

Subject: FW: Night Note 11/29
Sent: Tue, 29 Nov 2005 21:51:57 -0500
From: "McMillin, Stephen S." <Stephen_S._McMillin@who.eop.gov>
To: <kr@georgewbush.com>, "Rove, Karl C." <K_Rove@who.eop.gov>, "Hughes, Taylor A." <Taylor_A._Hughes@who.eop.gov>, "Jackson, Barry S." <Barry_S._Jackson@who.eop.gov>, "Smith, Heidi M." <Heidi_M._Smith@who.eop.gov>, "Kavanaugh, Brett M." <Brett_M._Kavanaugh@who.eop.gov>, "West, Christal R." <Christal_R._West@who.eop.gov>, "Weinstein, Jared B." <Jared_B._Weinstein@who.eop.gov>, "Boyer, Matthew W." <Matthew_W._Boyer@who.eop.gov>, "Kropp, Emily L." <Emily_L._Kropp@who.eop.gov>, "Katz, Jeremy L." <Jeremy_L._Katz@who.eop.gov>, "Ralston, Susan B." <Susan_B._Ralston@who.eop.gov>, "Kane, M. Lauren" <Mary_L._Kane@who.eop.gov>, "Hoare, Thomas H." <Thomas_H._Hoare@who.eop.gov>, "Hook, Brian H." <Brian_H._Hook@who.eop.gov>, "Langdon, James C." <James_C._Langdon@who.eop.gov>
Cc: "McMillin, Stephen S." <Stephen_S._McMillin@who.eop.gov>
[Policy Time Calendar 11-29.doc](#)
[Working Group Calendar 11-29.doc](#)
[Cabinet Member Schedule 11-29.doc](#)
[Pending Issues 11-29.doc](#)

Pls 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

POLICY TIME – NOVEMBER 2005

SUN	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SAT
27	28 NO TIME	29 NO TIME	30 2:10-2:55 OMB: FY07 Discretionary Budget (45 min)	1 NO TIME	2 1:05-1:50 NEC: Pensions* (45 min)	3
4	5 NO TIME	6 9:55-10:25 OFB: Voucher Expansion (30 min)	7 2:35-3:20 OMB: FY07 Mandatory Budget (45 min)	8 1:05-1:35 NSC/NEC: WTO/ Doha* (30 min)	9 NO TIME	10
11	12 TBD NEC: NASA* (45 min)	13 1:30-2:15 NEC: Science (45 min)	14 3:00-3:30 NEC: Katrina Update* (30 min)	15 1:05-1:50 Rove (45 min)	16 TBD Rove (45 min)	17
18	19 TBD	20 TBD	21 TBD	22 TBD	23 TBD	24

11/29/05

Possible December Policy Times: 07 Budget; China Overview; Energy II; Family Agenda; Global Nuclear Energy Initiative/Yucca; Health Big Think; Katrina Periodic Updates

* Indicates Cabinet Member Attendance

Working Group Calendar

WORKING GROUP CALENDAR

Monday, November 28 th	Tuesday, November 29 th	Wednesday, November 30 th	Thursday, December 1 st	Friday, December 2 nd
<p>1:00 HSC: Meeting on Pandemic Tabletop and Implementation Plan – PCC (JK)</p> <p>2:00 OMB: Meeting on FY'07 Revenues – Director's Review</p>	<p>9:15 DPC: Weekly DOT call – PCC (BH)</p> <p>2:00 OMB: Meeting on FY'07 Budget Process Reform – Director's Review</p> <p>3:00 DPC: Weekly ED Call – PCC (BH)</p> <p>5:30 DPC: Weekly DOJ Call – PCC (BH)</p>	<p>11:00 DPC: Weekly Conf Call w/ DOL (BH)</p> <p>3:30 NSC: Meeting on International Containment Strategy for Pandemic Influenza – Sub PCC (JK)</p>	<p>10:00 DPC: Weekly Call w/ HHS (JK)</p> <p>11:00 DPC: Meeting on Governance Models for Air Traffic Control Reform – PCC (BH)</p> <p>1:00 HSC: Walk Through of Cabinet Briefing for Tabletop Exercise – Principals (JK)</p> <p>1:00 DPC: Weekly Asbestos Call – PCC (BH)</p> <p>3:30 NEC: Weekly Medicare Meeting – PCC (JK)</p> <p>4:00 NEC: Weekly Medicaid Meeting – PCC (JK)</p> <p>5:00 NEC: Meeting on Pensions – Principals (JK)</p> <p>5:00 OFB: Meeting on Expanded Choice – Principals (BH)</p>	<p>11:00 DPC: Meeting on Access to Recovery (ATR) – PCC (JK)</p>

Working Group Calendar

Monday, December 5 th	Tuesday, December 6 th	Wednesday, December 7 th	Thursday, December 8 th	Friday, December 9 th
	9:15 DPC: Weekly DOT call – PCC (BH) 3:00 DPC: Weekly ED Call – PCC (BH) 5:30 DPC: Weekly DOJ Call – PCC (BH)	11:00 DPC: Weekly Conf Call w/ DOL (BH)	9:00 NEC: Biweekly Pension Call – PCC (JK) 10:00 DPC: Weekly Call w/ HHS (JK) 1:00 DPC: Weekly Asbestos Call – PCC (BH) 3:30 NEC: Weekly Medicare Meeting – PCC (JK) 4:00 NEC: Weekly Medicaid Meeting – PCC (JK)	

OFFICE OF CABINET LIAISON



CABINET MEMBER SCHEDULE

WEDNESDAY 11/30/2005

Secretary Nicholson

1:55pm – 2:10pm	Oval Office	Attend President's Meeting with Jim Mueller, VFW Commander-in-Chief- Veterans Issues
2:10pm – 4:00pm	Room 164	Office Time

Secretary Snow, Secretary Chao & Director Bolten

5:00pm – 6:00pm	TBD Room	Pensions Principals Meeting
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Participants:

White House

Secretary Card, CoS
Karl Rove, DCoS
Dan Bartlett, Counselor
Ben Bernanke, CEA
Al Hubbard, NEC
Candi Wolff, OLA
David Addington, OVP
Nicolle Wallace, Communications
Doug Badger, OLA
Keith Hennessey, NEC
Chuck Blahous, NEC

Pension Benefit Guaranty Corporation

Bradley Belt, Executive Director

THURSDAY 12/01/2005

Secretary Rice, Secretary Rumsfeld, Secretary Gutierrez, Secretary Chao & Secretary Leavitt

9:55am – 10:15am	Room 450	World AIDS Day
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Participants:

USAID

Andrew Natsios, Administrator

NIAID

Anthony Fauci, Director

NIH

National Center for HIV, STD and TB Prevention

Elias Zerhouni, Director

**Secretary Norton, Secretary Johanns, Secretary Chao, Secretary Jackson, Secretary Bodman,
Secretary Nicholson & Administrator Johnson**

5:00pm – 6:00pm **Ellipse** Pageant of Peace

Participants:

DOJ
Paul McNulty, Acting Deputy Attorney
General

DOED
Ray Simon, Deputy Secretary

DOC
David Sampson, Deputy Secretary

DHS
Michael Jackson, Deputy Secretary

HHS
Alex Azar, Deputy Secretary

EPA
Marcus Peacock, Deputy Administrator

DOT
Maria Cino, Deputy Secretary

GSA
David Bibb, Acting Administrator

USAID
Andrew Natsios, Administrator

DOL
Steven Law, Deputy Secretary

FRIDAY 12 / 02 / 2005

Secretary Norton

2:00pm – 3:00pm **Room 164** Meeting on Department of Interior's Hurricane Reconstruction
Paper

Participants:

White House
Claude Allen, DPC

DOI
Lynn Scarlett, Deputy Secretary
Tom Weimer, Acting Assistant Secretary for Policy, Management
and Budget

MONDAY 12 / 05 / 2005

Attorney General Gonzales

10:00am – 10:30am **2 FL/WW** State of the Union Briefing

Participants:

White House
Claude Allen, DPC
Tevi Troy, DPC

Director Bolton

11:00am – 11:15am **1 FL/WW**

Lessons Learned: Hurricane Katrina

Participants:

White House

Fran Townsend, HSC

Joel Bagnal, HSC

Secretary Johanns

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Secretary Mineta

2:00pm – 3:45pm

Room 164

Office Time

3:45pm – 4:15pm

Room 164

Lessons Learned: Hurricane Katrina

Participants:

White House

Fran Townsend, HSC

Joel Bagnal, HSC

DOT

Maria Cino, Deputy Secretary

John Flaherty, CoS

Secretary Johanns

3:15pm – 3:45pm

1 FL/WW

Lessons Learned: Hurricane Katrina

Participants:

White House

Fran Townsend, HSC

Joel Bagnal, HSC

USDA

Chuck Conner, Deputy Secretary

Secretary Norton

4:15pm – 4:45pm

Room 164

Lessons Learned: Hurricane Katrina

Participants:

White House

Fran Townsend, HSC

Joel Bagnal, HSC

DOI

Tom Weimer, Acting Assistant Secretary for Policy, Management,
and Budget

TUESDAY 12 / 06 / 2005

Secretary Jackson

11:45am – 12:00pm

Room 164

Lessons Learned: Hurricane Katrina

Participants:

White House

Fran Townsend, HSC

Joel Bagnal, HSC

Secretary Nicholson

2:00pm – 2:15pm **Room 164** Lessons Learned: Hurricane Katrina

Participants:

White House

Fran Townsend, HSC

Joel Bagnal, HSC

Secretary Johanns

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

Participants:

White House

Jim Connaughton, CEQ

Neil Patel, OVP

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

November 29, 2005

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

FROM: STEVE MCMILLIN, BRIAN HOOK, and JEREMY KATZ

RE: NIGHT NOTE

Avian Flu. On Friday HSC will host a policy briefing with the President conducted by Secretaries Rice, Leavitt and Chertoff on Leavitt's trip to Asia in late October and overall coordination of international efforts on avian influenza. HSC will conduct a 2-hour briefing with the Cabinet on December 6th in preparation for the tabletop exercise with the Cabinet on Saturday, December 10th. Today HSC, DPC, OLA, OPL, HHS and DOJ had a conference call to discuss the current status of our liability proposal related to pandemic. OLA indicates that in order to have our avian flu proposal passed as part of the DOD approps bill we will have to have language resolved by the week of December 12th. OLA indicates that the main hangup relates to industry concerns about the "Gatekeeper" provision and whether HHS or the Courts should be the "Gatekeeper" for lawsuits related to willful misconduct by a manufacturer. This evening, OLA, HHS and DOJ will meet with Congressional staff to discuss DOJ adjustments to our proposal.

Health IT. Today HHS hosted their second American Health Information Community (AHIC) meeting. The AHIC received briefings from experts on potential breakthrough areas. After much discussion, the AHIC members agreed to a one year goal of utilizing health IT to (1) assist in biosurveillance by transmitting essential primary care and emergency department and lab result data (possibly utilization data as well) in a standard and anonymous format to authorized public health agencies with less than one day lag time and (2) develop 1st tier registration data and medication history to form the basis of a personal health record. The AHIC is also exploring short-term deliverables in chronic disease, e-prescribing, and quality monitoring.

Veterans. VA will be releasing DOD estimates on traumatic injuries resulting from Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF) in mid-December. DOD estimates there are 5,000 service members who have received traumatic injuries. This information will be released in conjunction with implementation of a new benefit for injured service members. The benefit pays up to \$100,000 for injuries such as loss of limb, sight or other traumatic losses. The benefit is retroactive for members who suffered a qualified injury in OEF or IOF.

Other Issues

- Agriculture Disaster Package (Sommers/NEC; Katz) – Senator Martinez introduced an agriculture disaster package on 11/17 that CBO scores at \$2.1 billion. The bill would provide disaster money for production losses that have occurred as a consequence of five hurricanes (Dennis, Katrina, Rita, Ophelia and Wilma). The bill would assist with losses to program crops, nurseries, citrus, livestock, sugar, timber, and fisheries. This proposal does not address damages incurred as a consequence of other natural disasters (drought, flood, etc). Cochran is rumored to be working on a more comprehensive bill which could be as high as \$4 billion. It is likely that any agriculture disaster bill will be attached to the last appropriations bill moving before Congress leaves for the year -- probably the Defense Appropriations bill.
- Airlines (Sharp/DPC; Hook) – On 11/16 the Delta pilots union asked the bankruptcy judge to recuse herself because she had made comments in court about pilots' high compensation. The judge denied the motion and has not yet ruled on voiding the pilots contract to make way for further cuts.
- Air Traffic Control Commercialization (Sharp/DPC; Hook) – On 11/28 FAA Administrator Marion Blakey requested Federal mediation to bring the air traffic controller contract negotiations to a close. The union must agree to mediation and has not yet done so. If mediation fails (could be weeks or months), the FAA can declare an impasse and notify Congress of its intent to enforce its contract. If Congress does not act to alter the contract in 60 days, FAA can impose its terms. In addition, Deputies met on 11/21 to discuss DOT's proposal for reshaping the governance and fee structure of our air traffic control system and to consider an alternative proposal endorsed by DPC, NEC, and OVP. The current taxes and fees expire on September 30, 2007. Under DOT's plan, air traffic control assets and operations would remain within the Federal government, under the control of a stakeholder board, rather than the FAA. Under the alternative, system assets and operations would be spun off into a private, non-profit corporation under the control of a stakeholder board. These proposals are under consideration as part of next year's budget process even though legislation is not required until 2007. Deputies and their representatives expressed concerns about the political viability of these proposals, particularly the private, non-profit corporation, but agreed that staff should continue to explore both options. Finally because budget decisions must be made very soon, they recommended these policy options be considered outside the budget, through the regular policy process, to give EOP offices and DOT more time to come to consensus.
- Amtrak Reform (Sharp/DPC; Hook) – The week before last, both the House and Senate passed the Transportation, Treasury, and HUD Appropriations conference report. While the bill includes \$1.3 billion for Amtrak, the Conference Report also includes language that requires the Secretary of Transportation to approve all operating and capital grant requests, restricts spending on food and beverage service and first class service losses, requires Northeast Corridor commuter agencies to pay their share of capital costs on the corridor, and prohibits Amtrak from discounting ticket prices by more than 50%. These provisions will not result in major changes at Amtrak, but they do represent incremental progress toward a rational business model with a rational cost cutting strategy.
- Asbestos (Ho/DPC; Hook) - DPC met informally with Chairman Sensenbrenner's key asbestos staffer to discuss the prospects and timeframe for House consideration of asbestos reform legislation. Chairman Sensenbrenner's staffer indicated that the Chairman is waiting for the Senate to act on the Specter-Leahy trust fund bill. Once the Senate passes a bill, the House will set to work on its own version, which will likely include an attempt to improve the bill by imposing stricter medical criteria. Senator Frist has already indicated that asbestos

reform will be the first piece of major legislation he will call to the floor upon the Senate's return in January.

- Associated Health Plans (Leggitt/DPC; Katz)
- Aviation Agreement between U.S. and E.U. (Sharp/DPC; Hook) – Last week, negotiators from DOT and State Department met with their European Union (EU) counterparts and agreed upon the text of a U.S.-EU Air Transport Agreement, which essentially provides for “open skies” between the U.S. and EU. The EU side made it clear that in deciding whether to proceed with the agreement, the European Commission and its member states will consider the results of DOT’s recently initiated rulemaking on expanded opportunities for foreign citizens to invest in and participate in the management of U.S. air carriers. These new investment opportunities will only be available to those countries who offer reciprocal access. (DOT expects the rulemaking to conclude during the first quarter of next year.) The agreement will be reviewed at the December 5 meeting of the EU Transport Council, whose next meeting after that will occur in June. Assuming that the agreement is favorably received at the December Council meeting, and that the Commission and the Council are satisfied with the results of our rulemaking, the agreement could be signed and effective next October.
- Bahrain FTA (Daly/NSC; Katz) – Ways and Means held a mark up the legislation on 11/17 with an expected floor vote the week of December 5th. Senate Finance held a mark up with a vote likely the week of December 12th.
- Beef (Sommers/NEC; Katz) – *Today South Korea delayed an announcement on its probe into the safety of US beef, which likely delays the reopening of the Korean market to our beef products. The delay came right after a Korean agriculture group threatened to stage rallies if the government removes the ban on beef from North America. Korea is widely believed to be waiting for the Japanese market to open to US beef in mid-December before opening their market. Korea was the third largest market for US beef prior to its closure 2 years ago because of BSE concerns.*
- Boeing Advocacy (Daly/NSC; Katz)
- Boxing Commission (Sharp/DPC; Hook) – A bill to regulate the boxing industry through a U.S. Boxing Commission at the Department of Commerce failed on the House floor on 11/17, 233-190.
- Brazil Compulsory Licensing of HIV/AIDS Drugs (Hunter/NSC; Katz) – On 11/17, the Brazilian health ministry determined that the incidence of HIV/Aids in Brazil no longer constitutes a national emergency that would warrant breaking patents in the “public interest”. While NSC is cautiously optimistic they note that Brazil has made positive statements in the past, but not always followed through. Abbott earlier reached an agreement with Brazil, but neither Gilead nor Merck have done so. Gilead negotiators are going to Brazil this week at the invitation of the Brazilian government to continue negotiations. The Gilead reps feel somewhat optimistic because they had not expected to hear from the Government of Brazil so soon after the Abbott deal was announced. NSC will get a better readout of the Gilead meetings in Brazil on December 1st when Gilead meets with NSC.
- BSE (Sommers/NEC; Katz)
- CAFE (Sharp/DPC; Hook)
- Campaign Finance Reform (Taylor/OPA; Hook)
- Canadian Corn Dispute (Sommers/NEC; Katz) – On 11/15 Canadian Border Services ruled against the United States for dumping subsidized corn on the Canadian market. The Ontario Corn Growers Association says the U.S. subsidies are driving down the price of corn around the world, making it difficult for Canadian farmers to survive. The Ontario group filed a complaint with Canadian Border Services in September about the impact of American subsidies on

Canadian farmers. The Canadian corn farmers want duties imposed to raise the price of corn in Canada, and for Ottawa to file a complaint with the WTO to force the U.S. to get rid of its subsidies. The amount of the resulting duties will be released Dec. 15, about midway into the meeting of the WTO in Hong Kong. Many view this as an effort by the Canadian government to secure rural support for their potential upcoming elections.

- Canadian Lumber (Hunter/NSC; Katz)
- CFIUS (Daly/NSC; Katz) – On Friday, Nov. 25, Check Point Ltd. (the Israeli computer security company) notified Treasury that, based on unresolved compliance issues from an earlier CFIUS filing, it was withdrawing its request for a CFIUS review of its proposed acquisition of Sourcefire (a U.S. internet security company maker of anti-spyware software). Therefore, this review will not go to investigation today. Check Point is still intent on going through with the acquisition of Sourcefire and a CFIUS review following an expedited resolution of their compliance issues. However, even if Check Point and CFIUS agencies work through the unresolved compliance issues from the earlier CFIUS filing, serious national security issues remain a challenge for their proposed acquisition of Sourcefire.
- Clear Skies (Stolpe/CEQ; Hook)
- Conflict-of Interest-Reporting (Sharp/DPC; Hook)
- Doha (Hunter/NSC; Katz)
- Drug Reimportation (Leggitt/DPC; Katz)
- Education/Katrina (Troy/DPC; Hook)
- EEO-1 (Sharp/DPC; Hook) – On 11/17 the EEOC voted 3-1 to approve minor changes to the EEO-1 form. Employers use EEO-1 to report the race and ethnicity of their workforce. OMB will review the new form before it becomes final.
- Endangered Species Act (CEQ; Hook)
- Energy (Hannegan/NEC; Katz) – NEC hosted a Principals meeting on 11/21 to further discuss energy policy options. A discussion on CAFE reform took up most of the meeting, which NEC believes could be proposed to blunt Congressional calls for higher fuel economy standards. Principals confirmed their support for legislative authority for NHTSA to reform the CAFE system for passenger cars, and enable credit trading among manufacturers. Concern was raised whether a strong push for legislation would spark Congressional interest in increasing fuel economy standards generally, or weaken the currently strong State preemption language in statute. A further meeting is planned to discuss strategy. On refining, two options were framed for further discussion: a streamlined process for all Federal lands with a State “opt-in”, or a streamlined process for all lands, which would be required of States for non-Federal land unless they developed their own similar program (“opt-out”). Although NEC has withdrawn its support for repealing the tariff on imported ethanol, DOE and Commerce questioned whether there was benefit to repealing it just for sugar-based ethanol. CEQ and DOE were directed to consult further on the design of a “Manhattan Project” style program for renewable and alternative energy, though DOE suggested funds from the repeal of oil and gas tax incentives would be better directed to science education and GNEI. OCS and natural gas reserves issues were not discussed due to lack of time. NEC will reconvene Principals again later this week.
- *Farm Bill (Sommers/NEC; Katz) – Hubbard/NEC hosted a meeting with Johanns, Wolff, and other EOP staff to discuss the provision in the Senate reconciliation bill extending the current Farm Bill through 2011 (as a budgetary baseline gimmick). The House continues to strongly oppose this provision, with our support. In case that support wanes, alternatives were discussed including persuading the Senate Budget Committee to provide budget baseline relief to Chambliss, pursuing non-Farm Bill savings (many already rejected by Congress), or even*

forgoing ag-related savings in reconciliation to avoid what Johanns considers the greater harm of extending the current Farm Bill.

- FDIC Reform (Warsh/NEC; Katz)
- Federal Sentencing Guidelines (Ho/DPC; Hook) – The Supreme Court has declined to confront the question of retroactive application of its decision in *Booker v. U.S.* limiting federal sentence enhancements based on facts not found by a jury. The Court denied review in 11 cases on the issue, including one case in which it had sought the Solicitor General's views. As usual, there was no explanation for the denials. The Solicitor General had argued that *Booker* should not be applied retroactively, because it failed the "new rule" test of the Supreme Court's 1989 decision in *Teague v. Lane*.
- FHA Reform (Streeter/DPC; Katz)
- Fiduciary Duties of Union Officials (Sharp/DPC; Hook) – DOL has formally submitted to OMB clearance a request for information regarding the fiduciary duties of union officials under the Labor Management Reporting and Disclosure Act.
- Flood Insurance (Warsh/NEC; Katz)
- Florida Everglades (Hannegan/CEQ; Hook)
- FMLA (Sharp/DPC; Hook)
- GSEs (Warsh/NEC; Katz)
- Health Care Big Ideas (Ramthun/NEC; Katz)
- Helping America's Youth (Medina/DPC; Hook)
- Homesteading (Streeter/DPC; Hook)
- Immigration (Ho/DPC; Hook)
- Indian Trust/Cobell (Ho/DPC; Hook) – 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 Governance (Russell/NEC; Katz) - A proposal for .xxx (dot XXX) - a new generic top level domain (much like dot COM) for the online adult entertainment industry - will be one item discussed at the Internet Corporation for Assigned Names and Numbers (ICANN) meeting this week in Vancouver. ICM Registry proposed the new top level domain last year and ICANN entered into technical and commercial negotiations with the company in June of this year. ICM Registry will present their proposal to ICANN's Government Advisory Committee in a closed door meeting tomorrow, but expectations currently are that the issue will not be addressed by ICANN during this meeting, pushing the issue off to next February at the earliest. To the extent the issue becomes the subject of debate at the meeting, the Commerce Department will stress the need to complete the ICANN's current open rulemaking regarding adoption of top level domain names prior to acting on .xxx (such a move would delay any action on .xxx until at least this summer). In August, the Commerce Department sent a letter to ICANN highlighting the unprecedented number of correspondences it had received expressing concern about establishing .xxx and asking ICANN to provide a proper venue and additional time for these concerns to be addressed.*
- *Katrina Education Issues (Wilson/DPC; Hook) - OMB hosted a meeting to discuss education issues in anticipation of a reconciliation conference. In terms of relief for k-12 schools impacted by Hurricane Katrina, the Administration will start with the language provided in the Senate legislation and propose three major edits: 1) Use of funds for Impact Aid to include general operating costs; 2) Use of restart aid to reimburse districts for funds already spent, which would increase the number of Mississippi schools eligible for aid and; 3) Lift restrictions on uses of private school aid for students enrolled prior to enactment of reconciliation legislation. While a voucher program is preferred, it was decided that a more balanced*

approach is necessary to ensure private school reimbursement gets included in the final bill. In addition to k-12 Katrina relief, the Administration will support the House language for higher education relief and support various provisions within both the House and Senate bill for HEA reauthorization. Should the reconciliation process stall, alternative avenues will be pursued to ensure schools receive Katrina relief aid. One possible alternative is the Defense Appropriations bill.

- Katrina Lessons Learned/Faith-Based Outreach (Townsend/HSC; McMillin)
- Katrina Reallocation Package (Kaplan/OMB; McMillin) – Both House and Senate appropriators remain strangely quiet about the Administration's \$17b package. The House is waiting for Cochran to show his hand, but he is unlikely to do so until after Thanksgiving. He is reportedly looking to add to our request, but will face substantial challenges with the House, and even his own committee. House approps staff reports a growing sentiment that "none of this is urgent" and a reallocation could wait until next year. Gregg reportedly wants to add a supplemental for immigration if Cochran adds to the Administration request. Since all of this will likely be resolved in the DOD appropriations conference, chances are that Cochran will be able to include some Katrina package, though he will have a difficult time adding to it substantially.
- MCC (Shirzad/NSC; Katz)
- Medicaid Clawback (Ramthun/NEC; Katz)
- Medicaid Commission (Ramthun/NEC; Katz)
- Medicare Drug Coverage (Ramthun/NEC; Katz)
- Medical Liability (Ho/DPC; Hook)
- Methamphetamine (Leggitt/DPC; Katz)
- *Microsoft (Altbach/NSC; Katz) – The Korean Fair Trade Commission (KFTC) is expected to announce its findings tomorrow in the long-running investigation of Microsoft's business practices. Although both RealNetworks and Daum Communications have settled their complaints against Microsoft, the KFTC has indicated it intends to conclude its investigation. A decision was expected last week, but was delayed when members of the commission could not agree on how to proceed. It is unclear whether the announcement expected tomorrow will address both the KFTC's findings on whether Microsoft violated Korean law and the appropriate remedies for any violation found.*
- Municipal Finance (Warsh/NEC; Katz)
- NASA (Russell/NEC; Katz) - NEC hosted a Principals meeting on 11/28 to discuss implications for international partners of the U.S. cutting back or eliminating future shuttle flights. The meeting was little different from the one held last week, with the same participants making very similar arguments. The shuttle is required to complete the international space station and without the shuttle various pieces of the space station constructed by our international space partners like Japan and Europe would not be put into service. The international partners feel strongly about the U.S. obligation. State and NSC are continuing to look into options addressing partner needs. NEC Principals will reconvene later this week with the goal of having a memo to the President for policy time with the President on December 12.
- Native Hawaiian (Ho/DPC; Hook)
- NCLB (Medina/DPC; Hook)
- Ninth Circuit Court of Appeals Split (Ho/DPC; Hook) – The Department of Justice (DOJ) has sent a views letter to Chairman Sensenbrenner expressing support for splitting the U.S. Court of Appeals for the Ninth Circuit. In its letter, DOJ explains that "dividing the 9th Circuit would improve the administration of justice," as the "sheer size of the 9th Circuit has led to serious administrative difficulties that have adversely affected its ability to render justice efficiently." Senator Ensign, who has introduced legislation with Senator Murkowski to that

effect, issued a press release "applauding" DOJ's action. House Republicans are seeking to fast-track legislation splitting the circuit (and adding new federal judgeships across the country) by including the legislation in a pending budget reconciliation bill. That effort is meeting some opposition in the Senate, particularly from Sen. Feinstein, who has asked Chairman Specter to assert his jurisdiction over the issue and argue against including it in the budget reconciliation.

- *OCS (Hannegan/NEC; Katz) - Pombo staff are attempting to develop proposals for the Budget Reconciliation conference that would secure sufficient support for ANWR in the final bill, and perhaps open the "bulge" to new oil and gas exploration. In exchange, some fraction of revenue sharing would be made with States on both existing and new production, and the remaining areas of the OCS not already available for leasing would be closed permanently to further leasing unless the State were to "opt-out" of the leasing moratoria. NEC is monitoring the issue, and will provide to senior staff tomorrow a memo with further details and options.*
- *OPM (Ramthun/NEC; Katz) - The Office of Personnel Management intends to terminate the Postmasters' Benefit Plan from participation in the Federal Employees Health Benefits Program effective for 2006. This plan has not met OPM's performance standards for financial management of the plan. Recently OPM became aware of issues concerning the Plan's ability to fulfill claims obligations and manage resources prudently and appropriately. The plan sponsor, the League of Postmasters, has 15 calendar days to respond to the concerns outlined in the notice and may request a hearing on the issues. The plan has very low enrollment (approximately 8,500 federal employees). OPM wants to make sure the plan doesn't accept any new enrollees for 2006 and give current enrollees time to choose a new plan. OPM appears to be taking appropriate steps to address this issue.*
- *Partial Birth Abortion Plan (Ho/DPC; Hook) – A unanimous three-judge panel of the U.S. Court of Appeals for the Eighth Circuit affirmed the district court's decision striking down Missouri's law banning partial-birth abortion. The Eighth Circuit panel agreed that the law was unconstitutional because the State could not show that the factual situation existing now, regarding whether "substantial medical authority" requires a health exception for the mother, differs from that in Stenberg v. Carhart (2000), in which the U.S. Supreme Court struck down a Nebraska law prohibiting partial-birth abortions because, in the Court's view, the lack of a health exception made the law unconstitutional.*
- *Patriot Act (Mitnick/HSC; Hook)*
- *Pensions (Blahous/NEC; Katz) – NEC will convene a Principals meeting tomorrow in anticipation of Friday's policy time with the President to determine our posture toward an expected conference on a pension bill.*
- *Personal Stockpiles (Rapuano; HSC; Hook)*
- *Postal Reform (Sharp/DPC; Hook) – On 11/15 Deputies met to discuss postal reform legislation. The House passed an expensive bill in July, but the Senate bill has stalled because of a disagreement between Senators Collins and Bond over a rate-setting provision. The Administration has supported reform, but does not particularly like either bill and included a senior advisors' veto threat in the House SAP against the bill's price tag. The Administration has been assured that these and other objectionable provisions will be removed in conference, but there is no clear plan for making these corrections. Deputies agreed that we should not intervene to settle the Senate dispute at this time, given the lack of urgency to move the postal bill and other pressing issues that Senator Bond is associated with.*
- *Physician Payments (Ramthun/NEC; Katz)*
- *Prison Industries (Ho/DPC; Hook)*
- *Rice (Shirzad/NSC; Katz) - The WTO Appellate Body today affirmed a panel decision that found the Mexican antidumping investigation on U.S. rice exports, as well as portions of Mexico's*

antidumping and countervailing duty laws, are WTO inconsistent. Mexico is an important and growing market for U.S. rice, with exports of approximately \$183 million in 2004. Mexico cannot appeal the decision announced today and must now implement the Appellate Body decision or face possible retaliation by the United States.

- Saudi Arabia WTO (Hunter/NSC; Katz)
- SBA Loans (Warsh/NEC; Katz)
- Science (Russell/NEC; Katz) - Al and Keith led a discussion with OSTP and CEA on 11/28 with a Principals meeting planned for early next week to discuss policy options in response to the National Academies report "Rising Above the Gathering Storm: Energizing and Employing America for a Brighter Economic Future", including targeting selected areas of physical science research for an increase in budget, making it easier for high-skilled workers to immigrate, and improving math and science education. NEC will brief the President on December 13th.
- Social Security (Blahous/NEC; Katz)
- *Steel (Shirzad/NSC; Katz) - The Commerce Department is scheduled to announce tomorrow whether it will initiate antidumping cases on imports of carbon steel wire rod from China, Germany, and Turkey. The value of imports from these three countries in 2004 was approximately \$304 million, \$111 million, and \$302 million, respectively. Assuming these cases are initiated and the U.S. International Trade Commission preliminarily finds that the U.S. domestic industry is injured, these cases will likely take about a year to complete.*
- Steroids (Ho/DPC; Hook) – On 11/14 Major League Baseball and its player's union announced today 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; Hook)
- Strengthening America's Community Initiative (Streeter/DPC; Hook) – HUD's Dep Sec Bernardi presented an alternative SACI proposal at a deputy meeting on 11/21 in which the CDBG program would be reformed but would stay at HUD. Consolidation of other SACI programs was not directly addressed in the HUD proposal. The CDBG formula would be updated to target need more effectively, and a minimum grant threshold would reduce by 300 the number of communities receiving funds directly from HUD (these smaller communities would be eligible subgrantees of their States). It would also include a bonus in the formula for communities that attract private investment at certain levels and develop regional strategies. While HUD's proposal claims that new performance measures would prompt communities to focus more clearly on real results (e.g., new jobs, new investment, new homeowners), it is not clear that their proposal actually rewards results or requires accountability as a condition of receiving funds (key elements of SACI). EOP offices at the meeting (plus DOC) strongly advocated re-proposing SACI, whether housed at DOC or HUD, rather than a simple reform of the CDBG program. DPC and OMB will ask HUD and Commerce for specific details on the merits of housing SACI in each department to inform subsequent discussions. Sec. Jackson is likely to continue to object to a SACI initiative at DOC.
- TANF (Streeter/DPC; Hook)
- Tax Reconciliation (Hennessey/NEC; Katz)
- Tax Reform (Hennessey/NEC; Katz)
- *Telecom (Russell/NEC; Katz) - This morning, FCC Chairman Kevin Martin testified before the Senate Commerce Committee that if the cable and satellite operators do not take voluntary steps to curb access to indecent programming, legislation would be appropriate. While not*

endorsing any specific approach, Chairman Martin said mandating cable and satellite providers offer "a la carte" programming (letting consumer pick and pay only for those specific channels they want -- as opposed to buying a "basic" package of programming), fining providers of indecent content, or mandating cable and satellite providers offer a "family tier" (a selection of channels that were all family friendly and sold as a package) would all be beneficial steps. Chairman Martin also said the FCC is planning to issue a report soon showing that a la carte or family tiers "could be economically feasible and in consumers' best interest." Today's testimony could encourage Congress to move on legislation that would boost fines on broadcast television and radio to as much as \$500,000 per incident from the current \$32,500. The House passed a bill in February by a vote of 389-38; however, the bill has stalled in the Senate. The Administration supported the House bill. We have not expressed an opinion on mandated a la cart programming or family tiers.

- TRIA (Warsh/NEC; Katz)
- Tricare Rx (Leggitt/DPC; Katz)
- Uncompensated Care/Katrina (Ramthun/NEC; Katz)
- Union Officer Conflict of Interest Reporting, LM-30 (Sharp/DPC; Hook)
- Voting Rights Act (Ho/DPC; Hook)
- Vouchers (Pardue/DPC; Hook)
- White House Conference on Aging (Leggitt/DPC; Katz)
- *Workforce Training in the Gulf Region (Sharp/DPC; Hook) - Tomorrow, DOL will announce the "Pathways to Construction Employment Initiative" to help workers in areas impacted by the hurricanes enter a career in construction through outreach, skills assessment, and placement in apprenticeship or pre-apprenticeship programs. It will target the residential, commercial, industrial, and heavy highway construction sectors, as well as shipbuilding and heavy marine construction. Grants of \$5 million each will be awarded to the Louisiana Community and Technical College System, working in close partnership with the Louisiana Department of Labor, and the Mississippi Department of Employment Security, working in close partnership with the Mississippi State Board for Community and Junior Colleges.*