Withdrawal/Redaction Sheet
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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Chris Jennings to Hillary Clinton Re: Budget Discussion and Health Care Reform (2 pages)	2/9/93	P5

COLLECTION:
Clinton Presidential Records
Domestic Policy Council
Chris Jennings (Health Security Act)
OA/Box Number: 23754

FOLDER TITLE:
February 1993 HSA [2]

gf74

RESTRICTION CODES

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

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

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

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

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Drafting Group

February 12, 1993

MEMORANDUM FOR HILLARY CLINTON
SARAH ROSENBAUM

FROM: IRA C. MAGAZINER

SUBJECT: Drafting Work Group

I would like to have a meeting with the two of you as soon as is convenient to discuss the organization of the drafting group and its inter-relationship to the broader policy effort.

I believe we must start the drafting process soon. I am sensitive to the necessity for limiting the numbers of people involved in drafting, maintaining a leak-proof environment around the drafting process and ensuring that the drafting process finishes within the scheduled time frame.

I am very concerned, however, that if the drafting process is not an integral part of the policy effort, it will completely undermine the policy process we have established. If it is seen as "the real place that decisions get made" or as a separate "power center," it will destroy our attempts at serious policymaking.

The policy process we have established attempts to accomplish a few goals not common to government:

- To make policy and create legislation in an in-depth way.
- To be broadly inclusive.
- To bring together people from many departments and experts from across the country and ask them to "check their turf at the door" and assume the President's perspective.

We are beginning to succeed quite well at the first two goals and are making progress on the third -- though it is a continual uphill battle.

Eventually, the President, First Lady and Congressional leadership will drive the drafting process. If the drafting process is not driven initially by the policy process, however, then the policy process will become irrelevant very quickly.

Cabinet secretaries will perceive that they don't need to take the policy process seriously because the real decisions will be made separately. Congressional staff will feel that they are being used for a quixotic effort. Interest groups will begin lining up to influence the "real decisionmakers" in drafting.

I propose the following process to ensure proper integration:

1. Representatives from the policy steering group (cluster leaders and departmental designees) meet with leaders of the drafting group to discuss drafting strategy.

2. Drafting group collects previous bills; the policy steering group draws up a "skeleton" set of proposals which can be used as a basis for initial drafting.

3. The policy steering group and drafting group agree on a schedule for detailed drafting of each section of the bill.

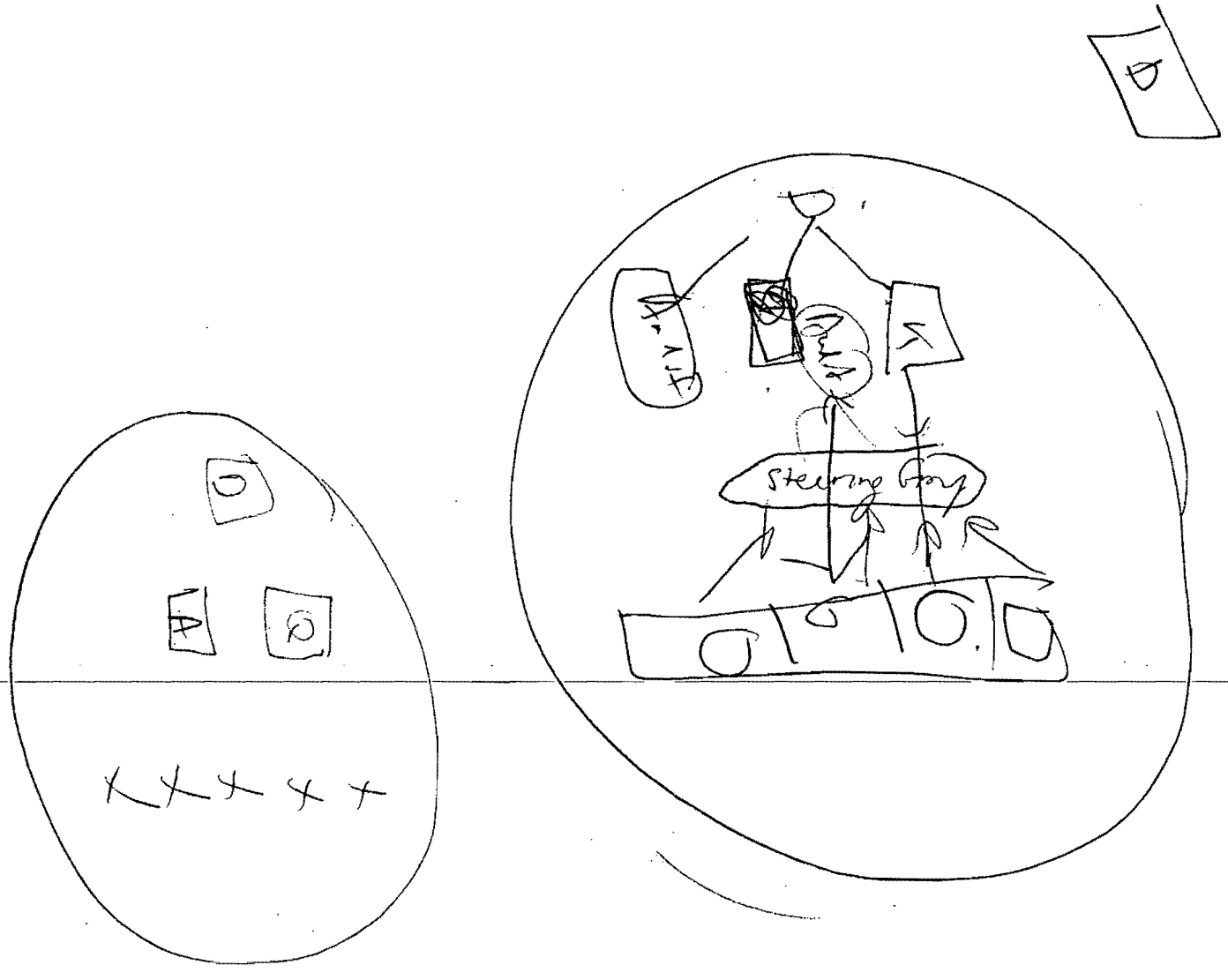
4. The policy group presents detailed policy recommendations with questions and blanks so that initial section drafting can take place.

5. The drafting group presents drafts of each section with questions for review by policy group -- with back and forth communication continuing as policies are further refined.

6. Drafts from fifth and sixth toll gates become the basis for discussion between President, First Lady and their staffs and Congressional leaders and their staffs.

7. Final bill is hammered out in drafting.

At our meeting, we should discuss the composition of the drafting group and the details of a work plan.


Steering Gear

CBO FK

MEMORANDUM

TO: Distribution February 13, 1993

FR: Chris J.

RE: Foley/Mitchell CBO letter re Cooper/Chafee

Attached you will find a letter to Bob Reischauer from Speaker Foley and Senator Mitchell requesting expeditious treatment of CBO's analysis of the Cooper and Chafee bills. As you will note, the Speaker and the Senate Majority Leader ask CBO to provide the Congress with an equally as comprehensive analysis as they did of ours, which does not leave out important elements of the bills that are particularly vulnerable to critique (such as premium impact on businesses and individuals, administrative complexity of tax changes, etc.) and that do not compare favorably with the Health Security Act.

So far, as far as I know, there is no explicit timeframe for release of the CBO analysis. (The earliest possibility is rumored to be about two weeks). However, we understand that the CBO has proceeded much further on the Cooper bill then on the Chafee bill; hence, the request by the leadership to go ahead with the release of the Cooper analysis first.

cc: George, Harold, Ira, Maggie, Pat, Steve, Melanne, Jack, Greg, Jeff, Bob, Mike L., John H., Gene S., Jonathan S., Lynn, Paul, Christine, Meeghan, Steve E., HHS-ASL: Jerry K., Karen P., Distribution

GEORGE J. MITCHELL
MAINE

United States Senate
Office of the Majority Leader
Washington, DC 20510-7010

February 10, 1994

Dr. Robert D. Reischauer
Director
Congressional Budget Office
House Annex 2, Room 402
Washington, D.C. 20515

Dear Bob:

Now that you have completed your work on the Clinton health plan, you will be turning your attention to other major health care initiatives before Congress. As you are well aware, there is a great deal of interest in Congress in receiving your analysis of those bills as soon as possible. We would like for you to first complete an analysis of the Cooper-Breaux bill and then the Chafee-Thomas bill.

In your analysis of those bills, we expect you will discuss the same issues raised in your analysis of the Clinton health bill including the financial impact of the proposals, their proper budgetary treatment, economic effects, and other considerations. Within those broad categories, we will be especially interested in your views as to the impact both bills will have on the number of uninsured, national health expenditures, the federal budget, business and family health care costs, wages, unemployment, business organization and sorting of workers.

Both bills present somewhat different issues from the Clinton bill that need to be separately addressed in your analysis. For example, we understand the Cooper-Breaux bill requires that the Medicaid eligible population receive coverage through the small business alliance at the community rate. What effect do you expect this to have on small business premiums? We also understand that both the entitlement and the subsidy for lower income families would be fixed in the Cooper-Breaux proposal so if the subsidy costs exceed the limit the difference would have to be subsidized through the purchasing alliance. What effect do you expect that to have on premiums within the alliance?

Both bills include a limitation on the tax favored status of health insurance benefits and you should analyze what effect that will have on income and payroll taxes, how many people will be affected, and the distribution of those tax changes. Furthermore, what kind of administrative problems do you expect

to arise as employers, families, and the Internal Revenue Service attempt to comply with such limitations?

With respect to the Chafee bill, we understand that the amount of the subsidy for lower income families phases out rapidly as income rises and that such subsidies, as well as the mandate, are dependent upon the amount of federal resources made available through the savings in the legislation. Your analysis should elaborate on exactly how that would work, what effect it would have on the number of uninsured, on employment relationships, and on the incentive to work and earn income.

Since neither bill provides a complete description of the benefits package, it will be necessary for CBO to at least make an alternative assumption based on the same benefits package in the Clinton health plan. Failure to do so would prevent us from making an adequate comparison of the three bills.

It is our understanding that you have already done work on these bills and expect to be able to complete your analysis in a timely fashion. We will be back in touch with you to discuss the timing and location of a hearing on your work.

Thank you for your attention to this request.

Sincerely,

Thomas S. Foley

George J. Mitchell

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Memorandum

To: Hillary Rodham Clinton and other interested parties
Fr: Chris Jennings, Ken Thorpe
Re: Nature of Medicare/Medicaid Budget Cuts
Dt: February 15, 1993
cc: Melanne, Kevin Thurm, Jerry Klepner

1. Overview

As you know, the current draft of the President's budget proposal makes a number of cuts in the Medicare and, to a lesser extent, the Medicaid program. These cuts were developed in response to a desire to achieve $18 billion in cuts in FY 1997. The current budget draft now assumes Medicare/Medicaid cuts of approximately $16 billion in FY 1997 and approximately $59.1 billion over 5 years. (The two billion shortfall is due to the fact we have moderated the Medicare Part B premium increase to beneficiaries).

To achieve the savings, the following rationale was used: (1) we avoided cuts that could be construed as systematic changes that will be pursued separately during the health reform process, (2) we minimized any beneficiary impact, and (3) we tried to avoid any public savings that could be used in the context of health reform.

Under these constraints, and because there are limited extenders (continuation of current Medicare policy) available, approximately only one-fourth of the currently assumed cuts come from extenders. The remaining three-fourths of the cuts are made up of recommended policy changes. Most of these proposed cuts have been previously advanced by OMB and considered by Congress.

2. Highlights of Proposed Cuts

A. **Beneficiary Cuts.** Assumes an increase in the Part B premium over and above current law starting in FY 1997. This is an extender and totals $6.745 billion over 5 years and represents 11.4% of the Medicare/Medicaid cuts.

B. **Hospital Cuts.** Assumes approximately $23.6 billion cuts in reimbursement to hospitals over 5 years. This amounts to approximately 40 percent of the $59.1 billion Medicare/Medicaid cut.

C. **Physicians and Lab Cuts.** Assumes a $13.7 billion cut in reimbursement to physicians and labs. This represents approximately 23 percent of all of the proposed Medicare/Medicaid cut.

D. **States.** Assumes a $2 billion cut in the Federal match for States' administrative expenses. This represents approximately 3.4 percent of the total proposed Medicare/Medicaid cut.

E. **Other.** Assumes $12.982 billion in cuts for the programs and services that concurrently crossovers into Part A and Part B areas. This represents 22 percent of the Medicare/Medicaid cut.

3. Expected Reaction

* **Providers.** Health care providers will strenuously object to these cuts because (1) the public programs will be, once again, cost shifting to the private sector, and (2) because cuts will not be offset by any increase in health insurance coverage.

* **Governors.** State Executives will be displeased because of the proposed shifting of administrative costs under Medicaid to the States.

* **Congress and Consumers.** Advocates for health reform can be expected to become disgruntled because this round of cuts in Medicare are going to deficit reduction rather than to expand coverage. As a result, they will focus on the need to raise additional revenue through increased taxes, making it more politically problematic to pass national health insurance reform this year. In other words, they fear they will be asked twice to vote for cuts and tax increases.

  In addition, many of these cuts are extremely similar to those proposed and opposed by Democratically controlled Congresses. Many Democrats will feel extremely uncomfortable about defending. Lastly, a number of Members particularly sympathetic to health reform will (and do) feel that such an approach is inconsistent with previous statements made by the President with regard to this issue. Moreover, they feel that they have not been adaquately consulted in switching directions.

M E M O R A N D U M

TO: First Lady Hillary Rodham Clinton February 15, 1993
FR: Chris Jennings X-2645
RE: Tuesday House Visit
cc: Melanne, Patti, Steve Ricchetti, Lorraine Miller, Jerry Klepner, Ira Magaziner, Judy Feder

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Tomorrow afternoon, you are scheduled to hold the House companion meet and greet meeting you held with the Senate on February 4th. You will start off with a meeting with Speaker Thomas Foley and Majority Leader Gephardt at 2:00 in Room H-204 of the Capitol. After about 15-20 minutes or so, you will go up to H-324 for a meeting with 38 Democratic Members who were invited by the House Leadership (see attached list).

Following the meeting with the Democratic Representatives, you are scheduled for a 4:15 meeting with Minority Leader Bob Michel and J. Dennis Hastert (R-IL) in H-232. (Rep. Hastert was recently chosen by the Minority Leader to serve as his representative to the Health Task force). After this meeting, you are scheduled for a meeting in H-227 with the 24 Members of the Republican Leader's Task Force on Health.

Because of the success of the Senate meeting, we have concluded that it is advisable to use the same type of format (in terms of presentation and media coverage) that was chosen for the Senate visit. Therefore, the visits with the House Leadership will be brief and be utilized primarily for them to be able to present you to their Members. The Leadership is very comfortable with you then making a presentation about the process, progress, and strategy of the Administation's health care reform effort, and following it up with a question and answer session.

You have done so well at these forums that I believe it is unnecessary to provide you with any new talking points. Beyond the more general questions about health reform, however, you may well receive some much more focused questions about the possible use of health care cuts for deficit reduction rather than access expansion. Concern may well be expressed by some Democrats that such an action will only make it more difficult to find the dollars necessary to finance comprehensive health reform.

On the other hand, Republicans may suggest that entitlements should be cut severely and that all saved dollars be dedicated to reduce the deficit. (If they do, you can talk about your concern of such an action only shifting costs to the private sector). They may also raise the issue of the advisability of raising revenues and imposing employer mandates on a delicately recovering economy.

DATE: February 12, 1993
TO: Chris Jennings
FROM: Andie King
RE: briefing meeting with First Lady on health care reform

Updated list of Members to attend the meeting with Mrs. Clinton on Tuesday, Feb. 16:

1. Foley
2. Gephardt
3. Bonior
4. Kennelly
5. Derrick
6. Lewis
7. Richardson
8. Hoyer
9. Fazio
10. Rosty
11. Dingell
12. Ford
13. Stark
14. Waxman
15. Williams
16. Clay
17. Cooper
18. Mike Andrews
19. Stenholm
20. Sabo
21. McDermott
22. Conyers
23. Clayton
24. Cantwell
25. Matsui
26. Obey
27. Johnston
28. DeLauro
29. Synar
30. Wyden
31. Levin
32. Cardin
33. Pomeroy
34. Deutsch
35. Eddie Bernice Johnson
36. Strickland
37. Slattery
38. Slaughter

MEMBERS OF THE

REPUBLICAN LEADER'S TASK FORCE ON HEALTH

103RD CONGRESS

Bob Michel - Chairman
Newt Gingrich - Co-Chairman

Bill Archer (TX)
Michael Bilirakis (FL)
Thomas J. Bliley, Jr. (VA)
Michael N. Castle (DE)
William F. Goodling (PA)
Porter J. Goss (FL)
Fred Grandy (IA)
Steve Gunderson (WI)
* J. Dennis Hastert (IL) → Minority Leader's Health Task Force Designee
David L. Hobson (OH)
Martin R. Hoke (OH)
Nancy L. Johnson (CT)
John R. Kasich (OH)
Jim McCrery (LA)
Howard "Buck" McKeon (CA)
J. Alex McMillan (NC)
Dan Miller (FL)
Carlos J. Moorhead (CA)
Pat Roberts (KS)
Marge Roukema (NJ)
William M. Thomas (CA)
Robert S. Walker (PA)

All years

Proposals	1994-1998	Benef.	Inp. Hosp	Op Hosp	Phys.	Labs	Other	States
10% Capital Reduction, OPD	430			430				
2% Lab Fee Update	1,310					1,310		
10% Capital Reduction, Inpatient	1,100		1,100					
IRS/SSA/HCFA Data Match	370						370	
MSP for Disabled	2,695						2,695	
MSP for ESRD After 18 Months	105						105	
Continue 5.8% Hospital Outpatient Cut	1,550			1,550				
Maintain SMI Premium at 1995 Percent	6,350	6,350						
Put Hospitals on CY Update	6,030		6,030					
Set Lab Rates at Market Levels	4,480					4,480		
Eliminate SNF ROE Payments	730						730	
Set EPO at Non-U.S. Market Rates ($10 per 1000 units)	210						210	
Bundle RAP Payments	570				570			
Eliminate Mandatory Medicaid Personal Services 1/	5,845						5,845	
MSP Reforms	1,292						1,292	
DME Options	685						685	
Direct Medical Education	1,680		1,680					
Eliminate Add-On for Hospital-Based HHAs	1,120			1,120				
Single Fee for Surgery	510				510			
Reduce Default MVPS & Update	2,075				2,075			
Resource-Based Practice Expense Phase-In	2,975				2,975			
Reduce Hospital Update by Market Basket by 1% in FYs 94 & 95	7,050		7,050					
Penalty for Paper Claims	440				440			
Ban Physician Referrals	350						350	
OPD Cut at 10%	1,115			1,115				
Cut Doc. Fees by 2%	1,675				1,675			
Reduce IME	3,540		3,540					
Third Party Liability	1,250						1,250	
Estate\Asset Rules	565	565						
Drug Formularies	100						100	
Reduce Medicaid Match	2,025							2,025
HI Interaction	-650						-650	
SMI Interaction	-280				-280			
Medicaid Offset	-170	-170						
TOTAL PROGRAM SAVINGS	59,122	6,745	19,400	4,215	7,965	5,790	12,982	2,025
PERCENT OF TOTAL		11.4%	32.8%	7.1%	13.5%	9.8%	22.0%	3.4%

THE PRESIDENT'S ECONOMIC PROGRAM: SENIOR CITIZENS

I. None of the burden of Medicare savings in the President's economic program is placed on beneficiaries.

II. Indeed, by slowing the growth of Medicare provider fees, some of the reforms **directly reduce (or slow down the growth of) medical costs for most recipients.** The reason is that for Part B recipients, there is a 20% co-pay on many services, but providers are not permitted to make up for the loss of Federal reimbursement by hitting the patient up for it. For every dollar that a doctor's fee does not go up, therefore, the patient saves 20 cents. Put another way, beneficiary savings are 25% of Federal savings under those reforms. The impact of these reforms alone is to save Medicare recipients **over $3 billion in out-of-pocket coinsurance costs from FY94 to FY98.**

III. In addition, 70% of seniors have Medigap insurance to help with their Medicare copayments. When those copayments go down, their Medigap insurance rates go down.

IV. Also, since Medicare premiums, like other insurance plans, are based on the cost of providing benefits, to the extent that the program costs are kept in check, premiums are kept lower. Every dollar saved in the program saves Part B recipients 27 cents on their premiums.

OMB estimates that total direct savings to Medicare recipients from these reforms is $7.6 billion over five years.

V. Millions of Social Security recipients have experienced problems dealing with the Social Security Administration because of computer, administrative, and other problems at the agency. The economic program provides a total of $1.9 billion, including some $300 million as part of the stimulus package for the current fiscal year, to modernize the agency and make it more responsive for Social Security and Disability Insurance recipients.

VI. There is one spending item in the stimulus and investments that is worth noting. It affects only low-income elderly, over age 55. It's the Community Service Employment for Older Americans program. The stimulus adds $32 million for the program, or an 8.2% increase, for this fiscal year. This will provide an additional 5,300 minimum wage community service jobs for low-income seniors. This level continues, after FY 1994, meaning 70,000 total jobs each year.

Updated Version changes in V

To: Chris Jennings
From: Don Shriber and Mike Woo
Re: Possible meeting between Commerce Committee members and the First Lady
Date: February 22, 1993

As we discussed on Saturday, this memo outlines useful comments Mrs. Clinton might make at her appearance before Commerce Committee Democrats.

1. We want to enact a serious health reform bill this year.

A number of task forces underway to assist in this process; some of you are involved in the task forces.

2. This Committee will and must play a critical role in passing the legislation. Given the short time frame, we need an orderly process for involving this Committee in the development and support for the package before it is released.

3. I have asked the Chairman to develop and coordinate our work with the Committee. It would be extremely helpful to me and to the President if you would work with the Chairman as we together develop a health reform package that achieves the President's goals and is responsive to your concerns.

4. Obviously, feel free to contact my office at any point. But please understand that given my travel schedule, and the number of individuals and groups who will be contacting me, I will be spread quite thin over the next couple of months. Nevertheless, I want to be as helpful as possible. The more focused the message you present, the more responsive I can be to you, individually and as a Committee. This is where Chairman Dingell can help all of us.

5. If this Committee can pull together behind the Chairman and use his good offices to develop the necessary consensus for the President's plan, it can only enhance your role as a Committee, and increase your opportunity for contributing to the plan's success.

Karen Pollitz

690-8425

> Susan Borhn

2230

✓ Levin
✓ Dingell — Riegle
Bonior
Ford — > health care
Conyers
B-Rose
collins

~~[illegible]~~

— Southfield Civic Center

up to 1,000 people

— McComb Community College

Warren — 500 Mitchell

Clinton Township — 500

M E M O R A N D U M

TO: Hillary Rodham Clinton
FR: Chris Jennings
RE: Health Care
cc: Melanne, Ira, Howard Paster, Steve Ricchetti

February 22, 1993

In discussions earlier today with the Leadership of the House (including Gephardt, Rostenkowski, Dingell, Ford, Waxman and others), as well as with John Hilley of the Senator Mitchell's office, great concerns have been raised about the possibility of NOT folding in health care in the Budget Reconciliation process. Without exception, these Members stated or implied that there is NO chance a comprehensive health reform initiative can pass the Congress on a separate legislative track.

Information Gleamed From Discussions:

* The preferential course of action, advocated by the leadership of both Houses, is to push for a vote on the Budget Resolution and hope that provides enough cover and assures enough support for the President's stimulus package.

* The fear is that there may be too many Members who will claim that a Resolution vote does not provide sufficient cover and will demand a reconciliation vote on the cuts the President proposed. (They will state they want to ensure that the cuts will be enacted into law).

* If the trade is made to give the Congress a reconciliation vote in order to get the stimulus package passed in short order, it is highly unlikely to impossible to see any comprehensive reform package make it through the Congress. This is the case even if it is incorporated into a separate and second reconciliation process, as some apparently have been suggesting.

* Here's why: The consensus of the Leadership and the Committee Chairmen of both the Senate and the House is that there is nowhere near sufficient support for going to the well twice for a difficult vote for health care revenue and cuts. It is becoming more an more apparent that, in order for health reform to be passed, it must be linked to a one-vote omnimbus budget reconciliation strategy.

* The problem is obvious. The President wants his stimulus package enacted as soon as possible because a delay in its enactment may reduce or eliminate the positive economic impact of his initiative. However, the majority in the Congress may hold his stimulus package hostage to a reconciliation vote on cuts, thus killing any realistic opportunity to enact substantial health reform this year. This is NOT an acceptable trade. The fact that Bill Clinton gets a relatively modest stimulus package enacted this year will not placate any criticism that he did not get health care reform.

* The other alternative is to do some Presidential arm-twisting to make sure that the Congress supports the stimulus package without the need for an early reconciliation vote.

* If the above does not work, the latest compromise seeming to emerge on the Hill today was a preliminary proposal to think about slightly delaying the stimulus package and streamlining the health care initiative. The idea here is it would make it easier to fold the cuts, the taxes, and the reform initiative into on reconciliation package in as timely as manner as possible. Although this has been discussed, it would probably not be accurate to promise that Congress would complete action on this in as quick a timeframe as would be desirable.

* John Hilley informed me that late this afternoon the Majority Leader will be meeting again with the Senate leadership and Chairmen on this issue. He will call me back with developments as soon as it is over.

ROBERT H. MICHEL
18TH DISTRICT, ILLINOIS

RAY LAHOOD
CHIEF OF STAFF

H-232, THE CAPITOL
WASHINGTON, DC 20515
225-0600

Office of the Republican Leader

United States House of Representatives
Washington, DC 20515-6537

Ira - Fwd - FYI

February 23, 1993

Mrs. Hillary Rodham Clinton
Task Force on National Health Care Reform
The White House
Washington, D. C 20500

Dear Mrs. Clinton:

We appreciate your recent visits to the Hill and willingness to consider the views of those of us on the Republican side. We also appreciate your invitation to our participation in the health reform effort you are chairing.

Since most of the groundwork in developing the health care reform proposal is being undertaken in subgroups, we are prepared to assign appropriate people to participate in those subgroup deliberations. We would thus appreciate knowing the Chairs, subject matter, and staffing of each of the subgroups as well as how we can facilitate our participation into this process.

We would also appreciate knowing of the action plan for the task force itself, when it will be meeting and the kinds of decisions it will be making.

We on the Republican side are strongly committed to achieving increased access to health care as well as cost containment. We stand willing to work with you in the development of a commonsense reform plan that achieves these ends while at the same time preserving the many positive aspects of our present health care system.

We look forward to your early response.

Sincerely,

Bob Dole
Senate Republican Leader

Bob Michel
House Republican Leader

Senate Republican Task Force for Health Care

John H. Chafee, Chairman

SENATORS

Christopher S. Bond
Hank Brown
Conrad Burns
John H. Chafee
Dan Coats
Thad Cochran
William S. Cohen
Larry E. Craig
John C. Danforth
Robert Dole
Pete V. Domenici
Dave Durenberger
Slade Gorton
Charles E. Grassley
Judd Gregg
Orrin G. Hatch
Mark O. Hatfield
James M.Jeffords
Nancy Landon Kassebaum
Trent Lott
Richard G. Lugar
Connie Mack
John McCain
Mitch McConnell
Frank H. Murkowski
Don Nickles
Bob Packwood
Larry Pressler
William V. Roth, Jr.
Alan K. Simpson
Arlen Specter
Ted Stevens
Strom Thurmond
Malcolm Wallop
John W. Warner

Written Before Moynihan's cancellation of 2/25-4:30pm meeting.

MEMORANDUM

TO: Hillary Rodham Clinton
FR: Chris Jennings X-2645
RE: Thursday Hill Visits with Moynihan, Sasser, and Riegle
cc: Melanne, Ira, Steve R., Howard P.

February 24, 1993

Tomorrow, starting at 4:30, you are scheduled to hold consecutive meetings with Finance Chairman Moynihan, Budget Chairman Sasser, and Finance Subcommittee on Medicaid Chairman Riegle. The timing of these meetings are particularly opportune because of the relevance of these Members (especially Moynihan and Sasser) opinions and responsibilities with regard to reconciliation and health care reform.

Following this memo, you will find a brief description of the three Members and their health care records.

Before summarizing the Senators' health backgrounds, I think it would be useful to fill you in on two late night conversations I had with the Chief of Staff of Majority Leader Mitchell's office, John Hilley, and the chief health analyst of the Senate Budget Committee, Kathy Deignan. (John debriefed me on today's afternoon meeting with the Chairmen and Kathy updated me on some budget resolution issues that are extremely important). Highlights include:

* John stated that there remains a consensus (although I am not certain where Appropriations Chairman Byrd stands) among the Senate Chairmen (no women chairs) that there will not be a sufficient number of votes for two tax bills and that a one-vote reconciliation strategy remains the best (and probably the only) option to pursue if there is a desire to pass health reform this year in the Senate. (FYI, Sasser shares this position and, although Moynihan has not yet focused on this because he has been sick, Hilley is confident he will stick with Mitchell on this issue).

* John (who used to be the Staff Director of the Senate Budget Committee) said that it would be difficult to impossible, on both procedural and political grounds, to develop -- much less pass -- a second reconciliation bill. Assuming a second bill is even possible (and that is not even clear to him), he cited 3 primary other reasons why it would be problematic:

(1) it is difficult to see how a second reconciliation package would pass a budget rules test known as the reconciliation "preponderance" test because, to do so, the bill must fundamentally be a deficit reduction bill. He believes it would be virtually impossible for a health reform bill to meet this test because it is difficult to see how it would be possible to come up with the taxes and cuts necessary to meet the deficit reduction test AND to underwrite the costs of a health care package.

(2) any attempt to get around the preponderance test (perhaps by splitting up the deficit reduction provisions between the two separate packages) would likely invite even more political problems for the first reconciliation bill. This is because the tax to cuts ratios would likely be even more difficult to defend than they are now.

(3) it is extremely difficult to see this Congress finishing action on even one reconciliation package before September. Even if they break a record in this regard and pass it in the summer, it is virtually unthinkable to see a second reconciliation process completed this year or next. (Congress rarely takes a bite out of the deficit in any significant way more than once every two years).

* In order to accomodate the concerns of both the House and the Senate, one budget reconciliation/health care strategy could be as follows:

(1) Pass the budget resolution with a health reform plus (see discussion below) around March 20th;

(2) Immediately bring up and pass the stimulus package with a commitment that cuts will be in the reconciliation package;

(3) Have the House pass its reconciliation bill first WITHOUT health reform (sometime in late May/early June);

(4) Have the Senate -- as it usually does in its more slow and deliberate way -- pass its reconciliation bill WITH health reform after the House passes its bill;

(5) Have the House pass a protected health reform bill that they can bring to a joint Senate/House conference; and

(6) Go to conference in September and work out a deal that can pass the Congress and be presented to the President.

John endorses the above strategy and it may well be attractive to the House leadership as well. We may find this approach attractive to because we would not be refereeing the dispute and leaving the decision up to the Congress.

* My conversation with Kathy Deignan of the Budget Committee centered around what provisions in the Senate budget resolution would be necessary to assure that the President would need only 51 votes to pass a reconciliation bill WITH a health reform package attached. Two health "plugs" are apparently necessary are:

(1) A "Reserve Fund" provision that allows spending on health reform (reform can be very broadly defined) to be payed for by new revenues without a 60 vote budget point of order must be included in the budget resolution. (Our last two Senate budget resolutions have had this provision, so there is precedent; nothing is easy in the Senate, though, and most Republicans are likely to oppose.)

(2) A separate waiver of a budget provision known as the "Byrd" rule will likely be necessary to be incorporated into the resolution to assure that the health care provisions imperative for the passage of the bill are not stripped on the Senate floor because they do not come into line with the rule.

There are a number of provisions of the Byrd rule, but one of the most far reaching is one that disallows any provision that is "extraneous" (defined as has no impact on the budget) to the bill. (This could include, for example, insurance market and medical malpractice reform because they have no cost impact). I know of no such waiver related to health that has ever been attached to protect unnamed health provisions in a Senate budget resolution.

The Byrd waiver will be more difficult to get included in the budget resolution than the "Reserve Fund" provision. I do not believe that Senator Byrd has taken any formal position on whether he would support such a waiver.

* Although it will be difficult to get the two "plugs" included in any budget resolution, it will not be impossible. If the above provisions are not incorporated, however, it appears likely that the President and you will have to find 60 votes to pass health care. John Hilley believes they can find the votes for a "plugged" Senate resolution. While Kathy's confidence does not match John's, she does believe it can be done. The bottom line, though, is that it must be done because we cannot count on 60 votes.

* Lastly, in today's meeting with Senator Sasser, it may be advisable would be wise not only to get his opinion about what we should do with regard reconciliation, but to ask him for an update on any discussions he and/or his staff has had with Sentor Byrd. If Senator Byrd is not supportive of a Byrd waiver provision, it will be extremely difficult to get that particular health plug in the reconciliation bill.

MEMORANDUM

TO: Secretary Shalala
cc: Kevin Thurm
Jerry Klepner
Phil Lee
Judy Feder

FROM: Karen Pollitz

RE: Process and strategy for Congressional and interest group meetings

DATE: February 25, 1993

As we discussed on Tuesday, in order for you to be a more prominent participant in the development of the health care reform process, you should position yourself as a source on whom Mrs. Clinton can rely for information on key Senators, Representatives and interest groups, their policy positions, and the best political approach to them. To do so, you must initiate a series of meetings with these parties.

The purpose of your meetings should be threefold:

1. to negotiate with key groups and members in order to aid passage of the health care reform plan;

2. to reinforce the Secretary's position as central to the policy making and political negotiation processes on national health care reform, as well as on all critical health issues; and

3. to coordinate information with the White House and the Hill so that consistent messages are reinforced.

The primary focus of the Secretary's meetings should be on the key negotiating points -- those difficult and controversial issues and policy problems that will be critical to building the overall consensus necessary to enact successful reform. Defined broadly, those negotiating points would be:

* coverage - including questions of how comprehensive basic benefits will be and how quickly access will be phased in;

* employer mandates - including questions on the level of financial commitment that will be required of employers and the level of subsidy promised small business;

* cost control - including the nature of limits imposed (i.e., rate controls vs. premium controls), the stringency of limits and how cost controls are phased in;

* managed competition - how it will be defined and implemented; and

* how health care reform affects real patients and real providers on a day to day basis.

In addition, Medicare provider reimbursement issues will be entangled with payment reform issues for provider groups. In order for the Secretary to conduct effective meetings and negotiations on all of these issues, she will need to have substantive briefings for background and on ongoing policy developments.

Interest Group Meetings

Each meeting should be a transaction and each meeting, or denied meeting, should send a message. In general the process should be inclusive. However, the option to refuse a meeting, especially a followup meeting, must be maintained as leverage for opponents.

My initial recommendations on group meetings are divided into three lists ("A," "B," and "C," attached). Additional names may be included as the need arises.

The Secretary should meet initially with groups on the "A" list, characterized as generally supportive of the President's health reform efforts. Additionally, coordination with the White House is important to ensure that these groups receive some visible support and appreciation from Mrs. Clinton, the Secretary, or other appropriate officials in return for their help.

The Secretary should meet initially with groups on the "B" list, characterized as potential allies. Followup meetings with these groups will need to be determined according to their willingness to negotiate.

The Secretary or another HHS official should meet initially with groups on the "C" list, characterized as likely opponents. Only the largest and most influential opponent groups should be seen. A general rule should be that no "C" list group receives a second meeting until they are ready to seriously entertain proposals that move them closer to the President's plan.

Hill Meetings

The Secretary's meetings with Representatives and Senators also should follow three tracks. First, the Secretary should assemble a small cadre of key Senators and Representatives on whom she can rely for information and reality checks, for lobbying of other members, and for lobbying of interest groups.

In the Senate, this close circle should include Majority

Leader Mitchell, Senator Moynihan, Senator Kennedy, and Senator Rockefeller. In the House, she must include Majority Leader Gephardt, Rep. Rostenkowski, Rep. Dingell, Rep. Ford, Rep. Waxman, and Rep. Stark (with some limits.)

The Secretary should convey to these key members that their own efforts to put pressure on the "B" list groups will help create cover for all members to vote for the President's plan. As they meet with these organizations, it will be helpful for their message to be consistent with hers. Enactment of health care reform is a priority and those groups refusing to be constructive players will be noted and remembered by these key Congressional leaders.

A second track of Hill meetings should focus on key, loyal members who will be supportive of the President's health reform efforts and who will be positioned to lobby their Democratic colleagues. Rep. Gephardt has his own group of members on whom he intends to rely for internal lobbying of House Democrats. The Secretary should let Gephardt know that she will be ready to meet with these members or otherwise find a way to show her appreciation to them at the appropriate time.

If possible, a special outreach effort to Appropriations Committee and Subcommittee chairs could yield some additional, influential allies. In particular, we must explore Sen. Byrd's interest in being a key supporter on health care reform. He can bring a significant number of key votes with him on almost any issue. Sen. Rockefeller will be able to advise us on whether or how to approach Sen. Byrd. Other Appropriations Subcommittee Chairs should be approached, including Sen. Mikulski, Sen. Ford. On the House Committee, Reps. Hoyer, Obey and Fazio are already allies and may be useful in bringing on both swing votes and swing groups.

The third track of Hill meetings should focus on the conservative Democrats. Initial key meetings should focus on Reps. Andrews, Cooper, and Stenholm in the House, and on Sens. Breaux and Boren. Additionally, the Secretary should consider beginning outreach to moderate Senate Republicans at some point soon. The minority side has been effectively left out of the process to date and is very angry. We may lose opportunities to deal constructively with Sen. Kassebaum, Sen. Chafee, and Sen. Durenberger unless they are brought into the process in some way.

Coordination with White House Task Force

Coordination with the White House will take place in two ways. First, Molly Brostrom is Ira Magaziner's assistant who will attend all meetings he holds with interest groups. She and I have agreed to keep each other informed of the content of all meetings. We do not have a formal process for this yet. However, I will propose that we exchange brief, factual, written summaries of the meetings as they occur. Through an oral debriefing on a weekly basis (or

more often as needed) we can exchange more sensitive information. Molly also will keep Mike Lux informed throughout.

Second, at Mrs. Clinton's request Steve Edelstein is creating a database of information on key interest groups and on all Senators and Representatives. I offered to have our health legislation staff meet with him so that we can understand the types of information he is tracking for Mrs. Clinton and help gather it for him. He, in turn, will share information with us.

Process for Coordinating Information Within HHS

One person in ASL will be assigned to staff and monitor all meetings between the Secretary and interest groups. This person will be responsible for preparing a brief written summary of each meeting and circulating it to key staff. On a weekly basis, key staff should convene for an oral debriefing of all meetings, including more sensitive information. The same staffing and process should take place for Hill meetings, except that other key staff may be included in the meetings, themselves.

"A" List Groups

Employers
Association of Public and Private Welfare Plans (APPWP)
National Association of Manufacturers (NAM) [B?]
National Leadership Coalition employer members (Chrysler, ARMCO, etc.)

Hospitals
Catholic Health Association (CHA)
National Association of Children's Hospitals and Related Institutions (NACHRI)

Physicians
American Academy of Family Physicians
American College of Physicians

Other Providers
American Nurses Association

Labor
SEIU
National Leadership Coalition signees (Steelworkers, Electrical Workers)

Other Consumer Advocates
Families USA

Insurers
none

Intergovernmental
none

"B" List Groups

Employers
Washington Business Group on Health
National Association of Manufacturers
Business Roundtable
Chamber of Commerce
National Small Business United
Small Business Legislative Council

Hospitals
American Hospital Association
National Association of Public Hospitals ?

Physicians
American College of Surgeons
American Academy of Pediatrics
American College of Radiology
American College of Preventive Medicine
American Psychiatric Association
American College of Obstetrics and Gynecology

Other Providers
American Psychological Association
National Association of Social Workers
American Health Care Association (nursing homes)
National Association of Home Care

Labor
AFL-CIO
AFSCME
UAW

Other Consumer
Consumers Union
Citizen Action ?
Children's Defense Fund
Campaign for Women's Health (umbrella women's group)
Disabilities Health Care Task Force (umbrella disabilities group)

Insurers
Group Health Association of America
Prudential
CIGNA
Metropolitan
Aetna
Travellers
Blue Cross Blue Shield
Health Insurance Association of America

Intergovernmental
National Governors' Association
National Conference of State Legislatures
National Association of Counties
U.S. Conference of Mayors

"C" List

Employers
National Federation of Independent Business

Hospitals
Federation of American Healthcare Systems (for profits)

Physicians
American Medical Association ?
most other medical specialty societies

Other Providers
Pharmaceutical Manufacturers of America
Health Industry Manufacturing Association

Labor
none

Other Consumer
National Committee to Preserve Social Security
Public Citizen

Insurers
Healthcare Leadership Council

Intergovernmental
none

M E M O R A N D U M

TO: Secretary Shalala
FR: Chris Jennings X-2645
RE: Update on Health Care and Reconciliation
cc: Kevin, Jerry, Karen, Judy, Ken, Atul

February 26, 1993

There have been many rumors circulating around the Hill that Members are becoming so nervous about the economic package that the Leadership and/or the rank and file may not have the stomach to add health care to the budget reconciliation bill. In this vain, there have been reports of a possible two reconciliation strategy (one for deficit reduction and one for health). Although Wednesday there appeared to be great angst about this in the House, there appeared to be an easing of concern by the end of the day yesterday.

The currently accepted legislative strategy, therefore, continues to be that the House and the Senate will pass the budget resolution, will move on to bring up and pass the stimulus package, and then move quickly to consideration of the reconciliation package. Of most importance to you, the Leadership of both Houses remain very open to incorporating (under a wide variety of scenarios) the health initiative into the reconciliation bill.

Late Wednesday evening, I had two conversations with the Chief of Staff of Majority Leader Mitchell's office, John Hilley, and the chief health analyst of the Senate Budget Committee, Kathy Deignan. (John debriefed me on the Wednesday afternoon meeting with the Chairmen and Kathy updated me on some budget resolution issues that are extremely important). The information I received was relayed to Mrs. Clinton and Ira, and I believe it is important that you and the Department (in particular, Jerry and Karen) have it as well. Highlights of the conversation:

* John stated that there remains a consensus among the Senate Chairmen that there will not be a sufficient number of votes for two tax bills and that a one-vote reconciliation strategy remains the best (and probably the only) option to pursue if there is a desire to pass health reform this year in the Senate.

* John (who used to be the Staff Director of the Senate Budget Committee) said that it would be difficult to impossible, on both procedural and political grounds, to develop -- much less pass -- a second reconciliation bill. Assuming a second bill is even possible (and that is not even clear to him), he cited 3 primary other reasons why it would be problematic:

  (1) it is difficult to see how a second reconciliation package would pass a budget rules test known as the reconciliation "preponderance" test because, to do so, the bill must fundamentally be a deficit reduction bill. He believes it would be virtually impossible for a health reform bill to meet this test because it is difficult to see how it would be possible to come up with the taxes and cuts necessary to meet the deficit reduction test AND to underwrite the costs of a health care package.

  (2) any attempt to get around the preponderance test (perhaps by splitting up the deficit reduction provisions between the two separate packages) would likely invite even more political problems for the first reconciliation bill. This is because the tax to cuts ratios would likely be even more difficult to defend than they are now.

  (3) it is extremely difficult to see this Congress finishing action on even one reconciliation package before September. Even if they break a record in this regard and pass it in the summer, it is virtually unthinkable to see a second reconciliation process completed this year or next. (Congress rarely takes a bite out of the deficit in any significant way more than once every two years).

* In order to accomodate the concerns of both the House and the Senate, one budget reconciliation/health care strategy could be as follows:

  (1) Pass the budget resolution with a health reform plug (see discussion below) around March 20th;

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  (3) Have the House pass its reconciliation bill first WITHOUT health reform (sometime in late May/early June);

  (4) Have the Senate -- as it usually does in its more slow and deliberate way -- pass its reconciliation bill WITH health reform after the House passes its bill;

  (5) Have the House pass a protected health reform bill that they can bring to a joint Senate/House conference; and

Process Changes in Budget Resolutions

The Constitution preserves to each House of Congress the power to change the rules governing its procedure. Article I, which sets forth the powers of the legislative branch, provides that "[e]ach House may determine the Rules of its Proceedings . . . ." U.S. CONST. art. I, § 5, cl. 2. Pursuant to this power, Congress may by concurrent resolution supersede rule-making statutes, such as the Congressional Budget Act of 1974, insofar as they establish congressional procedures.

Statutory Authority

Section 904(a) of the Congressional Budget Act restates this constitutional power of Congress (and each of its Houses) to change the Budget Act's provisions:

> The provisions of this title (except section 905) and of titles I, III, IV, V, and VI (except section 601(a)) and the provisions of sections 701, 703, and 1017 are enacted by the Congress --
>
> > (1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and
> >
> > (2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

2 U.S.C. § 621 note (1988 & Supp. II 1990).

The conference report on the Budget Act expounded:

> SECTION 904. RULEMAKING POWERS
>
> The House and Senate versions provided that the rules established for the congressional budget process and certain other provisions are an exercise of the rulemaking powers of the House and Senate and may be changed by either as it desires. . . .
>
> The conference substitute retains, with conforming changes, the provisions of the House bill and Senate amendment relating to the rulemaking powers of the House and Senate.

S. CONF. REP. NO. 924, 93d Cong., 2d Sess., 74 (1974), *reprinted in* 1974 U.S.C.C.A.N. 3591, 3615.

Section 301(b)(4) of the Congressional Budget Act provides an affirmative statement of the same reservation of powers:

> (b) ADDITIONAL MATTERS IN CONCURRENT RESOLUTION. -- The concurrent resolution on the budget may --
>
> . . .
>
> (4) set forth such other matters, and require such other procedures, relating to the budget, as may be appropriate to carry out the purposes of this Act . . . .

2 U.S.C. § 632(b)(4) (Supp. II. 1990). Some refer to this paragraph as the Budget Act's "elastic clause."

Section 2 of the Congressional Budget Act, in turn, sets forth the purposes of the Act and thus limits what matters and procedures relating to the budget section 301(b)(4) encompasses:

> (1) to assure effective congressional control over the budgetary process;
>
> (2) to provide for congressional determination each year of the appropriate level of Federal revenues and expenditures;
>
> (3) to provide a system of impoundment control;
>
> (4) to establish national budget priorities; and
>
> (5) to provide for the furnishing of information by the executive branch in a manner that will assist the Congress in discharging its duties.

2 U.S.C. § 621 (1988).

Legislative History

The legislative history of section 301(b)(4) makes clear that the drafters of the Budget Act intended that the section would grant later Congresses broad authority to revise the budget rules in budget resolutions. As passed by the House of Representatives, the Act provided a general grant of authority to include miscellaneous budgetary matters:

> (b) MATTERS REQUIRED TO BE SET FORTH IN CONCURRENT RESO-

> LUTION. The concurrent resolution referred to in subsection (c) shall set forth, for the fiscal year concerned
>
> . . .
>
> (5) such other matters relating to the budget as may be appropriate to carry out the purposes of this Act.

H.R. 7130, 93d Cong., 2d Sess., § 121(b) (1974) (as passed by the House). As passed by the House, the Act had no explicit statement of its purposes.

As amended in the Senate, the Act provided two general provisions:

> SEC. 301. (a) ACTION TO BE COMPLETED BY JUNE 1. -- On or before June 1 of each year, the Congress shall complete action on the first concurrent resolution on the budget . . . . The concurrent resolution shall set forth --
>
> . . .
>
> (7) OTHER MATTERS. -- Such other matters relating to the budget as may be appropriate to carry out the purposes of this Act.
>
> (b) ADDITIONAL MATTER IN CONCURRENT RESOLUTION. -- The first concurrent resolution on the budget may also include provisions relating to one of the following procedures:
>
> . . .
>
> (4) any other procedure which is considered appropriate to carry out the purposes of this Act.

H.R. 7130, 93d Cong., 2d Sess., § 301 (1974) (as amended by the Senate). The other procedures explicitly listed included a procedure to make all spending contingent on the passage of a wrap-up funding bill, a procedure providing for delayed enrollment of spending bills until after Congress completed reconciliation, and a procedure for including all appropriations measures in one omnibus bill. *See id.*

The most authoritative legislative history for the Act, the joint statement of managers in the conference report accompanying the Act, includes a detailed discussion of section 301(b)(4), plainly indicating the drafters's intent that future Congresses have broad authority

to make temporary changes in the process governing spending legislation during the period covered by the budget resolution:

SECTION 301 (a) and (b). ADOPTION AND CONTENT OF FIRST CONCURRENT RESOLUTION

The House bill provided for adoption of the first concurrent resolution . . . . The budget resolution also could contain other matters relating to the budget. The Senate amendment provided for adoption of the first resolution . . . . The Senate amendment also provided that the budget resolution would contain . . . and other matters deemed appropriate for the congressional budget. The Senate amendment further provided that the budget resolution could mandate additional procedures relating to the consideration of spending measures.

The conference substitute provides for adoption of the first concurrent resolution . . . . This resolution shall set forth: . . . and other matters deemed appropriate to the congressional budget. . . .

. . . .

The managers conceive of the first budget resolution as a major annual opportunity for considering budget policies and priorities. The budget process must combine an optimum amount of information in committee reports and other sources with attention to the key aggregates and priorities in the budget resolution. . . .

The managers recognize that as it acquires experience with its new budget process, Congress may desire to establish additional procedures to facilitate the coordination of its separate budget and appropriation decisions. Section 301(b) authorizes Congress to require in the first budget resolution that appropriation and entitlement legislation not be enrolled until the reconciliation stage of the budget process is completed. Congress may devise any other procedure relating to the budget process and prescribe its implementation for the ensuing fiscal year. It is intended that the authority to prescribe "any other procedure which is considered appropriate to carry out the purposes of this Act" applies only to the specific procedures for the enactment of budget authority and spending authority legislation for the coming fiscal year and not to the jurisdiction of committees, the authorization of budget authority, or to permanent changes in congressional procedure. The Budget Committees are directed to report to Congress on the implementation

of such procedures no later than the end of the 95th Congress.

S. CONF. REP. NO. 924, 93d Cong., 2d Sess., 57-58 (1974), *reprinted in* 1974 U.S.C.C.A.N. 3591, 3599-600.

The Practice and Customs of the Senate

Budget resolutions have included numerous provisions making changes in the budget process. Those provisions have included:

Maximum Deficit Amount: The most recent budget resolution included an explicit exception for appropriations measures to the maximum deficit amount point of order under sections 311(a) and 605 of the Congressional Budget Act. *See* Concurrent Resolution on the Budget -- Fiscal Year 1993, H. Con. Res. 287, 102d Cong., 2d Sess., § 10 (1992) (adopted).

Social Security "Fire Wall": The most recent budget resolution also included a provision extending the reach of a 60-vote point of order against budget resolutions that would worsen the Social Security Trust Fund balances. This section implicitly amended section 301(i) of the Congressional Budget Act. *See* Concurrent Resolution on the Budget -- Fiscal Year 1993, H. Con. Res. 287, 102d Cong., 2d Sess., § 12(b) (1992) (adopted). *See also* the related provisions of *id.* § 12(a); Concurrent Resolution on the Budget -- Fiscal Year 1992, H. Con. Res. 121, 102d Cong., 1st Sess., § 8, 137 CONG. REC. H3300, H3305 (daily ed. May 21, 1991) (adopted) (requiring use of baseline levels for Social Security for purposes of sections 302 and 311 of the Congressional Budget Act).

Reserve Funds. Several budget resolutions have included what are called "reserve funds" that allow deficit-neutral legislation on specified subjects to proceed in excess of aggregates and committee allocations. These provisions implicitly waive sections 302(f), 311(a), and 602(c) of the Congressional Budget Act for the purposes of considering specific initiative areas. While section 301(b)(7) of the Budget Act codified this practice in 1990, earlier budget resolutions since 1983 had included this type of language. *See* Concurrent Resolution on the Budget -- Fiscal Year 1993, H. Con. Res. 287, 102d Cong., 2d Sess., § 9 (1992) (adopted) (initiatives to improve the health and nutrition of children and to provide for services to protect children and strengthen families; economic growth initiatives (including for unemployment compensation or other, related programs); continuing improvements in ongoing health care programs and phasing-in of health insurance coverage for all Americans; initiatives to improve educational opportunities for individuals at the early childhood, elementary, secondary, or higher education levels, or to invest in America's children); Concurrent Resolution on the Budget -- Fiscal Year 1992, H. Con. Res. 121, 102d Cong., 1st Sess., § 9, 137 CONG. REC. H3300, H3305 (daily ed. May 21, 1991) (adopted)

(initiatives to improve the health and nutrition of children and to provide for services to protect children and strengthen families, economic recovery initiatives, continuing improvements in ongoing health care programs and phasing-in of health insurance coverage for all Americans, to expand access to early childhood development services for low-income pre-schoolers, and to fund surface transportation); Concurrent Resolution on the Budget -- Fiscal Year 1991, H. Con. Res. 310, 101st Cong., 2d Sess., § 6, 104 Stat. 5163 (1990) (children, including funding through tax credits); Concurrent Resolution on the Budget -- Fiscal Year 1990, H. Con. Res. 106, 101st Cong., 1st Sess., §§ 7 & 8, 103 Stat. 2540 (1989) (children, including funding through tax credits; and medicaid); Concurrent Resolution on the Budget -- Fiscal Year 1989, H. Con. Res. 268, 100th Cong., 2d Sess., §§ 5 & 6, 102 Stat. 4875 (1988) (the welfare reform initiative, the medicare catastrophic health insurance initiative, and the anti-drug initiative); Concurrent Resolution on the Budget -- Fiscal Year 1988, H. Con. Res. 93, 100th Cong., 1st Sess., § 9, 101 Stat. 1986 (1987) (the welfare reform initiative and the medicare catastrophic health insurance initiative); Concurrent Resolution on the Budget -- Fiscal Year 1987, S. Con. Res. 120, 99th Cong., 2d Sess., §§ 3 & 4, 100 Stat. 4354 (1986) (unmet critical needs requested by the President and a general revenue sharing extension); First Concurrent Resolution on the Budget -- Fiscal Year 1984, H. Con. Res. 91, 98th Cong., 1st Sess., § 2, 97 Stat. 1501 (1983) (loan foreclosure relief to farmers; direct loans for farm ownership, operating, or economic emergency programs; and for other purposes); *see also* the related provisions of Concurrent Resolution on the Budget -- Fiscal Year 1988, H. Con. Res. 93, 100th Cong., 1st Sess., § 5, 101 Stat. 1986 (1987) (funding for defense).

Asset Sales: Budget resolutions have prohibited the counting of the proceeds from asset sales and loan prepayments. These provisions altered the functioning of points of order under sections 302, 310, 311, 601(b), 602, 604, and 605 of the Congressional Budget Act. *See* Concurrent Resolution on the Budget -- Fiscal Year 1993, H. Con. Res. 287, 102d Cong., 2d Sess., § 8 (1992) (adopted); Concurrent Resolution on the Budget -- Fiscal Year 1992, H. Con. Res. 121, 102d Cong., 1st Sess., § 7, 137 CONG. REC. H3300, H3304 (daily ed. May 21, 1991) (adopted); Concurrent Resolution on the Budget -- Fiscal Year 1991, H. Con. Res. 310, 101st Cong., 2d Sess., § 5, 104 Stat. 5163 (1990); Concurrent Resolution on the Budget -- Fiscal Year 1990, H. Con. Res. 106, 101st Cong., 1st Sess., § 6, 103 Stat. 2540 (1989); Concurrent Resolution on the Budget -- Fiscal Year 1989, H. Con. Res. 268, 100th Cong., 2d Sess., § 4, 102 Stat. 4875 (1988); Concurrent Resolution on the Budget -- Fiscal Year 1988, H. Con. Res. 93, 100th Cong., 1st Sess., §§ 7 & 8, 101 Stat. 1986 (1987).

House Exception to Aggregate Point of Order: The most recent budget resolution also clarified the application of the exception that applies in the House to the point of order under section 311 of the Congressional Budget Act (2 U.S.C. § 642(b) (1988)) implicitly amending that section. *See* Concurrent Resolution on the Budget -- Fiscal Year 1993, H. Con. Res. 287, 102d Cong., 2d Sess., § 11 (1992) (adopted).

Automatic Second Budget Resolution: When the Congressional Budget Act still provided for first and second resolutions on the budget, budget resolutions have provided that the first resolution be considered to be the second resolution if the Congress had not adopted the second one by a date certain. Those provisions also provided an exception in the House to the aggregate point of order under section 311 of the Congressional Budget Act. *See* First Concurrent Resolution on the Budget -- Fiscal Year 1986, S. Con. Res. 32, 99th Cong., 1st Sess., § 3, 99 Stat. 1941 (1985); First Concurrent Resolution on the Budget -- Fiscal Year 1985, H. Con. Res. 280, 98th Cong., 2d Sess., § 4, 98 Stat. 3484 (1984); First Concurrent Resolution on the Budget -- Fiscal Year 1984, H. Con. Res. 91, 98th Cong., 1st Sess., § 5, 97 Stat. 1501 (1983).

Point of Order Where Committees Fail To Suballocate: One resolution created a new point of order in the House against the consideration of legislation before the committee of jurisdiction had completed its suballocation of spending. *See* First Concurrent Resolution on the Budget -- Fiscal Year 1985, H. Con. Res. 280, 98th Cong., 2d Sess., § 5, 98 Stat. 3484 (1984).

Revised Aggregates and Allocations in the House: One budget resolution has empowered the Chairman of the House Budget Committee to revise aggregates and allocations under the budget resolution, affecting the enforcement of sections 302, 311, and 602 of the Congressional Budget Act. *See* Concurrent Resolution on the Budget -- Fiscal Year 1992, H. Con. Res. 121, 102d Cong., 1st Sess., § 12, 137 CONG. REC. H3300, H3305 (daily ed. May 21, 1991) (adopted). *See also* Concurrent Resolution on the Budget -- Fiscal Year 1988, H. Con. Res. 93, 100th Cong., 1st Sess., § 13, 101 Stat. 1986 (1987) (empowering the House Budget Committee Chairman to file original allocations at a later date); Concurrent Resolution on the Budget -- Fiscal Year 1987, S. Con. Res. 120, 99th Cong., 2d Sess., § 13, 100 Stat. 4354 (1986) (same).

Summary

Under the Constitution, each House of Congress has the power to alter its procedure, including rule-making statutes such as the Congressional Budget Act. Section 904(a) of that Act explicitly restates this power, while section 301(b)(4) of the Act makes an affirmative statement of the principle, providing for inclusion in budget resolutions of "such other matters, and . . . such other procedures, relating to the budget, as may be appropriate to carry out the purposes of this Act." The legislative history of the law makes clear that the drafters of the Act intended that the section would grant later Congresses broad authority to revise the budget process. In practice, Congress has included a variety of budget process provisions in budget resolutions, and many of these have (explicitly and implicitly) altered the application of points of order under the Congressional Budget Act.