

**Subject:** Night Note 2/7  
**Sent:** Tue, 7 Feb 2006 20:07:30 -0500  
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[Pending Issues 2-7.doc](#)  
[Policy Time Calendar 2-7.doc](#)  
[Working Group Calendar 2-7.doc](#)  
[Cabinet Member Schedule 2-7.doc](#)

**Please Note - This Information is Sensitive; Eyes Only**

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

February 7, 2006

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

FROM: STEVE MCMILLIN, JEREMY KATZ, and MYRIAH JORDAN

RE: NIGHT NOTE

**Asbestos.** The Senate 2/7 cleared the first procedural hurdle to moving forward with the Specter-Leahy asbestos bill. Cloture was invoked on the motion to proceed by a vote of 98 to 1. Shortly before the vote began, Minority Leader Reid concluded he did not have the votes to defeat cloture and essentially threw the vote to avoid creating the appearance of weakness. Under a subsequent unanimous consent agreement, the Senate will formally take up the bill on 2/8, with debate only on the first day of consideration. Budget Committee Chairman Gregg is still considering raising a budget point of order against the bill, and OLA is uncertain at this time whether there are 60 votes to waive the point of order. (We are told that Candi has talking points in case POTUS or others are needed to talk Gregg out of raising the point of order.) A SAP supporting Senate passage of the bill but noting generally the Administration's substantive concerns is being finalized and will be issued when debate on the bill begins.

**Katrina/Baker/CDBG Hearing.** McMillin, Streeter, OLA, and Powell staff met with Shelby's Banking Committee staff to discuss plans for their hearing on Wednesday, February 15 to discuss Katrina issues in the committee's jurisdiction. They plan two panels, one consisting of Louisiana members (including Baker) and one consisting of Administration officials led by Powell and Jackson (HUD). We are sharing data with the committee staff, who want to help us build the case for how generous the response to date has been, but there is some risk of the hearing turning into a public negotiation.

**Immigration.** HSC, DPC, and OLA held an Immigration Reform Strategy Meeting on 2/7. There are still several issues that require further policy discussion, particularly worksite enforcement and no match letters, but also whether to require departure before admission to the Temporary Worker Program; staggered implementation of expanded electronic verification, worksite enforcement, and implementation of TWP; and to treat the 11 million illegal aliens (i.e., make them leave at the end of the program or grant them status to stay in the U.S.). PCC level conversations continue in an effort to resolve these issues, with a Deputies review to take place on Thursday, 2/9.

## Other Issues

- Administrative Reforms (Troy/DPC; Jordan) – On 1/25 DPC held the last of 3 deputies meetings on their proposed administrative reforms for 2006. The reforms discussed focused on human services and labor issues. Those in attendance approved moving forward on most of the reforms, but raised questions on a few items, which DPC will continue to research and review with CEQ and OMB. DPC prepared a memo for the Chief's office outlining reform proposals.
- Airlines (Sharp/DPC; Jordan) - Northwest is trying to cut \$1.4 billion in labor costs while in bankruptcy, and as a first step has asked the bankruptcy judge to void its existing contracts. On Friday, the Air Line Pilots Association, which represents Northwest pilots, approved a vote to authorize a strike if the bankruptcy judge complies. A ruling is expected on 2/17. In addition, on 2/5, World Airways came to a tentative contract agreement with its pilots, ending a week-long strike. The pilots have gone back to work while they start the contract ratification process, which is expected to take up to 30 days.
- Amtrak (Sharp/DPC; Jordan)
- Anthrax/Medkits (Venkaya/HSC; Katz) – HSC has decided to delay meeting with the President on 2/8. Instead of meeting with the President on 2/8, HSC will convene Principals to further discuss issues raised at Deputies. HSC convened Deputies on 1/26 who were briefed by HHS on the Cities Readiness Initiative and the Home MedKit Evaluation project. It was agreed that DHS should be responsible for coordination of security planning necessary for countermeasure distribution efforts. HHS reviewed the progress of efforts to develop and test distribution of countermeasures through the Postal Service and directly to individuals through MedKits. In each case, there has been little progress since the President was last briefed in June 2005. Objections from Postal unions delayed implementation of a pilot test for three months, and HHS had to recruit another pilot city (St. Louis) after Seattle pulled out. HHS continues to run into substantial opposition from the public health community to the entire concept of Home MedKits due to concerns about inappropriate use or overuse of antibiotics by recipients (contributing to adverse health effects and a diminution of the effectiveness of these drugs over time). They hope to overcome these concerns when the results of a trial evaluation are available sometime next year. (The trial had been planned to begin in Fall 2005, HHS now says it will begin in March 2006.)
- Asbestos (Ho/DPC; Jordan)
- Associated Health Plans (Leggitt/DPC; Katz) – On 2/2, DPC, OLA, and DOL met with members of the AHP coalition including the NFIB, National Association of Realtors, US Chamber, and the American Hotel and Lodging Association to discuss options for promoting a vote on AHP legislation in the Senate this year. EOP staff reiterated continued support for Rep. Johnson and Senator Snowe's AHP legislation. The coalition indicated they are working with the insurance industry on a potential compromise related to the Enzi legislation and said they understood our position. All parties agreed to continue open lines of communication as we move forward in pushing toward a vote on AHP legislation this March. In a follow up to this meeting, OLA is setting up a meeting with EOP staff and Senate leadership (Frist's office) to discuss strategy.
- Avian Flu (Venkaya/HSC; Katz) – *Comments from the Departments and Agencies are due back to HSC on the implementation plan by 2/10. HSC's tentative plan is to take the document to Principals the week of the 27<sup>th</sup>. HSC argues that their guidance to Departments and Agencies asked for signoff from Deputies at each agency, thus allowing them to save time and go straight to Principals. We plan to probe HSC on why a Deputies meeting first wouldn't be useful,*

*especially since the implementation plan is 214 pages long and concerns from offices such as OVP need to be addressed.*

- *Aviation Foreign Investment (Sharp/DPC; Jordan) - Tomorrow Jeff Shane, Undersecretary for Policy at DOT will testify before the House Transportation committee about the Department's proposed rule to relax current restrictions on foreign capital investment in U.S. airlines. The Committee will also hear from supporters and opponents of the rule.*
- Baker Bill/Katrina (Warsh/ NEC; McMillin)
- BSE (Sommers/NEC; Katz) – On 2/2, the USDA Office of Inspector General released the results of its audit outlining flaws in the USDA BSE testing and prevention regime. This report is the product of nearly two years of investigation. The IG began this work in the Spring of 2004. The report raises several serious problems with the system, but USDA has worked with the IG to implement all of the recommendations. The IG concludes that even with the flaws there is no evidence that specified risk materials entered the food supply. However, this will raise eyebrows internationally and could make reopening of the Japanese market more difficult.
- CALEA (Russell/NEC; Katz) - NEC hosted an inter-agency meeting on 2/1 to continue the process of reviewing and reaching agreement on DOJ's draft bill to extend the Communications Assistance for Law Enforcement Act (CALEA) to new broadband technologies and expand authorities under existing law. While progress was made, significant disagreements remain between DOJ and DOC over provisions that increase the burden on communications companies and may impact the pace of technology development. A deputies meeting will be convened to resolve outstanding issues associated with the DOJ's draft legislative text and to determine if, when and how legislative language should be shared with the Hill.
- Campaign Finance Reform (Taylor/OPA; Jordan)
- Canadian Lumber (Hunter/NSC; Katz)
- CDBG (Streeter/DPC; Jordan) – Al, Steve, and Myriah met with Powell and his staff on 1/31 to review the figures on damage estimates in and out of the flood plains in LA and MS. The estimates directly inform how much CDBG funding would be necessary to address the needs of uninsured homeowners and thus help us articulate our policy publicly and to the LA leadership. Even with inflated figures to account for a possible undercount of homes, the figures that HUD's research office has provided suggest that all under-insured (hazard only, no flood) and uninsured homeowners both inside and outside the flood plain could be fully compensated for losses for \$5.8 billion, less than LA's \$6.2 billion allotment of CDBG funds. Powell and staff will travel to LA on Wednesday to meet with LRA and Blanco leadership to review the numbers (Isaacson has indicated that LRA accepts our numbers). If the figures are placed within the plan that Isaacson has shopped around, the overall CDBG figure for homeowners would drop down closer to \$4 billion. Assuming they can reach agreement on the figures, one outstanding issue they will likely discuss will be how to approach owners of rental property. LA has much more damaged rental property than MS, and CDBG funds can be used for rebuilding rental housing. Under the plan LRA is currently considering, there would be substantial CDBG resources to cover rental costs, but their leadership may still point to rental housing as a reason why LA needs more money than it has received.
- CFIUS (Shirzad/NSC; Katz) – On 2/3, Treasury, as CFIUS chair, called Check Point (an Israel-based internet security firm) concerning its filing to acquire Sourcefire (a U.S. supplier of computer intrusion detection systems) to suggest that Check Point consider withdrawing its filing given the unanimous view of CFIUS Deputies that an investigation of the merger is warranted. Treasury's call was coordinated with a call made by NSC's Abrams to Israel's U.S. Ambassador. However, it appears that Check Point does not wish (at this point) to

withdraw its request. Thus, beginning today (2/7), a 45-day investigation will commence. The investigation could end on 3/24 - that is, 4 days before Israeli Parliamentary elections - with a public Presidential determination due 15 days thereafter.

- Clear Skies (Stolpe/CEQ; Jordan)
- Climate Change (Connaughton/CEQ; Jordan)
- Cotton (Shirzad/NSC; Katz) – On 2/1, the House passed the conference report to the Budget Reconciliation Act that includes language repealing the WTO-inconsistent Byrd Amendment (which diverts anti-dumping and subsidy duties from the U.S. Treasury to petitioning U.S. companies). The report also includes language repealing the cotton “Step - 2” program, which was found to be WTO-inconsistent in a challenge brought by Brazil. The Step-2 program pays U.S. exporters and domestic mills that purchase U.S. cotton, and has been strongly criticized by cotton-producing countries in Africa. Because the Byrd repeal does not take effect until 10/7, we will likely see continued retaliation from Canada, the EU, Japan and Mexico.
- *Drugs (Katsurinis/ONDCP; Katz) - On 2/8, in Denver, Colorado, Director Walters will release the President's 2006 National Drug Control Strategy. Colorado Governor Bill Owens (R) and Attorney General John Suthers (R) will join the Director at the press conference. A story in USA Today is expected tomorrow and Director Walters will also appear on Good Morning America and the Today show. The National Drug Control Strategy is a report required by law to be sent to Congress annually. The strategy focuses on the balanced supply reduction and demand reduction approach and describes the efforts the Nation is making to get more Americans in recovery and to reduce drug use and disrupt the market for illicit drugs.*
- Drug Reimportation (Leggitt/DPC; Katz)
- EEO-1 (Sharp/DPC; Jordan)
- Endangered Species Act (CEQ; Jordan) – Interior has drafted a revision of the ESA regulations and is beginning the process of vetting the draft with EOP and engaging Commerce, which also has ESA authorities. CEQ will need to referee the interagency struggle for a common approach to regulations, and CEQ may also need to harmonize the content of the rules with the Congressional debate.
- Entitlement Commission (Blahous/NEC; Katz)
- Equal Opportunity Survey (Sharp/DPC; Jordan) – On 1/27 DOL published an NPRM that proposes to eliminate the EO Survey. The survey requires federal contractors to record personnel activity and compensation data by ethnic, racial, and gender categories. An outside study found the survey generated a 93% false positive rate in identifying employers that systemically discriminate in their hiring.
- Everglades (Connaughton/CEQ; Jordan) – On 1/27, CEQ hosted a meeting on the everglades with Governor Bush, Interior, EPA, Justice, CEQ, IGA, OSI. In advance of meeting, Florida and the Corps worked out an approach that conforms to legal requirements. Participants discussed how to transition from Interior’s management and oversight of Florida obligations to improve water quality in the Everglades under a ten year old litigation consent decree, to a regulatory water permitting approach implemented by FL and overseen by EPA. The goal of such a transition would be to end the consent decree. It was agreed that the transition is sound policy, sound regulatory management, and sound litigation management. The parties plan to conclude remaining issues this week.
- Farm Bill (Sommers/NEC; Katz)
- FDA (Leggitt/DPC; Katz)
- FDIC Reform (Warsh/NEC; Katz)
- Federal Sentencing Guidelines (Ho/DPC; Jordan)

- FEMA Housing for Currently Leased Apartments (Streeter/DPC; Jordan) - DPC, OMB, HSC and Don Powell's office held a call with DHS on 1/23 on FEMA's plan for handling leases that cities established in the wake of Katrina. At issue are approximately 45,000 households in multiple states (with the vast majority, 34,000, in Houston) living in apartments that cities have rented and for which FEMA provides reimbursement. FEMA sent letters in September stating that cities would be reimbursed for 12 months for all such leases. This was done before the Administration established the policy giving priority to cash rental assistance. The type of assistance under the Stafford Act (403 emergency assistance) that FEMA uses to reimburse for the rental costs cannot be used past March 1. FEMA gave guidance in November that all households would have to switch to cash rental assistance in March, but that created such a backlash from cities (which had entered into one-year leases with landlords based on the September guidance) that DHS/FEMA has decided to change their policy. Instead of cash rental assistance, their new plan is to pay the rental leases for the remainder of the 12 months using other funding (408 direct assistance). This way, no year-long leases have to be broken, and families will have a more seamless experience. No family living under this arrangement can receive cash assistance from FEMA for any purpose other than recovery of losses which are eligible under the Stafford Act. FEMA plans to begin communicating the policy in the next week to counter the perception that people will begin to be evicted from their apartments on March 1. Although this is yet another policy change for FEMA, DHS is confident that the policy will be met favorably by local leaders.
- Flex Fuel Vehicles (Hannegan/CEQ; Katz) - NEC Deputies met 2/6 to consider options for increasing sales of flexible-fuel vehicles that can run on either gasoline or "E85", an 85% ethanol blend, in furtherance of the President's Advanced Energy Initiative. A second Deputies meeting is scheduled for 2/8. In addition, on 2/10, CEQ will lead an interagency meeting to review progress on energy bill implementation, with a focus on items that were due Monday (the 6-month anniversary).
- Flood Insurance (Warsh/NEC; Katz) - FEMA (David Maurstand, head of the National Flood Insurance Program) testified on 1/26 at a Senate Banking Committee on behalf of the Administration on the structural reforms required to fix the Federal flood program. Chairman Shelby concurred with Administration views, and said he intends to move forward with a major revamp of the program as part of funding the remaining Katrina-related insurance payments of \$5 billion to \$6 billion.
- FMLA (Sharp/DPC; Jordan)
- FTAs (Shirzad/NSC; Katz)
- GSEs (Warsh/NEC; Katz) - Shelby is awaiting the Administration's nominee to run OFHEO before taking other action. PPO says the paperwork for the nominee should be soon. Shelby was pleased by the letter Chairman Greenspan transmitted to Sununu, Hagel and Dole, which criticized the House bill as not taking "the steps needed to create an effective GSE regulator nor addressing the systemic risks posed by Fannie's and Freddie's investment portfolios." Separately, the release date for the Rudman report on Fannie Mae appears to be February. Warsh met with Shelby on 2/1 and Shelby communicated he is still a strong supporter of our reforms.
- Health IT (Leggitt/DPC; Katz) - There are 7 more AHIC meetings scheduled for 2006 with the next meeting on 3/7.
- Immigration Reform (Baker/HSC; Ho/DPC; Jordan)
- *Immigration: Assimilation (Ho/DPC: Jordan) - A Policy Deputies meeting today considered DPC's proposal for a national "New Americans" Initiative, which includes*

*highlighting the importance of naturalization ceremonies, emphasizing learning English, codifying a stronger citizenship oath, and creating an interagency task force on new Americans. Deputies agreed on these elements of the initiative, and also that it should be announced before the Senate takes up an immigration bill at the end of March. DPC will work with WHC to draft an Executive Order for further review, and with the Office of Citizenship at DHS to identify opportunities for the President (and his Cabinet Members) to participate in naturalization ceremonies.*

- Indian Trust/Cobell (Ho/DPC; Jordan) – On 11/15 the Court of Appeals for the D.C. Circuit ruled that the district court owes substantial deference to Interior's proposed \$335 million accounting plan (and may not impose Judge Lamberth's \$12 billion substitute).
- Internet Pharmacy (Ho/DPC; Katz)
- Internet Pornography (Russell/OSTP; Katz)
- IRS (Kupfer/NEC; Katz)
- Katrina and Community Reinvestment Act (Warsh/NEC; Katz)
- *Levees (Hannegan/CEQ; Jordan)* - CEQ continues to work with OMB, the Army Corps, and the Office of the Gulf Coast Recovery Coordinator on finalizing a supplemental request to Congress to fulfill the remainder of the Administration's pledge to help rebuild and restore levee protection in the Greater New Orleans Area. The current proposal includes \$1.4 billion for closing the three interior drainage canals (17<sup>th</sup> Street, Orleans, and London Avenue) and installing pumps and floodgates where they meet the lakefront; selectively armoring the levees at certain vulnerable parts of the system; constructing closure structures along the Inner Harbor Navigational Canal (INHC); storm-proofing the existing Federally authorized pump stations; and modifying existing river diversion projects to increase sediment delivery and restore wetlands. *CEQ met with the Army Corps 2/7 to coordinate a master calendar for all reports that are currently underway in NOLA and to identify release dates, advance briefings and media contacts. During this meeting it was noted that one of the findings in a report released a few weeks ago was that the Mississippi River Gulf Outlet (MRGO) "proper" did not cause significant flooding during Katrina -- instead it was the Intercoastal Waterway portion. This is in contrast to the publicly-held opinion of most in the region that MRGO needs to be closed to provide additional flood protection. The Corps may be releasing a paper on this issue this week.*
- Lobbying Reform (Kelley/WHC; Jordan) – Principals met on 1/24 to discuss the statutory and rule changes Congress is considering and how they affect the executive branch.
- Louisiana Recovery Corporation (Warsh/NEC; Katz)
- MCC (Shirzad/NSC; Katz)
- Medicaid Clawback (Ramthun/NEC; Katz) – Six states, including California, Kentucky, Missouri, and Texas say they will file a lawsuit this month challenging the Federal government's plan to take back states' savings from the new Medicare Part D prescription drug plan (also known as "clawback payments"). Under the Medicare law, Congress required states to pay back the money they no longer have to spend on drugs for poor beneficiaries on Medicaid and Medicare. The state attorneys general threatening the suit believe the clawback payments are unconstitutional and plan to take the matter directly to the U.S. Supreme Court. They also say that in the first few years of the plan, the amount the states are being asked to repay exceeds the amount they would have spent if they were still buying drugs for poor seniors.
- Medicaid Commission (Ramthun/NEC; Katz) – The Commission's next meeting is in March, but no dates are set. The focus of the meeting will be long-term care. We are still waiting for

NEC to inform us on a path forward to policy time with the President before the next Commission meeting.

- Medical Liability (Ho/DPC; Jordan)
- Methamphetamine (Leggitt/DPC; Katz)
- Mine Safety (Sharp/DPC; Jordan) – On 2/2 DOL/MSHA held a media call to announce MSHA is focusing its full inspection resources already located in West Virginia – a total of 113 inspectors – on an aggressive inspection and enforcement schedule. It is also deploying a Federal Task Force consisting of an additional 100 MSHA officials from across the nation to assist with inspections, emergency training, stand-down procedures and other tasks. MSHA's national "Stand-Down for Safety" will take place on Monday, February 6, and will include all of the coal mines located in West Virginia. In a "stand down" each shift takes time to review safety procedures and perform safety checks before work commences. In addition, MSHA has requested West Virginia inspection and enforcement records to assist this intensive Federal mine safety operation. Both the Governor's Office and the West Virginia congressional delegation have been contacted about these actions.
- NASA (Russell/DPC; Katz)
- Native Hawaiian (Ho/DPC; Jordan) - The U.S. Civil Rights Commission held a hearing on 1/21 on the Native Hawaiian Reorganization Act ("the Akaka bill"). It is not yet clear when the full Senate will take up the bill.
- NCLB (Medina/DPC; Jordan)
- *OCS Leasing (Hannegan/CEQ; Katz) - Interior's Minerals Management Service (MMS) will release 2/8 its draft 2007-2012 Outer Continental Shelf (OCS) leasing plan, which will study the potential for oil and gas development off the coast of Virginia and a previously undeveloped area in the North Aleutian Basin off the coast of Alaska. MMS is also taking comment on whether to realign the boundaries of its Central Gulf of Mexico Planning Area to correspond with the new Federal OCS offshore administrative lines announced in early January (using the "equidistance principle"). Under the contemplated revision, a portion of the "Sale 181" area offshore Louisiana, as well as a deepwater area to the south, would be included in the central planning area and could be considered for future oil and gas development. This is the second of four steps taken with public involvement to develop the OCS leasing plan. MMS will make clear that the Administration supports current presidential withdrawals and congressional moratoria, but will give great weight to the comments from adjacent coastal states. MMS will also state that it has no intention of offering for leasing areas within 100 miles of the Florida coast that used to be part of the Eastern Gulf Planning Area. The proposed leasing would also not interfere with military readiness or training or pose an environmental risk to Florida. Significant press attention is expected in light of the OCS legislation introduced 2/7 in the Senate, and past statements by the State of Florida objecting to our new OCS administrative boundary lines.*
- *OCS (Hannegan/CEQ; Katz) - Senators Domenici, Bingaman, Talent and Dorgan introduced legislation 2/7 instructing the Secretary of the Interior to develop an oil and gas leasing program for those areas of the Lease Area 181 "bulge" located more than 100 miles offshore and to the west of the so-called "military mission line." The leasing program, which under the legislation would begin within a year after the bill is passed into law, will bring nearly 5 trillion cubic feet of natural gas to market in the near future, according to estimates by the Minerals Management Service. Any leasing east of the military mission line would only proceed with the permission of the Secretary of Defense and only after he has reviewed proposed lease conditions to make certain the lease does not interfere with military activities in the area. The*

*Senate Energy & Natural Resources Committee will hold a hearing on the bill later this month. Finally, a letter was sent 2/7 to 16-members of the Florida delegation from Interior Assistant Secretary Johnnie Burton on our reasoning for rationale for using the principle of equidistance (EOP offices reviewed the draft). The letter is being shared with Florida papers and Norton will have an op-ed soon in the St. Petersburg Times.*

- *OCS Blanco (Hannegan/CEQ; Katz) –MMS has drafted a response to a 1/30 letter from Governor Blanco threatening to object to future oil and gas lease sales in the Gulf of Mexico unless a program of revenue sharing with coastal states is worked out. The MMS response will indicate that since no formal objection was filed by Louisiana under the Coastal Zone Management Act (CZMA), MMS intends to go forward with the next oil and gas lease sale in mid-March. CEQ determined that the State cannot halt further lease sales, but they can delay those lease sales and make new leases prohibitively difficult to develop using State authorities under the CZMA. Ultimately, the Secretary of the Interior can reject appeals by the State with respect to new lease sales, and the Secretary of Commerce can reject attempts by the State to delay exploration and production on new leases sold. However, lengthy administrative delay would accrue in each case.*
- *OIRA EO (Yanes/OMB; Katz) - Agencies received the draft EO from OMB and comments were due on 1/27. The agency comments that have been critical reflect concern that the EO will involve OIRA in too much of their work as expressed through guidance documents. Next step will be to ensure that the agencies really stand by their comments at senior political levels. After that process, OMB/OIRA will sit down to hear the objections. Again, OMB doesn't believe it is going to be dissuaded from its basic view on guidance documents, but they will modify the EO wherever they are persuaded it can be improved. OMB/OIRA believes it will likely be a couple of weeks before they are ready to go final. The portion of the executive order most likely to attract agency comment and other attention is the extension of the OIRA review process to certain guidance documents issued by agencies. Currently, only certain regulations are required to undergo OIRA clearance.*
- *OPM (Ramthun/NEC; Katz)*
- *PAPs (Ramthun/NEC; Katz) – EOP offices met with PhHRMA regarding concerns over drug companies discontinuing their patient assistance programs (PAPs) for beneficiaries covered under Part D. This creates a problem for a small percentage of the population whose income falls between 150% and 200% of the federal poverty level because PAPs usually cover up to 200% while Part D's low income assistance covers up to 150%. Although still covered under Part D, these individuals' drug plans may require them to pay 100% of the cost of their drugs in the "coverage gap" (also known as the "donut hole") until they hit their out-of-pocket limit. If these individuals had not enrolled in a Medicare drug plan but remained with their PAP, they would either get their drugs for free or pay very little for them. The law prohibits anyone other than Medicare from providing coverage for drugs in the coverage gap. As a result, some drug companies claim that they must drop their PAP programs out of fear of violating federal law. Secretary Leavitt will send a letter to PhHRMA clarifying there are no legal barriers to their member companies offering PAPs.*
- *Part D (Ramthun/NEC; Katz)*
- *Pensions (Blahous/NEC; Katz) - GM is freezing its salaried pension plan (among other changes, such as to the health care plan, and reductions in executive compensation). The GM announcement also says that further details on the pension will be announced in 30 days. It is not specified whether GM will follow on with a DC plan, a cash balance plan, or something else. DOL staff refer to the changes as "tough steps." This will probably produce additional*

*stories about the decline of the defined-benefit pension system. It should be noted that in view of GM's large retiree population, even managing a frozen plan is still going to be a significant financial task for GM for years to come.*

- Plan B (Leggitt/DPC; Katz) - In early 2005, several abortion rights groups filed suit against FDA in U.S. District Court in New York, claiming the agency failed to follow its procedures in denying an application for over the counter sales of the emergency contraception drug Plan B. Government lawyers have challenged the groups' standing to file suit, but in the course of discovery the groups have asked for depositions of several senior current and former FDA officials, including former commissioners McClellan and Crawford, and deputy commissioner Woodcock, regarding what the groups term "political interference" in FDA decision-making. The Government has challenged their right for such discovery, but the judge indicated he would seriously consider the claim for discovery. He has made no decision, and it is not clear when he will. But HHS believes a decision to allow this kind of discovery could come soon, and that an appeal to prevent this type of discovery motion is unlikely to succeed.
- Postal Reform (Sharp/DPC; Jordan) – Senator Collins continues to push for expedited passage of her bill while Senate conservatives continue to question the bill's cost and general lack of meaningful reform.
- Rice (Shirzad/NSC; Katz)
- SBA Loans (Warsh/NEC; Katz)
- *SS Checks for Medicare Drug Plan Premiums (Ramthun/NEC; Katz) - Approximately 1.1 million seniors that signed up for drug coverage effective 1/1 had no drug plan premium taken out of their Social Security check in February (the first month it could be taken out) and may be double billed in March. Keith and Chuck in NEC discussed the "lumpy check" issue with Sec Leavitt in preparation for Friday's policy time with the President where it will be raised. Leavitt recommends we "communicate our way through this", i.e., not change the dates. This issue may come up during Friday's policy time on Medicare, but it is unlikely to be a focus of Sec. Leavitt's presentation.*
- Steel (Shirzad/NSC; Katz)
- Steroids (Ho/DPC; Jordan) – On 11/14 Major League Baseball and its player's union announced a tough new steroids policy. The new plan is essentially what Commissioner Selig proposed earlier this year: a 50-game suspension for a first offense, a 100-game suspension for a second offense, and a lifetime ban for a third offense. After a two-year period, players could appeal a lifetime ban. Although discussions on the Hill between Commissioners and Members are ongoing, the agreement may preempt the passage of any steroid bills.
- Stem Cells (Levin/DPC; Jordan)
- Strengthening America's Community Initiative (Streeter/DPC; Jordan)
- Tabletops (Venkaya/HSC; Katz) - A tabletop assessment of the medical response to a mass casualty event will be led by HSC on 2/9. The exercise will be held at the Assistant Secretary level. This activity will assess and identify gaps in the U.S. Government's ability to mount a coordinated medical response to a mass casualty event. The results will guide future deliberate planning by participating Departments and Agencies. The assessment will be built around the projected medical requirements resulting from the detonation of a 10 kt improvised nuclear device in the National Capital Region. On 3/18, HSC is planning to do another tabletop exercise with the entire Cabinet on smallpox.
- TANF (Streeter/DPC; Jordan) - The deficit reduction act that passed the House on 2/1 includes TANF Reauthorization with key elements of the President's reauthorization proposal. The provisions are the same as those the House previously past. By way of recap, the bill succeeds

in strengthening work by recalibrating the way that the participation rate for families receiving TANF is calculated. Because of the previous calculation by which credit was given to States, they have been able to coast for the past couple of years without having to reduce their caseloads. The new calculation will get States in the business of moving people from welfare to work again. Another positive aspect of the bill is that it contains a \$1 billion increase in child care instead of the \$6 billion for which the Senate has been advocating, but this comes at the expense of no increase in weekly work hours for TANF recipients as the President has proposed. The bill also contains \$150 million for the President's healthy marriage initiative and allows \$50 million of the funds to be used on responsible fatherhood activities. The net \$100 million for healthy marriage activities is half of the President's requested amount, but sufficient to initiate positive activity in this area.

- *Tax Reconciliation (Kupfer/NEC; Katz) – Chairman Thomas asked OLA on 2/7 for an Administration statement supporting a stand-alone AMT bill separate from the reconciliation bill. He argues that having a one-year AMT extension will give opponents ammunition to restrict the cap gains/dividend extension to one year as well. NEC hosted Principals on 2/6 with most of the discussion centered around the AMT and whether it ought to be included as part of reconciliation or not. Joel expressed a view it would be better to include AMT to soak up some reconciliation money and leave less money on the table for things that are not Administration policy. Doug Badger and others were concerned that setting out a position that it has to be included in reconciliation would make it difficult for Congress to negotiate an acceptable package that includes dividends and capital gains (because there wouldn't be enough money for everything). A letter to conferees is being drafted, and we hope to send it up later in the week. Al raised a conversation in which Kyl suggested voting on the death tax compromise. There was consensus we need to continue to insist on a vote for full repeal before entertaining any compromise suggestion.*
- *Tax Reform (Kupfer/NEC; Katz) - "That thing's dead. That's dead, Mr. Secretary... Congress thinks it's dead... That's going nowhere," Sen. Max Baucus told Secretary Snow today at a Senate Finance Committee hearing. Snow replied that "we don't accept that... It's a big undertaking. We want to get it right. We only get a chance once every 20 years."*
- *Telecom (Russell/NEC; Katz) - On 2/7, Senate Commerce Committee Chairman Stevens held a hearing on the implications of "network neutrality," a debate that centers on whether communications network providers should be allowed to block or discriminate against the Internet data and content from different businesses. Cable modem operators and telecommunications carriers want to be able to create tiers of broadband services and charge Internet applications providers such as Google for delivering their content over a faster network. Chairman Stevens observed that those for and those against regulation to prevent tiered services both made compelling arguments at the hearing. Google, the Internet telephony firm Vonage, and CompTel (an association of Baby Bell competitors) all argued for regulation to prevent charging for tiered services. The National Cable and Telecommunications Association and the U.S. Telecom Association opposed new regulation, but pledged not to block competitors' applications or services.*
- *Tricare (Leggitt/DPC; Katz) - DOD publicly announced last week its intent to request Congressional action to offer HSAs as part of its TRICARE health care package. DOD released this decision as part of a brochure outlining TRICARE reforms. OMB expressed frustration because DOD failed to notify them of this decision and is concerned that this is not reflected in the President's budget. DOD indicates they are only seeking "authority" and would not implement any provisions without first seeking appropriate budget approval. Although DPC*

and NEC were not aware of DOD's decision, they feel this is a positive development which supports the President's health care reforms. DPC and NEC also note they did meet last fall with DOD staff in order to encourage them to explore ways of utilizing HSAs.

- Union Officer Conflict of Interest Reporting, LM-30 (Sharp/DPC; Jordan)
- Unions (Sharp/DPC; Jordan)
- Veterans (Leggitt/DPC; Katz)
- WTO (Shirzad/NSC; Katz)
- Yucca (Hannegan/CEQ; Jordan) - At the request of OMB, a Deputies meeting is scheduled for 2/9 to resolve remaining issues with regard to Yucca Mountain legislation, particularly on the subject of funding and waste transport.

## POLICY TIME – FEBRUARY 2006

SUN	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT
5	6 NO TIME	7 NO TIME	8 NO TIME	9 1:50-2:35 NEC: Tax Reconciliation (45 min)*	10 9:50-10:35 NEC: Medicare (45 min)*	11
12	13 9:50-10:35 NEC: Katrina Periodic Update (45min)	14 NO TIME	15 NO TIME	16 1:20-2:05 NEC: Economic Update (45 min)	17 NO TIME	18
19	20 NO TIME	21 NO TIME	22 TBD Rove (45 min)	23 TBD	24 TBD	25
26	27 TBD	28 TBD	1 TBD	2 TBD	3 TBD	4

2/7/06

**Possible February Policy Times: Avian Flu; Charitable Giving; DPC Administrative Reforms; Economic Update; Immigration; Katrina Periodic Updates (Powell); Medicaid; Voting Rights Act**

\* Indicates Cabinet Member Attendance

## Working Group Calendar

### WORKING GROUP CALENDAR

Monday, February 6 <sup>th</sup>	Tuesday, February 7 <sup>th</sup>	Wednesday, February 8 <sup>th</sup>	Thursday, February 9 <sup>th</sup>	Friday, February 10 <sup>th</sup>
11:00 NEC: Deputies Meeting on Fuel Flexibility (JK)	9:15 DPC: Weekly DOT call – PCC (MJ)	8:00 NEC: Follow-up Meeting to the Deputies Meeting on Fuel Flexibility (JK)	9:00 NEC: Biweekly Pension Call – PCC (JK)	
3:00 DPC: Meeting on Online Pharmacy Regulation – PCC (JK)	9:30 NEC: Meeting on Canadian/US Feed Ban (JK)	11:00 DPC: Weekly Conf Call w/ DOL (MJ)	10:00 DPC: Weekly Call w/ HHS (JK)	
3:00 NEC: Principals Meeting on Entitlements Commission (JK)	1:00 DPC: Deputies Meeting on Assimilation (MJ)		1:00 DPC: Weekly Asbestos Call – PCC (MJ)	
3:00 DPC: Meeting on Online Pharmacy Regulation (MJ)	2:30: HSC/DPC: Meeting on Immigration (MJ)		1:00 HSC: Meeting on Mass Casualty Tabletop – PCC (JK)	
4:00 HSC: EOP Deputies Meeting on Immigration (MJ)	3:00 DPC: Weekly ED Call – PCC (MJ)		3:30 NEC: Weekly Medicare Meeting – PCC (JK)	
4:30 NEC: Principals Meeting on Tax Reconciliation – (JK)	5:30 DPC: Weekly DOJ Call – PCC (MJ)		4:00 NEC: Weekly Medicaid Meeting – PCC (JK)	

## Working Group Calendar

Monday, February 13 <sup>th</sup>	Tuesday, February 14 <sup>th</sup>	Wednesday, February 15 <sup>th</sup>	Thursday, February 16 <sup>th</sup>	Friday, February 17 <sup>th</sup>
	9:15 DPC: Weekly DOT call – PCC (MJ)  3:00 DPC: Weekly ED Call – PCC (MJ)  5:30 DPC: Weekly DOJ Call – PCC (MJ)	11:00 DPC: Weekly Conf Call w/ DOL (MJ)	10:00 DPC: Weekly Call w/ HHS (JK)  1:00 DPC: Weekly Asbestos Call – PCC (MJ)  3:30 NEC: Weekly Medicare Meeting – PCC (JK)  4:00 NEC: Weekly Medicaid Meeting – PCC (JK)	

OFFICE OF CABINET LIAISON



CABINET MEMBER SCHEDULE

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WEDNESDAY 02/08/2006

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**Secretary Spellings**

1:15pm – 1:45pm	<b>Room 164</b>	Office Time
1:45pm – 2:15pm	<b>Room 374</b>	Meeting with Faryar Shirzad, NSC
2:15pm – 3:10pm	<b>Room 350</b>	Meeting with CEOs from the Business Roundtable

**Ambassador Portman**

1:45pm – 2:00pm	<b>Room 350</b>	Meeting with CEOs from the Business Roundtable
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**Secretary Johanns, Secretary Chao, Secretary Leavitt, Secretary Spellings & Director Bolten**

3:25pm – 3:45pm	<b>East Room</b>	Signing of S. 1932, the Deficit Reduction Omnibus Reconciliation Act of 2005
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THURSDAY 02/09/2006

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**Secretary Leavitt**

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**Director Bolten**

1:50pm – 2:35pm	<b>Oval Office</b>	Policy Time: Tax Reconciliation
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*Participants:*

White House

Vice President

Secretary Card, CoS

Karl Rove, DCoS

Dan Bartlett, Counselor

Al Hubbard, NEC

Scott McClellan, Press Secretary

Nicolle Wallace, Communications

Candi Wolff, OLA

Brett Kavanaugh, Staff Secretary

Jim Towey, OFBCI

HHS

Bob Kimmit, Deputy Secretary

David Addington, OVP  
Steve McMillin, CoS Office  
Keith Hennessey, NEC  
Jeffrey Kupfer, NEC  
Katherine Baicker, CEA

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**FRIDAY 02/10/2006**

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No Events Scheduled.

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**MONDAY 02/13/2006**

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**Secretary Gutierrez & Secretary Bodman**

10:40am – 11:40am      **East Room**      Presentation of the National Medals of Science and Technology

**Secretary Johanns**

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**Secretary Mineta**

2:00pm – 4:00pm      **Room 164**      Office Time

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**TUESDAY 02/14/2006**

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**Secretary Jackson**

9:30am – 11:30am      **Room 164**      Office Time

**Secretary Johanns**

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

*Participants:*

White House

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

USDA

Chuck Conner, Deputy Secretary  
Dale Moore, CoS  
Drew DeBerry, DCoS  
Beth Johnson, DCoS  
Terri Teuber, Director Of Communications

4:45pm – 6:00pm      **Room 164**      Office Time

**Secretary Chao & Secretary Mineta**

7:00pm – 9:30pm      **State Floor**      Valentine's Day Social Dinner