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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DEPUTY DIRECTOR

July 14, 1997

MEMORANDUM FOR DISTRIBUTION

FROM: JACK LEW

SUBJECT: Quick Review of HBC Revised Side-by-Side

Attached for your quick review is the latest version of the reconciliation spending provisions side-by-side proposed by the House Budget Committee majority staff. We understand that both the House and Senate majority agree on this document.

In this version, HBC staff deleted most of the Administration's policy arguments for opposing or supporting a particular provision, and separated the White House Position and the Agreement columns. With the separation of the White House Position and the Agreement columns, we should add back language from the earlier version, and perhaps in some cases augment it.

We no longer have the electronic file, so we need to provide comments in the form of marked up edits to the side-by-side. The version you signed off on -- which includes the Administration's policy rationale -- is also attached for your reference.

Please return your comments by 4:00 pm today to Janet Himler 5-7224, room 253 or Jill Blickstein 5-5883, room 251. We will be returning a master set of all comments to the Committee today.

Thank you.

Gene Sperling/Chuck Marr
Bruce Reed/Elena Kagan/Chris Jennings/Cynthia Rice
John Hilley/Martha Foley/Barbara Chow/Janet Murguia
OMB PADs

DRAFT

7/11/97
6 p.m.

MAJOR POLICY ISSUES TO BE RESOLVED IN RECONCILIATION CONFERENCE

Prepared by the Majority Staffs, House and Senate Committees on the Budget
11 July 1997

	HOUSE-PASSED BILL	SENATE-PASSED BILL	WHITE HOUSE POSITION	BUDGET AGREEMENT
MEDICARE				
MedicarePlus/Medicare Choice				
Payments to MedicarePlus Health Plans	Carves out of amounts attributable to disproportionate share hospitals [DSH], indirect medical education [IME] costs, and direct medical education [DME] costs. - COMMERCE — Phases out amounts over 5 years. - WAYS AND MEANS — Maintains amounts in MedicarePlus payments.	Carves out DSH, IME, and DME from the Medicare Choice payment over 4 years.	Supports Senate and House Commerce provisions on carve-out.	No explicit assumption.
Capitation Payment Rate	Derive from a blend of local and input price-adjusted national costs. - COMMERCE — 70 percent local, 30 percent national. - WAYS AND MEANS — 50-50 blend, updates links to growth in FFS Medicare.	Uses a 50-50 blended payment of local and national costs that are not input price-adjusted. Growth in payments tied to GDP growth.	Supports Commerce 70/30 blend.	Assumes reforming managed care payment methodology to address geographic disparities.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	WHITE HOUSE POSITION	BUDGET AGREEMENT
MEDICARE [MedicarePlus/Medicare Choice] (continued)				
Minimum Monthly Payment/ Minimum Update	- COMMERCE — Floor of $350 in 1998. Sets payment at 100 percent of 1997 rate for 1998, 101 percent for 1999-2000, 102 percent for 2001 and beyond. - WAYS AND MEANS — Floor of $350 for 1998; minimum payment increase of 102 percent of the prior year's rate.	Initially sets $350 payment floor and minimum increase, but provides for adjustment to increase floor to 85 percent of national average (over $400), financed by reducing minimum increase to zero.	Supports the House link to fee-for- service payments; the Commerce floor, and the House approach to risk adjustment.	Assumes reforms to address geographic disparities.
MSA's	Provides for medical savings account demonstration, allowing 500,000 individuals to enroll.	Allows 100,000 enrollees. Limits cost-sharing to amounts allowed under HIPAA.	Supports Senate with current law "balance billing" limitations. Demo should be as small as possible and limited geographically for a trial period (e.g., two States for 3 years).	Assumes structural reforms will include provisions to give beneficiaries more choices among competing health plans, such as PSO's and PPO's.
Private fee-for service	No provision.	Private fee-for-service option. Allows beneficiaries to add funds for health care services.	Strongly opposes any provision to allow "balance billing."	Assumes structural reforms will include provisions to give beneficiaries more choices among competing health plans, such as PSO's and PPO's.
Other Medicare Issues				
Home Health Spending Transfer	Transfers home health spending (after 100 visits or not following a hospitalization) from Part A to Part B. - COMMERCE — Makes entire transfer immediately. - WAYS AND MEANS - Phases in transfer over 6 years.	Phases in transfer over 7 years.	Supports House Commerce Committee provision because it is explicitly consistent with the Agreement and extends the life of the Trust Fund by 2 additional years.	Assumes extending solvency of the Part A trust fund for at least 10 years through a combination of savings and structural reforms (including the home health transfer).

	HOUSE-PASSED BILL	SENATE-PASSED BILL	WHITE HOUSE POSITION	BUDGET AGREEMENT
		MEDICARE [other Medicare issues] (continued)		
Eligibility Age	No provision.	Conforms Medicare eligibility age to Social Security's normal retirement age, saving $10.2 billion from 2003 through 2007 and reducing Medicare's long-term deficit by 0.2 percent of payroll.	Strongly opposes.	No explicit assumption.
Income-Related Premium	No provision.	Phases up premium from current 25 percent of program costs to 100 percent, saving $3.9 billion over 5 years, $19.6 billion over 10 years. Phase-in would be over income ranges: for single persons with incomes of $50,000 to $100,000; for couples with incomes of $75,000 to $125,000.	Supportive in concept but oppose how policy is structured in the Senate. Prefer 75-percent phaseout, indexing income thresholds to account for inflation. Administration by IRS is the only feasible option in the near-term.	No explicit assumption.
Home Health Copayment	No provision.	$5 dollar copayment applying only to home health visits paid from Part B; capped at annual hospital deductible; saves $4.7 billion over 5 years.	Strongly opposes.	No explicit assumption.
Medical Malpractice	- COMMERCE — Limits noneconomic damages to $250,000 and implements other reforms. - WAYS AND MEANS — Limits noneconomic damages to $250,000 and implements other reforms.	No provision.	Strongly opposes House provisions.	No explicit assumption.
10-Year Savings	WAYS AND MEANS — $386 billion. (Commerce does not have jurisdiction over the full amount.)	Saves $447 billion over 10 years.	Senate bill falls 1 year short of the Agreement, according to CBO.	$434.0 billion net savings over 10 years, and extend life of the Trust Fund by at least 10 years.
VA/DoD Medicare Subvention Demonstrations	No provision.	Requires managed care and fee-for-service demonstrations of Medicare reimbursement to the Departments of Veterans Affairs and Defense.	Supports inclusion of VA and DoD subvention demonstrations, but wants changes to address concerns with fee for service and payment rate components of the DoD demonstration.	No explicit assumption.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	WHITE HOUSE POSITION	BUDGET AGREEMENT
		MEDICAID		
Total Savings	Saves $12.9 billion, after adjusting the CBO-reported savings for Medicaid-related changes because of the child health insurance initiatives.	Saves net of $14.7 billion over 5 years.	Supports $13.6 billion in net savings and spending on new initiatives described in the Agreement.	Assumes net Medicaid savings of $13.6 billion over 5 years.
DSH Reductions	Reduces disproportionate share hospital [DSH] payments by $15.3 billion gross over 5 years by establishing additional caps on State DSH allotments for fiscal years 1998-2002. The State DSH allotments for States in which 1995 DSH payments were less than 1 percent of total medical assistance spending would be frozen at the level of payments for DSH adjustments in those States in 1995. For States classified as "high" DSH States for fiscal year 1997, DSH allotments would be reduced *from* the higher of 1995 or 1996 payment levels. The reduction percentage for "high" DSH States would be equal to 2 percent in 1998, 5 percent in 1999, 20 percent in 2000, 30 percent in 2001, and 40 percent in 2002. All other States' DSH payments would be equal to the higher of 1995 or 1996 DSH payments levels reduced by one half of the reduction percentages for "high" DSH States.	Reduces disproportionate share hospital [DSH] payments by $16.0 billion gross over 5 years by establishing additional caps on State DSH allotments for fiscal years 1998-2002. Freezes very low DSH States for 5 years (below 3 percent DSH); low-DSH (above 3 percent but below 12 percent) get phased-in 15-percent reduction from their allotments; high DSH (above 12 percent) get a phased-in 20-percent reduction and a phase-out of any spending for mental health facilities from their base DSH allotments. Also applies new restrictions on using DSH for mental health facilities and requires States to prioritize payments to hospitals based on their low-income utilization rate.	As in OBRA 1993, DSH policy should be designed to avoid undue hardship on any State: - Supports President's 1998 budget proposal, which takes an equal percentage reduction from a State's total DSH spending, up to an "upper limit." - DSH savings should be linked to a Federal *standard* for targeting remaining DSH funds to needy hospitals. - Supports House provision *requiring* States to make DSH payments directly to qualifying hospitals (rather than through managed care payments).	Assumes savings are derived from reduced DSH payments and flexibility provisions.
DC and Puerto Rico	No provision.	Increases FMAP for DC to 60 percent for 1998 through 2000; increases payment for Puerto Rico by $30 million in fiscal year 1998 plus increases for other territories.	D.C. — Opposes Senate sunset in 2000 and supports increasing match rate to 70 percent (as in President's 1998 budget). Puerto Rico — Supports adjustments for PR and the territories in the President's 1998 budget.	Assumes a higher match for DC and an inflation adjustment for Puerto Rico and other territories.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	WHITE HOUSE POSITION	BUDGET AGREEMENT
		MEDICAID (continued)		
Medicare Part B Premium Protection	Spends $1.5 billion over 5 years in Medicaid for premium assistance for seniors with incomes of 120 percent to 175 percent of poverty. Covers the full Medicare premium for those with incomes up to 135 percent of poverty. For seniors with incomes between 135 and 175 percent of poverty, the assistance covers that portion of the Medicare Part B premium increase attributable to the home health spending transfer.	Creates a new Medicare block grant, $1.5 billion over 5 years, to States to provide premium assistance for beneficiaries between 120 percent and 150 percent of poverty.	Supports financing the cost of the full Medicare premium through Medicaid. Objects to Senate provision that uses a Medicare grant for this assistance that sunsets in 2002.	Assumes $1.5 billion over 5 years to ease the impact of increasing Medicare premiums on low-income beneficiaries.
Medicaid Cost Sharing	No provision.	Allows States to require limited cost sharing for optional benefits; prohibits cost sharing for children under 18 in families with incomes below 150 percent of poverty.	Strongly opposes Senate provision for optional benefits. The Administration is concerned that the Senate bill could compromise beneficiary access to quality care. Strongly supports Senate provision prohibiting cost-sharing for children.	No explicit assumption.
1115 Waivers and Provider Tax Waivers	Extends expiring 1115 Medicaid waivers.	Extends expiring 1115 Medicaid waivers without regard to budget neutrality. Also deems provider taxes as approved for one State.	Supports continuing policy of budget neutrality.	No explicit assumption.
Return-to-Work	No provision.	Allows States to allow workers with disabilities whose earnings are below 250 percent of poverty to buy into Medicaid. (Under current law, States may exceed 250-percent-of-poverty level for Medicaid eligibility.)	Supports President's 1998 budget proposal, which would not limit eligibility to people whose earnings are below 250 percent of poverty.	No explicit assumption.
Criminal Penalties for Asset Divestiture	Amend Section 217 of HIPAA to provide sanctions only against those who help people to dispose of assets in order to qualify for Medicaid.	Amend Section 217 of HIPAA to provide sanctions only against those who help people to dispose of assets in order to qualify for Medicaid.	Supports repeal of this section.	No explicit assumption.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	WHITE HOUSE POSITION	BUDGET AGREEMENT
		MEDICAID (continued)		
Medicaid Management Information	Requires States to show that their State-designed Medicaid management systems meet outcome-based performance standards and would permit the collection and analysis of person-based data.	No provision.	Supports House provision.	No explicit assumption.
Alaska Medicaid Match Rate	No provision.	Increases Federal Medicaid matching rate for Alaska.	Opposes change to single-State FMAP in the absence of efforts to examine broader alternatives.	No explicit assumption.
Payment Rates for QMB's and Dual Eligibles	No provision.	Allows States to use Medicaid payment rates when determining whether any cost-sharing is owed for QMB's and dual eligibles, for net savings of $2.1 billion over 5 years ($5 billion in Medicaid savings, $2.9 billion in Medicare costs.)	No position.	No explicit assumption.

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WELFARE-TO-WORK

	HOUSE-PASSED BILL	SENATE-PASSED BILL	WHITE HOUSE POSITION	BUDGET AGREEMENT
Fair Labor Standards Act	Applies language from the 1988 law creating AFDC JOBS to indicate that participants in public sector or non-profit workfare activities are not employees under the Fair Labor Standards Act and other employment laws.	No provision.	Supports Senate position and strongly opposes minimum wage and welfare work requirement proposals in House bill.	No explicit assumptions.
	Specifies maximum number of hours states can require beneficiaries to work by counting TANF and Food Stamp benefits as wages for purpose of the minimum wage.	No provision.	Supports Senate position (no provision).	
	Provides limited nondiscrimination and grievance procedure guidelines and other worker protections to TANF work activities for workfare.	Provides grievance procedures and other worker protections to WTW grant funds.	Supports extending Senate provisions on grievance procedures and worker protections to all working welfare recipients under TANF.	
Grant Distribution Formula	- WAYS AND MEANS — Provides 50 percent of funding through formula grants and 50 percent through competitive grants awarded by Labor. - EDUCATION AND THE WORKFORCE — Provides 95 percent of funding through formula grants and 5 percent through competitive grants awarded by Labor.	75 percent of funding by formula, 25 percent through competitive grants.	Supports Ways and Means provision in House bill.	No explicit assumptions.
WTW Federal Administering Agency	Department of Labor.	HHS.	Department of Labor.	No explicit assumptions.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	WHITE HOUSE POSITION	BUDGET AGREEMENT
		WELFARE-TO-WORK (continued)		
Welfare-to-Work Nondisplacement	Provides nondisplacement protections to all welfare-to-work grant funds.	Limits nondisplacement protections to recipients under welfare-to-work funds (and not TANF).	Supports extending Senate provisions on nondisplacement to ~~all working welfare recipients~~ under TANF.	No explicit assumptions.
WTW Local Program Administration	Private Industry Councils (PIC's)	Local TANF agency	Supports House position (PIC's) that cities and other local areas should manage a substantial amount of all WTW funds.	No explicit assumptions.
Performance Fund	No provision.	Provides a performance bonus to States that are successful at moving welfare recipients into work by augmenting the existing TANF performance bonus fund in fiscal year 2003. Provides funding over a 3-year period between fiscal year 1998 and fiscal year 2001, thus generating outlays in fiscal year 2002.	Supports mechanism to provide incentives and rewards for placing the hard-to-serve. One approach would require Governors to use a share of their discretionary funds and the Secretary of Labor to use a share of competitive funds to reward high-achieving welfare-to-work programs.	No explicit assumptions.
Vocational Education Counted as Work Under TANF Work Requirements	- WAYS AND MEANS — Limits TANF beneficiaries counted toward meeting work participation requirements to 30 percent of the total number of persons meeting the requirement rather than 20 percent of total TANF caseload. Teen parents in high school are not required to be counted within the 30 percent. - EDUCATION AND WORKFORCE — Limits TANF beneficiaries a State can count who are in vocational education to 20 percent of the total number of persons meeting the work requirement rather than 20 percent of the total TANF caseload. Teen mothers in high school continue to be counted under the 20 percent cap.	Continues to permit States to calculate up to 20 percent of their TANF caseloads participating in vocational education as meeting the work requirement, but eliminates current requirement that teen mothers attending high school be counted as part of that 20 percent cap.	The Administration urges the Conferees to drop these provisions.	No explicit assumptions.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	WHITE HOUSE POSITION	BUDGET AGREEMENT
WELFARE-TO-WORK (continued)				
SSI State Supplements	Eliminates "maintenance-of-effort" requirement that prevents States from lowering State supplemental SSI payments.	No provision.	Strongly opposes repeal of the MOE provision.	No explicit assumptions.
TANF Transfers to Title XX	Removes the requirement that States transfer $2 to child care activities for every $1 in TANF block grant *funds* that they transfer to the Title XX Social Services Block Grant.	No provision.	Opposes House provisions.	No explicit assumptions.
IMMIGRANTS				
Alien Eligibility for SSI and Medicaid	Restores eligibility for SSI and Medicaid for qualified aliens who were in the country and on the benefit rolls receiving SSI as of August 22, 1996. Legal aliens who were in the U.S. but not receiving SSI benefits are ineligible for benefits if they become disabled in the future. Total cost is $9 billion over 5 years.	Restores eligibility for SSI and Medicaid for qualified aliens who were in the country and on the benefit rolls receiving SSI benefits as of August 22, 1996. Provides eligibility for SSI benefits to legal aliens who entered the U.S. prior to August 23, 1996 and who are or who become disabled in the future. Gives States the option to exempt immigrant children from the 5 year ban on Medicaid. Exempts immigrants from SSI ban who are so severely disabled they are unable to naturalize. Total cost is $11.6 billion over 5 years.	Supports Senate provision. (The President stated in a June 20 letter that he will not sign legislation that does not include the policy that protects immigrants who are or become disabled.) Supports Senate provisions.	Assumes restoring SSI and Medicaid eligibility for all disabled legal immigrants who are or become disabled and who entered the United States prior to August 23, 1996. Those disabled legal immigrants who entered the United States after August 22, 1996, and are on the rolls before June 1, 1997, shall not be removed.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	WHITE HOUSE POSITION	BUDGET AGREEMENT

WELFARE PRIVATIZATION

Welfare Privatization	Permits any State to contract with a private sector entity to conduct income verification and eligibility determinations for Food Stamps and Medicaid. (A similar provision for Medicaid is included in the Commerce Committee title.)	No provision.	Strongly opposes House provision and urges the Conferees to follow the approach taken by the Senate (i.e., no provision).	No explicit assumption.

FOOD STAMPS

Work Slots	Provides States with $680 million in new funding over 5 years for Education and Training activities within Food Stamps. At least 80 percent of the total Food Stamp E & T funding of $1.1 billion would be earmarked to able-bodied adults subject to the work requirement. Job search and job search training would not be an allowable use of the funding earmarked for able-bodied adults. CBO assumes the policy will generate 205,000 work slots that keep able-bodied adults subject to the work requirement eligible for benefits over 5 years. But other activities that do not meet the work requirements would be permissible. Requires States to maintain 100 percent of 1996 levels in order to receive new 100 percent Federal funds.	Provides $640 million in funding to create additional Education & Training positions within food stamps. Requires the Secretary of Agriculture to establish two different reimbursement rates for States accessing these funds. A higher rate will be paid to states drawing down funding for placing persons subject to the work requirement in work slots which keep those persons eligible for food stamps. A lower reimbursement rate will be paid to states that use funding on activities that do not keep persons subject to the work requirement eligible for benefits. CBO assumes this policy generates 250,000 work slots over 5 years that keep people eligible for benefits meet the work requirements. Requires States to maintain 75 percent of 1996 levels in order to receive new or existing 100 percent Federal funds.	Administration endorses Senate reimbursement structure and House provisions for maintenance of effort in order to ensure that the maximum number of slots are created.	Agreement provides for additional and redirected E&T funds "to create additional work slots for individuals subject to the time limits" to maximize the number of new slots.

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	HOUSE-PASSED BILL	SENATE-PASSED BILL	WHITE HOUSE POSITION	BUDGET AGREEMENT
		CHILDREN'S HEALTH		
Total Spending	Spends $15.9 billion over 5 years for children's health insurance or services.	Spends $24 billion (preliminary scoring) for children's health insurance, including the $8 billion added from the tax bill (see below).	Supports: - Senate definition of benefits, limits on cost-sharing. - State option in House bill to spend grant money on grants, Medicaid, or a combination of the two (Senate requires States to choose only one). - Strong maintenance of effort provision and the Senate bill prohibition on using provider taxes and donations to fund States' share. - Using same match rate for Medicaid and grant programs, as in Senate bill. Opposes: - Provisions that allow States to pay for family coverage or pay the employee's share of employer-sponsored insurance in the House bill.	Assumes spending $16 billion over 5 years.
Extra $8 Billion	No provision.	Provides an additional $8 billion in the tax bill.	Supports using all of the revenue from the tobacco tax for initiatives that focus on the needs of children and health. Opposes sunset in this funding after 2002.	Assumes spending $16 billion over 5 years.
Medicaid Benefits for Children Losing SSI Benefits	Allows, but does not require, States to restore Medicaid benefits for children losing SSI benefits because of new, tighter SSI standards for childhood eligibility.	No provision.	Agreement calls for the restoration of these benefits. The Administration supports fiscal year 1998 President's budget provision, which guarantees Medicaid coverage for these children.	If mutually agreeable, the funding could be used to restore Medicaid for current disabled children losing SSI.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	WHITE HOUSE POSITION	BUDGET AGREEMENT
CHILDREN'S HEALTH (continued)				
Direct Provision of Services	Allows States to use grant funds for for the direct provision of health care services.	Does not allow States to use grant funds for the direct provision of health care services.	Strongly opposes House direct services option.	Assumes the revenues will be used in the most cost-effective manner possible to expand coverage and services.
Funding Structure	Allows States to spend grant funds on Medicaid, a grant program, or a combination of the two.	Requires States to choose between Medicaid and a grant option.	Supports House provision.	Assumes funding could be used for Medicaid, capped grants, or both.
Eligibility	Defines targeted low-income children as those whose family income exceeds the Medicaid applicable levels but does not exceed an income level 75 percentage points higher than the Medicaid applicable income level.	Includes a ceiling of 200 percent of poverty for eligibility.	Opposes Senate provision.	Assumes resources will be used for low-income and uninsured children.
Hyde Amendment	Extends to children's health initiative funding the Medicaid appropriations prohibitions on Medicaid payment for abortion services.	Same as House. Also includes in the Medicaid section a managed care sanction provision to change the definition of "medically necessary" to exclude abortion services except under certain circumstances.	Strongly opposes limiting access to medically necessary benefits, including abortion services.	No explicit assumption.
HEALTH INSURANCE FOR SMALL BUSINESSES				
MEWA	Includes legislation allowing small businesses and organizations to offer health insurance, extending ERISA preemptions and State regulations, requiring solvency standards for association health plans, and other regulations.	No provision.	Strongly opposes House provision.	No explicit assumption.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	WHITE HOUSE POSITION	BUDGET AGREEMENT

SPECTRUM AUCTIONS

Analog Return	Authorizes the FCC to auction frequencies that are currently allocated for analog television broadcasting. Imposes a time limit on the television licenses that authorize analog television services. Allows the FCC to extend the time limit if more than 5 percent of the households in a market rely exclusively on analog television signals.	Comparable provision, except that the FCC is required to delay the return it the 5-percent test is not met.	Supports hard cutoff date with authority to extend for small and rural markets. Agreement assumed that this auction would take place in 2001 with a firm cutoff date for analog broadcasting in 2006.	Codify current FCC plans to reclaim surplus "analog" broadcast spectrum after broadcasters have migrated to new digital channels.
Vanity Numbers	Does *not* authorize the FCC to auction the so-called vanity telephone numbers.	Does *not* authorize the FCC to auction the so-called vanity telephone numbers.	Supports authorizing FCC to auction vanity telephone numbers.	Authorize the FCC to award new generations of toll-free vanity telephone numbers through an auction.
Bankruptcy	No provision.	No provision.	Seeks authority to allow the FCC to revoke and reauction a license when a licensee declares bankruptcy.	No explicit assumption.
Federal Reimburse-ment	No provision.	Authorizes reimbursement of Federal agencies for the costs of relocating to new spectrum bands so that spectrum they are now using may be made available by the FCC for auction for commercial use.	Administration supports reimbursement.	No explicit assumption.
Spectrum Penalty	Does not include a penalty fee that would be levied against those entities who received "free" spectrum for advanced, advertiser-based television services, but failed to utilize it fully.	Does not include this penalty fee.	Proposes a fee to be levied against entities that received spectrum at no charge for digital broadcasting, but opted to utilize it for ancillary services.	As authorized by current law, a penalty fee would be levied against those entities who received "free" spectrum for advanced, advertiser-based television services but failed to utilize it fully.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	WHITE HOUSE POSITION	BUDGET AGREEMENT
STUDENT LOANS				
Administrative Cost Allowance	Requires payment to guaranty agencies of 0.85 percent of the principal of all new loans. Capped at $170 million for 1998 and 1999 and $150 million for 2000-2002.	Same provision.	Opposes this provision. Administration believes this would create a new entitlement.	No explicit assumption.
Smith-Hughes Act	Eliminates the Smith-Hughes Act, the original vocational education program.	No provision.	Supports House provision, which is consistent with the Agreement.	Assumes elimination of Smith-Hughes.
Retention Allowance	Allows guaranty agencies to retain 18.5 percent on payments received when a defaulted loan is consolidated.	No provision.	Opposes this provision, which would provide funding to guaranty agencies without regard to expenses incurred. Interprets amendment to have only prospective, not retrospective, application.	No explicit assumption.
VETERANS' BENEFITS				
Medical Care Cost Recovery	Replaces the existing Medical Care Cost Recovery Fund with a new fund into which monies recovered or collected for medical care would be deposited and would be available, *subject to appropriations*, to pay for the expenses associated with veterans' medical care. Also includes a "failsafe" provision authorizing additional funds in the event there is a shortfall in anticipated collections in excess of $25 million.	Replaces the existing Medical Care Cost Recovery Fund with a new fund into which monies recovered or collected for medical care would be deposited and would be available, *subject to appropriations*, to pay for the expenses associated with veterans' medical care. No "failsafe" mechanism.	Concurs with Senate position.	Assumes replaing the existing Medical Care Cost Recovery Fund with a new fund into which monies recovered or collected for medical care would be deposited and would be available, *subject to appropriations*, to pay for the expenses associated with veterans' medical care. No explicit assumption on "failsafe."

	HOUSE-PASSED BILL	SENATE-PASSED BILL	WHITE HOUSE POSITION	BUDGET AGREEMENT
		HOUSING		
Mark to Market	No Provision. (Representative Lazio has introduced, by request, the administration's bill and there is at least one other house version introduced so far.)	FHA Multifamily Mortgage Restructuring: Net savings would be $240 million between 1997 and 2002. The reform would reduce the rents on Section 8 Housing contracts and use a new capital grant program out of the FHA in order to avert large defaults on federally insured mortgages. There are several different versions of this legislation. Without these provisions, the Banking Committee would still exceed its target reconciliation savings of $1.5 billion over 5 years.	Supports the following changes to Senate bill: - Allow for the conversion of subsidies to portable tenant-based assistance, allowing tenants to seek out the best available housing and permitting projects to develop a more diverse mix of income levels. (Senate maintains low-income rental assistance as project-based, tied to specific properties.) - Give HUD more flexibility to design the most effective partnerships. (Senate establishes a preference for delegating restructuring tasks to housing finance agencies.) - Amend tax code to allow for tax amortization in exchange for long-term affordability restrictions. (Senate attempts to address tax issues through the use of "soft" second mortgages which, as interpreted by IRS, may not have the desired effect of deferring tax consequences.) (CBO scores $326 million in savings over 1997-2002 from the Administration's bill.)	No explicit assumption.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	WHITE HOUSE POSITION	BUDGET AGREEMENT
		OTHER ISSUES		
SSI User Fee	Authorizes an increase to the fee States pay when they enter into agreements to have SSA administer State supplemental payments (i.e., State payments that are supplemental to the Federal SSI payment) and makes the funds from the increase available to SSA for administrative expenses, subject to appropriations action.	No provision.	Supports the House language.	Calls for a proposal to increase the existing fees to offset SSA-related spending.
4.3 cents motor fuel tax transfer	No provision.	Transfers 4.3 cents motor fuel taxes from the General Fund to the Trust Fund. Creates an Intercity Passenger Rail Fund [IPRF] to fund AMTRAK. This $2.3 billion fund is capitalized by a smaller tax cut in the Senate and is subject to appropriation.	Objects to Senate proposal to transfer 4.3 cents to the HTF. The Agreement assumes that these taxes will continue to go to the General Fund for deficit reduction. The growth in HTF balances will generate significant pressure to increase spending above the levels assumed in the Agreement. Shifting the 4.3 cents to the HTF will increase the fiscal year 2002 balance from $34 billion to over $72 billion, assuming the Agreement spending levels. Objects to this proposal, which provides funds to AMTRAK above those in the Agreement. Expenditure from the IPRF should be limited to capital only and contingent upon AMTRAK reform legislation.	No explicit assumption.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	WHITE HOUSE POSITION	BUDGET AGREEMENT
OTHER ISSUES (continued)				
UI Integrity	Ways and Means - Includes authorization of UI program integrity activities.	No provision.	Supports House provision, along with budget process reforms in order to achieve savings assumed in the Agreement.	Assumes savings in mandatory unemployment insurance [UI] benefits due to increased discretionary spending on UI integrity activities (e.g. increased eligibility reviews, tax audits). Assumes President's budget requested level of funding for UI integrity ($89 million in 1998) is provided in addition to continuing integrity activities already funded in the base UI administrative grants to obtain these savings.

DRAFT Sent to HBC 7/[illegible]/97

MAJOR POLICY ISSUES TO BE RESOLVED IN RECONCILIATION CONFERENCE

Prepared by the Majority Staffs, House and Senate Committees on the Budget
1 July 1997

MEDICARE

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
- MedicarePlus/ Medicare Choice	**Payments to Medicareplus Health Plans** — Carve out of amounts attributable to disproportionate share hospitals [DSH], indirect medical education [IME] costs, and direct medical education [DME] costs. - **COMMERCE** — Phases out amounts over 5 years. - **WAYS AND MEANS** — Maintains amounts in MedicarePlus payments.	Carves out DSH, IME, and DME from the Medicare Choice payment over 4 years.	Supports Senate and House Commerce provisions on carve-out.
	Capitation Payment Rate — Derive from a blend of local and input price-adjusted national costs. - **COMMERCE** — 70% local, 30% national. - **WAYS AND MEANS** — 50-50 blend, updates links to growth in FFS Medicare.	Uses a 50-50 blended payment of local and national costs that are not input price-adjusted. Growth in payments tied to GDP growth.	Supports Commerce 70/30 blend, which mitigates the geographic variation in payments without major disruption; the House link to fee-for- service payments; the Commerce floor; and the House approach to risk adjustment.
	Minimum Monthly Payment/Minimum Update — - **COMMERCE** — Floor of $350 in 1998. Sets payment at 100 percent of 1997 rate for 1998, 101 percent for 1999-2000, 102 percent for 2001 and beyond. - **WAYS AND MEANS** — Floor of $350 for 1998. Sets minimum payments increase of 102 percent of the prior year's rate.	~~Sets floor at $4,200 a year and maintains payment at 100 percent of the prior year.~~ Initially sets $350 payment floor and minimum increase, but provides for adjustment to increase floor to 85% of national average (over $400), financed by reducing minimum increase to zero.	

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
	MEDICARE (continued)		
- Private fee-for service	No provision.	Private fee-for-service option. No protection against balance billing.	Strongly opposes any provision to allow balance billing.
- Home Health Spending Transfer	Transfers certain home health spending (following 100 visits or not following a hospitalization) from Part A to Part B. - COMMERCE - Makes entire transfer immediately. - WAYS AND MEANS - Phases-in transfer over 6 years.	Phases in transfer over 7 years.	Supports House Commerce Committee provision because it is explicitly consistent with the Agreement and extends the life of the Trust Fund by 2 additional years.
- MSA's	Provides for medical savings account demonstration, allowing 500,000 individuals to enroll.	Allows 100,000 enrollees, Limits cost-sharing to amounts allowed under HIPAA.	Supports Senate with current law balance billing limitations. Demo should be as small as possible and limited geographically for a trial period (e.g., 2 States for 3 years).
- Eligibility Age	No provision.	Conforms Medicare eligibility age to Social Security's normal retirement age, saving $10.2 billion from 2003 through 2007 and reducing Medicare's long-term deficit by 0.2 percent of payroll.	Strongly opposes. Would increase number of uninsured Americans.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
		MEDICARE (continued)	
- Income-Related Premium	No provision.	Phases up premium from current 25 percent of program costs to 100 percent, saving $3.9 billion over 5 years, $19.6 billion over 10 years. Phase-in would be over income ranges: for single persons with incomes of $50,000 to $100,000; for couples with incomes of $75,000 to $125,000,	Supportive in concept but oppose how policy is structured in the Senate. Policy would create incentives for beneficiaries to leave medicare and would lose significant revenue due to administrative inefficiency. Prefer 75% phase out, indexing income thresholds to account for inflation. Administration by IRS is the only feasible option in the near-term.
- Home Health Copayment	No provision.	$5 dollar copayment applying only to home health visits paid from Part B; capped at annual hospital deductible; saves $4.7 billion over 5 years.	Strongly opposes. Ineffective at lowering use, since 85% of beneficiaries have Medigap or Medicaid. Conferees should drop this provision.
- Medical Malpractice	- COMMERCE - Limits noneconomic damages to $250,000 and implements other reforms. - WAYS AND MEANS - Limits noneconomic damages to $250,000 and implements other reforms.	No provision.	Strongly opposes House provisions.
- 10-Year Savings	WAYS AND MEANS — $386 billion. (The Commerce Committee does not have jurisdiction over the full amount.)	Saves $447 billion over 10 years.	Agreement calls for $434.0 billion in net Medicare savings over ten years. It also calls for extending the list of the Trust Fund by at least 10 years -- the Senate bill falls 1 year short of the Agreement according to CBO.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
		MEDICAID	
- Total Savings	Saves ~~$12.9 billion~~ $11.8 billion, after adjusting the CBO-reported savings for Medicaid-related changes because of the child health insurance initiatives.	Saves net of ~~$13.5 billion~~ $14.7 billion over 5 years.	The Agreement calls for $13.6 billion in savings over five years, net of spending on new initiatives described in the Agreement.
- DSH Reductions	Reduces disproportionate share hospital [DSH] payments by $15.3 billion gross over 5 years by establishing additional caps on State DSH allotments for fiscal years 1998-2002. The State DSH allotments for States in which 1995 DSH payments were less than 1 percent of total medical assistance spending would be frozen at the level of payments for DSH adjustments in those States in 1995. For States classified as "high" DSH States for fiscal year 1997, DSH allotments would be reduced from the ~~higher of~~ 1995 ~~or 1996~~ payment levels. The reduction percentage for "high" DSH States would be equal to 2 percent in 1998, 5 percent in 1999, 20 percent in 2000, 30 percent in 2001, and 40 percent in 2002. All other States' DSH payments would be equal to the ~~higher of~~ 1995 ~~or 1996~~ DSH payments levels reduced by one half of the reduction percentages for "high" DSH States.	Reduces disproportionate share hospital [DSH] payments by $16.0 billion gross over 5 years by establishing additional caps on State DSH allotments for fiscal years 1998-2002. Freezes very low DSH States for 5 years (below 3 percent DSH); low-DSH (above 3 percent but below 12 percent) get phased-in 15-percent reduction from their allotments; high DSH (above 12 percent) get a phased-in 20-percent reduction and a phase-out of any spending for mental health facilities from their base DSH allotments. Also applies new restrictions on using DSH for mental health facilities and requires States to prioritize payments to hospitals based on their low-income utilization rate.	As in OBRA 93, DSH policy should be designed to avoid undue hardship on any State: • Supports President's 1998 budget proposal, which takes an equal percentage reduction from a State's total DSH spending, up to an "upper limit." • DSH savings should be linked to a Federal standard for targeting remaining DSH funds to needy hospitals. • Supports House provision requiring States to make DSH payments directly to qualifying hospitals (rather than through managed care payments).

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
		MEDICAID (continued)	
- DC and Puerto Rico	No provision.	Increases FMAP for DC to 60 percent for 1998 through 2000; increases payment for Puerto Rico by $30 million in FY 1998 plus increases for other territories.	D.C. -- Opposes Senate sunset in 2000 and supports increasing match rate to 70% (as in President's 1998 budget). Puerto Rico -- Supports adjustments for PR and the territories in the President's 1998 budget.
- Medicare Part B Premium Protection	Spends $1.5 billion over 5 years in Medicaid for premium assistance for seniors with incomes of 120 percent to 175 percent of poverty. Covers the full Medicare premium for those with incomes up to 135 percent of poverty. For seniors with incomes between 135 and 175 percent of poverty, the assistance covers that portion of the Medicare Part B premium increase attributable to the home health spending transfer..	Creates a new Medicare block grant, $1.5 billion over 5 years, to States to provide premium assistance for beneficiaries between 120 percent and 150 percent of poverty.	Supports financing the cost of the full Medicare premium through Medicaid. Objects to Senate provision that uses a Medicare grant for this assistance that sunsets in 2002.
- Medicaid Cost Sharing	No provision.	Allows States to Requires limited cost sharing for optional benefits; prohibits cost sharing for children under 18 in families with incomes below 150% of poverty.	Strongly opposes Senate provision for optional benefits. The Administration is concerned that the Senate bill could compromise beneficiary access to quality care. Low-income elderly and disabled Medicaid beneficiaries may forgo needed services if they cannot afford the copay. Strongly supports Senate provision prohibiting cost-sharing for children.
- 1115 Waivers and Provider Tax Waivers	Extends expiring 1115 Medicaid waivers.	Extends expiring 1115 Medicaid waivers without regard to budget neutrality. Also deems provider taxes as approved for one State.	Supports continuing policy of budget neutrality.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
		MEDICAID (continued)	
-- Return-to-Work	No provision.	Allows States to allow workers with disabilities whose earnings are below 250% of poverty to buy into Medicaid.	Supports President's 1998 budget proposal, which would not limit eligibility to people whose earnings are below 250% of poverty.
- Criminal Penalties for Asset Divestiture	Amend Section 215 of HIPAA to provide sanctions only against those who help people to dispose of assets in order to qualify for Medicaid.	Amend Section ~~215~~ 217 of HIPAA to provide sanctions only against those who help people to dispose of assets in order to qualify for Medicaid.	Supports repeal of this section.
- Medicaid Management Information	Requires States to show that their State-designed Medicaid management systems meet outcome-based performance standards and would permit the collection and analysis of person-based data	No provision.	Supports House provision.
- Alaska Medicaid Match Rate	No provision.	Increases federal Medicaid matching rate for Alaska.	Opposes change to single-State FMAP in the absence of efforts to examine broader alternatives.
- Payment Rates for QMB's and Dual Eligibles	No provision.	Allows States to use Medicaid payment rates when determining whether any cost-sharing is owed for QMB's and dual eligibles, for net savings of $2.1 billion over 5 years ($5 billion in Medicaid savings, $2.9 billion in Medicare costs.)	No position.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
		WELFARE-TO-WORK	
- Fair Labor Standards Act	Applies language from the ~~1987~~ 1988 law creating AFDC JOBS to indicate that participants in public sector or non-profit workfare activities are not employees under the Fair Labor Standards Act and other employment laws.	No provision.	Supports Senate position and strongly opposes minimum wage and welfare work requirement proposals in House bill, which were not in the Agreement.
	Specifies maximum number of hours states can require beneficiaries to work by counting TANF and Food Stamp benefits as wages for purpose of the minimum wage.	No provision.	Supports Senate position (no provision).
	Provides limited ~~nondiscrimination and~~ grievance procedure guidelines and other worker protections to TANF work activities ~~for workfare.~~	Provides grievance procedures and other worker protections to WTW grant funds.	Supports extending Senate provisions on grievance procedures and worker protections to all working welfare recipients under TANF.
- Grant Distribution Formula	WAYS AND MEANS — Provides 50 % of funding through formula grants and 50 % through competitive grants awarded by Labor. EDUCATION AND THE WORKFORCE — Provides 95% of funding through formula grants and 5% through competitive grants awarded by Labor.	75% of funding by formula, 25% through competitive grants.	Supports Ways and Means provision in House bill, which best accomplishes goal in the Agreement that funds be allocated and targeted to areas with high poverty and unemployment.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
		WELFARE-TO-WORK, CONT'D	
- WTW Federal Administering Agency	Department of Labor	HHS	Department of Labor
- Welfare to work non-displacement	Provides non-displacement protections to all welfare to work grant funds.	Limits non-displacement protections to recipients under welfare-to-work funds (and not TANF)	Support extending Senate provisions on non-displacement to all working welfare recipients under TANF.
- WTW Local Program Administration	Private Industry Councils (PICs)	Local TANF agency	Supports House position (PICs) that cities and other local areas should manage a substantial amount of all WTW funds.
- Performance Fund	No provision.	Provides a performance bonus to States that are successful at moving welfare recipients into work by augmenting the existing TANF performance bonus fund in FY 2003. Provides funding over a 3-year period between FY 1998 and FY 2001, thus generating outlays in FY 2002.	Supports mechanism to provide incentives and rewards for placing the hard-to-serve. One approach would require Governors to use a share of their discretionary funds and the Sec'y of Labor to use a share of competitive funds to reward high-achieving welfare-to-work programs.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
	WELFARE ~~TO WORK~~		
- SSI State Supplements	Eliminates the maintenance of effort requirement that prevents States from lowering <u>or eliminating</u> State supplemental SSI payments.	No provision.	Strongly opposes repeal of the MOE provision, which was not in the Agreement.
- Vocational Education Counted as Work Under TANF Work Requirements	- WAYS AND MEANS - Limits the number of TANF beneficiaries who can be counted toward meeting the work participation requirements to 30% of the total number of people meeting the requirement rather than 20% of the total TANF caseload. Teen parents attending high school are not required to be counted within the 30%. - EDUCATION AND WORKFORCE - Limits number of TANF beneficiaries a state can count who are in vocational education to 20% of the total number of persons meeting the work requirement rather than 20% of the total TANF caseload. Teen mothers attending high school ~~do not fall within~~ <u>continue to be counted under</u> the 20% cap.	Continues to permit States to calculate up to 20% of their TANF caseloads participating in vocational education as meeting the work requirement, but eliminates current requirement that teen mothers attending high school be counted as part of that 20% cap.	The Agreement did not address making changes in the TANF work requirements regarding vocational education and educational services for teen parents, and the Administration urges the Conferees to drop these provisions.
- TANF Transfers to Title XX	Removes the requirement that States transfer $2 to child care activities for every $1 in TANF block grant funds that they transfer to the Title XX Social Services Block Grant.	No provision.	Opposes House provisions, which were not in the Agreement and would allow States to channel funds away from low-income families and reduce their effective TANF contribution.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
		~~WELFARE-TO-WORK~~ IMMIGRANTS	
- Alien Eligibility for SSI and Medicaid	Restores eligibility for SSI and Medicaid for ~~legal~~ qualified aliens who were in the country and on the benefit rolls receiving SSI as of August 22, 1996. Legal aliens who were in the U.S. but not receiving SSI benefits are ineligible for benefits if they become disabled in the future. Total cost is $9 billion over 5 years.	Restores eligibility for SSI and Medicaid for ~~legal~~ qualified aliens who were in the country and on the benefit rolls receiving SSI benefits as of August 22, 1996. Provides eligibility for SSI benefits to legal aliens ~~in the U.S. on August 22, 1996 but who were not on the benefit rolls then at any time in the future if they become disabled.~~ who entered the U.S. prior to August 23, 1996 and who are or who become disabled in the future. Gives States the option to exempt immigrant children from the 5 year ban on Medicaid. Exempts immigrants from SSI ban who are so severely disabled they are unable to naturalize. Total cost is ~~$11.4~~ $11.6 billion over 5 years.	Supports Senate provision, which implements the Agreement. House bill fails to fully restore SSI and Medicaid benefits for all legal immigrants who are or become disabled in the future who entered the U.S. prior to August 23, 1996. (The President stated in a June 20 letter that he will not sign legislation that does not include the policy that protects immigrants who are or become disabled.) Supports Senate provisions.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
	FOOD STAMPS		
- Work Slots	Provides States with $680 million in new funding over 5 years for Education and Training activities within Food Stamps. At least 80 percent of the total Food Stamp E & T funding of $1.1 billion would be earmarked to able-bodied adults subject to the work requirement. Job search *and job search training* would not be an allowable use of the funding earmarked for able-bodied adults. CBO assumes the policy will generate 205,000 work slots that keep able-bodied adults subject to the work requirement eligible for benefits over 5 years. However, other activities that do not meet the work requirements would be permissible. Requires States to maintain 100% of 1996 levels in order to receive new 100% Federal funds.	Provides $640 million in funding to create additional Education & Training positions within food stamps. Requires the Secretary of Agriculture to establish two different reimbursement rates for States accessing these funds. A higher rate will be paid to states drawing down funding for placing persons subject to the work requirement in work slots which keep those persons eligible for food stamps. A lower reimbursement rate will be paid to states that use funding on activities that do not keep persons subject to the work requirement eligible for benefits. CBO assumes this policy generates 250,000 work slots over 5 years that ~~keep people eligible for benefits~~ meet the work requirements. ~~over 5 years~~. Requires States to maintain 75% of 1996 levels in order to receive new or existing 100% Federal funds.	Agreement provides for additional and redirected E&T funds "to create additional work slots for individuals subject to the time limits" to maximize the number of new slots. Administration endorses Senate reimbursement structure and House provisions for maintenance of effort in order to ensure that the maximum number of slots are created.
- ~~"Texas" Waiver~~ *Welfare Privatization*	Permits any State to contract with a private sector entity to conduct ~~income verification and~~ eligibility determinations for Food Stamps and Medicaid.	~~Allows up to 10 States to conduct a demonstration program of contracting out income verification and eligibility determination activities to private sector companies~~. No provision.	Strongly opposes House provision and urges the Conferees to follow the approach taken by the Senate (i.e., no provision).

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
		CHILDREN'S HEALTH	
- Total Spending	Spends $15.9 billion over 5 years for children's health insurance or services.	Spends $24 billion (preliminary scoring) for children's health insurance, including the $8 billion added from the tax bill (see below).	Supports -- • Senate definition of benefits, limits on cost-sharing • State option in House bill to spend grant money on grants, Medicaid, or a combination of the two (Senate requires States to choose only one) • Strong maintenance of effort provision and the Senate bill prohibition on using provider taxes and donations to fund States' share • Using same match rate for Medicaid and grant programs, as in Senate bill Opposes -- • Provisions that allow States to pay for family coverage or pay the employee's share of employer-sponsored insurance in the House bill
- Extra $8 billion	No provision.	Provides additional $8 billion in the tax bill.	Supports using all of the revenue from the tobacco tax for initiatives that focus on the needs of children and health. Opposes sunset in this funding after 2002.
- Medicaid Benefits for Children Losing SSI Benefits	Allows, but does not require, States to restore Medicaid benefits for children losing SSI benefits because of new, tighter SSI standards for childhood eligibility.	No provision.	Agreement calls for the restoration of these benefits. The Administration supports FY 1998 President's budget provision, which guarantees Medicaid coverage for these children.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
CHILDREN'S HEALTH, CONT'D			
- Direct Provision of Services	Allows States to use grant funds for ~~the purchase of health insurance~~ for the direct provision of health care services.	Does not allow States to use grant funds ~~provide~~ for the direct provision of health care services.	Strongly opposes House direct services option.
- Funding Structure	Allows States to spend grant funds on Medicaid, a grant program, or a combination of the two.	Requires States to choose between Medicaid and a grant option.	Supports House provision.
- Eligibility	Defines targeted low-income children as those whose family income exceeds the Medicaid applicable levels but does not exceed an income level 75 percentage points higher than the Medicaid applicable income level.	Includes a ceiling of 200% of poverty for eligibility.	Opposes Senate provision.
- Hyde Amendment	Extends to children's health initiative funding the Medicaid appropriations prohibitions on Medicaid payment for abortion services.	Same as House. Also includes in the Medicaid section a managed care sanction provision to change the definition of "medically necessary" to exclude abortion services except under certain circumstances.	Strongly opposes limiting access to medically necessary benefits, including abortion services.
HEALTH INSURANCE FOR SMALL BUSINESSES			
- MEWA	Includes legislation allowing small businesses and organizations to offer health insurance, extending ERISA preemptions and State regulations, requiring solvency standards for association health plans, and other regulations.	No provision.	Strongly opposes House provision.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
		SPECTRUM AUCTIONS	
- Analog Return	Authorizes the FCC to auction frequencies that are currently allocated for analog television broadcasting. Imposes a time limit on the television licenses that authorize analog television services. Allows the FCC to extend the time limit if more than 5 percent of the households in a market rely exclusively on analog television signals.	Comparable provision, except that the FCC is required to delay the return it the 5-percent test is not met.	Agreement includes hard cut off date with authority to extend for small and rural markets. Agreement assumed that this auction would take place in 2001 with a firm cut off date for analog broadcasting in 2006.
- Vanity Numbers	Does *not* authorize the FCC to auction the so-called vanity telephone numbers.	Does *not* authorize the FCC to auction the so-called vanity telephone numbers.	Agreement includes a proposal authorizing FCC to auction vanity telephone numbers ($0.7B).
- Bankruptcy	No provision.	No provision.	Seeks authority to allow the FCC to revoke and reauction a license when a licensee declares bankruptcy.
- Federal Reimbursement	No provision.	Authorizes reimbursement of Federal agencies for the costs of relocating to new spectrum bands so that spectrum they are now using may be made available by the FCC for auction for commercial use.	Agreement assumed and the Administration supports reimbursement.
- Spectrum Penalty	Does not include a penalty fee that would be levied against those entities who received "free" spectrum for advanced, advertiser-based television services, but failed to utilize it fully.	Does not include this penalty fee.	Agreement includes a fee to be levied against entities that received spectrum at no charge for digital broadcasting, but opted to utilize it for ancillary services ($2.0B).

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
	STUDENT LOANS		
- Administrative Cost Allowance	Requires payment to guaranty agencies of 0.85 percent of the principal of all new loans. Capped at $170 million for 1998 and 1999 and $150 million for 2000-2002.	Same provision.	Opposes this provision, which provides a new entitlement to guaranty agencies.
- Smith-Hughes Act	Eliminates the Smith-Hughes Act, the original vocational education program.	No provision.	Supports House provision, which is consistent with the Agreement.
- Section 458 funds	Permits section 458 funds, for Federal administrative of student loans, to be spent on FFEL (HEA Part B) administration as well as direct loans (Part D).	Limits expenditure of section 458 funds to administration of direct loan program (Part D).	Supports House position. Senate would prevent the Secretary from effectively administering FFEL.
- Retention Allowance	Allows guaranty agencies to retain 18.5 percent on payments received when a defaulted loan is consolidated. The Committee claims that this will have a retroactive effect allowing guaranty agencies to retain 27% between 1992 and 1997 if legislative intent is considered. CBO and OMB do not score the amendment as a cost item because they do not interpret the amendment to allow agencies to retain 27% retrospectively.	No provision.	Opposes this provision, which would provide funding to guaranty agencies without regard to expenses incurred. Interprets amendment to have only prospective, not retrospective, application.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
	VETERANS' BENEFITS		
- Medical Care Cost Recovery	Replaces the existing Medical Care Cost Recovery Fund with a new fund into which monies recovered or collected for medical care would be deposited and would be available, *subject to appropriations*, to pay for the expenses associated with veterans' medical care. ~~If spending from the collections is not subject to appropriations, budget targets will not be met.~~ Also includes a "failsafe" provision authorizing additional funds in the event there is a shortfall in anticipated collections in excess of $25 million.	Replaces the existing Medical Care Cost Recovery Fund with a new fund into which monies recovered or collected for medical care would be deposited and would be available, *subject to appropriations*, to pay for the expenses associated with veterans' medical care. No "failsafe" mechanism.	Concurs with Senate position.
- VA and DoD Medicare Subvention Demonstrations	No provision.	Requires managed care and fee-for-service demonstrations of Medicare reimbursement to the Departments of Veterans Affairs and Defense.	Supports inclusion of VA and DoD subvention demonstrations, but wants changes to address concerns with fee for service and payment rate components of the DoD demonstration.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
		HOUSING	
- Mark to Market	No Provision. (Representative Lazio has introduced, by request, the administration's bill and there is at least one other house version introduced so far.)	FHA Multifamily Mortgage Restructuring: Net savings would be $240 million between 1997 and 2002. The reform would reduce the rents on Section 8 Housing contracts and use a new capital grant program out of the FHA in order to avert large defaults on federally insured mortgages. There are several different versions of this legislation. Without these provisions, the Banking Committee would still exceed its target reconciliation savings of $1.5 billion over 5 years.	Supports the following changes to Senate bill: • Allow for the conversion of subsidies to portable tenant-based assistance, allowing tenants to seek out the best available housing and permitting projects to develop a more diverse mix of income levels. (Senate maintains low-income rental assistance as project-based, tied to specific properties.) • Give HUD more flexibility to design the most effective partnerships. (Senate establishes a preference for delegating restructuring tasks to housing finance agencies.) • Amend tax code to allow for tax amortization in exchange for long-term affordability restrictions. (Senate attempts to address tax issues through the use of "soft" second mortgages which, as interpreted by IRS, may not have the desired effect of deferring tax consequences.) (CBO scores $326 million in savings over 1997-2002 from the Administration's bill.)

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
OTHER ISSUES			
- SSI User Fee	Authorizes an increase to the fee States pay when they enter into agreements to have SSA administer State supplemental payments (i.e., State payments that are supplemental to the Federal SSI payment) and makes the funds from the increase available to SSA for administrative expenses, subject to appropriations action.	No provision.	Supports the House language. Agreement calls for a proposal to increase the existing fees to offset SSA-related spending.

	HOUSE-PASSED BILL	SENATE-PASSED BILL	BUDGET AGREEMENT/WHITE HOUSE POSITION
OTHER ISSUES			
- 4.3 cents motor fuel tax transfer	No provision.	Transfers 4.3 cents motor fuel taxes from the General Fund to the Trust Fund. Creates an Intercity Passenger Rail Fund (IPRF) to fund AMTRAK. This $2.3 billion fund is capitalized by a smaller tax cut in the Senate and is subject to appropriation.	Objects to Senate proposal to transfer 4.3 cents to the HTF. The Agreement assumes that these taxes will continue to go to the General Fund for deficit reduction. The growth in HTF balances will generate significant pressure to increase spending above the levels assumed in the Agreement. Shifting the 4.3 cents to the HTF will increase the FY 2002 balance from $34 billion to over $72 billion, assuming the Agreement spending levels. Objects to this proposal, which provides funds to AMTRAK above those in the Agreement. Expenditure from the IPRF should be limited to capital only and contingent upon AMTRAK reform legislation.
- UI Integrity	Ways and Means - Includes authorization of UI program integrity activities.	No provision.	Supports House provision, along with budget process reforms in order to achieve savings assumed in the Agreement.

BUDGET AGREEMENT CONFERENCE
FOOD STAMP DIFFERENCES

7/7/97

Provision	House	Senate
EXEMPTION	Provides authority for States to exempt up to 15% of covered individuals (vulnerable ABAWDs)	Same, except the exemption is for "hardship"
	Requires USDA to adjust the number of a State's exemptions during a fiscal year if actual participation varies significantly from average monthly participation in the preceding 7/1-6/30 period	Same, except the adjustment is required only if actual participation varies by more than 10% from the 7/1-6/30 period
NEW 100% FEDERAL FUNDING	Provides $210 million 100% Federal funding for work activities in FY 2002	Provides $170 million
	Prohibits expenditure of 100% Federal funds for TANF recipients	No provision
	Requires that at least 80% of 100% Federal funds be used for employment and training activities (but not job search or job search training) for non-excepted ABAWDs (but including waived ABAWDs)	75% of 100% Federal funds must be used for workfare or work programs that meet the ABAWD work requirement

Provision	House	Senate
	Requires USDA to allocate 100% Federal funds using a reasonable formula adjusted each fiscal year to reflect changes in the caseload that reflect changes in non-excepted ABAWDs and waived ABAWDs if a State does not provide employment and training services in waived areas	Similar except requires USDA to use a formula that reflects States' proportions of non-excepted ABAWDs, adjusted each fiscal year for caseload changes
	Requires States to provide USDA with all reports determined by USDA to be necessary to allocate 100% Federal funds	Requires USDA to use FY 1996 QC data and other factors USDA determines to be necessary
	No provision. (Absent statutory authority to do otherwise, USDA would pay States actual costs which could be unduly high.)	Establishes a formula for States to receive allocated 100% Federal funds: the average monthly number of non-excepted ABAWDs who are placed in slots that meet the work requirement X a rate set by USDA as a reasonable cost of providing such slots (adjusted periodically) + the average monthly number of recipients who are served by E&T programs that do not meet the work requirement X a lower rate set by USDA as a reasonable cost for such E&T components (adjusted periodically)
	Requires States to notify USDA promptly if all 100% Federal funds will not be expended and requires USDA to re-allocate unexpended funds	Same, except does not include requirement for State notification and states that funds will be reallocated in the same and the next fiscal year

Provision	House	Senate
MAINTENANCE OF EFFORT	Ties $140 million of 100% Federal funds in each of FYs 1998-2001 and $120 million in FY 2002 to States' maintaining their spending on E&T and workfare at FY 1996 levels	Ties all 100% Federal funding to States' maintaining their spending on E&T (operational funds only) and workfare at 75% of FY 1996 levels; makes necessary statutory change to permit 50% Federal funding of E&T activities for States that cannot use 100% Federal funding
	Requires USDA to report annually, beginning 1 year after enactment, to House and Senate Committees on whether States have used the additional 100% Federal funding efficiently and effectively to increase work slots for ABAWDs subject to the time limit	No provision
PRIVATIZ-ATION	Specifically permits eligibility determinations by non-governmental entities	No provision
PRISONERS	No provision	Requires States to verify and prevent the participation of Federal, State, or local prisoners in the FSP
NUTRITION EDUCATION GRANTS	No provision	Provides up to $600,000 in 50% funding annually in FYs 1998-2001 for nutrition education grants; gives preference in awarding the grants to private entities that have received such grants in the past

Provision	House	Senate
IMPLEMENTA-TION	No provision but changes are in effect for FY 1998	Same

Budget materials

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

July 1, 1997

MEMORANDUM TO SYLVIA MATHEWS
JOHN PODESTA
JANET YELLEN
GENE SPERLING
JOHN HILLEY
MARTHA FOLEY
BARBARA CHOW
BRUCE REED
ELANA KAGAN

FROM: Larry Haas
Lisa Kountoupes

RE: URGENT -- Budget Conferees' Letter

Enclosed is the draft conference letter. Unfortunately, we need you to turn this around in short order. Congress has requested that we deliver it as soon as possible, and we want to do so by mid-day.

Please provide us with any mark-ups of hard copy by 9 a.m. tomorrow (Wednesday) -- at the latest. Unfortunately, we won't be able to use electronic comments. Larry is in Room 253 or at fax 5-6818. Lisa is in Room 249 or at fax 5-3729.

We apologize for the short turn-around, but our staffs have been crashing all day just to get this draft done for your perusal and, for many reasons, we believe it will help our efforts to deliver our views as specifically and as quickly as possible.

Thank you for your help.

CC: Jack Lew
Josh Gotbaum

DRAFT

The Honorable John R. Kasich
Chairman
Committee on the Budget
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

As the Conferees begin to consider this year's budget reconciliation bill, I am writing to transmit the Administration's views on the House- and Senate-reported bills on the spending provisions, HR 2015 and S 947, respectively. The Administration will separately transmit its views on the tax provisions.

We are pleased that the House and Senate adopted many provisions that are consistent with the Bipartisan Budget Agreement, reflecting the continuing bipartisan cooperation that we will need to fully implement the agreement and balance the budget. In several areas, however, the House and Senate bills violate the agreement. In other areas outside the scope of the agreement, we have very strong concerns about the reported provisions. We have raised a number of these issues in letters to you and to the authorizing committee chairmen throughout the House and Senate consideration of the separate reconciliation spending bills.

On the pages that follow, we have outlined noteworthy provisions of the House and Senate bills with which we agree, others that we believe violate the budget agreement, and still others about which we have concerns. We would appreciate your taking our views into account.

We expect and will insist that the final budget legislation conform to the budget agreement. In addition, we look forward to working with you to craft a final conference report that is free of objectionable provisions, resolves the other major policy differences between us, and balances the budget by 2002 in a way that we can all be proud of. We hope to meet that goal before the August recess.

We look forward to working with you.

Sincerely,

Franklin D. Raines
Director

Identical letter sent to The Honorable Pete V. Domenici
and House and Senate Conferees

THE ADMINISTRATION'S DETAILED VIEWS:

THE HOUSE AND SENATE RECONCILIATION BILLS ON SPENDING

Smith-Hughes

Budget Process

Other

THE ADMINISTRATION'S DETAILED VIEWS:

THE HOUSE AND SENATE RECONCILIATION BILLS ON SPENDING

Medicare

We applaud the House and Senate for reporting bills that largely conform to the underlying principles of the budget agreement. Both bills achieve the necessary level of Medicare savings -- although we still await final scoring of the Senate provisions from the Congressional Budget Office (CBO) -- extend the life of the Hospital Insurance Trust Fund by at least 10 years; provide structural reforms that will give beneficiaries more informed choices among competing health plans; establish prospective payment systems for home health agencies, skilled nursing facilities, and hospital outpatient departments; and provide the funds to establish a wide array of necessary benefits.

We are very pleased that the House and Senate both adopted most of the Administration's prudent purchasing initiatives. While the budget agreement did not specifically address these proposals, they represent a significant step forward in our efforts to reform Medicare and we urge the Conferees to include them in the final bill.

Another step forward in both bills is their inclusion of provider sponsored organizations (PSOs) as Medicare options. In general, we support the Senate and the House Commerce Committee provisions that limit the preemption of State requirements to solvency standards. We also support the provisions in the Senate bill that would allow States to impose more stringent solvency requirements after 2001. We do, however, have concerns about the lack of minimum private enrollment requirements and aspects of the PSO definition, and we look forward to working with the Conferees on these issues.

We are pleased that the Senate for including provisions in its bill to require managed care and fee-for-service demonstrations of Medicare reimbursement to the Departments of Defense and Veterans Affairs -- a concept known as Medicare subvention. We are encouraged that these provisions are similar to our own Medicare subvention legislation, which we transmitted to Congress on February 7, 1997. We look forward to working with the Conferees to develop a bill that addresses Administration concerns about the fee-for-service and payment rate components of the DOD demonstration.

Notwithstanding these achievements, both the House and Senate bills contain a provision that we believe is inconsistent with the budget agreement. During our negotiations over the agreement, we discussed at great length the reallocation of home health expenditures to Medicare Part B. All sides clearly understood that we would make this reallocation immediate. Both bills, however, phase in the reallocation, which costs two years of solvency in the Part A trust fund -- two years that we can ill afford to lose. We urge the Conferees to incorporate the provisions in the House Commerce Committee title of the House bill, reallocating home health spending consistent with the Budget Agreement.

The Administration has significant concerns with other provisions of the two bills, concerns that we urge the Conferees to address.

Threat to Beneficiary Protections. The Administration strongly supports the introduction of new options for Medicare beneficiaries in both the fee-for-service and managed care sectors. We also believe, however, that any new options must both provide value beyond that offered by the traditional Medicare program and include beneficiary protections. The Senate bill includes several provisions that violate these principles, **and we urge the Conferees to drop them**.

The first provision would allow physicians to obtain private contracts from beneficiaries whereby the beneficiary would agree to pay whatever the physician charged (waive balance billing limits) and agree not to submit a bill to or collect anything from Medicare. The beneficiary would be totally responsible for out-of-pocket expenses for the physician's entire bill, even though the service would be covered by Medicare if the bill were submitted to Medicare. Private agreements could become licenses for physicians to coerce beneficiaries, exposing beneficiaries to unlimited liability and making meaningless the Medicare coverage they have paid for.

The second provision allows beneficiaries to choose a private fee-for-service option under the Medicare Choice program. We believe that inclusion of private fee-for-service plans in Medicare Choice is bad policy, particularly given the fact that these plans will be subject to no balance billing or quality protections. Also, we are concerned that this option will attract primarily healthy and wealthy beneficiaries and leave sicker and poorer beneficiaries in the more expensive, traditional Medicare program.

The third provision would allow Durable Medical Equipment (DME) suppliers to bill Medicare beneficiaries for amounts beyond cost-sharing for "upgraded" DME items, while still accepting assignment. Beneficiaries already have the option of choosing upgraded DME under current law. We are concerned that this new option undermines limits on beneficiaries out-of-pocket payments.

Beneficiary Contributions to a Balanced Budget. We worked very hard during the budget negotiations to set a beneficiary contribution to a balanced budget that was fair and equitable -- applying the Part B premium, over several years, to the home health reallocation and maintaining the Part B premium equal to 25 percent of program costs. Other provisions of the Senate bill, however, would go too far, thus disrupting that fairness by:

- *Raising the Medicare Eligibility Age*. The Senate bill raises the eligibility age for Medicare from 65 to 67 over a period of years. Raising the eligibility age is not necessary to balance the budget, and consideration of this policy should be part of a bipartisan process to address the long-term financing challenges facing Medicare. Moreover, early retirees between

65 and 67 may not be able to obtain affordable insurance in the private market. We urge the Conferees to drop these provisions.

- *Imposing Home Health Copayments.* The Senate bill would impose a Part B home health copayment of $5 per visit, capped at an amount equal to the annual hospital deductible. Most home health users who lack Medigap or Medicaid protections are poor and will face financial burdens as a result. Those beneficiaries who do not have Medigap or Medicaid have no real incentive to reduce utilization. We do not need to impose a home health copay to balance the budget, and any further consideration of this policy should be part of a bipartisan process to address the long-term financing challenges facing Medicare. We urge the Conferees to drop these provisions.

- *Income-relating the Part B Premium.* The Senate bill would income-relate the Medicare Part B premium. While we do not oppose income relating Medicare in principle, we have a number of concerns about this proposal. First, as the President said in the context of the Senate Finance Committee's deductible proposal, we believe that policies that income-relate beneficiary contributions to Medicare go beyond the budget agreement. Second, we have serious concerns about how an income-related premium will be administered; administration by HHS, which has no access to individual beneficiary income data, would be impractical and very expensive. Finally, we believe that this policy could lead higher income, healthier beneficiaries to drop their Medicare coverage, thus leaving poorer, typically less healthy, beneficiaries in the Medicare risk pool and increase their premiums. While we have serious concerns about this proposal, we remain interested in discussing it, or proposals like it, in the broader context of reforms to address the long-term financing and structural challenges facing the program.

Medical Savings Accounts. We believe that any demonstration of this concept should be limited in order to minimize potential damage and costs to Medicare. We commend the Senate for limiting the demonstration to 100,000 participants and limiting cost-sharing and deductibles to amounts enacted under the Health Insurance Portability and Accountability Act (HIPAA). But, we still believe a geographically-limited demonstration that applies current law limits on balance billing to protect beneficiaries from additional charges from providers, is much more preferable. We urge the Conferees to limit this demonstration geographically for a trial period -- two States for three years -- which would enable us to design the demonstration to answer key policy questions.

Preventive Benefits. We are pleased that the preventive benefits in the House and Senate bills are largely the same as those in the President's budget. Unlike the budget, however, the House and Senate bills do not waive all cost sharing (coinsurance and deductibles) for mammograms. Mammography saves lives, yet many Medicare beneficiaries fail to use this benefit. Research shows that copayments hinder women from fully taking advantage of this benefit. We urge the Conferees to modify the House and Senate provisions to waive all cost sharing for mammograms.

Medigap. The President's budget advanced a number of important Medigap reforms, including annual open enrollment, community rating, initial open enrollment for disabled and kidney dialysis beneficiaries, and various portability provisions. We are disappointed that neither the House or Senate adopted certain important elements of the budget. While the Senate bill took the largest strides toward these important reforms, providing for an initial open enrollment period for disabled beneficiaries and a trial period for managed care enrollees, we urge the Conferees to adopt the President's budget proposals.

Managed Care Payments. We agree that the current unjustifiable geographic variation in payments to managed care plans should be remedied as part of the reconciliation bill. We prefer the House proposal, which mitigates the geographic variation in payments and maintains the link to fee-for-service payments, along with an adjustment for adverse selection. Various payment provisions in the Senate bill, some of which are individually justifiable, together have a significant negative impact on areas with a high managed care enrollment and could lead to abrupt changes in additional benefits now provided to Medicare enrollees. The Senate proposal also ties growth in managed care payments to growth in gross domestic product (GDP). We prefer a less disruptive payment proposal and one that ties growth in payments to growth in fee-for-service Medicare. Limiting growth to GDP effectively creates two growth rates for Medicare payments, leading to an erosion of the value of the Medicare choice benefit package and exposing beneficiaries to increased premiums.

Managed Care Risk Adjustment. The Senate bill includes immediate implementation of an untried, "new enrollee" risk adjustment methodology which would be applied in an inequitable manner and which would be replaced by a different revised methodology two years later. We prefer to implement a managed care risk adjustment methodology once -- and sooner. We support the House provisions on risk adjustment, modified to authorize the collection of hospital discharge data immediately and to authorize implementation of the risk adjustment methodology in 2000.

Medical Education/Disproportionate Share (DSH) Carve-out. The President's 1998 budget proposed to move the medical education (indirect and direct) and DSH adjustments out of managed care payment rates and redirect them to eligible hospitals that provide services to Medicare managed care enrollees. This important proposal would ensure that the Nation's teaching hospitals and those that serve low-income populations receive the Medicare payments to which they are entitled. We urge the Conferees to adopt the Senate and House Commerce Committee provisions.

Managed Care Enrollment. We urge adoption of the Senate provisions with regard to open enrollment. The House bill permits beneficiaries to be locked into a MedicarePlus plan for as long as nine months, after a lengthy transition period. We continue to support the monthly disenrollment option as an important safety valve for managed care enrollees who are dissatisfied with their managed care plan.

Managed Care Quality. Both the House and Senate bills go far to ensure quality in Medicare managed care. The House bill, however, has an objectionable provision allowing external quality review requirements to be met through accreditation. The House bill also contains a similar provision in its Medicaid title. We prefer maintaining a requirement for external quality review to protect beneficiaries in this rapidly changing marketplace, as the Senate bill provides.

Medical Malpractice. The House bill includes malpractice provisions that are extraneous to the budget agreement. The Administration opposed the malpractice provisions of the vetoed Balanced Budget bill, and those adopted in the House version of the Health Insurance Portability and Accountability Act. We find these provisions highly objectionable, and we oppose them.

Medicare Commission. Both the Senate and House bills would establish a Medicare commission. We believe strongly that a mutually agreeable, bipartisan process is essential to successfully address the long-term financing challenges facing Medicare. We look forward to working with you to develop the best possible bipartisan process to address those challenges while simultaneously ensuring the sound restructuring of Medicare to provide high-quality care for our Nation's senior citizens.

Office of Competition. The Senate bill would create an Office of Competition within HHS to administer competitive pricing demonstrations. We believe this provision would create unnecessary duplication of staff and resources within HHS and become a potential source of confusion for Medicare beneficiaries. We are also concerned about the competitive pricing demonstration and look forward to working with the Conferees to ensure that the demonstration authority would lead to valid and verifiable results.

Hospital Payment Systems. We have several concerns with various House and Senate provisions relating to hospital payments, including: the Senate provision to move the hospital update to a calender year basis while leaving all other changes to PPS payments on a fiscal year basis, thus requiring two separate payment rules; the Senate provision on hospital transfers, which does not include home health agencies and which we believe creates a strong, unjustified payment bias to use home health services for post acute care; and the Senate provision to provide large bonus payments for certain PPS-exempt facilities, which could lead to a significant redistribution of funds among PPS exempt facilities.

Medicare Disproportionate Share Payments (DSH). We look forward to working with Congress to develop a new adjustment for hospitals that serve a disproportionate share of low income individuals. The current adjustment has many shortcoming and we hope to create a better measure of services to indigent populations so that we can better target DSH payments. However, we oppose any cuts to the current DSH adjustment in the interim, cuts which are included in both the House and Senate bills. We prefer the Administration's proposal, which freezes the adjustment for the next tow years to minimize the effects of welfare reform until a new formula is developed.

Therapy Providers. We strongly support House provisions to reign in the cost of outpatient therapy services. But, we are concerned about subjecting occupational and physical therapy services delivered in non-outpatient department settings to an annual cap of $900 per beneficiary. The underlying payment reforms themselves will generate costs in this area, so such a cap could deny access to this benefit to some Medicare beneficiaries.

Laboratory Claims. Both the House and the Senate bills would +consolidate the processing of independent laboratory claims, but not outpatient or physician office lab claims, among regional specialty carriers. This consolidation is unnecessary and would divert resources away from other higher priority activities. We share the goal of standardizing medical necessity policy for laboratory claims and would support a process to do so without regionalizing claims processing.

Medicare Secondary Payer (MSP). Both the House and Senate bills limit the time period for MSP recovery to three years after the date of service. We urge the Conferees to adopt a five-year time limit, consistent with the President's proposal. The IRS/SSA data match does not provide information in a timely enough manner to be able to recover overpayments within a three-year window. We also urge the Conferees to adopt our insurer reporting proposals.

Implementation Issues. We are concerned about how the full scope of the House and Senate provisions would effect HHS' administrative abilities, and research resources, to implement them. We would like to discuss with you changes in the effective dates of the provisions so they are consistent with the funding levels in the budget agreement.

Medicaid

We commend the House and Senate for reporting bills that conform to many of the Medicaid reform principles of the budget agreement. Both save money through lower disproportionate share hospital payments (DSH) and greater State flexibility. We want to work with the Conferees to ensure that a final bill conforms to the Medicaid policy in the budget agreement. Both bills give States more flexibility to manage their Medicaid programs, such as by repealing the Boren amendment, allowing managed care without Federal waivers, and eliminating unnecessary administrative requirements. We also commend the Senate for including managed care quality standards that are consistent with the President's consumer protection framework.

Nevertheless, the House and Senate bills contain provisions that are inconsistent with the budget agreement, as discussed below.

Medicaid Benefits for Certain Disabled Children. The budget agreement includes a proposal to restore Medicaid for current disabled children losing Supplemental Security Income (SSI) because of the new, more strict definition of childhood eligibility. The Senate bill does not include this proposal. The House bill allows, but does not require, States to provide Medicaid benefits for about 30,000 children who could lose their health care coverage in fiscal 1998. We strongly urge the Conferees to include the provision from the President's budget that would guarantee coverage to these children, and allocate the necessary funds for this purpose.

Medicaid Investments. The budget agreement clearly calls for a higher Federal matching payment for Medicaid in the District of Columbia. We are pleased that the Senate bill includes a higher matching payment, but we are concerned that it is not sufficient; it sunsets at the end of fiscal 2000 and is 10 percentage points lower than the 70 percent in the President's 1998 budget. A 60 percent matching rate would still leave the District paying more to Medicaid than any other local government. We urge the Conferees to fully fund the President's proposal.

The budget agreement also includes adjustments for the Medicaid programs in Puerto Rico and the territories. We are pleased that the Senate includes adjustments for those programs, but we would prefer that the Conferees include the language in the President's 1998 budget.

The Administration has significant concerns with other House and Senate provisions that we urge the Conferees to address.

Assistance for Low-Income Medicare Beneficiaries. The Senate bill includes $1.5 billion in premium assistance for low-income beneficiaries through a Medicare block grant to States. The House provides $1.5 billion to expand eligibility to Medicaid but increases administrative complexities by subsidizing only a portion of the Part B premium. We prefer a simpler that would finance the cost of the full Part B premium. In addition, we object to the Senate provision that sunsets this assistance in 2002.

Disproportionate Share Hospitals --Allocation to States. We have concerns about the House and Senate allocations and levels of DSH payment reductions among States. As in the DSH policy of the 1993 budget reconciliation bill, this year's policy should address past abuses without causing undue hardship on any State. The House and Senate bills, however, may have unintended distributional effects among States. We urge the Conferees to revisit the President's 1998 budget proposal, which takes an equal percentage off of States' total DSH spending, up to an "upper limit," ensuring that States with the highest DSH spending do not bear most of the impact.

Disproportionate Share Hospitals --Targeting to Hospitals. The House bill does not retarget DSH funds. The Senate bill would require States to develop DSH targeting plans, but it does not include a Federal DSH targeting standard. As we have said previously, we believe that significant DSH savings should be linked to a Federal standard for targeting the remaining DSH funds to needy hospitals. Without such standards, providers with high-volume Medicaid and low-income utilization may not be sufficiently protected from DSH reductions.

In addition, the House bill would require States to make DSH payments directly to qualifying hospitals, and would not allow States to make DSH payments through capitation payments to managed care organizations. The Senate bill does not include this provision. The Administration urges the Conferees to include this provision, ensuring that all eligible hospitals receive a Federal DSH payment regardless of their contract, or lack of contract, with a particular HMO. This provision also strengthens the effectiveness of the 1993 hospital-specific limits on DSH payments.

Medicaid Cost Sharing. The Senate bill would allow States to require limited cost sharing for optional benefits. We are pleased that a Senate amendment would bar States from imposing cost sharing on children under 18 in families with incomes below 150 percent of poverty. But, we are still concerned that the bill may compromise beneficiary access to quality care. Low-income elderly and disabled Medicaid beneficiaries may forgo needed services if they cannot afford the copayments. We urge the Conferees to allow nominal copayments only for HMO enrollees, giving States some flexibility and allowing HMOs to treat Medicaid enrollees in a manner similar to non-Medicaid enrollees, without compromising access to care.

§1115 and Other Medicaid Waivers. The House and Senate bills would extend expiring §1115 Medicaid waivers. The Senate would deem approved Medicaid expansions and permanent extensions of existing §1115 waivers without regard to whether they will increase spending; the provisions and its associated costs are not in the budget agreement. In addition, in one State the Senate would deem provider taxes as approved. We have serious concerns about these provisions and would like to work with the Conferees to address the underlying problems.

Return to Work. We are pleased that the Senate bill would allow States to let workers with disabilities buy into Medicaid. But we urge the Conferees to adopt the version of this proposal from the President's 1998 budget, which would not limit eligibility for this program to people whose earnings are below 250 percent of poverty. We believe that the Senate-proposed limit would not give States enough flexibility to remove disincentives to work for people with disabilities.

Criminal Penalties for Asset Divestiture. The Senate bill would amend Section 217 of the Health Insurance and Portability and Accountability Act 1996 (HIPAA) to provide sanctions against those who help people to dispose of assets in order to qualify for Medicaid. We prefer to repeal Section 217 because we believe that the Medicaid laws in effect before

HIPAA are sufficient to protect Medicaid against inappropriate asset divestiture.

Management Information. The House bill would reduce the current detailed Federal systems design requirements, while requiring all States to participate in a Medicaid statistical information system. This approach would require States to show that their State-designed systems meet outcome-based performance standards and would permit the collection and analysis of person-based data. The Senate did not include this provision. We believe these changes would cut unnecessary administrative burden while retaining the ability to collect sufficient information for the effective management of Medicaid.

Alaska FMAP Change. The Senate bill would increase Alaska's Federal Medical Assistance Percentage (FMAP) above the level of the current law formula. While we have consistently supported efforts to examine alternatives to the current Medicaid matching structure, we believe that changing the FMAP through a State-specific legislative proposal creates a costly precedent and does not address the underlying inequities in the current system.

Expansion of the "Hyde Amendment"

Both the House and Senate bills would expand the Hyde Amendment prohibitions on Medicaid payment for abortion services in order to cover spending on the Children's Health Initiative and to codify these prohibitions in permanent law. This provision could deny access to abortion services to poor women to the extent that States choose to use the children's health funding to offer family coverage. As we have repeatedly said, we do not support limiting access to medically necessary benefits, including abortion services. We will work with the Congress to resolve this issue.

In addition, the Senate bill contains a provision that redefines the term "medically necessary services" to exclude abortion services except under certain circumstances. We oppose this attempt to further constrain the availability of abortion services through this provision, and we strongly urge the Conferees not to begin writing into the Medicaid law restrictions of the definition of "medically necessary" that are more appropriately decided by health professionals.

Children's Health

We are pleased that the children's health initiative has been a priority for the House and Senate. In fact, the Senate bill goes beyond the $16 billion that the budget agreement provides, allocating $24 billion for this purpose. We strongly support this higher level of investment and urge the Conferees to invest it wisely to ensure meaningful coverage for millions of uninsured children. We especially support the Senate provisions for benefits and cost sharing.

We support a 20-cent increase in the tobacco tax. We agree that such a tobacco tax is an acceptable complement to the budget agreement, and we endorse using such revenue to fund important programs for children.

Notwithstanding these achievements, we have serious concerns about the following House and Senate provisions, which we urge the Conferees to address.

Meaningful Benefits, Cost Sharing/Direct Services. We believe the children's health investment should go for health insurance coverage. Thus, we support the Senate's definition of benefits and its limits on cost sharing, the latter of which will ensure that low income children do not shoulder unrealistically high costs that could lead to reduced access to needed health care. We do not support the direct services option of the House bill because we are concerned that a State could spend all of its money on one benefit or to offset the effects of the DSH cuts on certain hospitals, and that children would not necessarily get appropriate coverage.

Funding Structure. We support the straightforward funding structure of the House bill. But its proposal for different matching rates for Medicaid and the grant option could discourage States from choosing Medicaid. We believe Medicaid is a cost-effective approach to covering low-income children, and we support using the same matching rates for both options. In addition, we support the House provision that gives States the flexibility to spend their grant money on Medicaid, a grant program, or a combination of the two. The Senate bill requires States to choose between Medicaid and a grant option.

Eligibility. The Senate bill includes a ceiling of 200 percent of poverty. We agree that the funds should first go for insurance coverage for low-income uninsured children, but we believe the Senate's income requirement would limit States' flexibility to design programs which best fit their needs.

Use of Funds. We want to ensure that the investment in children's health goes to cover children who currently lack insurance, rather than replace existing public or private funds for children's health insurance. Thus, we support the Senate's maintenance of effort provisions and its prohibition on using provider taxes and donations to fund the State share of the program. In addition, we want to ensure that the funds are used in the most cost-effective manner to provide coverage to as many children as possible. Therefore, we do not support provisions that allow States to pay for family coverage or pay the employee's share of employer sponsored insurance.

Multiple Employer Welfare Arrangements (MEWAs)

The House bill includes language from H.R. 1515, the "Expansion of Portability and Health Insurance Coverage Act of 1997," while the Senate bill includes no such provisions. We believe that H.R. 1515 has inadequate consumer protections and could lead to premium increases for small businesses and employees who may bear the burden of adverse selection. H.R. 1515 would transfer the regulation of a large health insurance market away from the States by preempting State laws under the Employee Retirement Income Security Act ("ERISA"). This far-reaching proposal demands much greater analysis and discussion. We also oppose the provision of the House and Senate bills that would allow a religious fraternal benefit society plan to establish a Medicare Choices plan; it would set a precedent for allowing association health plans (such as those allowed under the House MEWA language) to become Medicare Choice providers.

Continued SSI and Medicaid Benefits for Legal Immigrants

We are pleased with several provisions in the House and the Senate bills. Both bills would grandfather immigrants who were receiving SSI benefits as of August 22, 1996, as the President indicated he would support in a June 20 letter to Budget Committee Chairman Kasich and Ranking Member Spratt. Both bills also extend the exemption period from five to seven years for refugees, asylees, and those who are not deported because they would likely face persecution back home.

We are pleased that the Senate bill, which restores SSI and Medicaid eligibility for all legal immigrants who are or become disabled and who entered the U.S. prior to August 23, 1996, is fully consistent with the budget agreement. The House bill, however, is not. It fails to fully restore SSI and Medicaid benefits for all legal immigrants who are or become disabled and who entered the U.S. prior to August 23, 1996. As the President stated in his June 20 letter, he will not sign legislation that does not include the policy, as the budget agreement calls for, that protects disabled immigrants. Compared to the budget agreement, the House bill would protect 75,000 fewer immigrants by 2002. We strongly urge the Conferees to adopt the Senate approach.

In addition, if resources are available, we urge the Conferees to support several other Senate provisions. The Senate bill restores Medicaid coverage for future immigrant children; provides SSI and Medicaid to immigrants who are too disabled to satisfy the requirements to naturalize; and provides the same exemption period for Amerasian and Cuban Haitian immigrants as for refugees. We look forward to working with you on these matters.

Welfare to Work

We are pleased that the House and Senate bills would address many of our priorities for the welfare to work program to some degree, including: the provision of formula grant funds to States based on poverty, unemployment, and adult welfare recipients; a sub-State allocation of the formula grants to ensure targeting on areas of greatest need; appropriate flexibility for grantees to use the funds for a broad array of activities that offer the promise of permanent placement in unsubsidized jobs; some funds awarded on a competitive basis; and a substantial set aside for evaluation. We look forward to working with the conferees to refine these provisions.

We continue to be concerned, however, about several priority issues. In some cases, only one Chamber has adequately addressed our concerns; in others, neither has. Some of these issues fall outside the budget agreement and, had they come up in the negotiations, we would have strongly opposed them. The issues that concern us the most are highlighted below, and we urge the Conferees to address them.

<u>Targeting Welfare-to-Work Funding to Cities and Counties with Large Poverty Populations</u>. The challenge of welfare reform -- moving welfare recipients into permanent, unsubsidized employment -- will be greatest in large urban centers, especially those with the highest number of adults in poverty. While both the House and Senate bills include formulas to target funds to these areas to some degree, the Ways and Means provision of the House bill best accomplishes this goal (of the three provisions in conference) through its division of funds between formula (50 percent) and competitive (50 percent); its formula grant sub-State allocation factors and method of administration; and its reserving of 65 percent of competitive grants for cities with large poverty populations. We believe the Education and Workforce and Finance Committee versions are inconsistent with the budget agreement, and we urge the Conferees to adopt the Ways and Means proposal.

<u>Local Program Administration</u>. We strongly believe that cities and other local areas should manage a substantial amount of all welfare-to-work funds. Congress entrusted mayors and other local elected officials, working with private industry councils, to administer other Federal job training funds. We strongly believe these entities can most effectively move long-term welfare recipients into lasting unsubsidized employment that cuts or ends dependency, and we supports the House provisions that use existing structures to help accomplish this goal

<u>Federal Administering Agency</u>. Both bills would require consistency with Federal TANF strategies. We agree with the goal, and we believe we can most effectively achieve it if we closely align welfare to work activities with the workforce development system that the Secretary of Labor oversees. Thus, we believe the Secretary should administer this program in consultation with the Secretaries of HHS and HUD, as included in titles V and IX (non-Medicare) of the House-passed bill.

<u>Performance Fund</u>. We are pleased that the Senate included a performance bonus concept. We are concerned, however, that the performance fund simply augments the existing TANF performance fund without establishing either new expectations for grantees or rewards

for placing the hardest to serve in lasting, unsubsidized jobs that promote self-sufficiency. Welfare-to-work funds must generate greater levels of placement in unsubsidized jobs than States will achieve with TANF and other funds. We urge Conferees to consider a mechanism to provide needed incentives and rewards for placing more of the hardest-to-serve in lasting unsubsidized jobs that promote self-sufficiency.

Distribution of Funds by Year The House provides for a two-year program, with $1.5 billion in 1998 and in 1999. The Senate bill provides for a three-year program. We want to work with the Conferees to ensure that the final bill includes an outlay pattern consistent with an estimate of zero outlays in 2002, as the budget agreement calls for.

Minimum Wage and Workfare

We applaud the Senate for not modifying current law with respect to applying the minimum wage and other worker protections for working welfare recipients under TANF. We believe strongly that everyone who can work must work, and everyone who works should earn at least the minimum wage and receive the protections of existing employment laws -- whether or not they are coming off welfare.

As a result, we continue to have serious concerns that certain welfare recipients would not enjoy the status of employees under the House bill and, thus, would not receive worker protections. Although the House bill moves toward ensuring that welfare recipients in work experience and community service receive the minimum wage, it fails to provide an effective enforcement mechanism. Also, while the House bill contains some protections against discrimination (gender, age, race, and disability) and threats to health and safety, we believe that its limited grievance procedures are inadequate to ensure welfare recipients receive the same protections as regular employees, and regular employees receive protection against displacement.

We urge the Conferees to adopt the Senate position on the minimum wage, grievance procedures, and worker protections.

Need work regs language

Non-Displacement

While we support the Senate non-displacement provisions that adopt worker displacement language from H.R. 1385, we would apply such protections to all welfare recipients who are moving from welfare to work (as the House provides). In addition, we support maintaining the House provision that ensures non-preemption of State non-displacement laws that give employees greater protections. ~~We urge the Conferees to adopt the Senate proposal~~. **(This paragraph makes no sense!)**

Unemployment Insurance

We are pleased that the House and Senate have included the Unemployment Trust Fund ceiling adjustment and special distribution to the States that were part of the budget agreement.

The House bill also includes the provision of the agreement that achieves $763 million in mandatory savings over five years by authorizing an increase in discretionary spending for unemployment insurance "program integrity" activities of $89 million in 1998 and $467 million over five years. We urge the Conferees to adopt the House language. In addition, we are seeking budget process provisions to guarantee discretionary funding for these activities and the resulting savings.

Repeal of Maintenance of Effort Requirement on State Supplementation of SSI Benefits

We are pleased that the Senate bill does not repeal the maintenance of effort requirement on State supplementation of SSI benefits. We strongly opposed to the House provision, which would let States significantly cut, or even eliminate, benefits to nearly 2.8 million poor elderly, disabled, and blind persons. Congress instituted the maintenance of effort requirement in the mid 1970s to prevent States from effectively transferring Federal benefit increases from SSI recipients to State treasuries. The House proposal also could put at risk low-income elderly and disabled individuals who could lose SSI entirely and possibly then lose Medicaid coverage. We opposed this proposal during last year's welfare reform debate, and we urge the Conferees to follow the Senate approach and not repeal the State maintenance of effort requirement for State supplementation of SSI benefits.

Additional Work Slots for Individuals Subject to the Food Stamp Time Limits

The budget agreement included $1.5 billion in additional Food Stamp funding to encourage work and give States the flexibility to exempt individuals from Food Stamp time limits due to hardship. The agreement specifically states that existing Food Stamp Employment and Training (E&T) funds will be redirected and new capped mandatory funding added "to create additional work slots for individuals subject to the time limits," and it provides $1 billion for this purpose.

We appreciate that the House and Senate bills would implement the 15 percent hardship exemption, consistent with the agreement. We are also pleased that both bills include real maintenance of effort requirements that target the new Federal funding to create additional work slots, rather than supplanting current E&T efforts. But, we are concerned that both bills create significantly fewer job opportunities than the five-year target of 350,000 slots -- 70,000 a year -- that the negotiators discussed. We are particularly concerned about the House bill, which would create 100,000 fewer slots than the President's proposal and about 60,000 fewer than the Senate approach over five years. The House bill also does not reflect the agreement because it does not target the funding to workslots for the target population. We believe the final bill should follow the Senate approach in targeting funds to work slots that meet the welfare reform law's tough requirements for Food Stamp recipients, and establishing performance standards to reward States that create additional work opportunities. We urge the Conferees to follow the Senate approach, with the House maintenance of effort provision, to make it fully consistent with the budget agreement.

Spectrum

We support a number of the spectrum-related provisions in the Senate and House bills. We believe, however, that the Senate bill is more consistent with the goals and targets in the budget agreement, and we urge the Conferees to use it as the basis for conference negotiations. Specifically, the Senate bill provides for reimbursing Federal agencies for the costs of relocating to new spectrum bands, so that the Federal Communications Commission (FCC) can auction, for commercial use, the spectrum that they are now using. This key provision is essential to prevent agencies from making future multi-billion dollar demands for additional discretionary funding.

We have other significant concerns with both bills. First, they fall over $6 billion short of the savings targets of the budget agreement. They both fail to include two proposals that the agreement specifies -- the auction of "vanity" toll-free telephone numbers (which would raise $0.7 billion) and the spectrum fee (which would raise $2 billion). In addition, neither bill contains a firm date for terminating analog broadcasting (as the budget agreement assumed), which reduced the CBO's scoring of the House bill by $2.9 billion, and of the Senate bill by $3.4 billion. Any delay in returning analog broadcast spectrum will likely impede the rapid build-out of digital technology, which will create jobs and consumer benefits, as well as reduce revenues from spectrum auctions. We urge the Conferees to conform the final bill to these provisions of the budget agreement.

We also request that the Conferees delete the House language that specifies spectrum bands and bandwidth for reallocation; repeals the FCC's fee retention authority; waives the duopoly/newspaper cross-ownership rules; and speeds payments from the universal service fund. These provisions conflict with good telecommunications policy, and with sound and efficient spectrum management policy. We also urge the Conferees to amend the overly expansive definition of "public safety" of the bills; to delete mandated minimum bid requirements; and to include provisions that would (1) authorize the FCC to revoke and reassign licenses when an entity declares bankruptcy, and (2) to use economic mechanisms (such as user fees), other than auctions. We support Senate provisions requiring the FCC to explain its rationale if it cannot accommodate relocated users in commercial spectrum and to consult with the Secretary of Commerce and the Attorney General on assigning new spectrum made available for public safety.

TANF Transfers to Title XX

We oppose the House provision to allow States to divert TANF funds away from welfare-to-work efforts to other Title XX social service activities. The Senate includes no such provision. The budget agreement did not address making changes in the Title XX transfers provisions, and we strongly urge the Conferees to drop these provisions.

Vocational Education in TANF

We are concerned with the House and Senate provisions on vocational education in TANF. The House bill includes two sets of provisions -- one from the Ways and Means Committee, the other from the Education and Workforce Committee -- which narrow the base of eligible recipients against which the cap on vocational education applies. The Ways and Means Committee excluded teen parents in school from the cap, and set the cap at 30 percent of the narrower base, while the Education and Workforce Committee makes no other changes. The Senate bill maintains the existing base, but removes teen parents who attend school from the 20 percent cap on vocational education. The budget agreement did not address changes in TANF work requirements regarding vocational education and educational services for teen parents, and we strongly urge the Conferees to drop these provisions.

State SSI Administration Fees

The House bill includes a provision, consistent with the budget agreement, to raise the fees that the Federal Government charges States for administering their State supplemental SSI payments and to make the increase available, subject to appropriations, for SSA administrative expenses. This proposal would help to collect about $380 million over five years, to be spent upon receipt. The Senate bill does not reflect this provision of the budget agreement, and evidently assumes that the proposal that the Appropriations Committee will implement the proposal. The budget agreement, however, anticipated revenue from this proposal over the full five years, and Congress should enact it as part of the reconciliation bill, rather than on a year-by-year basis. Consequently, we urge the Conferees to adopt the House provision.

Housing

We are pleased that the House and Senate bills include provisions to produce savings by reforming the FHA Assignment program and making appropriate reductions to Section 8 annual adjustment factors. We are concerned, however, about two additional provisions of the Senate bill.

The bill would not transform FHA multifamily housing restructuring in the most efficient, effective fashion. By ruling out the possibility of portable tenant-based assistance, the bill would limit tenants' ability to find the best available housing and prevent projects from developing a more diverse mix of income levels. By establishing a preference for delegating restructuring tasks to housing finance agencies, the bill places an unnecessary constraint on HUD's ability to design the most effective partnerships. Finally, since Congress did not address tax issues explicitly, the Senate bill does not resolve impediments that could discourage owners from participating in a restructuring process.

We are concerned about Section 2203 of the Senate bill, which repeals Federal preferences for the Section 8 tenant-based and project-based programs. We have supported such repeals only if they come with income targeting that would replace the Federal preferences. That targeting would ensure: 1) that the tenant-based program continues to mostly serve extremely low income families, with incomes below 30 percent of the area median income and 2) that all developments in the project-based program are accessible to a reasonable number of extremely low income families.

Privatization

The House bill would allow for privatizing eligibility and enrollment determination functions in Medicaid and Food Stamps. The Senate bill would not. While certain program functions, such as computer systems, can now be contracted out to private entities, the certification of eligibility for benefits and related operations (such as obtaining and verifying information about income and other eligibility factors) should remain public functions. Thus, we strongly oppose the House provision, and we urge the Conferees to follow the Senate approach.

Student Loans

We are pleased that both bills bill include $1.8 billion in outlay savings, including $1 billion in Federal reserves recalled from guaranty agencies, $160 million from an end to the fee paid to institutions in the Direct Loan program, and $603 million in reduced Federal student loan administrative costs. All of these provisions are consistent with the budget agreement, and the savings are achieved without raising costs on, or reducing benefits to, students and their families.

But, we oppose a provision in both bills, unrelated to the budget agreement, requiring administrative cost allowances (ACAs) to guaranty agencies in the Federal Family Education Loan (FFEL) program at a rate of .85% of new loan volume -- paid from mandatory funding authorized under Section 458 of the Higher Education Act of 1965 (HEA) from 1998 to 2000. This provision would create a new Federal entitlement, and it would inappropriately limit the funds available to the Secretary to effectively manage the FFEL Program. Any allowance to these agencies should bear some relationship to the costs these agencies incur, and should not be based on an arbitrary formula. This is an issue more appropriately left for the Higher Education Act (HEA) reauthorization.

We strongly prefer the House language for cutting student loan administrative costs. It specifies that the Education Department may use administrative funds authorized under section 458 of the HEA to operate the FFEL program and the Direct Loan program. Under the Senate language, the Secretary would lack adequate funds to administer the FFEL program effectively.

We also oppose a House provision that would stipulate that an 18.5 percent guaranty agency retention allowance on default collections that result from defaulted loans reentering repayment through loan consolidation. This provision, now specified in regulation and letters as "up to" 18.5 percent, would codify this share at 18.5 percent without regard to the actual expenses that the guaranty agencies incur. This issue also should be resolved in the upcoming HEA reauthorization.

Smith-Hughes

We are pleased that the House bill would repeal the Smith-Hughes Act of 1917 and is consistent with the budget agreement. The Senate bill does not include such a provision, although it finds the agreed-upon $29 million savings from the student loan programs. In the light of the $1.2 billion annual appropriation under the Carl D. Perkins Vocational and Applied Technology Education Act, we see no justification for $7 million in mandatory spending a year under Smith-Hughes. We urge the Conferees to adopt the House provision.

Budget Process

On budget process, the House and Senate bills generally follow the budget agreement. We appreciate the provisions to extend the discretionary caps to 2002 at the levels in the agreement, to create a firewall between defense and non-defense spending for 1998-99, to provide an adjustment for international arrears and an IMF quota increase and New Arrangements to Borrow, and to otherwise extend and update the Budget Enforcement Act along the lines of the budget agreement.

In some respects, however, the House or Senate bills are not fully consistent with the budget agreement. In other respects, the bills include provisions about which we have serious concerns. For instance, the House bill extends the "paygo" requirements of current law to 2006, rather than 2002, as provided in the budget agreement and the Senate bill; contrary to the current paygo system, both bills provide that only net deficit increases in the prior year, rather than both increases and decreases, would count under the paygo "lookback" procedure; the House bill does not provide for the transportation reserve funds that the budget resolution established for highways, Amtrak and transit; and the bills do not include the technical changes to fully extend the Budget Enforcement Act, as the agreement calls for. These changes include a budget authority allowance for technical estimating differences between CBO and OMB, as current law provides; a reserve fund for unemployment integrity to carry out the mandatory savings of the agreement; and a technical change to the existing Continuing Disability Reviews (CDR) adjustment to account for the conversion of obligation limitations to budget authority (House). In addition, the House bill would require a cumbersome notification procedure for the detailed scoring of each paygo or appropriations bill.