

Subject: FW: Night Note 3/7
Sent: Tue, 7 Mar 2006 21:11:20 -0500
From: "Jordan, Myriah L." <Myriah_L._Jordan@who.eop.gov>
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Cc: "McMillin, Stephen S." <Stephen_S._McMillin@who.eop.gov>
[Cabinet Member Schedule 3-7.doc](#)
[Working Group Calendar 3-7.doc](#)
[Policy Time Calendar 3-7.doc](#)
[Pending Issues 3-7.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,
Myriah
X61478

OFFICE OF CABINET LIAISON



CABINET MEMBER SCHEDULE

WEDNESDAY 03/08/2006

Secretary Snow, Secretary Norton, Secretary Johanns, Secretary Gutierrez, Secretary Chao, Secretary Leavitt, Secretary Mineta, Secretary Spellings, Secretary Nicholson, Secretary Chertoff, Director Bolten & Administrator Johnson

12:00pm – 1:00pm **CL Conf Room** Homeland Security Council Principals Committee Meeting on
Pandemic Influenza

Participants:

White House

Secretary Card, CoS
Karl Rove, DCoS
Harriet Miers, Counsel
Fran Townsend, HSC
Candi Wolff, OLA
John Marburger, OSTP
Tevi Troy, DPC
Cathie Martin, Communications
Keith Hennessey, NEC
Ken Rapuano, HSC
Rajeev Venkayya, HSC
Dana Perino, Press
John Rood, NSC
Carol Kuntz, OVP

State

Paula Dobriansky, Under Secretary of State for
Democracy and Global Affairs

Secretary Chao

DOD

Paul McHale, Assistant Secretary
General Raymond Odierno

DOJ

Paul McNulty, Acting Deputy Attorney General

HHS

Alex Azar, Deputy Secretary

HUD

Roy Bernardi, Deputy Secretary

DOE

Clay Sell, Deputy Secretary

DNI

David Gordon, Vice Chairman, National Intelligence
Council

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Secretary Spellings

12:45pm – 1:15pm	Room 164	Office Time
3:30pm – 4:00pm	Room 450	Remarks to the New England Council

Secretary Leavitt

3:00pm – 3:30pm	Room 450	Remarks to the New England Council
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Secretary Gutierrez

5:30pm – 5:50pm	Room 450	Remarks on the American Competitiveness Initiative at La Raza Briefing
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THURSDAY 03 / 09 / 2006

Secretary Spellings

12:00pm – 1:00pm	WH Mess	Lunch with Secretary Card
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FRIDAY 03 / 10 / 2006

No Events Scheduled.

MONDAY 03 / 13 / 2006

Secretary Mineta

2:00pm – 4:00pm	Room 164	Office Time
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Secretary Jackson & Secretary Spellings

5:30pm – 7:30pm	State Dining Room	National Museum of Women in the Arts Event
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TUESDAY 03 / 14 / 2006

Secretary Jackson

9:30am – 11:30am	Room 164	Office Time
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Secretary Johanns

4:00pm – 5:00pm	CL Conf Room	Kitchen Cabinet Meeting
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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

WORKING GROUP CALENDAR

3/6/2006

Working Group Calendar

Monday, March 13 th	Tuesday, March 14 th	Wednesday, March 15 th	Thursday, March 16 th	Friday, March 17 th
10:00 NEC: Meeting on Military Mission Line and the OCS (JK)	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) 3:30 NEC: Weekly Medicare Meeting – PCC (JK) 4:00 NEC: Weekly Medicaid Meeting – PCC (JK)	

POLICY TIME – MARCH 2006

SUN	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT
5	6 1:05-1:50 NEC: Katrina Periodic Update (45 min)*	7 NO TIME	8 NO TIME	9 NO TIME	10 NO TIME	11
12	13 11:05-11:50 NSC/HSC: CFIUS Reform / Port Security / Port Deal (45min)	14 NO TIME	15 2:35-3:20 OMB: Budget (30 min)	16 2:50-3:35 Rove (45 min)	17 1:30-2:15 HSC: Avian Flu (45 min)*	18
19	20 NO TIME	21 TBD Rove (45 min)	22 TBD Rove (45 min)	23 TBD Rove (45 min)	24 NO TIME	25
26	27 TBD	28 TBD	29 TBD	30 TBD	31 TBD	1

3/6/06

Possible March Policy Times: AMT; Endangered Species Act; Flood Insurance Reform; Immigration; Postal Reform; Voting Rights Act

Regular Reports: Competitiveness, Energy, and Health; Economic Update (every 5 weeks); Katrina Update (every 3 weeks)

* Indicates Cabinet Member Attendance

March 7, 2006

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

FROM: STEVE MCMILLIN, JEREMY KATZ, and MYRIAH JORDAN

RE: NIGHT NOTE

Immigration Border Patrol. – *The Dallas Morning News* reported on 3/7 that Texas will now be able to earmark up to 25-percent of funds already received under the Law Enforcement Terrorism Prevention Program for border work. This is the program known as Stone Garden, which we have been discussing with the Texas Delegation. The announcement came from a letter from Secretary Chertoff to Texas Gov. Rick Perry. DHS says that they coordinated with Bonilla on the announcement, and that they have been working closely with him. HSC knew nothing about this announcement, and said that they will follow up with DHS to see how the coordination fell short.

Foreign Investment in U.S. Airlines. In a budget hearing today, Secretary Mineta was questioned about DOT's proposal to allow greater foreign investment in U.S. airlines. Some Members have conflated this rule with the port operations issue and have drafted legislation to undo any Administration action in this area. The DOT rule would not change the foreign ownership and control restrictions in current law, but would otherwise allow foreign companies to invest in a U.S. airline. DOT is preparing its draft final rule based on public comments (many supportive, others opposed) and will submit the draft for OMB review next month.

Health IT. Secretary Leavitt hosted the AHIC meeting today and received briefings from the Chronic Care, Electronic Health Records, Consumer Empowerment, and Biosurveillance workgroups. The workgroups are on track for completing all 2006 deliverables. In response to EOP concerns regarding recent trade articles suggesting the Administration supports Regional Health Information Organizations (RHIOs) over other possible Internet-based solutions, Secretary Leavitt reaffirmed that we are not wedded to a particular a health IT architecture at this time. The next AHIC meeting is 4/25. DPC will schedule another PCC before the next meeting to ensure that the AHIC stays on track.

Cuba. Tomorrow, NSC is hosting a meeting requested by Representatives Lincoln Diaz-Balart, Ileana Ros-Lehtinen, and Mario Diaz-Balart to discuss aspects of U.S. migration policy towards Cuba. Senators Bill Nelson and Mel Martinez have also been invited to attend. The recent decision to repatriate 15 Cuban immigrants from the Flagler Bridge in the Florida Keys has refocused discontent on the "Wet Foot-Dry Foot" policy, which generally allow Cubans who make it to U.S. soil to stay while those picked up at sea are sent back. A Federal District Judge in Miami ruled last week the 15 Cubans were removed illegally and ordered the U.S. to use its "best efforts" to help them return. Though tomorrow's meeting is intended as a listening session, there is concern it not be misrepresented in the media so it does not provoke a significant increase in Cuban migration. NSC is providing Press with background points and guidance.

Other Issues

- Administrative Reforms (Troy/DPC; Jordan)
- AFL-CIO (Sharp/DPC; Jordan)
- Airlines (Sharp/DPC; Jordan) – On 3/2, the pilots reached a tentative pay-cut deal with Northwest Airlines, a major step toward ending a showdown that has put the bankrupt airline's future in doubt. The deal will still have to be approved by the union's leadership and members.
- Amtrak (Sharp/DPC; Jordan) – DPC held a conference call 3/1 with OLA, OPA, DOT and IGA to discuss recommendations for the Amtrak union situation. Some of Amtrak's financial problems are the result of very restrictive labor contracts that limit management flexibility. Amtrak has been trying unsuccessfully for years to cut these costs and the Board is contemplating a request for a release from the mediation overseen by the National Mediation Board (NMB). If this happens, it triggers a potential Presidential Emergency Board, strike or lockout, and perhaps even Congressional resolution of the contract dispute. Everyone who spoke on the call agreed that while these cost reductions are important, Amtrak is not likely to win a Congressional fight in the next several months, and felt Amtrak would have a better chance for securing cost reductions later this year or early next year. Participants are going to their principals for more specific advice for Amtrak on timing.
- Anthrax (Venkayya/HSC; Katz)
- Asbestos (Ho/DPC; Jordan) - Senator Frist released a statement late 2/17 that the Senate will resume consideration of the asbestos bill only if Senators Specter and Leahy produce a public assurance from 60 senators that they will waive the budget point of order and support cloture on the bill itself.
- *Avian Flu (Venkayya/HSC; Katz) – Today, Fran met with Chertoff, Leavitt and Johanns about the command and control structure in case of a pandemic. According to HSC, they agreed we need to identify, ahead of time, thresholds for the declaration of an Incident of National Significance (INS). It was also agreed that DHS should be responsible for incident management following an INS declaration and that a Principal Federal Official (most likely not one of the Cabinet Secretaries) for a pandemic response should be selected in advance of an incident. After getting Karl's approval in policy staff today, Steve will work with Melissa Bennett in Scheduling to set up a goldline meeting early next week with the President and internal EOP staff on command and control before going to a more complete group of Cabinet participants in policy time next Friday (3/17). HSC continues to work on the memo to the President laying out the command and control structure in the event of a pandemic and plans to have something in staffing by Thursday and to the President by the end of the week. On a separate note, the results from the bird being tested from the Salyer Wildlife Refuge in N. Dakota will not be ready until Friday of this week. HSC believes that results are more likely to show H5N2 and will be low-pathogenicity. Thus, the event with Norton, Leavitt and Johanns scheduled for Thursday will now take 3/20. Finally, press reports yesterday in Austria 3 cats were found to be infected with H5N1.*
- Aviation Security (Baker/HSC; Jordan)
- Beef (Sommers/NEC; Katz) – NEC hosted an interagency meeting on 3/1 with USDA, USTR, Commerce, State and NSC to discuss strategies going forward to get the Japanese market reopened to US beef. On 12/12, the Japanese market re-opened to American beef after 18 months of halted trade. After three weeks of trade, Japan closed their market due to the import of product not cleared for entry. The market remains closed today. State, USTR,

Commerce and USDA are developing a timeline of activities to occur between now and mid-April with the goal of getting the market reopened at that point. Congressional Republicans are already preparing sanctions packages on this issue and it is important real progress is made in the coming month.

- CAFE (Hannegan/CEQ; Katz)
- CALEA (Russell/NEC; Katz) - NEC hosted a Deputies meeting on 3/3. The discussion centered around the timing of a push in the current environment. Although a formal poll was not taken on where everyone stood, it appears DOJ, DHS, DOD, HSC and NSC favor taking legislation to the Hill immediately while OLA, Commerce, NEC, OMB and OSTP believe the current political environment will make an aggressive push extremely counterproductive. Substantive issues remain between Commerce and DOJ so NEC has asked Deputy Secretary Sampson and Deputy AG McNulty to work something out by Wednesday of this week. NEC is forcing resolution on the outstanding issues with Commerce and then pushing for a Principals meeting or just a small discussion with the Chief sometime next week.
- Campaign Finance Reform (Taylor/OPA; Jordan)
- Canadian Lumber (Hunter/NSC; Katz)
- CDBG (Streeter/DPC; Jordan)
- CFIUS Checkpoint (Shirzad/NSC; Katz) - CFIUS Policy Staff met 2/23 with representatives for Check Point Software, the Israeli company seeking to acquire Sourcefire (a U.S. supplier of computer network security systems). Representatives for Check Point presented a proposal for a mitigation agreement and argued that it would be a mistake not to reach an agreement with the company as Israel is a strong U.S. ally. Check Point has released a press statement noting that it is under investigation. CFIUS agencies consider Checkpoint to be in "material breach" of a 2004 CFIUS-related security agreement, but are meeting on a weekly basis to consider whether a security arrangement is viable.
- *CFIUS Chemring Group (Shirzad/NSC; Katz) - On 3/6, CFIUS agencies, at a meeting at the assistant secretary level, determined to allow the acquisition of Technical Ordnance by the Chemring Group (UK) to go forward at the end of the 30-day review period, which ended at midnight on 3/6. While this file concluded its 30 day review last night at midnight, DOJ called Treasury this morning at 9:30am to inform CFIUS that DOJ wanted to go to a 45-day investigation. DOJ wanted to double check some press allegations from several years ago that a Chemring subsidiary had violated UK mine ban legislation (this allegation had been before CFIUS since circulation of DLA report Feb 19). This late objection came as a surprise since the Justice representative, Laura Parsky, raised no concerns, and made no suggestion that she needed further clearance at yesterday's meeting. Late today, DOJ resolved its one open question and has decided not to request an investigation. Assistant AG Alice Fisher called the U.K. investor today to clear up DOJ's concerns about the mine ban violation allegation from several years back. Treasury informed the company today that the transaction has been cleared. Treasury also informed the Hill.*
- *CFIUS Dubai Ports World (Shirzad/NSC; Katz) - Dr. Crouch hosted a small and a larger deputies meeting 3/6 to discuss the status of the DP World (DPW) transaction, legislative outreach and strategy regarding DPW, and potential CFIUS reforms. With respect to CFIUS's review of the DPW transaction, CFIUS will initiate a 45-day investigation on 3/15, which will result in the investigation being concluded during the week of 4/24 when Congress is in session (the President's decision and report to Congress can be made any time within 15 days thereafter). On legislative outreach and strategy, OLA is developing a*

strategy to defeat amendments that Democrats are likely to offer during the House Approps committee mark-up of the Iraq Supplemental on Wednesday. Deputies reported that in a number of calls, Members stressed that the DPW deal should be abandoned and quickly disposed of. The Senate is fairly quiet now (with Schumer indicating he will hold on pushing his legislation until the 45-day investigation is completed), but pressure will rise significantly if the House approves language that takes an aggressive action against the transaction. On CFIUS reform, NSC staff have prepared a list of potential options that the Administration could support, could tolerate, and would oppose. *There will be additional deputies meetings tomorrow and Friday hosted by JD. NSC notes that the key event tomorrow will be what happens in House Appropriations hearing on the mark-up of the Iraq Supplemental.*

- China (Shirzad/NSC; Katz) – On 2/14, State held a press briefing announcing the establishment of its Global Internet Freedom Task Force designed to deal with censorship of the internet by China and others and to get out in front on NGO and Congressional pressures. This is an internal State Department task force. State's Task Force will work with the interagency, under NSC and NEC direction, to craft U.S. government policy. NSC will convene Deputies with discussion focused on government coordination of internet issues and how the task force should engage private companies and NGOs on agreed upon best practices. Chris Smith (R-NJ), Chairman of the House Subcommittee on Global Human Rights, held a hearing on 2/15 regarding China's internet censorship for 2/15. Google, Microsoft, Yahoo, and Cisco, as well as State and press freedom watchdog groups testified.
- Civil Rights (Ho/DPC; Jordan)
- Clear Skies (Stolpe/CEQ; Jordan)
- Climate Change (Connaughton/CEQ; Jordan)
- Cooperative Conservation (Cohen/CEQ; Jordan) - A Deputies meeting was held 2/13 to discuss the drafting, packaging, and strategy for the Cooperative Conservation legislative package. Components from DOI, EPA, USDA, and DOC-NOAA are in various stages of internal review, informal review, and formal interagency review. Hill and constituent outreach will begin on each component as soon as the LRM process has been completed. The current plan is to transmit the package in a single "bundle" by March 15, 2006.
- Cotton (Shirzad/NSC; Katz)
- Debt Limit (Kupfer/NEC; Katz) – On 3/6 Treasury took the next step and used its last "tool," which was having the Secretary declare a debt issuance suspension period (DISP) for the Civil Service Retirement and Disability Fund. The law expressly allows this action - based on legal counsel's determination of how long it may take for Congress to enact any debt limit increase. The DISP runs from 3/6 through 5/26 (which is the last legislative day before the Memorial Day recess). It can also be extended based on a new legal determination. The DISP ending date of 5/26 is different than the date by which Treasury runs into the debt ceiling -- which is still projected to be sometime during the Congressional recess beginning on 3/17. The statute also requires Congressional notification and so Treasury will send letters to House and Senate leadership and relevant Committee Chairman / Ranking Members on Monday. Snow spoke to Frist on 3/1 and gave him a heads up. The letter, which was released to the press, warns that Treasury has now exhausted "all prudent and legal actions to avoid reaching the statutory debt limit" and that the limit will be breached in "mid-March."
- Doha (Shirzad/NSC; Katz)
- Drug Free Communities (Leggitt/DPC; Katz)
- Drug Reimportation (Leggitt/DPC; Katz)

- EEO-1 (Sharp/DPC; Jordan)
- Education (Wilson/DPC; Jordan) - The Department of Education's updated list of Minority Serving Institutions (MSIs) will be released next week showing a large decrease in the number of schools counted as MSIs. The list was updated after the Department discovered that previous lists (prior to 2005) were including institutions that did not meet the statutory requirements for MSIs. The two primary reasons for an institution being removed from the list are 1) previously counting Asians as minorities and 2) previously including for-profit institutions. The list is used by several agencies across the federal government for priority consideration in the grants process and schools that are no longer on the list will be at risk of losing federal funding (exact dollar impact is not known at this time). In 2004 750 institutions were on the list, the 2006 list will have 340 institutions (no list was released in 2005 while the correction was being made). The states most impacted by this change are: California, Texas, New York, Florida, Hawaii and Puerto Rico. Large name universities include UC Berkley, University of Miami and University of Florida with for-profit institutions being the largest number of institutions removed from the list.
- Endangered Species Act (Schildwachter/CEQ; Jordan) – CEQ hosted an EOP policy discussion 2/16 on the advisability of and approach to revising regulations under the ESA. All agreed that Congress is unlikely to move forward with ESA legislation this year, and decided to proceed with drafting a proposed rule. A senior policy decision will have to be made as to whether to proceed with the rules.
- 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)
- Farm Bill (Sommers/NEC; Katz)
- FDA (Leggitt/DPC; Katz)
- Federal Sentencing Guidelines (Ho/DPC; Jordan)
- Flex Fuel Vehicles (Hannegan/CEQ; Katz) - NEC hosted a Deputies meeting on 2/8 where the focus of discussion was consideration of options for potentially modifying CAFE incentives for flex fuel vehicle production, or mandating sales of flex fuel vehicles. NEC is considering hosting another Deputies meeting in the near future, but Steve has asked them to hold off until they can answer the question "how many flex-fuel cars do we need to consume the ethanol we expect to produce", before considering various methods to produce more flex-fuel cars (mandate, CAFE change, etc.).
- FMLA (Sharp/DPC; Jordan)
- Foster Care Waivers (Pardue/DPC; Jordan)
- GSEs (Kupfer/NEC; Katz)
- Health Care Quality (Ramthun/NEC; Katz)
- Helping America's Youth (Parker/DPC; Jordan) – The Interagency working group for the Helping America's Youth Initiative held a joint meeting with OFL-Projects office 3/2 to confer on the details and approve the planning for the first of Mrs. Bush's 2006 Regional Conferences on Helping America's Youth. The two-day conference will be in partnership

with state and local elected officials, community leaders, youth-serving organizations, academics, and practitioners. The conference is tentatively scheduled for April 4-5 on the campus of Colorado State University.

- *HHS Vouchers (Towey/OFB; Jordan)* - Secretary Leavitt, Director Walters, Jim Towey, OMB and DPC met 3/3 to discuss current efforts to encourage States to redirect Substance Abuse Prevention and Treatment Block Grant funds voluntarily toward supporting voucher systems. As part of its FY 2007 budget, HHS has proposed using a portion of its Access to Recovery funding (approximately \$70 million) as an incentive to states for this transformation. HHS would issue up to 25 grants conditioned upon individual states redirecting a percentage of its block grant funding to substance abuse treatment vouchers. OFB has expressed recent concern that the \$70 million is insufficient to leverage a sufficient number of states to participate. At the meeting, Towey requested that HHS seek informal input from states on their willingness to participate in this program, given that the grants will only provide between \$1 million and \$5 million per year, per recipient. Towey is concerned that we must be able to defend the scope of the program and we cannot do that without information on the willingness of states to participate. In addition, Director Walters requested more information about our success under the Access To Recovery program. *OFB and Cabinet members met with the President on 3/7, and the President encouraged them in their efforts in this area. OFB reports that this was the boost they needed in dealing with the agencies on these issues.*
- *HIV/AIDS (Troy/DPC; Jordan)* – On 3/2, Tevi Troy called Dr. Dobson and some of his top aides regarding their concerns about the implementation of the global HIV/AIDS program. They expressed concern over not having heard from the White House for over a month on the recommendations they presented in December, and they pressed pretty hard on a timeline for the review of those recommendations. Troy apologized for the lag in time since the last discussion, and assured them that a high-level review of their recommendations is underway, and that we would remain in touch regarding our progress in reviewing and implementing their recommendations. *On 3/7, Tevi gave Mike Gerson an update on the phone call with Dr. Dobson and his aides, and explained that the call was at Karl/Tim's request to explain to Dobson why he had not heard back from Claude Allen on the status of the recommendations Dobson/Shep Smith gave the President in their Dec 2005 meeting. Mike will be going to Kenya in a few weeks and offered to call Dobson and Co. before going (and possibly after) to seek their counsel and assure them that we are continuing to work through their recommendations. Tim reported back that the call went well. In addition, the Office of the Global AIDS Coordinator is putting together a point-by-point update on the status of each of the 7 Dobson recommendations; the update is expected by the end of the week.*
- Immigration Assimilation (Ho/DPC; Jordan)
- Immigration Borders (Ho/DPC; Jordan) - Staff from DHS, State, Commerce, and White House DPC/HSC met late 3/1 with Members and their staff preparing to visit Mexico and Arizona Thursday-Sunday on the annual US/Mexico Interparliamentary Group exchange. In response to concerns that the Mexican authorities will raise the immigration issue and the Sensenbrenner bill with the delegation, representatives of the Administration reiterated the President's support for comprehensive immigration reform, including a temporary worker program. Members also repeatedly expressed dissatisfaction with DHS's response to reports of increasing border violence and incursions across the US-Mexican border.

- Immigration Extension of Temporary Protected Status (Ho/DPC; Jordan) - During a meeting 2/27 with House Judiciary Committee staff on immigration reform, House staff expressed to HSC, DPC, and OLA Chairman Sensenbrenner's displeasure with last week's announcement of DHS's decision to grant a one-year extension of temporary protected status for about 300,000 Salvadoran, Nicaraguan and Honduran immigrants (allowing them to remain legally in the United States). OLA assured Chairman Sensenbrenner's staff that the announcement, which was put out initially through Rep. Ileana Ros-Lehtinen's office, was in no way an attempt to circumvent the Chairman.
- Immigration Material Support (Campanovo/NSC; Jordan) – In response to the State Department's proposal to create a process for DHS-CIS to review refugee applicants from the Tham Hin camp, DHS reported at an NSC PCC 2/24 that Secretary Chertoff believes a deputies meeting is necessary to resolve substantial policy differences between the two departments. DOS-PRM Assistant Secretary Sauerbrey insisted at the meeting that FY 2006 refugee admissions will be dramatically reduced unless resolution is reached quickly. DHS was asked on 2/15 to draft proposed guidelines within 1-2 weeks and seek Secretary Chertoff's approval. DOS has drafted guidelines to exempt refugees in the Tham Hin camp in Thailand, which is DOS-PRM's highest priority at present, but DHS says that they have policy concerns with those guidelines. State Department is preparing a memo laying out their proposed solution to the overall problem, and a draft is expected 3/1. DHS has also been asked to draft a memo on the issues they see with the State Department proposal. A deputies meeting has been scheduled for 3/9. The Office of Faith-Based Initiatives has also expressed great concern over this issue, and would like for us to push DHS for a solution as quickly as possible.
- Immigration Raids (Sharp/DPC; Jordan) – DHS and DOL have agreed upon a statement both Departments will use consistently regarding DHS's policy on the use of health and safety ruses to conduct immigration raids. In a meeting convened by DPC last week, DHS clarified that the use of such ruses was inappropriate in the immigration-enforcement context and that the Department policy is NOT to use safety and health ruses for immigration raids. (DHS's use of an OSHA ruse last July sparked criticism from the Hill and has hindered DOL's outreach efforts to Hispanic workers). An article was published on this issue in the 2/27 Occupational Hazards Magazine. Unfortunately, the main talking point – that these ruses will no longer be used in worksite immigration enforcement – was not reported, and the story emphasized only the need for coordination beforehand and the utility of ruses in capturing terrorists. DHS said that the interview for the story actually occurred more than three weeks ago, before the recent meetings that clarified the message on this issue. ICE will use new talking points if interviewed on the subject again.
- Immigration Reform (Ho/DPC; Jordan) – *The Senate Judiciary Committee will hold a markup on the border security provisions of the Specter bill on 3/8 if the committee can attain a quorum, which is uncertain. If the committee cannot attain a quorum on Wednesday, then markup will proceed on Thursday.*
- Immigration Worksite Enforcement (Baker/HSC; Jordan) – HSC, DPC, and OLA met 2/27 with House Judiciary Committee staff at their request on the worksite enforcement provisions the Administration quietly provided to the Senate Judiciary Committee for possible inclusion in the revised Specter mark. House staff expressed concern that both the Administration-drafted provisions and those currently in the Specter mark are significantly weaker than those in the House bill.

- Indian Gaming (Ho/DPC; Jordan) - National Indian Gaming Commission (NIGC) Chair Philip Hogen will testify before the Senate Indian Affairs Committee on Wednesday (3/8). The committee is considering S. 2078, a bill that extends and clarifies the NIGC's jurisdiction over Class III gaming (e.g., slot machines and table games) and the review of contracts for the construction and operation of tribal gaming operations. The NIGC's testimony will be generally supportive of the proposed legislation.
- Indian Trust/Cobell (Ho/DPC; Jordan)
- Internet Pharmacy (Leggitt/DPC; Katz)
- IRS (Kupfer/NEC; Katz)
- Katrina Cruise Ships (Streeter/DPC; Katz) - Initial reports from the FEMA team in LA is that the cruise ships have been depopulated without incident and have all set sail. FEMA will send figures by 3/2 on how many families ultimately ended up in hotels and how many found other housing.
- Katrina Hurricane Supplemental (Streeter/DPC; McMillin)
- Katrina Housing (Streeter/DPC; McMillin) – Don Powell's office (OGCR) and HUD will be discussing the details of Gov. Blanco's rebuilding plan with the LRA this week. LRA announced the outline of their plan 2/20, which focuses on compensating homeowners with major and severe damage at a cap of \$150,000 minus insurance and FEMA payouts. The plan would allow homeowners that were uninsured to receive some compensation, but at a rate of 30% less than what they would have received otherwise, and it would require proper flood insurance for any rebuilt property. While the plan is an overall good step forward, it is general enough that it leaves some questions unanswered. HUD had a good session with MS to clarify details of its plan last week, and LA needs to go through the same process to make sure we all have clarity on how their proposals would work. OGCR is working with LRA to bring their representatives here.
- Levees (Hannegan/CEQ; Jordan)
- 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)
- Medicaid Clawback (Ramthun/NEC; Katz) - Five states filed suit 3/3/06 against HHS challenging the constitutionality of a Medicare drug benefit "clawback" provision that requires states to pay the federal government for coverage of certain patients (dual eligibles). The lawsuit (Texas v. Leavitt) was filed in the U.S. Supreme Court and charges that the clawback provision partially funding Medicare's Part D prescription drug benefit is an unconstitutional tax on states that violates the doctrine of intergovernmental tax immunity and the system of dual sovereignty. States should not have their legislatures "commandeered" by the federal government, according to the lawsuit, nor should they have to relinquish control over how they budget taxpayer dollars to pay for a national program. Plaintiff states include Kentucky, Maine, Missouri, New Jersey, and Texas. Ten other states have filed an amicus brief in support of the action: Arizona in the lead, with Alaska, Connecticut, Kansas, Mississippi, New Hampshire, Ohio, Oklahoma, South Carolina, and Vermont.
- Medicaid Commission (Ramthun/NEC; Katz) – The Commission's next meeting is 3/13-3/15 in Atlanta. Hennessey, Maggie Grant and Steve had a conference call 3/2 in which we decided to allow the March meeting to go forward without a change in direction. Hennessey asked HHS to put an outline together for Karl's review on how Leavitt wants to proceed,

which includes allowing the March meeting to go forward as planned since its focus on long-term care is consistent with Leavitt's goals for Medicaid reform.

- Medical Liability (Ho/DPC; Jordan)
- Methamphetamine (Leggitt/DPC; Katz)
- Mine Safety (Sharp/DPC; Jordan) – On 3/2, OMB cleared an Emergency Temporary Standard to improve response times to mine accidents, improve training and escape routes for miners, and require additional oxygen for miners. Once DOL publishes the ETS in the Federal Register sometime early next week, the new standards will take effect immediately. The ETS includes the following requirements: (1) mine operators must notify MSHA of an accident within 15 minutes, (2) the storage and use of additional self-contained self-rescuers (small packs that produce limited amounts of breathable oxygen) along evacuation routes, (3) additional miner training on mine evacuation and donning of respiratory protection, and (4) installation of lifelines to assist miners in proper evacuation. Given that this rule was developed in response to the recent coal mine accidents in West Virginia, it is expected to receive both media and Congressional attention. It is not expected to be controversial with mine operators, who support its provisions. However, some safety advocates may say that it does not go as far as some of the current legislative proposals.
- NASA (Russell/OSTP; 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 (Epifani/NEC; Katz) - *The Senate Energy Committee will markup on Wednesday the Domenici/Bingaman bill designed to expand oil and natural gas production in the eastern Gulf of Mexico. Chairman Domenici has said he would like to pass a clean bill through the committee and continue to discuss whether coastal restoration and other Hurricane Katrina aid for Gulf Coast states could be added before or during floor debate. Notably, Bingaman is opposed to changing the current system of sending all revenue gained from offshore production in federal waters to the Treasury. Senator Nelson of Florida may also offer an amendment to permanently ban all new oil and gas activities within 150 miles of the Florida coast.*
- OIRA EO (Yanes/OMB; Katz)
- OPM (Ramthun/NEC; Katz)
- Part B (Ramthun/NEC; Katz)
- Part D (Ramthun/NEC; Katz) – Barry Jackson hosted a meeting 3/6 with OLA, NEC, Communications, HHS and CMS to discuss Part D. Most of the discussion centered on member involvement in sign-up, the calendar ahead and significant announcements on issues likely to affect efforts, the donut hole and the May 15th enrollment deadline. Democrats are planning on offering an amendment, possibly as early as next week as part of the extension of debt limit, which would eliminate the May 15th enrollment deadline allowing Seniors to sign up for Part D without penalty for the rest of the year. Roy Ramthun in NEC is working with OLA to come up with potential compromises in case they are needed. Publicly, our posture is still there is no need to eliminate the deadline.
- PATRIOT Act (Ho/DPC; Jordan)

- Pensions (Blahous/NEC; Katz) – Conferees were named on 3/2. They include: Grassley, Hatch, Lott, Snowe, Santorum, Enzi, Gregg, DeWine, Isakson, Baucus, Rockefeller, Conrad, Bingaman, Kennedy, Harkin and Mikulski.
- Plan B (Leggitt/DPC; Katz)
- *Port Security (Baker/HSC; Jordan)* HSC hosted a meeting with EOP and DHS on 3/6 to develop the Administration's strategy for port security legislation. There are two bills pending in the Senate: 1) Collins/Murray S. 2008 and 2) Hutchinson ports security language rolled into S. 1052. DHS leg affairs expects that S. 2008 provisions will be folded into the CFIUS reform bill that Collins is currently drafting. Mark up may occur late this week, but more likely the week of 3/29. There are not any port security bills currently pending in the House, though the Iraq/Katrina Supplemental mark-up will occur in the House on Wednesday. OLA reports that it is unlikely that it will include any port security funding. DHS has prepared a bill comparison matrix, and will update it to reflect legislative priorities by COB Wednesday. At the appropriate time, OLA will signal to the respective House and Senate Committees that the Administration would like to begin to work together on port security legislation. DHS can take significant actions on port security without legislation, and DHS was encouraged to focus on what they could do through regulations without waiting on the Hill to act. After DHS submits their legislative priorities, HSC will review them to see how many of these priorities can be taken care of without legislation. *HSC is planning a Policy Time with the President on 3/13, and should be prepared to present proactive measures on this issue.*
- *Postal Reform (Sharp/DPC; Jordan)* –On 3/7, DPC and OLA hosted a meeting with Treasury, OPM, OMB, CEA, and OVP to discuss conference strategy for postal reform. OLA reported that House Leadership does not want to name conferees until a final agreement is in sight because 20 days after a conference is convened votes on "motions to instruct conferees" on any subject are in order. OPM and OMB agreed to draft an options paper to sketch out potential compromise positions on the major substantive issue of disagreement: who pays for pension costs associated with military service, the Postal Service, the General Treasury, or a combination of the two?
- The National Science Board (Hays/OSTP; Katz) - The NSB (a quasi-independent part of the National Science Foundation) has agreed to a request by Senator McCain to "examine existing policies of federal science agencies concerning the suppression and distortion of research findings." The agreement is still not public, but because the issue of scientific openness and integrity has been employed repeatedly to attack the Administration, it may receive significant media attention. The current Chairman of the NSB is a Clinton appointee whose 6-year term ends in May. WHC has questions about the NSB's authority to "investigate" Federal Agencies involved in science. Dr. Marburger will call a meeting this week with agency science leaders to encourage them to articulate clear policies on scientific openness -- as the NASA Administrator did in response to recent criticism.
- Social Security (Blahous/NEC; Katz)
- Social Services Block Grant/Katrina (Streeter/DPC; McMillin)
- Steel (Shirzad/NSC; 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) – Hennessey reported tonight that the current plan is for Al to call Senator Gregg the day after he completes his markup of the budget resolution - which will likely be Friday. NEC and OLA do not believe a call to Senator Gregg will cause Gregg to waive the budget point of order.*
- Tax Reform (Kupfer/NEC; Katz)
- Telecom (Russell/NEC; Katz) – Wednesday through Friday of this week, the FCC will put out its first indecency fines under Kevin Martin's Chairmanship. The decision to issue these fines is likely to generate a lot of press since they are the Chairman's first. Broadcasters of two national programs will be fined for sexual content -- CBS' Without a Trace and WB's The Surreal Life. Broadcasters of three Spanish language programs will also be fined -- NBC owned Telemundo stations and two other local Spanish language stations. In addition, a PBS station will be fined for indecent language based on their airing of a Blues documentary. The FCC also will cite, but not fine, two award shows (one from 2003 and one from 2002) that used profane language and stations airing a profane NYPD Blues episode. The most notable show that the FCC will clear of any indecency violations is Oprah's show on teenage sexuality, which received many complaints but was found not to be indecent. According to OSTP, the FCC's actions will be largely consistent with past FCC practice. One change the FCC has implemented is how they determine which broadcast stations get fined. The FCC now will only fine stations that received an actual complaint about their broadcast. After the Super Bowl wardrobe malfunction, the FCC fined every network affiliate that broadcast the Super Bowl, whether they received a complaint from a viewer or not. This time the FCC will only fine those stations that have generated at least one viewer complaint.
- Trade Enforcement (Shirzad/NSC; Katz) - Finance members Baucus and Hatch introduced a trade bill on 2/16 aimed at improving the Administration's efforts to enforce trade agreements. The bill would require the Administration to prepare a report prioritizing foreign trade practices that most seriously harm U.S. companies, and would also create a Senate-confirmed chief trade enforcement officer in USTR. Senator Grassley may also submit legislation to strengthen trade enforcement, making passage of a trade bill possible this year.
- Tricare (Leggitt/DPC; Katz)
- UAE FTA (Shirzad/NSC; Katz) - USTR continues to negotiate our FTA with the UAE and will be in Abu Dhabi on 3/14-3/16 for talks. FTA negotiations began in 3/2005. While talks have gone more slowly than our Bahrain and Oman FTAs and tough issues remain, the dynamics in the talks have been good and NSC believes we have a good shot at concluding a deal in the first half of 2006 (perhaps in May). Legislative action once a deal is complete is likely to spill into 2007 even under the most optimistic scenario. But some free trade opponents are already linking these negotiations to the ongoing Dubai Ports World CFIUS case (Rep. Sherrod Brown, the Democrats' likely candidate to run against Senator DeWine in November, called for a halt in the UAE FTA negotiations on 2/24).
- Union Officer Conflict of Interest Reporting, LM-30 (Sharp/DPC; Jordan)
- Unions (Sharp/DPC; Jordan)
- United Nations (Pardue/DPC; Jordan) - The Commission on the Status of Women is beginning its second week at the United Nations. The pro-life/pro-family NGO community (lead by Jeanne Head of International Right to Life) is upset with instructions given to the US delegation on the Agreed Conclusions outcome document. International Organizations

(IO) at the State Department has instructed the US delegation not to oppose a reaffirmation of the Beijing Declaration, which includes a reference to "reproductive health". The delegation will however, submit a strong Explanation of Position (EOP) on behalf of the USG, which will clarify that the Beijing Declaration does not include any new rights to abortion. This policy is consistent with actions taken at past UN negotiations (including CSW in 2005) and is also a strategy that has been agreed to by DPC and IO Assistant Secretary Kristin Silverberg. The pro-life/pro-family NGO's are also concerned with other references elsewhere in the outcome documents to "reproductive health". The US delegation has been instructed by State NOT to fight these references, because they are a preferable substitute for a worse, more problematic term such as "reproductive health SERVICES". The USG will also submit EOP's for each reference, which is again consistent with an established DPC-IO approach, which we also followed in late January 2006 at the Disabilities Convention, where the pro-family coalition were quite pleased with the USG involvement.

- Veterans (Leggitt/DPC; Katz)
- Voting Rights Act (Ho/DPC; Jordan) – In his opening statement at a 3/2 Senate Judiciary Committee meeting, Ranking Member Leahy expressed his desire to "move forward this spring with hearings and action to reauthorize the Voting Rights Act." Senator Leahy went on to say that Congress "should complete that important action this year. Chairman Sensenbrenner in the House has long been involved and interested in this matter. It would be a fitting part of his legacy as the House Chairman if we could work together to accomplish that reauthorization before the Congress adjourns this year." Senator Leahy also expressed his hope that Senate hearings could begin before the April recess. In the House, which has already held a series of hearings on the Act, Chairman Sensenbrenner's staff is still drafting a renewal bill. Chairman Sensenbrenner's staff has indicated their VRA renewal bill will contain several "tweaks," but did not provide further detail. Staff has said, however, they will share the draft language with EOP prior to introducing this bill later this month or in April.
- Workplace Safety/Hexavalent Chromium (Sharp/DPC; Jordan)
- WH Conference on Aging (Leggitt/DPC; Katz) - The Decennial Conference of the WHCoA occurred in December. The statute establishing the WHCoA provides for a preliminary report to be sent for review and comment to the Governors not later than 100 days after the Conference adjourns, and not later than six months after the Conference, the Policy Committee must transmit a final report to the President and Congress. The preliminary report to the Governors is therefore due 3/24. Dorcas Hardy, chair of the Policy Committee, has proposed, in HHS's words, a fairly bare-bones submission to the Governors that will include a "Future of Aging in America" summary -- census-based aging demographic projections for each state; a list of the top 50 resolutions voted on at the Decennial Conference (but not highlighting or emphasizing the "implementation strategies" that were developed in the various sessions at the Conference); and a cover letter requesting governors to identify those issues most critical to their state and asking what they plan to implement over the next 10 years. At this point, Dorcas is planning to call a Policy Committee meeting to approve this submission, tentatively scheduled for 3/14. The final report to the President and Congress will be released by the end of June.
- WTO (Shirzad/NSC; Katz)

- *Yucca (Epifani/NEC; Katz)* – Hennessey in NEC hosted a deputies' conference call 2/27 to discuss outstanding issues associated with DOE's draft legislation to facilitate the opening of Yucca Mountain. Concern focused on a provision legislating a 10,000-year standard for radiation protection, which had been promulgated by EPA earlier but was struck down by a federal court. DOE agreed to drop this provision, since it arguably conflicts with past statements by POTUS to live by the decision of the court, and since controversy surrounding it could jeopardize support for the overall package. *DOE and OMB have resolved the previously open budget issues on Yucca Mountain legislation. NEC is asking EOP offices for objections by tonight if they exist and then Steve will raise with the Chief for potential sign-off.*