Porter, and perhaps Bill Goodling might be willing to participate in a White House announcement of an advisory council if our consultations continue to go well.
- Once this council is established, we think it may be possible to gain NGA's endorsement for the testing initiative at the Summer meeting in Nevada. Both the ACHIEVE Board of Directors and the National Education Goals Panel will be meeting in conjunction with the NGA meeting. If your schedule permits, it would be possible for you to meet with both groups, to demonstrate broad support for your standards initiative and to help energize governors and business leaders behind common educational goals.
- These two steps would create a favorable climate for Congressional consideration of legislation to reauthorize the National Assessment of Education Progress and the National Assessment Governing Board, which are scheduled for consideration sometime in this Congress. At that time, we can determine if NAGB should assume policy responsibility for the national tests, with Congressional support. (At present, NAGB is prohibited by law from overseeing the development of individual-level tests.) These steps would also improve our ability to win any legislative battles we may face on this issue, such as any attempt to prohibit the Education Department from using funds for the continued development of the tests.

Please note that we are optimistic but not yet confident that we can secure this level of bipartisan cooperation. Much will depend upon how effectively we can enlist the help of a core group of Republican governors.

C. Building Momentum through State and Local Endorsements: As you know, we now have commitments from leaders in Maryland, Michigan, North Carolina and California, as well as the Department of Defense Schools. A number of other states look promising, including Missouri and Vermont. However, we believe that the prospects for signing up large numbers of states will depend largely upon getting a bipartisan group of governors bought in to the right advisory body. This step will take some time to work out, but is essential to sustain this effort. In the meantime, we are pursuing three major strategies to sign up states:

1. Visits to State Legislatures: We would like to schedule trips to three more state legislatures over the next three months -- two to states that agree to sign up for the tests, and at least one to a state like Washington that is considering charter school legislation (see below). Your travel plans and upcoming adjournments in some states will make that more complicated, but we are working with the Communications and Scheduling departments to get it done. One possibility worth pursuing would be to travel to Washington State to join Gary Locke at the signing of a charter schools law. We are tracking that legislation: depending on when (and whether) it passes, a signing could take place as early as April 17 or as late as mid-May.

2. State School Officers: Last month the Council of Chief State School Officers presented the Vice President with an endorsement of your testing initiative. We are working with chief state school officers to enlist additional states. However, in many cases, even our biggest supporters (such as Rick Mills from New York) will want to secure the support of the state board of education and the governor where possible before making public commitments. Even in California, where we have broad support, Delaine Eastin and Wilson appointees on the Board of Education are already feuding over whether the state legislature needs to act before the tests can go forward.

3. Major Cities: We are also working to sign up big cities, such as Los Angeles and Boston, regardless of the respective state participation. The intent here is to further demonstrate momentum, underscore that these standards are especially important for the students and schools for which society typically has low expectations, and show that these tests can in fact be tools to lift people up, by helping to stimulate new efforts and focus existing ones to improve teaching and learning.

We believe it will be possible, over the next several months, to work with mayors, school superintendents and school boards, teachers unions, institutions of higher education, as well as parent, community and business groups in 5-10 cities. We will seek broad partnerships in each city that pledges to use the national tests, and commit to specific, locally designed efforts in each community to help prepare students to meet these standards. We will ask the Education Department to work with these cities, provide them with information on best practices, and help the cities learn from one another. Once we have a few cities in hand, a White House event announcing this partnership should generate considerable excitement and attention. It will also strengthen support for the testing initiative among core constituencies.

You can take a number of steps to add momentum to these efforts, including:

- **Hold a town meeting or other forum on reading and math standards.** We would like to create a setting in which you interact with teachers, parents and students, and use examples of student work, sample test questions and answers, or videos of teaching to high standards, as a way of helping the public come to some concrete understanding of what the reading and math standards are really all about.

- **Meet with textbook publishers and software developers.** Such a meeting would provide you with an opportunity to urge (or enlist commitments from) publishers to upgrade the quality of textbooks by aligning them with higher standards and expectations. You could also highlight the efforts of software developers to produce materials for home and classroom use that are aligned with the standards.
- **Meet with groups involved in promoting literacy and math achievement.** Through the America Reads initiative and the Education Department's previous early reading initiative, there are several national and grassroots coalitions of groups that are supporting early reading initiatives. You can meet with these groups, at the White House or elsewhere, and emphasize the connections between their efforts to promote learning and your call for national standards and tests. In addition, as a result of a directive you issued to the Department of Education and the National Science Foundation last month, there is an interagency effort underway to organize federal agency resources, and to identify nonfederal resources (e.g., Nobel Laureates, math and science resources in the business community) that can be enlisted to support teaching and learning aimed at preparing students to meet 8th grade math standards. We will propose one or more events as part of this effort. Together, these will enable you to underscore that your testing initiative is not just about testing, but about mobilizing the nation to support learning to high standards.

II. CHARTER SCHOOLS

Another important goal is to foster the creation of 3,000 charter schools within 5 years, up from the current level of 500. One challenge is expanding the number of states with charter schools legislation. Currently 25 states and D.C. authorize the creation of charter schools; we would like to raise the number of states to 30 by the end of 1997. Over the past couple of months, progress in state legislatures has been slow, due in part to an absence of strong centrist leadership at the state level, partisan differences, and occasional opposition by state and local union affiliates. In addition, in at least one state (Virginia) the potential racial impact of charter schools emerged as an issue.

However, there are some bright spots. In Washington State this week, the governor, schools superintendent, and legislators tentatively reached agreement on a charter schools bill. Mississippi passed a final bill this week, although it authorizes only 6 schools. Charter legislation is also alive in Missouri (as part of a big post-desegregation package), Indiana, Maine, Oregon, and Nevada.

To move things forward in these states, we recommend an event in the next several weeks -- ideally the Washington State trip if it works out, but at least a radio address. The Education Department is ready to release two important reports on charter schools. One is the first-year report of a major national charter school study. A key finding is that the number one obstacle for new charter schools to overcome is lack of access to start-up funding. The second report is a

guidebook for school boards and other chartering authorities, which emphasizes the importance of effective accountability for charter schools -- an important issue, given problems that have emerged with loosely run schools in D.C. and elsewhere.

In addition, the Education Department will soon announce a new competition for charter schools funds. It is also planning a national charter schools conference in late Summer or early Fall. These activities will provide support both to state efforts and to your FY98 request for \$100 million for charter schools.

(S)

THE WHITE HOUSE
WASHINGTON

May 14, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: RAHM EMANUEL
BRUCE REED
ELENA KAGAN

SUBJECT: UNIONIZATION OF SECRET SERVICE UNIFORMED DIVISION

You will meet tomorrow with Gil Gallegos and other officers of the Fraternal Order of Police (FOP). They may ask you, as they have before, whether you will amend an Executive Order to allow employees of the Secret Service Uniformed Division to unionize and engage in collective bargaining. This memo provides you with the arguments on each side of the issue, so you can decide how to respond to inquiries.

Before his departure, Jack Quinn conducted an extensive review of this issue and recommended changing the Executive Order in the way the Uniformed Division employees requested. The Department of Treasury is strongly opposed to this approach. We believe a sensible compromise proposal is available, but Treasury has rejected this compromise and we do not know how the Uniformed Division employees would greet it.

Background

Federal law gives the President authority to issue an order prohibiting the employees of any federal unit that "has as a primary function, intelligence, counterintelligence, investigative or national security work" from organizing and collective bargaining. Using this authority, President Carter issued Executive Order 12171, which precluded the Secret Service Uniformed Division from engaging in these activities. The E.O. also covered many other units in the Departments of Treasury, Defense, Justice, Transportation and Energy.

In March and May 1995, members of Congress (Reps. Trafficant, Frank, Conyers, and Torres) wrote to you requesting that you exempt the Secret Service Uniformed Division from the E.O., allowing employees of this division to unionize. The White House referred the letters to the Department of Treasury, which advised the Congressmen and two interested unions that national security concerns required the ban to remain in effect. In September 1995, Judge Mikva affirmed this determination, citing a policy of deference to the Treasury Department on matters relating to the security of the President and Vice President.

Last year, Jack Quinn received a letter from the Secret Service Uniformed Division Labor Committee of the FOP asking for reconsideration of this issue. The letter stated that "national

security concerns...are being used as a convenient way to deny the members of the Uniformed Division fundamental labor rights." Quinn initiated discussions with Treasury Department officials and Uniformed Division employees.

In a September 1996 FOP questionnaire for presidential candidates, you referred to the controversy and stated: "To make a decision on this issue in as thoughtful and expeditious a manner as possible, I have asked my counsel . . . to look into the competing arguments, and present a recommendation to me."

At a later meeting with the Executive Board of the FOP, you were careful not to commit yourself, but did express sympathy for the position of the Uniformed Division employees. The Wall Street Journal quoted you as saying at that meeting that "it would be the height of hypocrisy for me not to support [the right to unionize] for federal officers." Members of the FOP left the meeting generally encouraged.

Quinn recommended before he left that the Administration grant the Uniformed Division employees' request. Secretary Rubin, however, vehemently opposed this recommendation, and the matter did not come to you for decision.

As consideration of the issue has proceeded, Gallegos and employees of the Uniformed Division have accused Uniformed Division management of retaliating against union supporters. One incident resulted in a lawsuit brought by the officers alleging various constitutional violations. In addition, Gallegos has come under increasing pressure from his membership to move forward on this issue.

Department of Treasury Arguments

The Department of Treasury offers three reasons for opposing unionization. First, Treasury claims that the obligation to bargain will compromise security by decreasing management's authority over such matters as the deployment and scheduling of officers and the selection of equipment. Treasury cites the decision to close off Pennsylvania Avenue to traffic as an example. That decision affected many employees' schedules and work assignments. Without a union, the Division could take this action unilaterally; with a union, the Division might first have had to bargain about the proposed change, thereby losing flexibility and causing delay.

Second, Treasury argues that unionization will compromise security by forcing the disclosure of information during collective bargaining. Treasury notes that information about security procedures and techniques-- about postings, manpower allocations, equipment, and so forth-- is now provided on a "need to know" basis. If the Division were obligated to engage in collective bargaining, Treasury argues, it would have to provide such information to union members and officials and possibly to arbitrators.

Third, Treasury argues that exempting the Uniformed Division from the E.O. will place

the government on a slippery slope toward exempting other covered employees or eventually eliminating the E.O. Treasury is particularly concerned that if the Uniformed Division are free to unionize, then the special agents of the Secret Service, who directly protect you, the Vice President, and your families, will request identical treatment.

Uniformed Division Employees' Arguments

The argument in favor of allowing employees of the Uniformed Division to organize starts from a simple premise: this Administration is committed to safeguarding the rights of employees to organize and engage in collective bargaining. This commitment should be upheld unless there is a strong countervailing interest.

In considering whether such an interest exists, you should note that there is no danger that unionization will lead to work stoppages of essential employees. A federal statute makes it an unfair labor practice for a union to strike at any federal agency. This statute would apply to Uniformed Division personnel just as it does to other federal employees.

Although Treasury is right that the obligation to bargain will limit its unfettered authority over workplace decisions, it is not nearly so clear that this obligation will compromise security interests. With respect to a number of issues, such as benefits, the obligation to bargain will have little or no effect on security. With respect to more sensitive issues, bargaining often will not be required. Agencies can take certain actions involving hiring, assignments and the like -- actions implicating "management rights" -- without engaging in collective bargaining. If this authority is insufficient, Treasury can negotiate contract provisions giving it additional powers. And if even this is not enough, we can reserve still greater powers to Treasury through adoption of the compromise proposal discussed below.

Similarly, Treasury's concern about the disclosure of sensitive information seems overstated. The officers in the Uniformed Division already have most of this information -- or at least could obtain it if they all pooled their knowledge. Moreover, the Treasury Department could condition providing such data in collective bargaining on an agreement by the union to confidentiality requirements.

Finally, Treasury's "slippery slope" argument is subject to question. If exempting another unit from the E.O. would pose a greater danger to security than exempting the Uniformed Division, then the Administration should be able to justify continued coverage of that unit. For this reason, all four other agencies with covered employees declined to support Treasury's argument, stating that their employees could be distinguished from Uniformed Division personnel.

Compromise Proposal

An alternative course is to amend the E.O. to allow Uniformed Division employees to

unionize, but to give them fewer collective bargaining rights than other unionized federal employees have. This approach should not be difficult to accomplish. When you came into office, you signed an executive order requiring the agencies to bargain over certain subjects that they previously did not have to bargain over. In modifying the E.O. to allow unionization of Uniformed Division employees, you could make clear that the old rules apply to these employees. These rules would give the Treasury Department greater authority to act unilaterally -- without any consultation with the employees' union -- than federal agencies now have. It would go some way toward accommodating both the employees' desire for unionization and the agency's concerns about security.