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MEMORANDUM

Via E-Mail

DATE: May 22, 2009

TO: Firm Clients and Friends

FROM: Bergeson & Campbell, P.C.

RE: Science and Technology Advice for Decision Makers: Congressional Briefing

On May 20, 2009, The Keystone Center (Keystone), in partnership with the Consensus Building Institute (CBI), the Woodrow Wilson International Center for Scholars (WWICS), and the Bipartisan Policy Center (BPC), presented a panel discussion titled *Science and Technology Advice for Decision Makers: Congressional Briefing*. The discussion was held in the Russell Senate Office Building in Washington, D.C. As the presenters stated: “There is a critical need for better, more focused research on complex science and technology issues that Congress and the Administration can use as they consider how best to protect and serve society.” Each of the presenting organizations has recently published a study on this subject.¹ Drawing from the findings of these studies and their respective professional experiences, the panelists discussed what could be done to improve the quality, availability, and use of science in federal policy making.

Peter Adler, Keystone, and David Rejeski, WWICS, provided introductory remarks and brief overviews of the recent reports published by their organizations. Among the findings discussed during these overviews were the following:

¹ Keystone and CBI recently published *Science and Technology Policy in Congress*, which is available at http://208.72.156.157/~keystone/files/file/about/publications/Final_report6092_4_2008.pdf; WWICS recently published *OSTP 2.0: Critical Upgrade*, which is available at <http://wilsoncenter.org/news/docs/OSTP%20Paper1.pdf>; and BPC recently published an interim report for its Science for Policy Project, *Improving the Use of Science in Regulatory Policy*, available at <http://www.bipartisanpolicy.org/ht/a/GetDocumentAction/i/10448>; the full report is due in June 2009.



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- The new Administration should appoint a Science Advisor early, as well as fill the other posts in the Office of Science & Technology Policy (OSTP), and ensure the Science Advisor has access to the President;
- OSTP should develop a strong working relationship with the Office of Management and Budget, as well as other Executive Branch offices;
- The new Administration should also place a high priority on naming the President's Council of Advisors on Science and Technology (PCAST);
- The federal government should seek ways to reestablish the integrity of science relied on in federal policy making;
- The new Administration should establish a council to formalize a relationship with the States to obtain their counsel on science and technology matters; and
- A science and technology policy office or function should be established within Congress.

Jeremy Kranowitz, Keystone, served as the panel moderator. In his first question to the four panelists, he invited them to comment generally on how the new Administration should proceed on science and technology policy matters.

Peter Blair, National Academy of Sciences (NAS), described the NAS and National Research Council's role. Blair commented that the NAS has 600 active committees and generates approximately 200 reports annually, but that due to the formalities and bureaucracy involved, only approximately 25 of those reports are formally requested by Congress. Blair stated that a better mechanism for NAS to inform Congressional debate on both science/technology issues and their policy implications is needed.

Jack Gibbons, former Director, Office of Technology Assessment (OTA), spoke next. Gibbons reviewed the history of the OTA, an office of the U.S. Congress from 1972 to 1995. Gibbons stated that it is unclear if the new Administration will restore the OTA and if so, in what form, observing that there are many scientists within Congress as members and staff today than historically. Gibbons stated that as an Office of Congress, OTA had advantages of being held in high regard, having a voice of authority, and access to Congressional members. Gibbons stressed that for effective communication of science and technology issues to policy



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makers, the message must be backed up by solid research and documentation, but distilled to a very concise form; the example given was a summary on a 3" x 5" card.

David Goldston, BPC, briefly reviewed the Center's history and summarized the recommendations in the BPC's March 2009 interim report. Goldston stated the first recommendation is that the new Administration needs to find ways to separate science and policy questions, commenting that the practice of framing all questions as science-based ones to achieve a moral high ground damages both science and policy. To implement the recommendation, Goldston stated that suggestions in the BPC report include the following:

- Require *Federal Register* Notices of Proposed Rulemaking to list separately questions of science and questions of policy on which the Notice seeks comment; Goldston stated that doing so would force recognition that these are distinct subjects;
- Require policy makers to propose more than one policy proposal consistent with the science, to move away from the idea that the science only supports one outcome (and thus reduce situations in which challenges to policy are rebuffed politically as challenges to the underlying science); and
- Ask policy makers to identify the difference additional science could make to a policy outcome, and what that science is; if no additional science would change the outcome, Goldston stated that the real question was unlikely to be a science-based one.

Goldston stated the second and third recommendations concerned transparency -- how to appoint and consult with advisory panels, how to manage conflicts of interest, and how agencies and advisory committees should conduct literature reviews. To implement these recommendations, Goldston stated that suggestions in the BPC report include the following:

- The objective of the advisory committee should be clear and the committee should be structured accordingly; a committee charged with a science question should be composed of scientists and should not produce a policy conclusion; in contrast, a committee charged with making policy recommendations should be composed of scientists and policy makers;
- The participating scientists should reflect the range of scientific disciplines that are implicated by the question posed;



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- The selection and weighting criteria for studies assessed in a literature review should be reported and clear; and
- While transparency and thus open meetings is very important, in limited circumstances, a closed session may be warranted to avoid the stifling effect that a public forum may have on debate.

Phil Sharp, Resources for the Future (RFF) and former Congressman, stated that RFF is interested in enhancing how the scientific and academic communities communicate within the public policy arena. Sharp emphasized that the scientific and academic communities must communicate with clarity and integrity, without disdain for policy makers. Sharp also commented that scientific and academic professionals typically are rewarded for communicating among peers in scientific journals and need to recognize that policy makers are a different audience. Finally, Sharp recommended a RFF 2003 publication, *Science and Technology Advice for Congress*, that presents a range of options and considerations for providing Congress with expert scientific and technological advice for legislative decision-making.²

Kranowitz next asked the panelists what the best mechanism would be to deliver science and technology information to Congress and the Executive Branch that is timely, credible/non-partisan, and concise, and also whether it should be a government or independent body.

In response, Gibbons emphasized that information timeliness is critical to inform a current or ongoing debate. He stated that advisory committees should be separately constituted for each issue to tailor the expertise to the question. He also commented that, to have experienced committee members, it is difficult and should not be the goal to have non-biased members; instead, the goal should be to have a committee with balanced bias. Finally, Gibbons emphasized that concise summaries must be a valid representation of a much greater work and body of research supporting them.

Goldston commented that Congress should not receive information from just one source, and accordingly there was no single answer to the question. Goldston stated that there are existing organizations that have retained their integrity and provide credible information. Foremost, Goldston listed the NAS; the Health Effects Institute and Congressional Research Service (CRS) were additional examples. Goldston acknowledged that an NAS report can be

² Additional information about this publication is available at http://www.rff.org/rff/rff_press/bookdetail.cfm?outputID=7588.



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expensive and slow; he also characterized NAS as better for compiling and assessing existing data. For forward thinking, such as the environmental consequences of nanotechnology, Goldston stated that an entity such as the OTA would be better suited.

Blair concurred that no one mechanism or source would be sufficient. He stated that what is missing is a source of advice that is sensitive to the language and level of abstraction of the Congressional debate. Blair also concurred that timeliness is important, but quipped that when asked to be faster, better, and cheaper, he would respond by saying, "Pick two." Blair emphasized that a rich science debate is essential, and that Congress should be exposed to the debate and then left to weigh the trade offs.

Sharp emphasized that what is needed is an outside political force that holds policy makers accountable to decision-making based on good science. Policy makers should be confronted when making statements that are scientifically vacuous, and the scientific community has to be more willing to engage critically, Sharp stated. Sharp continued by echoing earlier statements that no one source could meet the diverse science needs of policy makers. Sharp also stated that one option for consideration might be an entity internal to Congress that would serve as a clearinghouse for contacts to the best experts on the range of science issues (who are also good communicators) and that could function as a screening body to set up good hearings.

In his final question to the panelists, Kranowitz recounted a story from an interview with a freshman Congressional member who stated that, when he started, he received a go-to contact cheat sheet from his party to obtain information on a wide range of subjects, and who said the cheat sheet was very helpful, although admittedly partisan. Acknowledging that getting on such a list would be the "mother of all lobbying efforts," Kranowitz asked the panelists about the value of a non-partisan cheat sheet for freshman Congressional members.

In response, Blair commented that Congress could use the "NAS rolodex" to staff expert panels. Goldston stated that such a cheat sheet would be insufficient, stating that Congressional members must do more original thinking and stop contracting out their thinking to lobbying groups. Goldston added he had no solution to this issue other than public outrage. Sharp stated that it was unlikely a true cheat sheet could be assembled because the diversity of issues is too great, but perhaps CRS or an "OTA-light" organization could serve as a clearinghouse.

Two questions were posed by audience members before the meeting ended. The first asked about the likely costs associated with reforming OTA. Various figures were discussed among the panelists, who also noted that the OTA budget had been a fraction of the budget for the National Academies, and a tiny fraction of the overall Congressional budget. The



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panelists also emphasized that the role and organization of a new OTA would need to be evaluated, giving consideration to existing resources on Congressional committees and how the channels of communication have evolved in the 14 years since the OTA has been “de-funded.”

The second observed that many well prepared reports are ignored and asked “who are the best horse traders” or people best able to communicate with policy makers. (In his question, the audience member listed two options: scientists or lawyers.) In response, the panelists again emphasized that everyone involved needs to acknowledge that science and the policy made in consideration of science are distinct; that said, as long as people are clear about the role they are playing (*i.e.*, scientist or advocate), scientists with strong public policy communication skills exist and can fill the role of communicator, as can others.

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We hope this information is helpful. As always, please call if you have any questions.