

From: "Langdon, James C."

To: <kr@georgewbush.com>, "Rove, Karl C.", "Hughes, Taylor A.", "Jackson, Barry S.", "Smith, Heidi M.", "Kavanaugh, Brett M.", "West, Christal R.", "Weinstein, Jared B.", "Boyer, Matthew W.", "Kropp, Emily L.", "Ralston, Susan B.", "Kane, M. Lauren", "Hoare, Thomas H.", "Katz, Jeremy L.", "Jordan, Myriah L.", "McMillin, Stephen S.", "Langdon, James C."

Subject: Night Note 3/27

Sent: Mon, 27 Mar 2006 20:41:24 -0500

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Attached are the Pending Issues, the Policy Time Calendar for this month, the Working Group Calendar for this week and next, and the Cabinet Member Schedule for the following week.

Thanks,

James

x61475

March 27, 2006

MEMORANDUM FOR ANDY CARD, KARL ROVE, JOE HAGIN, and MIKE GERSON

FROM: STEVE MCMILLIN, JEREMY KATZ, and MYRIAH JORDAN

RE: NIGHT NOTE

Immigration Reform Senate Judiciary Committee Update. Today, the Senate Judiciary Committee reported a comprehensive immigration bill out of committee by a vote of 12-6. The Committee also voted 12-6 to adopt an amendment offered by Senator Graham to substitute the McCain-Kennedy "earned legalization" approach for Title 6 of the Specter bill, which addresses the current undocumented population. Senators DeWine, Graham, Brownback, and Specter were the only Republicans who voted "yes" on the amendment, though Brownback did so reluctantly (saying the bill needs more work). The Committee also voted 11-6 (with Senators Dewine, Graham, and Brownback supporting) to adopt an amendment offered by Senator Kennedy on Title 4 of the Specter bill, which deals with future-flow TWP workers. Senator Kennedy's amendment imposes a cap of 400,000 on the number of TWP visas provided to foreign-born workers applying from outside the country, allows employers to petition for LPR status for future-flow TWP workers, allows future-flow TWP workers themselves to petition for LPR status in their 4th year if their employers have not done so, and imposes prevailing wage requirements for future-flow TWP workers. The Committee also adopted Senator Feinstein's AgJOBS amendment, and Senator Durbin's amendment to strip provisions making unlawful presence a misdemeanor. Finally, the committee adopted a Cornyn amendment on injunctive relief (Salvadoran issue) by an 8-7 vote. After the final vote, Chairman Specter stated Leader Frist will accept the committee bill as a substitute on the floor. It is not yet clear, however, that Leader Frist will do so, given that the committee product did not command majority Republican support.

Immigration Refugees/Material Support. As agreed at a prior deputies' meeting, NSC convened an interagency "lawyers meeting" today to discuss the meaning of statutory provisions (1) barring admission to the U.S. of individuals who belong to terrorist organizations and/or have provided material support to such organizations, and (2) providing for a "waiver" of the bar by the Secretary of Homeland Security. As a matter of law, the agencies do not appear to disagree that the statutory bar is so expansive that the only way "around" the prohibition is to exercise the waiver authority. As a matter of policy, however, there seems to be significant disagreement on the threshold question whether the waiver authority should ever be used. DOJ, OVP, and to a lesser extent DHS seem very uncomfortable with the national security and litigation risks posed by any use of the waiver authority, while DOS and the WH FBO believe foreign-policy interests (and concerns raised by the faith-based community about the President's commitment to refugee resettlement) require its exercise in a limited, targeted fashion. At the close of the meeting, NSC asked DOJ to comment more specifically on the litigation risks posed by DOS's plans so the issue can be teed up again for deputies.

Foreign Investment in US Airlines. Today DPC, OMB, OLA, OVP, COS, and Communications met with DOT to discuss the agency's proposed rule to allow greater foreign investment in U.S. airlines. DOT feels strongly that the rule should be sent to OMB for final clearance to give the

Europeans time to examine it prior to the June meeting of the Transport Ministers. This rule is likely to seal a U.S./EU Open Skies agreement. However, there is still some concern following the Dubai Ports World situation that the Administration will get very negative press coverage and Congress may try to overturn the rule. Attendees were asked to get feedback from their Principals by Friday before we tell DOT whether to proceed.

Other Issues

- Administrative Reforms (Troy/DPC; Jordan)
- *Advanced Energy Initiative Action Team (Epifani/NEC; Katz)* – Today the group discussed how to handle earmarks and AEI's approps request. The group seemed to need guidance from their Principals about how aggressive to be on this issue. David Anderson (OMB) said that we should be very clear about this position but OLA expressed concerns about being too aggressive. WH Communications expressed continued concern about the challenge of getting press attention for AEI. Dana Perino suggested DOE-driven reports (with input from other agencies) on accomplishments in the areas of the AEI might stimulate press reaction. The group discussed whether the current media attention on Climate Change (like Time magazine cover) could be a venue for highlighting the AEI. USDA stressed the importance of regional and local outreach.
- AFL-CIO (Sharp/DPC; Jordan)
- Airlines (Sharp/DPC; Jordan) – As of 3/22, DOT, the mediator, and the controllers have agreed to extend negotiations through the middle of this week even though there has been little progress recently. DPC will host a meeting in the next few days to discuss legislative and communications strategy in anticipation of either a settlement or an impasse sometime late this week.
- *AHPs (Leggitt/DPC; Katz)* – On 3/23, DPC convened a meeting with OLA, DOL, HHS, DOJ, and OMB to review the language of S. 1955 (Health Insurance Marketplace Modernization and Affordability Act) which was reported from Senate HELP last week with an amendment in the nature of a substitute. S.1955 is Senator Enzi's alternative to the Administration's AHP proposal. DOL advises that this legislation establishes a uniform set of Federal health insurance rules as an alternative to the current state-by-state regulatory scheme. The legislation would allow bona fide trade and business associations to pool together and purchase group health insurance for their employees as under the Administration AHP proposal, but would not allow AHPs to establish a self-insured plan as an alternative to purchasing coverage from an insurance company. Although this legislation is more intrusive than the Administration's proposal from a federalism perspective, DOL advises it may actually facilitate implementation of several other Administration health care reform proposals including expanded AHPs, portable HSAs, and purchasing health insurance across state lines. DPC has requested that DOL, HHS, and DOJ prepare an assessment of recommended changes to the bill. *DPC, OLA, DOL and HHS will be meeting with the AHP coalition at the WH this Thursday to discuss strategy regarding the Enzi bill.*
- Amtrak (Sharp/DPC; Jordan)
- Anthrax (Venkayya/HSC; Katz)
- Asbestos (Ho/DPC; Jordan)
- Avian Flu (Venkayya/HSC; Katz) – HSC will put the implementation plan into staffing tomorrow morning with the goal of releasing the plan to the public in early April.
- Aviation Security (Baker/HSC; Jordan)
- Bioethics Agenda (Levin/DPC; Jordan) – OLA and DPC met on 3/15 with Blunt's staff to discuss advancing the President's bioethics agenda. Blunt's staff expressed interest in seeing the items referenced by the President in the State of the Union Address (prohibitions on fetal farming, human-animal hybrids, and commerce in embryos) introduced as stand-alone measures in the coming months. They suggested that a bill prohibiting fetal farming (i.e. the initiation of pregnancy solely for research purposes) stood the best chance of success, while the other

measures may stand a better chance as appropriations riders later in the year, but that all should be introduced, as pro-life Members would find them appealing this year. Blunt's staff will seek out sponsors, and continue to work with us to shape the bills.

- *BSE (Hennessey/NEC; Katz)* – USDA announced on 3/13 that it had confirmed, through both initial and follow-up testing, a third BSE infected cow in Alabama. On 3/16, USDA exhumed the cow and was able to verify that the animal is over 10 years old (thus born before the feed ban was put in place). *Authorities have determined that the infected (dead) cow had at least two calves. One is dead, and the second calf has been quarantined since shortly after the detection was announced. The calf has now been transferred to a facility in Des Moines, and may be monitored over its lifetime. USDA also reports the Koreans have been voicing concerns about the new detection. USDA has been working with the Koreans to assure them our inspection system is rigorous and that the beef exported from the United States is safe. Secretary Johanns is scheduled to speak with Korea's Ambassador to the United States tomorrow, and will respond to his questions and press him further on opening the Korean market to exports of U.S. bone-in beef. Given the absence of documentation on the infected (dead) cow, USDA believes that it will be difficult to learn much more about how the cow might have been exposed.*
- *CAFE (Sharp/DPC; Katz)* – On 3/15, Deputies met to discuss DOT's draft final rule which sets new fuel economy standards for light trucks, saving 7.8 billion gallons of fuel. The rule will also change the compliance system to reduce the safety hazards associated with the current system, to push all manufacturers to introduce fuel saving technologies into their vehicles, and to cover Medium-Duty Passenger Vehicles (8,500-10,000 lbs.) for the first time. *On Wednesday, DOT will rollout its CAFE reform rule in Baltimore.*
- CALEA (Russell/NEC; Katz)
- Campaign Finance Reform (Taylor/OPA; Jordan)
- Canadian Lumber (Hunter/NSC; Katz)
- Career Advancement Accounts (Sharp/DPC; Jordan) – On 3/21 DPC, OLA, and OMB, met with DOL to discuss the Administration's strategy for advancing CAAs. DOL is meeting with workforce boards, think tanks, and community colleges in key states and talking to Senators and Members of Congress with interest in job training reform. DOL is also preparing the legislative package for OMB clearance and transmission to the Hill. Ideally, CAAs would be inserted into the pending Workforce Investment Act (WIA) reform legislation, but that bill has been held by Senator Durbin since August. On a parallel track, DOL is preparing the paperwork for an administrative demonstration of CAAs (which would not require legislation) and is preparing to submit a WIA reform regulation to OMB for clearance.
- Cargo Security/TWIC (Baker/HSC; Jordan) – DHS briefed HSC and OMB on the implementation of the Transportation Workers Identity Credential (TWIC) and their plans for enhancing cargo/supply chain security on 3/13.
- CFIUS Arysta LifeScience (Japan)/Micro Flo-BASF (Shirzad/NSC; Katz) – CFIUS will need to decide by 3/ 29, whether to investigate the proposed purchase of Micro Flo-BASF (on or about 3/31), an ag biotech company. NSC does not expect that this case will require an investigation.
- CFIUS Checkpoint (Shirzad/NSC; Katz) – The company withdrew their filing on 3/23. As part of Checkpoint's withdrawal, the company is releasing a press statement, and Q&As saying that they are withdrawing and have determined that "they have decided to pursue alternative ways for Check Point and Sourefire to partner in order to bring to market the most secure leading security solutions." Treasury sent to the companies its standard withdrawal letter, noting that CFIUS will allow for the withdrawal, but should the companies determine to move forward with an acquisition, Treasury reserves the right to begin another CFIUS case.

- CFIUS DP World (Shirzad/NSC; Katz) – CFIUS, DP World and P&O are discussing a withdrawal of the filing currently in the 30-day review phase, subject to a letter that requires them to complete the sale to a U.S. buyer and continue to keep the operations separate until the sale is completed. Day 30 is 4/3, Day 45 is 5/19. Congress is scheduled to be out the week of the 29th of May.
- CFIUS Investigation of Dubai Holdings (Shirzad/NSC; Katz) – An article in the Financial Times yesterday on Dubai Holdings' proposed purchase of Doncasters (UK), mischaracterized the nature of the products that Doncasters sells to DOD. NSC has been working with Treasury on Q&As and TPs and have gotten the DOD to prepare TPs on their purchases from Doncasters. Day 45 of the investigation is 4/13. DOD is working to determine whether it can resolve a sole sourcing issue involving one part that it purchases from a subsidiary of Doncasters. Other than this issue, no CFIUS agency has indicated any substantive concern with the transaction.
- CFIUS Press Interest of Istithmar (Dubai)/ISS Inchcape Shipping Services (UK) (Shirzad/NSC; Katz) – As noted in the press, Istithmar's purchase of ISS in January 2006 did not go through a CFIUS review. CFIUS has asked the companies for more information on the transaction and may request that they file. ISS is a Marine Services firm with operations in 210 ports in 50 countries and multiple U.S. port locations. ISS is a shipping agent, broker, and forwarding agent and DHS is looking into the scope of their activities.
- CFIUS Review of GE Fanuc (Japan)/Condor Engineering (Shirzad/NSC; Katz) – CFIUS will need to decide by 3/30, whether to investigate the proposed purchase of Condor Engineering (on or about 3/31), an aircraft data communications company. NSC believes that this case will necessitate an investigation. GE Fanuc is a 50-50 joint venture of GE (US) and FANUC (Japan, private). CFIUS agencies are awaiting the CARC report and DOD is determining if Condor would be considered a sole source supplier of data communications for aircraft manufacturers.
- CFIUS Review of SES Global (Luxembourg)/New Skies Satellites (Shirzad/NSC; Katz) – NSC currently does not expect that this transaction will go to investigation, however, there are some complications that will need to be addressed. The companies have negotiated a security agreement with DOJ and DHS.
- Civil Rights (Ho/DPC; Jordan)
- Clear Skies (Stolpe/CEQ; Jordan)
- Clean Air Act (Stolpe/CEQ; Jordan)
- Climate Change (Connaughton/CEQ; Jordan)
- Competitiveness (Wilson/DPC; Jordan)
- Cooperative Conservation (Butler/CEQ; Jordan) – Last week CEQ hosted a series of meetings between OMB examiners and policy and legislative staff from USDA, DOI, DOC-NOAA and EPA. The purpose of the meetings was to reconcile any and all outstanding issues that have been raised during the LRM vetting process. Each component of the legislative package has gone through the interagency review process and comments have been received. The status of each is as follows: a) DOI- most of the substantive issues/concerns have been resolved and a draft reflecting the most recent agreements is currently being circulated for comment. b) DOC-NOAA is reviewing the comments and drafting another version that they expect will address all outstanding issues. c) EPA- has reviewed comments and met with CEQ and OMB on 3/23 to reconcile any outstanding issues. However, it appears that there is a general consensus on the underlying principles of the legislation. d) USDA- met with CEQ and OMB at CEQ on 3/21. A tentative agreement was reached on revisions to the package. USDA is going to rework and circulate another draft this week.

- Critical Infrastructures Protection (Nielson/HSC; Jordan)
- Counter Radicalization (Nielsen/HSC; Jordan)
- Doha (Shirzad/NSC; Katz)
- Drug Free Communities (Leggitt/DPC; Katz)
- Drug Reimportation (Leggitt/DPC; Katz)
- Education (Wilson/DPC; Jordan)
- Endangered Species Act (Schildwachter/CEQ; Jordan) – CEQ hosted a PCC discussion on 3/14 on development of a new ESA rule. The drafting team briefed on the approach to Critical Habitat, science, interagency consultation, new listings, and reinstating the distinction between Threatened and Endangered species. The drafting team has provided rule language to OMB for informal review, and is finalizing language for formal review. CEQ is prepping read-aheads for a Deputies meeting this week.
- Entitlement Commission (Blahous/NEC; Katz)
- Everglades (Connaughton/CEQ; Jordan)
- Farm Bill (Hennessey/NEC; Katz)
- *FDA (Leggitt/DPC; Katz) – FDA will release a statement on its web site tomorrow that affirmatively indicates there is no approved medicinal use for smoking marijuana and that marijuana is harmful. ONDCP and HHS will coordinate the release of this statement.*
- Federal Sentencing Guidelines (Ho/DPC; Jordan) – Bill Mercer (Principal Associate Deputy AG) testified on 3/16 before the House Subcommittee on Crime, Terrorism, and Homeland Security and present DOJ's proposal for reform of the federal sentencing guidelines. In response to the increasing number of sentences below the recommended guidelines in the wake of the Supreme Court's Booker decision in 2005, DOJ will propose that a system of minimum guidelines be enacted in order to restore mandatory sentencing. DOJ plans to brief DPC and other White House offices 3/28 on follow-up legislative strategy for the sentencing reform proposal. Chairman Sensenbrenner has spoken out forcefully against lower sentences and increased racial disparity indicated by recent studies.
- FHA Reform (Streeter/DPC; Jordan) – The PCC meeting on 3/22 resolved open issues at the end of the last deputies meeting on this topic. First, there was basic agreement that credit reform and additional language OMB has recommended for the legislative draft will ensure enough accountability for FHA to begin offering new mortgage insurance products. The products will enable lower and moderate income families with little to no down payment resources and with impaired credit to get conventional, FHA-backed loans as an alternative to the sub prime loans that are often their only option now. Second, there was basic agreement that the loan limits for an FHA insured mortgage should be raised in higher-cost areas (essentially ten markets) and that the ceiling in the lowest-cost markets should also be raised to enable more low/moderate-income families the opportunity to finance their homes with conventional mortgages. We are moving to closure as quickly as possible so that draft legislation can move into clearance in time for an April 5 hearing on the topic that House Financial Services has called.
- Flood Insurance Program (Kupfer/NEC; McMillin) – House Financial Services Committee finished its mark-up of a flood insurance bill. The measure would increase the program's borrowing authority to \$25 billion and would institute a number of reforms. The only significant action in the Committee was the defeat, by a vote of 45-10, of a Hensarling (R-TX) amendment requiring the immediate elimination of all subsidies. Instead, the bill has a gradual phase out of the subsidies for non-primary and non-residential properties.
- Foreign Investment in U.S. Airlines (Sharp/DPC; Jordan)
- Foster Care Waivers (Pardue/DPC; Jordan)

- *Global Internet Task Force (Shirzad/NSC; Katz) – Faryar hosted a follow-up meeting last Friday on Internet freedom to task out 1) a plan for a conference where Internet companies could announce their principles on Internet freedom and 2) a messaging document for the Administration and a possible message to suggest to President Hu during his visit. State and Commerce are to produce these documents by tonight and Faryar will be host a follow-up meeting tomorrow.*
- GSEs (Kupfer/NEC; Katz)
- *Health Action Team (Ramthun/NEC; Katz) - The week of 6/19 is now House "Health Week". Senate "Health week" remains the 1st week in May. This week Senator Burns is expected to introduce an HSA proposal allowing premiums to be deducted from income and payroll taxes. Senator Ensign will introduce a bill this week allowing people to pay their HSA policy premiums out of their HSA account funds and Santorum will introduce a bill allowing for a refundable tax credit for low-income Americans. Senator Brownback is expected to introduce a transparency bill this week, as will Rep. Norwood. Finally, Rep. Cantor will introduce the President's proposals as one all-inclusive package, but OLA asked him to hold off on introducing the bill until after he meets with Hubbard on 3/30.*
- Health IT (Leggitt/DPC; Katz) – The next AHIC meeting is 4/25. DPC will host a meeting with HHS during the first week in April to preview the 4/25 AHIC meeting.
- Helping America's Youth (Parker/DPC; Jordan)
- HHS Vouchers (Towey/OFBI; Jordan)
- HIV/AIDS (Troy/DPC; Jordan)
- Hotels in Gulf (Streeter/DPC; Jordan)
- HSAs (Ramthun/NEC; Katz)
- Immigration Assimilation (Ho/DPC; Jordan)
- Immigration Border Patrol (Baker/HSC; Jordan)
- Immigration Borders (Ho/DPC; Jordan)
- Immigration Extension of Temporary Protected Status (Ho/DPC; Jordan)
- Immigration No Match (Baker/HSC; Jordan) – HSC, DPC, and ten representatives from DHS (Policy, OLA, and CIS) met with Senate Finance staff on 3/10 to resolve ongoing questions from Senator Grassley's staff regarding Basic Pilot (DHS's electronic employment verification system) and DHS's proposals for using the Social Security database for immigration enforcement purposes. DHS was unable to answer several key questions posed by Senator Grassley's chief Social Security advisor, who is clearly wary of including Social Security provisions in the comprehensive immigration reform bill for both committee-jurisdictional and more substantive reasons. DHS could not, for example, explain in detail the process for enumerating aliens for Basic Pilot verification purposes or what restrictions on the use of the Social Security database DHS seeks to relax as part of immigration reform.
- Immigration Reform (Ho/DPC; Jordan)
- Immigration Secure Border Initiative (Baker/HSC; Jordan) – DHS briefed HSC on 3/8 on the progress that has been made on SBI. They reported that they have essentially eliminated catch and release for Latin American OTM's (Other Than Mexicans) on the southwest border except for families and El Salvador nationals. This is still a very small subset of illegal immigrants, but they plan to begin detaining family groups around 4/15, and hope to achieve a legislative solution for El Salvadoran immigrants. Currently, El Salvadorans cannot be placed in expedited removal because of an outstanding injunction. They also reported on the progress of SBInet – or lack thereof. DHS hopes to issue a Request for Proposal (RFP) in early April, and to award

the contract in September. HSC has still been unable to obtain a report on SBI from DHS (it was originally promised by Monday, 3/13), and has not yet received a draft of the RFP.

- Immigration Worksite Enforcement (Baker/HSC; Jordan)
- Indecency (Russell/OSTP; Katz)
- Indian Gaming (Ho/DPC; Jordan)
- Indian Trust/Cobell (Ho/DPC; Jordan)
- Internet Communications (Ho/DPC; Jordan)
- IRS (Kupfer/NEC; Katz)
- *Katrina CDBG (Streeter/DPC; McMillin) – LA has pushed back plans to offer their long term housing plan for public comment to Thursday, March 30. They will also reduce the time for public comment from 20 to 10 days, ending April 10. Until now, they have only published an initial, smaller plan that would use CDBG funds for immediate planning and related needs. HUD reports that the main components of what LA intends to publish on Thursday are similar to outlines we have seen, namely homeowner compensation capped at \$150,000 or a lesser actual damage minus insurance coverage. In fact, HUD is encouraging LA to shorten the window. Once the public comment period is complete and LA amends its plan based on the public input, they will send to HUD for approval, which can be done in a matter of days, as we saw with the MS plan. If LA moves according to the time-frame it has given HUD, it should be sending its plan back to HUD for approval in mid-April.*
- *Katrina Flood Maps/Levees (Copeland CEQ/McMillin) – EOP Principals, DHS/FEMA, Powell, and the Corps convened on 3/22 to discuss the way forward on Advisory Base Flood Elevations ("flood maps") for four New Orleans area parishes. While these early maps have no legal standing, they are a preview of the flood maps that will eventually dictate the operation of FEMA programs and federal flood insurance, and the State of Louisiana has committed to spend all federal housing and infrastructure dollars consistent with the advisory flood maps. Before moving to a decision on what kind of flood maps to issue and whether to support up to \$6.0 billion on raising the height of the levee system, Principals directed the staff to prepare additional analysis and a presentation that can be made to Louisiana state and local officials, the Louisiana congressional delegation, and relevant authorizing and appropriations committee leadership. Powell would handle state and local officials, while a combination of EOP, agency, and Powell staff would handle congressional outreach. Communications will be prepared with a public message given the certainty of press leaks. After this consultation Principals will convene again to develop a recommended Administration position. Al convened Principals on 3/27, and will reconvene them one last time tomorrow to review additional analysis before launching the outreach/rollout plan. Powell surprised us at today's meeting by suggesting he may recommend against more levee funding.*
- *Katrina Mobile Homes (Streeter/DPC; McMillin) – DPC and OMB have converted FEMA's various contemplated courses of action into a one-page plan. to which DHS/FEMA is to react this week. The plan envisions moving 5,000 of the 10,000 units into MS and LA by late June. The MS units should be in place by mid-May, but the LA units will take longer to deploy given the challenges of siting them. Given the historical average annual rate for using these type of units, OMB's projection is that less than 1,000 units will be deployed for upcoming 2006 storms, leaving more than 4,000 units to disperse elsewhere. DHS has said they need until 3/31 to develop a complete plan for dispersing the remaining units to multiple storage sites from which they can be deployed in storms beyond 2006 until depleted. But they have at least said their plan would involve putting units in California and in northern states in which their usage is more common.*

- *Legal Reform (Ho/DPC; Jordan)* DPC convened a meeting on 3/23 with OMB GC, WH Counsel, and outside legal reform experts (including Governor Engler, David McIntosh, John Schmitz, and Jim Wooton) to discuss possible next steps on legal reform, particularly things that could be done administratively. Suggestions included an Executive Order ending (or requiring the Attorney General to approve) the practice of Federal agencies hiring trial lawyers on a contingency basis to pursue litigation on their behalf (as the FDIC did last year when it hired a self-described "Master of the Malpractice Universe" to win a \$125 million settlement against Ernst & Young for conducting flawed audits). Also mentioned was an outside symposium on federalism to provide intellectual support for the Administration's position that federalism, properly understood, does not prohibit federal preemption of state tort suits where (i) Congress has properly delegated regulatory authority to the agency, and (ii) consumer safety is best served by a uniform national standard.
- Levees (Hannegan/CEQ; Jordan)
- LNG (Hannegan/CEQ; Katz)
- Lobbying Reform (Kelley/WHC; Jordan)
- Medicaid Clawback (Ramthun/NEC; Katz)
- Medicaid Commission (Ramthun/NEC; Katz) – The Commission's next meeting is 5/17-5/18, in Dallas, Texas.
- Medical Liability Reform (Ho/DPC; Jordan) – DPC convened a meeting on 3/23 with various White House offices and DOJ in order to develop a strategy on medical liability reform in anticipation of a likely May cloture vote in the Senate. In the month leading up to the vote, WH-OLA and DOJ-OLA will identify important members, particularly Republicans who may be inclined to vote against cloture and Democrats in key states. Communications will work on placing op-eds where appropriate. DPC will continue to work with DOJ to identify policy priorities in this area, including possible compromises (e.g., liability reform targeted at certain specialties such as OBs).
- Megaports (Baker/HSC; Jordan)
- Methamphetamine (Leggitt/DPC; Katz)
- Mine Safety (Sharp/DPC; Jordan)
- NASA (Russell/OSTP; Katz)
- Native Hawaiian (Ho/DPC; Jordan)
- NCLB (Medina/DPC; Jordan)
- New Orleans Elections (Ho/DPC; Jordan)
- OCS (Epifani/NEC; Katz)
- OIRA EO (Yanes/OMB; Katz)
- Online Pharmacies (Ho/DPC; Jordan) – On 3/22, DPC convened a meeting between HHS/FDA and DOJ/DEA in an ongoing attempt to resolve differences between the agencies on the proposed regulation of online pharmacies. In response to a request from the last meeting in February, DOJ drafted a proposed bill limited to the prescription of controlled substances via the Internet. HHS will next prepare a written response to the DOJ draft bill in the hopes of narrowing the set of policy differences. OLA and HHS-OLA continue to express concerns that moving forward with an online pharmacy regulation bill could open the reimportation and Part D extension debates.
- Part D (Ramthun/NEC; Katz)
- Pensions (Blahous/NEC; Katz)
- Port Security (Baker/HSC; Jordan)

- Postal Reform (Sharp/DPC; Jordan) – On 3/15, Deputies met to discuss the status of postal reform legislation in preparation for policy time on 3/28. The House and Senate have passed their bills but the House Leadership is delaying appointing conferees until the House, Senate, and WH sit down to hammer out an agreement. The Administration is seeking more reform provisions and zero budget impact. OMB estimates the House and Senate bills would increase the deficit by \$17 billion over 10 years (CBO scoring is \$5 billion over ten years due in large part to using different interest rate assumptions).
- Potassium Iodide/KI (Kaplan/OMB; Katz) – OIRA has brought to the attention of the COS office a dispute regarding an HHS guidance to stockpile sufficient KI for distribution to populations within 20 miles of a nuclear facility (current practice is 10 miles). HSC and HHS believe proceeding with the guidance document is consistent with the law and previous policy decisions. NRC, DOE, NEC and OSTP believe expanding KI stockpiling is an inefficient and ineffective way to protect populations, and that new unnecessary regulatory burdens will hamper the approval of new nuclear plants. OIRA circulated draft compromise language to HSC, OVP, NEC and OSTP for sign-off before sending to the agencies on 3/23. If the Agencies are uncomfortable with the compromise language, McMillin will host a Deputies meeting to resolve.
- Prisons (Ho/DPC; Jordan) – Following on a briefing given several weeks ago to WHC arranged by Senator Talent's office, representatives from the US Probation offices in St. Louis and Charlotte briefed staff on 3/16 from DPC, DOJ (OLP, BJP, and BOP), DOL, and COS on a remarkable prisoner reentry initiative launched in those districts. The program includes employment and education programs and has demonstrated success in reducing unemployment and recidivism among ex-offenders. DPC will continue to work where appropriate with the probation office to assist in expanding the program and coordinating it with national DOJ prisoner reentry initiatives. The group will be holding a national conference in St. Louis April 11-13.
- RESPA (Streeter/DPC; Jordan) – *DPC held a PCC meeting with HUD on their recommendation for moving forward with a RESPA rule. The PCC helped HUD refine its proposal and DPC is following up with HUD on several specific aspects so that we can have a deputies meeting on this next week. HUD is recommending a modified proposal from a 2004 rule that it proposed and subsequently pulled among much negative attention. Their current proposal would drop packaging (i.e., with which homebuyers would get one single price for all of their loan and closing costs that they could shop around among other lenders and brokers), the main source of contention and savings to consumers with the previous version. It would continue the proposed modified Good Faith Estimate form that makes costs to the homebuyer more transparent, more easily traceable to the HUD-1 form signed a closing, with a requirement that final costs not deviate too far from the original estimate. HUD is currently drafting up examples of the Good Faith Estimate proposals and will come to deputies with a recommendation on how narrow the tolerance should be.*
- Science (Hays/OSTP; Katz)
- Smallpox (Venkayya/HSC; Katz)
- Steroids (Ho/DPC; Jordan)
- Stem Cells/Bioethics (Levin/DPC; Jordan)
- Strengthening America's Community Initiative (Streeter/DPC; Jordan)
- TANF (Streeter/DPC; Jordan)
- Tax Reconciliation (Kupfer/NEC; Katz) – Hubbard hosted a Principals meeting this evening to discuss a strategy forward on tax reconciliation. OLA reports the Hill is focused on completing

a pension bill before they get serious about the tax bill. The hope is the pension bill will be complete before the April recess. Principals concurred that the President should increasingly talk about the need for permanence, but at this point should not call or meet with Grassley or Thomas. During the Congressional recess, Principals will reconvene.

- Tax Reform (Kupfer/NEC; Katz)
- TX Supplemental (Streeter/DPC; McMillin) – As of 3/14, the House appropriators are looking at a conference strategy for TX on the supplemental. OLA has been working to block ideas such as moving to a 90/10 cost share on debris removal for TX, and Powell's office went over the housing numbers with the Speaker's staff on Monday, 3/13, to demonstrate that TX's housing damage estimates are far higher than the evidence supports. OLA has quietly indicated sympathy for additional education funds should that prove necessary, but that we were not communicating anything final on that front.
- Title IX (Wilson/DPC; Jordan) – The Committee on Appropriations requested last year that the Department of Education prepare a report no later than 3/17/2006, addressing the use by higher ed institutions of student surveys to assess interest in intercollegiate sport. A Clarification offered by the Department in March 2005 was intended to provide recipient institutions with additional guidance concerning compliance with the survey component of the Department's three-part test used to assess whether institutions are providing nondiscriminatory opportunities to participate in intercollegiate athletics. The report's final conclusions state: 1) that in many cases there were a number of deficiencies in the design and implementation of the survey instruments, including limited or selective distribution and low response rates; and 2) the Model Survey and implementation procedures developed by NCES in the Additional Clarification issued in March 2005 were developed to address these deficiencies so schools could more effectively measure student interest, with a student interest survey, using an unbiased, standardized methodology that maximizes the possibilities of obtaining correct information and facilitating responses. Steve spoke to Birch Bayh on 3/17 to listen to his concerns and to provide a general preview of the report's conclusions. Fmr. Sen. Bayh seems to want another meeting like those arranged in the past by Jay Lefkowitz.
- Trade Enforcement (Shirzad/NSC; Katz)
- Transparency (Ramthun/NEC; Katz)
- Tricare (Leggitt/DPC; Katz)
- UAE FTA (Shirzad/NSC; Katz)
- Vietnam Veterans Memorial Visitors' Center (Boling/CEQ; Jordan) – CEQ is working with the National Capital Planning Commission, the National Park Service, and the Vietnam Veterans Memorial Foundation to facilitate the completion of an environmental analysis for location of the Vietnam Veterans Memorial Visitors' Center and to further the process for completion of the NCPC site decision under the Commemorative Works Act. CEQ has informed Hill staff of the status of this work in support of the National Capital Planning Commission's public process for approving additions to the National Mall.
- WH Conference on Aging (Leggitt/DPC; Katz)
- WTO (Shirzad/NEC; Katz) – *European Commission officials informed USTR's general counsel today that the EU Member States approved bringing a WTO case against China challenging discriminatory tariffs applied on imported auto parts. EU Trade Commissioner Mandelson, however, still has not given final approval to the EU joining us in filing this case. Mandelson is traveling in South America, and USTR's general counsel reports that we may have Mandelson's position tomorrow, but this is not certain. If Mandelson's approval is communicated to us*

tomorrow, USTR believes we will be able to file the case at the WTO on Wednesday while still providing the Chinese government with adequate advance notification of our intended action.

- Wetlands (Copeland/CEQ; Jordan)
- *Yucca (Epifani/NEC; Katz)* – As of 3/16, the Deputies had resolved all issues related to the proposed Yucca Mountain legislation, except whether the legislation should authorize the Department of Energy (DOE) to proceed with temporary storage of spent nuclear fuel from commercial reactors without first obtaining a Nuclear Regulatory Commission (NRC) license. On 3/17, Deputies agreed that the proposed legislation should require DOE to obtain NRC approval before engaging in temporary storage. NEC has prepared a memo for our office outlining the communications and political challenges of this approach before proceeding and sent McMillin the memo on 3/23. Deputies recommend submitting the legislation to the Hill. The tentative plan is to pre-brief the Hill this week and have Secretary Bodman give a speech to unveil the proposal on 4/4. *The nuclear energy industry CEOs are in town this week, meeting with Barton and Domenici.*

POLICY TIME – MARCH/APRIL 2006

SUN	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT
26	27 2:20-3:05 DPC: Competitiveness Update (45 min)*	28 1:05-1:35 DPC: Postal Reform (30 min)*	29 NO TIME	30 NO TIME	31 NO TIME	1
2	3 NO TIME	4 2:10-2:55 NEC: Energy Update (45 min)*	5 NO TIME	6 1:05-1:50 NEC: Katrina Periodic Update (45 min)*	7 NO TIME	8
9	10 1:30-2:15 NEC: Economic Update (45 min)	11 NO TIME	12 3:00-3:45 NEC/NSC: <i>WTO (45 min) tent.</i>	13 1:05-1:50 NEC/NSC: <i>China (45 min)* tent.</i>	14 NO TIME	15
16	17 TBD NEC: Health Update (45 min)*	18 TBD Rove (45 min)	19 NO TIME	20 TBD Rove (45 min)	21 NO TIME	22
16	17 TBD	18 TBD	19 TBD	20 TBD	21 TBD	22

3/27/06

Possible April Policy Times: AMT; Endangered Species Act; Flood Insurance Reform; Medicaid Comm; Voting Rights Act
Regular Reports: Competitiveness, Energy, and Health; Economic Update (every 5 weeks); Katrina Update (every 3 weeks)

* Indicates Cabinet Member Attendance

Working Group Calendar

WORKING GROUP CALENDAR

Monday, March 27 th	Tuesday, March 28 th	Wednesday, March 29 th	Thursday, March 30 th	Friday, March 31 st
8:00 OLA: Daily Immigration Legislative Update (MJ) 10:00 NEC: Weekly American Energy Initiative Action Team (JK) 11:00 NEC: Weekly Health Care Action Team (JK) 12:00 DPC: Meeting on FAA financing proposal – PCC (MJ) 2:00 DPC: Meeting on Aviation Foreign Investment – PCC (MJ) 2:30 NEC: Weekly Entitlement Action Team (JK) 3:15 NEC: Principals Meeting on Katrina (SM) 3:30 DPC: Weekly ACI Action Team Meeting (MJ) 4:00 DPC: Meeting on Health Issues – PCC (JK) 5:30 NEC: Principals Meeting on Tax Reconciliation (JK)	8:00 OLA: Daily Immigration Legislative Update (MJ) 9:15 DPC: Weekly DOT Call – PCC (MJ) 10:30 NSC: Meeting on the Internet – PCC (JK) 3:00 Comm: Meeting on Avian Flu Communications (JK) 3:00 DPC: Weekly ED Call – PCC (MJ) 5:30 DPC: Weekly DOJ Call – PCC (MJ) 6:15 NEC: Principals Meeting on Katrina (SM)	8:00 OLA: Daily Immigration Legislative Update (MJ) 10:00 DPC: Deputies Meeting on ESA Reform (MJ) 11:00 DPC: Weekly Conf Call w/ DOL (MJ)	8:00 OLA: Daily Immigration Legislative Update (MJ) 10:00 DPC: Weekly Call w/ HHS (JK) 3:30 NEC: Weekly Medicare Meeting – PCC (JK) 4:00 NEC: Weekly Medicaid Meeting – PCC (JK)	8:00 OLA: Daily Immigration Legislative Update (MJ)

Working Group Calendar

Monday, April 3 rd	Tuesday, April 4 th	Wednesday, April 5 th	Thursday, April 6 th	Friday, April 7 th
8:00 OLA: Daily Immigration Legislative Update (MJ) 9:30 NEC: Weekly American Energy Initiative Action Team (JK) 11:00 NEC: Weekly Health Care Action Team (JK) 12:00 DPC: Meeting on FAA financing proposal – PCC (MJ) 2:00 DPC: Meeting on Aviation Foreign Investment – PCC (MJ) 2:30 NEC: Weekly Entitlement Action Team (JK) 3:30 DPC: Weekly ACI Action Team Meeting (MJ)	8:00 OLA: Daily Immigration Legislative Update (MJ) 9:15 DPC: Weekly DOT Call – PCC (MJ) 3:00 DPC: Weekly ED Call – PCC (MJ) 5:30 DPC: Weekly DOJ Call – PCC (MJ)	8:00 OLA: Daily Immigration Legislative Update (MJ) 10:00 DPC: Deputies Meeting on ESA Reform (MJ) 11:00 DPC: Weekly Conf Call w/ DOL (MJ)	8:00 OLA: Daily Immigration Legislative Update (MJ) 10:00 DPC: Weekly Call w/ HHS (JK) 3:30 NEC: Weekly Medicare Meeting – PCC (JK) 4:00 NEC: Weekly Medicaid Meeting – PCC (JK)	8:00 OLA: Daily Immigration Legislative Update (MJ)

OFFICE OF CABINET LIAISON



CABINET MEMBER SCHEDULE

TUESDAY 03/28/2006

Cabinet Members

9:10am – 10:40am **Cabinet Room** President's Cabinet Meeting

Secretary Rice & Secretary Rumsfeld

11:00am – 11:45am **Roosevelt Room** President's Meeting with Members of Congress Who Have Been Leaders of Recent Congressional Delegations to Iraq

Participants:

DOD

General Peter Pace, Chairman, Joint Chiefs of Staff

Secretary Snow & Director Bolten

1:05pm – 1:35pm **Oval Office** Policy Time: Postal Reform

Participants(T):

White House

Vice President

Andrew Card, CoS

Dan Bartlett, Counselor

Candi Wolff, OLA

Scott McClellan, Press Secretary

David Addington, OVP

Harriet Miers, Counsel

Nicolle Wallace, Communications

Al Hubbard, NEC

Ed Lazear, CEA

Steve McMillin, CoS Office

Tevi Troy, DPC

Jess Sharp, DPC

OPM

Linda Springer, Director

Secretary Spellings

3:10pm – 3:55pm **TBD** President's Meeting with Members of the Senate on the Education Component of Competitiveness

Secretary Johanns

4:00pm – 4:45pm **CL Conf Room** Kitchen Cabinet Meeting

Participants:

White House

Jim Connaughton, CEQ

Neil Patel, OVP

USDA

Chuck Conner, Deputy Secretary

Dale Moore, CoS

Barry Jackson, Senior Advisor's Office
David Anderson, OMB
Megan Hauck, OLA
Peter Rowan, OLA
Michael Sommers, NEC
Greg Schildwachter, CEQ

Drew DeBerry, DCoS
Beth Johnson, DCoS
Terri Teuber, Director Of Communications

4:45pm – 5:15pm

Room 164

Meeting with Dr. Ed Lazear

WEDNESDAY 03 / 29 / 2006

Secretary Jackson

b(6)

Secretary Leavitt

b(6)

Secretary Spellings

12:00pm – 1:00pm

WH Mess

Lunch with Cathie Martin, Communications

THURSDAY 03 / 30 / 2006

No Events Scheduled.

FRIDAY 03 / 31 / 2006

No Events Scheduled.

MONDAY 04 / 03 / 2006

Secretary Mineta

2:00pm – 4:00pm

Room 164

Office Time

Secretary Bodman

3:00pm – 3:30pm

1FL/WW

Meeting with Steve Hadley