

Exhibit List

- [Exhibit 1:](#) Rep. Nick Smith's column dated 11/23/03
- [Exhibit 2:](#) Rep. Nick Smith's press release dated 11/24/03
- [Exhibit 3:](#) *Washington Post* article dated 11/23/03
- [Exhibit 4:](#) *Human Events Online* column dated 11/26/03
- [Exhibit 5:](#) Column appearing in *Chicago Sun-Times* dated 11/27/03
- [Exhibit 6:](#) Slate.com article dated 12/1/03
- [Exhibit 7:](#) Transcript of Rep. Nick Smith's WKZO-Kalamazoo radio interview on 12/1/03
- [Exhibit 8:](#) Rep. Smith's press release dated 12/4/03
- [Exhibit 9:](#) *Lansing State Journal* article dated 12/5/03
- [Exhibit 10:](#) Letter from Chairman and Ranking Minority Member of Committee on Standards of Official Conduct to Rep. Nick Smith dated 12/8/03
- [Exhibit 11:](#) Letter from Rep. Nick Smith to Chairman and Ranking Minority Member of Committee on Standards of Official Conduct dated 12/17/03
- [Exhibit 12:](#) *Washington Post* article dated 12/23/03
- [Exhibit 13:](#) *Detroit News* article dated 2/12/04
- [Exhibit 14:](#) Letter from Chairman and Ranking Minority Member of Committee on Standards of Official Conduct to Rep. Nick Smith dated 2/13/04

[Exhibit 15](#): Letter from counsel to Rep. Nick Smith to Chairman and Ranking Minority Member of Committee on Standards of Official Conduct dated 3/5/04

[Exhibit 16](#): Letter from Investigative Subcommittee to Secretary Tommy Thompson dated 7/8/04

[Exhibit 17](#): Letter to Investigative Subcommittee from General Counsel of Department of Health and Human Services and accompanying statement from Secretary Tommy Thompson dated 8/4/04

[Exhibit 18](#): Subpoena to Rep. Nick Smith dated 6/21/04

[Exhibit 19](#): Notes from Rep. Nick Smith's diary calendar for 11/17-12/14/03

[Exhibit 20](#): Relevant portions of record of roll call votes for 11/21/03

[Exhibit 21](#): Transcript of voicemail message left by Brad Smith for Rep. Nick Smith on 11/21/03

[Exhibit 22](#): Rep. Nick Smith's schedule for 11/19-11/23/03

[Exhibit 23](#): Letter to Speaker J. Dennis Hastert from Rep. Nick Smith dated 11/23/03

[Exhibit 24](#): Excerpt from Walsh for Congress Committee report to Federal Election Commission disclosing contribution to Brad Smith for Congress on 12/11/03

 Print This Page

EXHIBIT 1

Column by Congressman Nick Smith - November 23, 2003

A Medicare Showdown

The House passed a deeply flawed Medicare prescription drug bill by a vote of 220-215 at 6:00am, November 22. Votes in the House usually last 15 minutes plus a traditional two minute cushion. But because the leadership did not have the votes to prevail, this vote was held open for a record two-hours-and-51-minutes as bribes and special deals were offered to convince members to vote yes.

I was targeted by lobbyists and the congressional leadership to change my vote, being a fiscal conservative and being on record as a no vote. Secretary of Health and Human Services Tommy Thompson and Speaker of the House Dennis Hastert talked to me for a long time about the bill and about why I should vote yes. Other members and groups made offers of extensive financial campaign support and endorsements for my son Brad who is running for my seat. They also made threats of working against Brad if I voted no. Brad heard about what was going on and called me to say he didn't want to get to Congress that way and that I should do the right thing. That added to my resolve.

I told all those urging a yes vote the same thing: This bill will lead to explosive new costs and huge unfunded liabilities that will unfairly burden future generations. The current unfunded liability for Medicare is about \$14 trillion in current dollar value. Adding the new Medicare drug provision increases the unfunded liability by \$7.6 trillion for a total of \$21.6 trillion in today's dollars. The bill promised trillions in new benefits with no idea how to pay for them other than passing the bill to future generations.

A universal benefit is also unnecessary right now. It would have been sufficient to help those who are going without. The National Center for Policy Analysis estimates that under this bill, only one of every 16 dollars spent helps purchase drugs for seniors who would otherwise have gone without them. In fact, 74 percent of seniors have some drug coverage now. That is why about a fifth of the cost of the bill is paid to employers if they don't drop the benefit. The bill will result with millions of Americans losing part of their existing coverage. As drug costs increase, more and more companies will drop their drug coverage and force retirees into the government program.

If that happens, it will reduce coverage for many. I find that many seniors are surprised by how little coverage is provided under this bill. The premium is expected to be \$35 a month. Then there's a deductible on the first \$275 of drugs purchased every year. After that, the senior pays 25 percent of their drug costs between \$275 and \$2200, and then there is no coverage at all between \$2200 in expenses up to \$5044. Above that the government will pay 95 percent, but that still means that seniors will have to pay \$4020 of their first \$5044 of drugs with this bill.

I think that we have a problem with some people who can't afford drugs. We can deal with that problem with a much smaller, cheaper, and efficient program. I have also supported other approaches to cutting drug costs, such as safe and regulated re-importation of American drugs from Canadian and European markets, increased access to lower cost generic drugs, and controls on unreasonable medical malpractice costs. In the end, asking young workers to pay for more and more senior benefits is not good long-term policy. Instead, we need to make the case for reasonable change in both Social Security and Medicare.

 Print This Page

EXHIBIT 2

Nick Smith's Press Release - November 24, 2003

Smith Plays Key Role in Medicare Debate
Resists Intense Pressure to Vote for Medicare Bill

(Washington, D.C.) -- Washington was abuzz Monday over the resolve of Congressman Nick Smith (R-Michigan) who resisted intense pressure to vote for the Medicare bill. Following a story that appeared on Sunday in the Washington Post, Congressman Nick Smith responded with this statement:

"I thought I knew 'arm-twisting' serving 16 years in the Michigan legislature and 11 years in the United States Congress. However, this was the most intense and strongest pressure to change my vote that I've ever experienced."

"Being a strong fiscal conservative and having voted no on the two prescription drug bills I was a target for early pressure to vote yes on this third go-round."

"My only regret is that it might have hurt my son. Advocates of the Medicare prescription drug bill had figured out that my vulnerability might lie in my strong support for my family. Since I'm retiring and my son Brad is running for my seat. I got significant promises for help for his campaign and threats they'd work against him if I voted no."

"Brad got word of the situation and called me and told me that he didn't want to go to Congress this way. He told me to do the right thing. That helped my resolve."

The Sunday Washington Post reported the following on the front page regarding Congressional lobbying efforts for the Medicare Bill:

"Health and Human Services Secretary Tommy G. Thompson, who had been working the Capitol all day, defied custom and moved onto the House floor. He and Hastert avoided the back rows where many of the conservatives were clustered, and targeted "no" voters such as Reps. John Shadegg (R-Ariz.) and Nick Smith (R-Mich.), who were standing or sitting alone.

The broad-shouldered speaker, moving through the crowded aisles like a fullback, plumped down next to Smith, who is retiring next year after 40 years in a succession of public offices. Hastert threw an arm around Smith's shoulder and leaned in as Thompson moved into the seat on the other side. Aides recounted that Hastert said Smith's help was vital to the party and the president -- a fitting gift at the end of a long career -- and suggested it would also help Smith's son, who plans to run for the seat.

But the former dairy farmer, a budget hawk, waved his hands as if in dismissal and told Hastert that his son had advised him, "Do what is right." He was unmoved -- and remained so as Hastert and other legislators returned often to plead the case."

This and other newspaper articles pertaining to stories of Congressman Nick Smith can be obtained on his Newslinks page in his Newsroom section of his website.

EXHIBIT 3

washingtonpost.com

Time Was GOP's Ally On the Vote

By David S. Broder
Washington Post Staff Writer
Sunday, November 23, 2003; Page A01

At exactly 3 a.m. yesterday, Rep. Richard "Doc" Hastings (R-Wash.), presiding over the House of Representatives, announced that time for debate on President Bush's Medicare reform and prescription drug bill had expired. "Members will have 15 minutes to record their votes," he said.

The forecast turned out to be wildly off the mark. It was nearly 6 a.m. when the longest roll call in House history ended, with Republicans cheering a 220 to 215 victory and embittered Democrats denouncing it as a travesty.

The 2-hour-and-51-minute ordeal -- more than double the previous record -- saw Democrats savoring the possibility of their biggest victory of the Bush years -- an apparent 216 to 218 rejection of the \$400 billion plan -- for almost an hour. But in that final hour, the president, jet-lagged from his flight home from Britain, phoned recalcitrant Republicans from the White House, and his secretary of health and human services, defying custom, jawboned members on the floor.

Their exhortations, even when added to all the pressure and pleading from the usually efficient GOP leadership team, failed to crack a solid phalanx of more than two dozen conservatives who insisted they had not come to Washington to expand the popular but expensive Great Society entitlement program.

Several times, Speaker J. Dennis Hastert (R-Ill.) and his lieutenants were on the verge of conceding defeat and moving to reconsider the issue later, only to pull back and give their lobbying another try. In the end, they switched two of the conservatives by telling them of a Democratic legislative plot that may have been either fictional or real.

The outcome -- even more dramatic than the one-vote preliminary victory for the Medicare bill in the House last summer -- may have huge political ramifications in the coming campaign and beyond. Democrats -- as frustrated by the long count as they had been in 2000 by the 36-day aftermath to the presidential election in Florida -- denounced the process and the outcome. Rep. Steny H. Hoyer (D-Md.), the minority whip, said Republicans "stole" the victory through "undemocratic subversion of the will of the House." He vowed they would pay a political price when seniors examine the bill's contents.

But the president hailed the outcome and urged the Senate to add its stamp of approval, a step that would give Republicans bragging rights for the biggest expansion ever of a program that has been an icon of Democratic politics.

The debate opened with notable decorum, but tension mounted in the chamber as time passed.

Early in the evening, Republicans held a final caucus in the Capitol basement. Despite last-minute concessions on such issues as improved reimbursements for oncologists, Nancy L. Johnson (R-Conn.), the health subcommittee chairman, told a reporter, "We're not there yet."

Majority Whip Roy Blunt (R-Mo.) said in an interview last night, "We never thought we could win it just on the Republican side." In June, when the House passed its own version of Medicare-prescription drugs, 19 Republicans had defected, and it took lengthy efforts to squeeze out a one-vote victory.

The compromise House-Senate version up for a vote yesterday was even harder for some conservatives to swallow, because of features added to satisfy some Senate Democrats. Hastert said in an interview last night: "A lot of our folks, the hard-right guys, are not for Medicare. It's an entitlement they don't want to add on to. I had to convince them we had a chance really to reform Medicare and bend those cost curves so my kids don't end up paying 30 percent of their salaries for it."

One of the conservatives, Rep. Mike Pence (R-Ind.) said before the vote that the "hard-core" conservative opposition bloc had grown to 26, enough to sink the bill. But a leadership aide said that Rep. Calvin M. Dooley (Calif.), a middle-road Democrat who is retiring next year, had told Rep. David Dreier (R-Calif.) that if Republicans could show 208 votes from their side, "we'll give you 15" -- enough to pass it 223 to 212.

To Hastert, that suggested a majority of the House wanted the bill. But to pass it, he would have to deliver enough Republicans for the Democrats to come out of hiding. The problem, Blunt said, was that "17 of our members voted no almost immediately, and we didn't get our first Democratic vote until the 15 minutes were almost up." As a result, when the nominal time expired, the measure was trailing by 15 votes -- with 24 Republican defectors and only seven Democratic crossovers. Another 30 members, most of them Democrats, had not voted.

At that point, Hastert, Majority Leader Tom DeLay (R-Tex.) and Blunt swung into action, stressing to Republicans the importance of the issue to the party and the president. The margin of defeat narrowed steadily. By 4 a.m., it stood at 216 to 218.

But then it stuck. David Hobbs, the White House legislative liaison, operating from a room just off the floor, decided about 5 a.m. it was time to call in the president. Knowing Bush is an early riser by nature, he figured the president might be up even earlier, still tuned to London time. He was right. Bush, who had made a dozen or so calls to members en route home, made five or six more -- reaching members in their offices or on cell phones.

Meantime, Health and Human Services Secretary Tommy G. Thompson, who had been working the Capitol all day, defied custom and moved onto the House floor. He and Hastert avoided the back rows where many of the conservatives were clustered, and targeted "no" voters such as Reps. John Shadegg (R-Ariz.) and Nick Smith (R-Mich.), who were standing or sitting alone.

The broad-shouldered speaker, moving through the crowded aisles like a fullback, plumped down next to Smith, who is retiring next year after 40 years in a succession of public offices. Hastert threw an arm around Smith's shoulder and leaned in as Thompson moved into the seat on the other side. Aides recounted that Hastert said Smith's help was vital to the party and the president -- a fitting gift at the end of a long career -- and suggested it would also help Smith's *son*, who plans to run for the seat.

But the former dairy farmer, a budget hawk, waved his hands as if in dismissal and told Hastert that his *son* had advised him, "Do what is right." He was unmoved -- and remained so as Hastert and other legislators returned often to plead the case.

Meantime, a drama was unfolding on the Democratic side. Rep. David Wu, a third-term and Portland, Ore., lawyer, was refusing to vote. A changing circle of Democrats surrounded the 48-year-old Taiwan-born Stanford and Yale Law School graduate, who remained stubbornly silent with a gaze one legislator described as "almost catatonic." Rep. Zoe Lofgren (D-Calif.), a friend, put her hands to his face, but he did not respond.

With still no movement on the Republican side, Hastert and Company were almost ready to concede. Reporters in the gallery thought they heard Rep. Bill Thomas (R-Calif.), chairman of the Ways and Means Committee, say, "It's over." Leadership aides said last night that the fallback plan being discussed was for DeLay to switch his vote to "no," so he could be on the prevailing side when the bill's defeat was announced, and then immediately move to reconsider the result -- as any member of the winning side can do. Democrats say they even received a message on their Blackberries advising there would be a reconsideration vote at 9 a.m. Saturday.

But each time DeLay was ready to move to the microphone, the whip team would spot another possible switcher -- and he stepped back.

The breakthrough finally came when seven of the "no" voters met with Hobbs and leadership people just off the floor to discuss the situation. Rumors were circulating on the House floor that if the measure were defeated, Democrats would seek to revive their own Medicare bill or the more liberal Senate version. Hastert said last night that he had been told that Minority Leader Nancy Pelosi (D-Calif.) was planning to move such a bill to a quick floor vote by a "discharge petition," a rarely used device requiring signatures from 218 members, a House majority.

Pelosi was not available for comment, but two well-connected Democrats, Reps. Rahm Emanuel (Ill.) and Albert R. Wynn (Md.), said they had heard such talk. Emanuel said the idea being discussed was to wed the more generous Senate bill with a House provision allowing reimportation of drugs from Canada -- a combination some thought might prevail.

But a senior House GOP aide said the threat of a Democratic bill was concocted to pry loose some conservative votes. "We didn't know what they [the Democrats] might do, but this was a logical step for them," he said. "We couldn't get the votes we needed by promising bridges or roads. The conservatives opposed this bill on policy grounds, so we had to give them a policy reason to be for it."

It worked. Two of the seven conservatives in the meeting -- Reps. C.L. "Butch" Otter of Idaho and Trent Franks of Arizona -- agreed to switch. It was not easy for either of them. Franks, a freshman, is a staunch conservative, a former consultant to Patrick J. Buchanan's presidential campaign. Otter had told a reporter just before the vote that "I could stomach this bill if we were going to pay for it, but borrowing that much money -- that means we're voting for the next election, not the next generation."

After his switch, still looking dazed, Otter told reporters he had turned down Bush's personal plea for support. But when faced with the prospect of a Democratic bill "with fewer reforms, less cost-containment and probably even higher spending," he said, he chose what he thought the lesser of evils.

A moment later, DeLay strode to the microphone. Many members thought he was about to concede at least temporary defeat. Instead, the scoreboard over his head now flashed new numbers: Yeas 218,

Nays 216. Within seconds, a flurry of last-minute converts had boosted the margin to five. Wu, the last to vote, was a Yea.

Pelosi fired off an angry statement, calling the extended vote an outrage. "We won it fair and square," she said, "so they stole it by hook or crook."

Hastert said last night he had no apologies. "They criticize me for keeping the vote open so long," he said, "but I've been working that issue for 20 years, and seniors have been waiting through three Congresses for a prescription drug benefit. So I don't think waiting three hours to get it done is too much."

Staff writers Amy Goldstein and Mike Allen and researcher Brian Faler contributed to this report.

© 2003 The Washington Post Company

[\[Previous Doc in Result List\]](#) [\[Next Doc in Result List\]](#)

Arm-Twisting and Vote-Switching on RX Drug Entitlement

by David Freddoso
Posted Nov 26, 2003

The final vote on the bill to create the largest new entitlement in decades was 220-215, but it was even closer than that for most of Saturday morning.

Rep. Mike Pence (R.-Ind.), who spearheaded the conservative opposition to the prescription drug entitlement (H.R. 21) in the House, called his own efforts a "successful failure." Pointing out that the conservative opposition to the bill grew by six votes since June, he compared the stand by 25 principled House conservatives against the bill to the battle of the Alamo. The new votes for the bill, whose earlier version passed by just one vote in June, came from Democrats who had opposed it before.

The House leadership had to keep the vote on H.R. 21 open for nearly three hours, during which House leaders and administration officials twisted arms and offered extra pork in exchange for votes. The bill seemed on its way to failure 216 to 218 for two full hours, until some Democrats and a few Republicans changed their votes a few minutes before 6 a.m.

Health and Human Services Secretary Tommy Thompson succeeded in wooing several Democrats to vote for the bill who had opposed it in the past. He reportedly did this, House sources tell HUMAN EVENTS, by "handing out" over a billion dollars worth of discretionary spending to anyone willing to switch.

On the Republican side, threats carried the day. That prompted Rep. Pat Toomey (R.-Pa.) and Pence, along with 23 others, to leave the Capitol building and seclude themselves at a Chinese restaurant on Pennsylvania Ave. for part of the evening. They avoided constant reproaches from the likes of Thompson and the House Republican leaders for a few hours, but they could not avoid the hours of threats dealt out on the House floor.

Among those treated most brutally was Rep. Nick Smith (R.-Mich.). Although Smith is retiring next year, his son Brad hopes to win his safe 7th district seat by surviving a crowded Republican primary.

"It's pretty personal," Smith told Human Events. Smith was told that his son would get "almost unlimited financial support, plus some nationally recognized names to endorse him," if Rep. Smith would just vote for the drug bill. "This comes after [Brad] had sold part of his property to put his own \$100,000 into his campaign," he said. But when Brad learned about the deal being offered, he called his father. "He said, 'Hey, Dad, you stick to your guns and do the right thing. I don't want to go to Congress that way.' That increased my resolve for sure."

Smith stood firm and voted "no." "The only sad part is that I may have hurt Brad's chances of getting in, because some of the members were pretty adamant that they were going to work to make sure he didn't," said Smith. He would not specify whether the members in question were other Michigan congressmen.

More pressure came down on the conservatives when the National Right to Life Committee announced

it might score the vote on its congressional scorecard. In other words, congressmen voting "no" on the bill would look like they had cast a vote against the right to life.

"I'm very curious about what their position on the omnibus [spending] bill will be," deadpanned Pence, one of the most outspoken pro-lifers in Congress. "I want to protect my pro-life voting record."

Among the Republicans who changed their votes on the floor were Trent Franks (Ariz.) and Butch Otter (Idaho). Franks held out for much of the evening, but after a full night of being lobbied intensely, he took Pence aside and told him he was going to switch.

For Otter, this represents the second time he has switched his vote from "no" to "yes" on the prescription drug entitlement. He switched his vote after telling HUMAN EVENTS' John Gizzi that he would vote against the bill.

Also of interest are Republican Congressmen Richard Burr (N.C.), Steve Buyer (Ind.), and James Sensenbrenner (Wis.). All three voted against a similar bill in June, then turned around and voted for this bill, even though it is worse than its earlier version in several respects. Also, Rep. Ernest Istook (R.-Okla.) voted in favor, even though he opposed the bill in June.

Rep. John Culberson (R.-Tex.) changed his vote the opposite way, from "yes" to "no," at the last minute, once the bill's passage was ensured. His staff had no explanation.

On the other hand, in addition to the 16 Republicans who stayed solid throughout, nine GOP lawmakers found their courage in the fall and switched to vote "no" on this final version of the bill. They include Pat Toomey (Pa.) and freshmen Scott Garrett (N.J.), Gresham Barrett (S.C.), and Tom Feeney (Fla.), among others. These freshmen were pushed hardest to change their votes, but refused.

"I came to Washington to reform Great Society programs, not to ratify and enlarge them," said Feeney in a written statement released the same day the vote was taken. Pence told Human Events that Feeney, who stood with him on the House floor throughout the three-hour vote, warded off those pressuring him with the same line: "This isn't about my career?it's about my country."

A Bad Bill

The prescription drug bill, covered extensively by HUMAN EVENTS, represents the most expensive vote-buying measure since President Lyndon Johnson. U.S. Comptroller General David Walker testified before Congress in 2001 that Medicare's liabilities "represent an unsustainable burden on future generations."

Thanks to this added entitlement, the program will bankrupt the treasury even more quickly, all but ensuring a payroll tax-hike on younger workers within 30 years.

This bill is being enacted by the first Republican controlled government since the Eisenhower administration.

Most Democrats opposed the bill, but only because they wanted an even bigger new entitlement. Also, House Democrats did not want President Bush to get credit for the bill among the senior citizen voters who stand to gain.

Below is the tally of the House vote, by party and position. A "yes" vote was a vote for the new, government-expanding entitlement. A "no" vote was a vote against the entitlement.

GOP pulled no punches in struggle for Medicare bill

November 27, 2003

**BY ROBERT NOVAK SUN-TIMES
COLUMNIST**

During 14 years in the Michigan Legislature and 11 years in Congress, Rep. Nick Smith had never experienced anything like it. House Speaker Dennis Hastert and Health and Human Services Secretary Tommy Thompson, in the wee hours last Saturday morning, pressed him to vote for the Medicare bill. But Smith refused. Then things got personal.

Smith, self term-limited, is leaving Congress. His lawyer son Brad is one of five Republicans seeking to replace him from a GOP district in Michigan's southern tier. On the House floor, Nick Smith was told business interests would give his son \$100,000 in return for his father's vote. When he still declined, fellow Republican House members told him they would make sure Brad Smith never came to Congress. After Nick Smith voted no and the bill passed, Duke Cunningham of California and other Republicans taunted him that his son was dead meat.

The bill providing prescription drug benefits under Medicare would have been easily defeated by Republicans save for the most efficient party whip operation in congressional history. Although President Bush had to be awakened to collect the last two votes, Majority Leader Tom DeLay and Majority Whip Roy Blunt made it that close. "DeLay the Hammer" on Saturday morning was hammering fellow conservatives.

Last Friday night, Rep. Pat Toomey of Pennsylvania hosted a dinner at the Hunan restaurant on Capitol Hill for 30 Republicans opposed to the bill. They agreed on a scaled-down plan devised by Toomey and Rep. Mike Pence of Indiana. It would cover only seniors without private prescription drug insurance, while retaining the bill's authorization of private health savings accounts. First, they had to defeat their president and their congressional leadership.

They almost did. There were only 210 yes votes after an hour (long past the usual time for House roll calls), against 224 no's. A weary George W. Bush, just returned from Europe, was awakened at 4 a.m. to make personal calls to House members.

Republicans voting against the bill were told they were endangering their political futures. Major contributors warned Rep. Jim DeMint they would cut off funding for his Senate race in South Carolina. A Missouri state legislator called Rep. Todd Akin to threaten a primary challenge against him.

Intense pressure, including a call from the president, was put on freshman Rep. Tom Feeney. As speaker of the Florida House, he was a stalwart for Bush in his state's 2000 vote recount. He is the Class of 2002's contact with the House leadership, marking him as a future party leader. But now, in those early morning hours, Feeney was told a "no" vote would delay his ascent into leadership by three years -- maybe more.

Feeney held firm against the bill. So did DeMint and Akin. And so did Nick Smith. A steadfast party regular, he has pioneered private Social Security accounts. But he could not swallow the unfunded liabilities in this Medicare bill. The 69-year-old former dairy farmer this week was still reeling from the threat to his son. "It was absolutely too personal," he told me. Over the telephone from Michigan on Saturday, Brad Smith urged his father to vote his conscience.

However, the leadership was picking off Republican dissenters, including eight of 13 House members who signed a Sept. 17 letter authored by Toomey pledging to support only a Medicare bill very different from the measure on the floor Saturday. That raised the Republican total to 216, still two votes short.

The president took to the phone, but at least two Republicans turned him down. Finally, Bush talked Reps. Trent Franks of Arizona (a ninth defector from the Toomey letter) and Butch Otter of Idaho -- into voting "yes." They were warned that if this measure failed, the much more liberal Democratic bill would be brought up and passed.

The conservative Club for Growth's Steve Moore, writing to the organization's directors and founders, said defeat of the Medicare bill "would have been a shot across the bow at the Republican establishment that conservatives are sick of the spending splurge that is going on inside Washington these last few years."

Hammering the conservatives to prevent that may have been only a short-term triumph.

chatterbox

Who Tried To Bribe Rep. Smith?

Stop protecting him, Congressman.

By Timothy Noah

Posted Monday, Dec. 1, 2003, at 3:17 PM PT

Rep. Nick Smith, R-Mich., says that sometime late Nov. 21 or early in the morning Nov. 22, somebody on the House floor threatened to redirect campaign funds away from his son Brad, who is running to succeed him, if he didn't support the Medicare prescription bill. This according to the Associated Press. Robert Novak further reports,

On the House floor, Nick Smith was told business interests would give his son \$100,000 in return for his father's vote. When he still declined, fellow Republican House members told him they would make sure Brad Smith never came to Congress. After Nick Smith voted no and the bill passed, [Rep.] Duke Cunningham of California and other Republicans taunted him that his son was dead meat.

Speaking through Chief of Staff Kurt Schmutz, Smith assured Chatterbox that Novak's account is "basically accurate." That means Smith was an eyewitness to a federal crime. United States Code, Title 18, Section 201, "Bribery of public officials and witnesses," states that under federal law, a person commits bribery if he

directly or indirectly, corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or *promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity* [italics Chatterbox's], with intent to influence any official act. ...

Promising to direct \$100,000 to Rep. Smith's son's campaign clearly meets the legal definition of bribery. The only question, then, is who to prosecute. The AP had Smith attributing threats to support his son's opponent to "House GOP leaders," but that was a paraphrase, and it is possible Smith meant someone else when he spoke of an actual offer of \$100,000. We know House Speaker Dennis Hastert spent a lot of time that night trying to win over Smith. The trade publication *CongressDaily* spotted Hastert around 4 a.m., about an hour into the extended Medicare roll call, placing his arm around Smith and gesturing. Twenty minutes later, *CongressDaily* saw Hastert work Smith over again, this time with Health and Human Services Secretary Tommy Thompson. At 5:30 a.m., with less than half an hour left until the final tally, *CongressDaily* saw Hastert and Thompson give it one final try. The *Washington Post's* David Broder, in his Nov. 23 column, wrote that House aides "recounted that Hastert said Smith's help was vital to the party and the president—a fitting gift at the end of a long career—and suggested it would also help Smith's son, who plans to run for the seat." That's pretty close to Novak's version.

But according to Hastert spokesman John Feehery (as quoted by the AP), Hastert merely said "that a vote on this would help him and help his son because it would be a popular vote." Ordinarily, Chatterbox would consider that a laughably weak denial. But Feehery told Chatterbox that Smith had *personally assured* the speaker that he wasn't the individual he'd complained about. Schmutz, Smith's chief of staff, said Smith had further clarified that the perpetrator not only wasn't Hastert; it wasn't Thompson or House Majority Leader Tom "the Hammer" DeLay, either.

Obviously Smith doesn't want to alienate the GOP establishment by hurling criminal accusations at whoever this phantom bribe-giver may be. But it's a little late for that. If Smith witnessed an attempted

bribery, he has an obligation as a citizen—and even more so, as member of Congress—to make that person's identity known to law enforcement officials. Marc Miller, a Washington attorney who advises clients on ethics issues, told Chatterbox that what Novak described not only looked like "a slam-dunk violation of the bribery law" but probably also included "a smorgasbord of other criminal violations." Rep. Smith, Miller said, "should really be sharing the specifics with the Justice Department."

So, Congressman. Enough with the guessing games. Who tried to bribe you?

[*Update, Dec. 2:* In a Nov. 28 commentary in the *Lenawee (Michigan) Connection*, Rep. Smith himself made reference to "bribes and special deals" that "were offered to convince members to vote yes," though he shed little further light on who, his own case, the perpetrator or perpetrators were:

Other members [i.e., not Hastert] and groups made offers of extensive financial campaign support and endorsements for my son, Brad, who is running for my seat. They also made threats of working against Brad if I voted no.

If the Bush Justice department hasn't made inquiries about this yet, it isn't doing its job.]

Timothy Noah writes "Chatterbox" for Slate.

Article URL: <http://slate.msn.com/id/2091787/>

EXHIBIT 7

RPTS STRICKLAND

Mr. Vandebroek. WKZO time, 1:26.

Let me set this up briefly. I spoke with Congressman Nick Smith on Monday. This is right after the President visited Detroit and Dearborn. I have not edited this tape. In the midst of it, you will hear the quality change. That is because he went from a digital phone service to an analog phone service. You all know what that's like. But here now, unedited, Nick Smith:

Now, just last week the controversial bill passed, the health care bill passed the Congress. Have kind of the axes been buried? Is everybody just kind of make up and move on? How did you communicate with the President about the vote from last week?

Mr. Smith. When civility -- when civility breaks down and arm twisting gets so serious -- Kevin, here is sort of what happened. If the bill gets on the floor and and it's up for a vote and they start the vote, the prestige of leadership is partially at stake if the vote doesn't succeed for the Majority. And that's what happened in this case. They didn't have the votes.

I had voted against -- last year and last spring against the prescription drug add-on provisions that -- that's gonna

cost a heck of a lot of money. And the arm twisting was probably as strong as I've ever seen it in my 16 years in the Michigan legislature and my 11 years in Congress.

They threatened -- here's what they did. They -- they -- they started out by offering the carrot. They know what's important to every Member and what's important to me is my family and my kids. And I term-limited myself, and so Bradley, my son, is running for Congress. And so the first offer was to give him \$100,000-plus for his campaign and endorsements by national leadership. And -- and I said, no, I'm going to stick to my guns on what I think is right for the constituents in my district.

And so what they did then is come -- come forth with sort of the stick. And they said, well, if you don't change your vote -- this is about 4 a.m., Saturday morning -- then some of us are going to work to make sure your son doesn't get to Congress. And that kind of personal attack is just sort of beyond what anybody should do. So I told them to get the heck out of there. And I might have used a different word besides "heck," I don't know. But it's -- it's a tough situation when civility breaks down.

Mr. Vandenbroek. A week later, are we seeing that we are getting back to more civil climes, more civil environments under the Dome?

Mr. Smith. Well, you know the leadership is -- they

talk -- when they scrunched me in between the Secretary of Health and Human Services, Tommy Thompson, and the Speaker of the House, Denny Hastert, they talked about philosophy and principle and what this would mean policywise maybe in future years. And it's still, in terms of the tremendous increase in cost to future generations, it was a "no" for me.

It doesn't do that much for seniors. It will probably help in the election next year, but 3 and 5 years from now people are going to find out what's in the bill and they're gonna -- they're gonna start hurting and I think they are going to start blaming the people that voted for it.

Mr. Ford. It's 1:30 and Robert Ford in the 59-second local news update.

Kalamazoo's proximity to big cities like Chicago and Detroit is part of the reason former Pfizer scientists have decided to locate new company, Seetox, in Kalamazoo's --

EXHIBIT 8

 Print This Page

Nick Smith's Press Release - December 4, 2003

Smith Comments on Allegations Surrounding Medicare Vote

(Washington, D.C.) -- "I have received many inquiries about lobbying pressure on the Medicare vote that took place on November 21 and the morning of November 22. I talked to a lot of members and organizations about the bill before and during the vote. I think I made it clear that I opposed the legislation because it was not good fiscal policy.

"I want to make clear that no member of Congress made an offer of financial assistance for my son's campaign in exchange for my vote on the Medicare bill. I was told that my vote could result in interested groups giving substantial and aggressive campaign 'support' and 'endorsements.' No specific reference was made to money.

"Some members said they would work against Brad if I voted no. My son called and said, 'I don't want to go to Congress that way' and 'Do the right thing.'

"The vote was taking place in the middle of the night. People were frustrated and nerves were frayed on all sides. The lobbying effort on behalf of the legislation was intense. Anyone with information can bend my ear, but they can't twist my arm.

"The lobbying from members was intense, but I want to be absolutely clear that I believe no member violated any ethical rule in this episode. I see no need for an ethics investigation, let alone a criminal investigation."

EXHIBIT 9



Published December 05, 2003

Rep. Smith backpedals on claims of vote bribery

'No specific reference was made to money,' he says

By Katherine Hutt Scott
State Journal Correspondent

What's next

WASHINGTON - U.S. Rep. Nick Smith of Addison appeared to backpedal Thursday on his allegation that he was offered a bribe in exchange for voting for major Medicare legislation.

Smith, a six-term Republican who will retire next year, has said he was told that if he voted for the bill, his son would receive money for his 2004 congressional campaign. Brad Smith, also a Republican, is running to replace his father in Congress.

But in a statement Thursday, Nick Smith said, "No specific reference was made to money."

"I want to make clear that no member of Congress made an offer of financial assistance for my son's campaign in exchange for my vote on the Medicare bill," the statement said.

"I was told that my vote could result in interested groups giving substantial and aggressive campaign 'support' and 'endorsements.' Some (House) members said they would work against Brad if I voted no."

Smith did vote against the bill, which has since passed the House and the Senate and is awaiting President Bush's signature. Smith has not identified who made the offer.

Also Thursday, the Justice Department said it would review complaints from political watchdog groups about the alleged bribe, which is normal procedure.

Syndicated columnist Robert Novak wrote in a Nov. 27 column that Smith was told business interests would give \$100,000 to his son's congressional campaign if Smith voted in favor of the bill.

- The Justice Department said Thursday it will review complaints from political watchdog groups that Republican House leaders tried to bribe Rep. Nick Smith, R-Addison, to vote for a Medicare bill.

- Justice Department spokesman Mark Corallo said the complaints were received and will be reviewed, which is normal procedure.

Source: Associated Press

Smith's chief of staff, Kurt Schmutz, said Smith told him Novak's account was "basically accurate."

~~In a column the day after the Nov. 22 House vote, Smith wrote, "Bribes and special deals were offered to convince members to vote yes.~~

"I was targeted by lobbyists and the congressional leadership to change my vote," Smith wrote. "Other members and groups made offers of extensive financial campaign support and endorsements for my son."

Brad Smith said his father told him the evening before the vote that a combination of "interest groups and key Republicans" had offered the congressman "financial contributions and endorsements" for Brad Smith's campaign.

Novak's column said fellow Republican House members told Smith that if he voted no, they would make sure Brad Smith never came to Congress. After Smith voted no and the bill passed, Rep. Duke Cunningham of California and other Republicans told Smith his son was "dead meat," according to Novak.

In a letter dated Thursday, a watchdog group called upon Smith to name the individuals he says tried to bribe him.

The letter was written by Melanie Sloan, executive director of the Citizens for Responsibility and Ethics in Washington, which describes itself as nonpartisan. Sloan said she once worked for Democratic members of Congress.

Thursday's letter also said "it appears likely" that House Speaker J. Dennis Hastert of Illinois or Health and Human Services Secretary Tommy Thompson, or both, "attempted to bribe and extort you." The letter said that was based on accounts in the publication Congress Daily about which members clustered around Smith on the House floor as the Medicare vote neared completion.

Spokesmen for Hastert and Thompson denied that the two directed promises or threats at Smith.

Sloan's group, the Democratic National Committee and The Campaign Legal Center, a nonpartisan watchdog group on campaign and election law issues, have called for federal investigations of the alleged bribe.

JOEL HEFLEY, COLORADO
CHAIRMAN

DOC HASTINGS, WASHINGTON
JUDY BIGGERT, ILLINOIS
KENNY C. HULSHOF, MISSOURI
STEVEN C. LATOURETTE, OHIO

JOHN E. VARGO,
CHIEF COUNSEL/STAFF DIRECTOR

VIRGINIA H. JOHNSON,
COUNSEL TO THE CHAIRMAN

COLLEEN McCARTY,
ASSISTANT TO THE RANKING
MINORITY MEMBER

EXHIBIT 10

ONE HUNDRED EIGHTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515-6328

December 8, 2003

ALAN B. MOLLOHAN, WEST VIRGINIA
RANKING MINORITY MEMBER

STEPHANIE TUBBS JONES, OHIO
GENE GREEN, TEXAS
LUCILLE ROYBAL-ALLARD, CALIFORNIA
MICHAEL F. DOYLE, PENNSYLVANIA

SUITE HT-2, THE CAPITOL
(202) 225-7103

Personal and Confidential

The Honorable Nick Smith
U.S. House of Representatives
2305 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Smith:

This concerns a report that appeared in the news media indicating that during the night of November 21-22, 2003, when the Medicare Prescription Drug Act was before the House, a Member of the House told you that business interests would give \$100,000 to your son's congressional campaign in return for your vote in support of the legislation. We are aware that while reportedly a member of your staff confirmed the accuracy of this report, you subsequently issued a statement saying that no House member made an offer of financial assistance for your son's campaign in exchange for your vote.

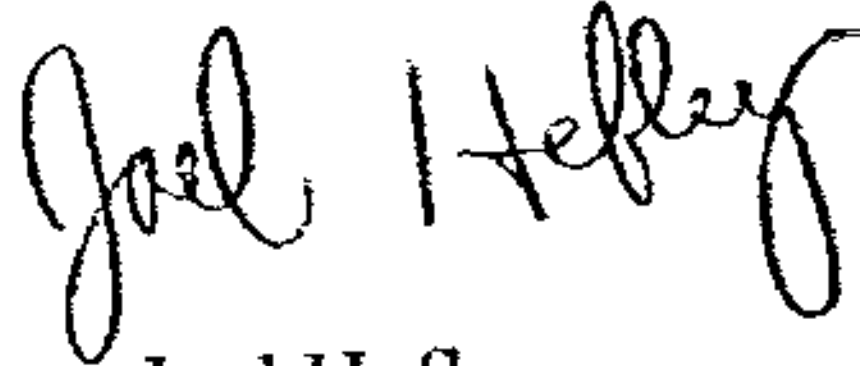
Rule 18(a) of the Rules of the Committee on Standards of Official Conduct authorizes us, as Chairman and Ranking Minority Member of the Committee, to jointly gather information concerning any alleged violation by any House Member or staff person of any law, rule or standard governing official conduct. Pursuant to Committee Rule 18(a), we are requesting that you provide us with a complete statement of your recollections of this matter. The provision of information to the Committee under this rule is voluntary. We believe, however, that your cooperation in this matter will be helpful to us in discharging our duties as Chairman and Ranking Minority Member of the Committee, and to the Committee in discharging its responsibilities to the House of Representatives.

Specifically, we request that you provide us with a description of each conversation, discussion or other communication in which you participated in the period of November 21-22, 2003 that included the subject of your vote on the Medicare Prescription Drug Act and your son's congressional campaign. Regarding each such communication, to the best of your ability, please provide the name(s) of the other participant(s) and any other individual(s) who were present, and a statement of the substance of the communication.

We request that your response be as specific and detailed as possible, and that you also provide us with any documents in your possession that support your response. We request that you submit your response to the Committee by December 18, 2003.

Enclosed is a copy of the Committee's rules for your information. If you have any questions, please contact the Committee's Chief Counsel, John E. Vargo, at (202) 225-7103.

Sincerely,



Joel Hefley
Chairman



Alan B. Mollohan
Ranking Minority Member

Nick Smith
7TH DISTRICT, MICHIGAN

EXHIBIT 11

2305 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
202.225.6276



COMMITTEE ON SCIENCE
CHAIRMAN, SUBCOMMITTEE ON
RESEARCH
COMMITTEE ON AGRICULTURE
COMMITTEE ON INTERNATIONAL
RELATIONS

Congress of the United States
House of Representatives
Washington, DC 20515-2207

JACKSON:
517.783.4486

BATTLE CREEK:
616.965.9066

ADRIAN:
517.265.5012

REPUBLICAN POLICY COMMITTEE

CHARLOTTE:
517.543.0055

December 17, 2003

REPUBLICAN STUDY COMMITTEE

The Hon. Joel Hefley
Chairman
Committee on Standards of Official Conduct
HT2 Capitol
Washington, D.C. 20515-6328

The Hon. Alan B. Mollohan
Ranking Member
Committee on Standards of Official Conduct
HT2 Capitol
Washington, D.C. 20515-6328

Dear Chairman Hefley and Ranking Member Mollohan:

Thank you for your December 8, 2003 letter and for the opportunity to speak to my peers about the vote on the Medicare Prescription Drug Act ("Medicare bill"). Your letter refers to a news report about the Medicare vote. Let me say at the outset that the news report was incorrect. No House member made an offer of financial assistance to me for my son's campaign in exchange for my vote.

In my 11 years representing the Seventh District of Michigan and my 16 years serving in the Michigan state legislature, the vote on the Medicare bill occurred in one of the toughest environments I have ever experienced. I think most of our colleagues would say the same. As you know, the vote was held open for two hours and fifty-one minutes -- a historic event in and of itself. During that time, the vote was very close and tensions were running very high. Pressure was being applied to members on both sides of the aisle, and there were several news stories about those efforts. We are all familiar with discussions that take place during the legislative process: deals are made and bridges get built. But, the vote on the Medicare bill evoked a particularly strong emotional reaction from me because some comments by members and others involved my son.

Let me be very clear that the Robert Novak media report that a member told me that business interests would give \$100,000 to my son's congressional campaign in exchange for my vote on the Medicare bill is untrue. On the Friday evening before the vote on the bill started, a friend called and told me that if I voted for the bill my son's congressional campaign would receive "substantial and aggressive support" or words very close to that. This person was neither a member of Congress nor a lobbyist. However, combined with members' comments that there could be endorsements, business support and members coming to Michigan to campaign for my son, I deemed the statement credible. In my mind, I believed that this would mean tens of thousands, if not hundreds of thousands of dollars for my son's campaign if I voted for the bill.

Robert Novak reported the \$100,000 figure in his November 27 column in the *Chicago Sun-Times* without citing a source. I did not provide this figure to Mr. Novak. Unfortunately, a

few days after reading his column, I repeated the same figure in a live radio interview on WKZO, from a cell phone while driving my car. Although I continue to believe Mr. Novak's figure is in the ballpark of what my son's campaign could have received, it was a mistake for me to repeat the \$100,000 figure.

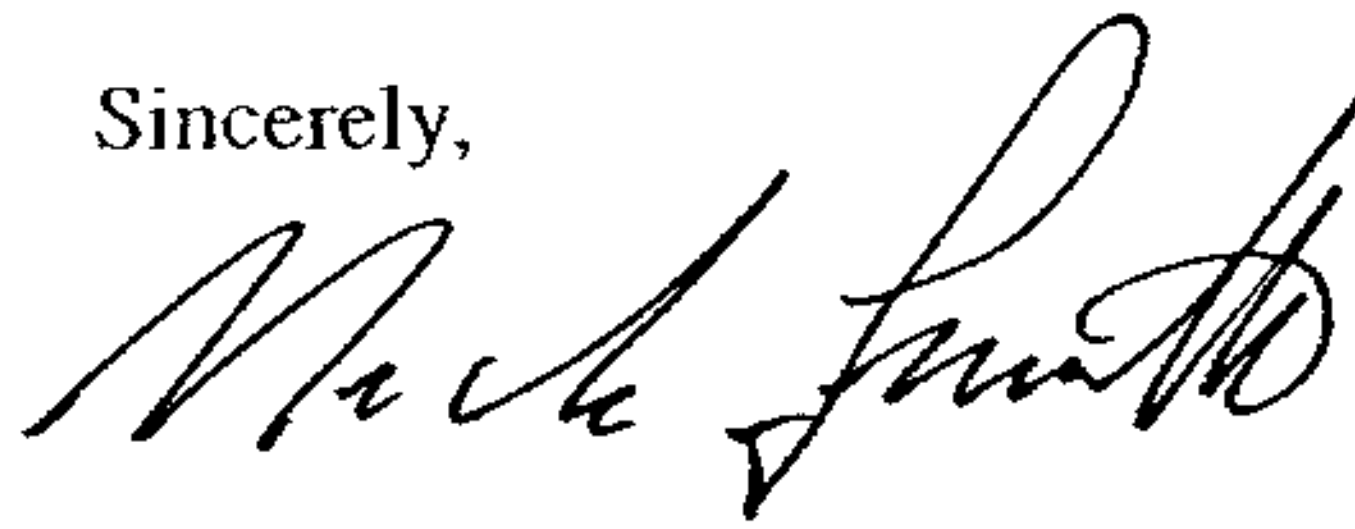
It is true that I – like many others on both sides of the aisle – faced significant pressure that night. It is true that statements were made regarding members' support and/or endorsements. It is also true that members suggested opposition to my son's campaign if I persisted in voting against the bill. Again, I regard as credible the statements that my son's campaign could receive substantial and aggressive support, including support from third parties. But I repeat, no member offered me, or my son, campaign money for my vote.

I appreciate your inquiry and respect your duty to discharge your responsibilities to the House of Representatives. However, as you might imagine, I had many conversations with members and others in the course of being lobbied for this bill. I had conversations with at least 30-40 members of Congress. Even though I do recall an overarching message that my son's campaign could be affected by my vote, it would be unfair for me to try to reconstruct exactly the words that were said and who said them. I simply cannot do that with precision. What I am certain about is that my colleagues and others would probably have varied, and oftentimes contradictory, recollections that would lead to an unresolvable, distasteful, and unproductive fact dispute.

Mr. Chairman and Mr. Mollohan, the Medicare vote evoked strong emotions. I firmly believe that my colleagues and others were doing what they believed was necessary to pass this legislation. I do not believe they meant to do me any harm. Ultimately, in a time of high emotion, we were all doing our jobs: people were working very hard to pass a bill, and I was working equally hard to hold my position, which I did.

I hope the foregoing is both informative and responsive to the concerns of the Committee. If I can be of further assistance in helping your committee conclude this matter expeditiously, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Nick Smith". The signature is fluid and cursive, with a large initial "N" and "S".

Nick Smith
Member of Congress

NS/ks

GOP's Pressing Question on Medicare Vote

Did Some Go Too Far To Change a No to a Yes?

By R. Jeffrey Smith

Washington Post Staff Writer

Tuesday, December 23, 2003; Page A01

About 20 Republican congressmen -- all fiscal conservatives -- gathered nervously in a back room at the Hunan Dynasty restaurant on Capitol Hill on Nov. 21, trying to shore up their resolve to defy President Bush. It was the night of the big vote on the Bush administration's Medicare prescription drug bill, which they had concluded was too costly, and they began swapping tales about the intense lobbying bearing down on them.

Over egg rolls and pu-pu platters, one complained that a home-state politician had insinuated that he would run against him in the next primary unless the lawmaker voted for the bill. Another said House leaders had warned that if the bill was defeated because of his no vote, he might lose his subcommittee chairmanship. Several recalled being telephoned by insistent lobbyists from the health care industry.

But the most dramatic account was given by Rep. Nick Smith (Mich.), who is to retire next year and hopes his son will succeed him. According to two other congressmen who were present, Smith told the gathering that House Republican leaders had promised substantial financial and political support for his son's campaign if Smith voted yes. Smith added that his son, in a telephone call, had urged him to vote his conscience, and with the support of dissident colleagues, Smith stuck to his no vote.

The matter might have ended there had Smith not written his account in a Michigan newspaper column, adding an allegation involving threats of retaliation against his son's campaign if he voted no. Since then, he has declined to specify who might have pressured him, but his complaints have prompted outrage among Democrats and consternation among some Republican colleagues.

Lawmakers from both parties have complained about the tactics used on the night when the House leadership pushed the Medicare bill through by a vote of 220 to 215. The margin would have been even closer if some lawmakers had not changed no votes to yes when it became clear the bill would pass.

The Democratic National Committee and two independent groups that work on ethics issues have requested a Justice Department investigation into whether the pressure was not just routine Capitol Hill horse-trading but a violation of federal anti-bribery law.

The statute in question, Section 201 of U.S. Title 18, bars the offer or promise of anything of value for a decision or action on any "question, cause, suit, proceeding or controversy" pending before a public official. But the language leaves room for uncertainty about what the proper code of conduct is.

So far, the department says, no decision has been made on an investigation. "We are reviewing [the request] . . . to see what if any action would be taken," a spokeswoman said late last week, declining to comment further.

It was a little before dawn on Nov. 22 that the House passed the Medicare bill. And it was the next day that Smith wrote a column for the *Lenawee Connection* about the House leadership's use of what he called "bribes

and special deals" to eke out that margin of victory.

During the deliberations, Smith wrote, some "members and groups" had not only offered extensive financial support and endorsements for the campaign of his son, Bradley L. Smith, but also "made threats of working against Brad if I voted no."

In a subsequent interview with Michigan radio station WKZO, he spoke about being pressured by the "leadership" and said "they" had offered "\$100,000-plus" before threatening that "some of us are going to work to make sure your son doesn't get to Congress" unless Smith relented.

Since then, Smith has declined to specify who allegedly offered the rewards and made the threats. A taciturn six-term lawmaker and part-time farmer who says he is withdrawing from Congress next year out of respect for the concept of term limits, Smith said he will cooperate with any official inquiry but does not want to point fingers publicly.

Smith has also qualified his initial criticisms in a way that has clouded identification of who may have made such offers or threats. In a Dec. 4 statement, he said that no member of Congress had directly offered money for his son's campaign. Instead, he said, he was "told that my vote could result in interested groups giving substantial and aggressive campaign 'support' and 'endorsements.' "

That wording left open the possibility that someone in the leadership had offered the prospect of substantial industry donations to his son's campaign. In his original statement to WKZO, Smith said "the first offer I got was from the pharmaceutical business groups that are pushing for this bill."

Smith made clear in his Dec. 4 statement that House Speaker J. Dennis Hastert (R-Ill.), who many witnesses saw in lengthy conversation with Smith the night of the vote, was not the lawmaker who dangled the prospect of such support. Smith's chief of staff, Kurt Schmautz, said it was not House Majority Leader Tom DeLay (R-Tex.), but he declined to comment on reports that Smith had told colleagues the offers were extended by members of the House leadership.

Smith also has said he misspoke when specifying that the offer was for about \$100,000, but he has not clarified the issue.

Regarding the alleged threats, Smith said in a brief interview at his office that around 4 a.m. on Nov. 22, at least two members of Congress said they would do what they could to keep his son from being elected, a statement with less clear-cut legal implications. He said he interpreted that as a threat to finance his son's opponents in the Republican primary and to arrange for national endorsements of those opponents.

"I told them, not very politely, to get away from me," Smith said. "Threatening your kids is beyond the pale. It caught me by surprise. It made me mad."

Smith, 69, a veteran of the Michigan legislature, was elected to Congress in 1992 from Addison, Mich. (population 630). He has mostly kept a low profile in Washington, but he has a reputation for independence and for bridling at improprieties in public life.

He proudly directed a probe into the Michigan horse-racing industry that led to death threats against his family, and later pronounced himself "appalled" by the prevalence of check-writing in exchange for votes at the Michigan statehouse.

Smith, who farms soybeans and corn on 2,000 acres, has the seniority to be an Agriculture subcommittee chairman. According to three colleagues, he was denied the post last year in retaliation for his long-standing efforts to cap federal subsidies to large farmers.

Smith's colleagues say that in any event he would be an unlikely target for the financial reward he was allegedly offered. They note that when he first ran for the House, he vowed to refuse contributions from political action committees; since then, he has had some of the cheapest winning campaigns in the House.

"I thought it was easier to sell a cow or two than to feel any obligation for depending on somebody or owing them because I took PAC contributions," Smith said in the interview. "We're in a rural district . . . [with] strong values and convictions" about avoiding debts of any sort, he said.

In his radio interview, Smith described the arm-twisting he got during the Medicare vote as the strongest he has seen in 27 years in politics.

Once a vote is started, he told the radio station, "the prestige of leadership is partially at stake if the vote doesn't succeed for the majority. And that's what happened in this case. They didn't have the votes. . . . They started out by offering the carrot, and they know what's important to every member, and what's important to me is my family and my kids."

No other House Republicans have reported being offered campaign funds or being threatened during the vote. Since the Democrats lodged their ethics complaint, members of the House Republican leadership have issued statements saying they had no involvement in or knowledge of any untoward pressures.

Hastert spokesman Peter M. Jeffries described Smith's allegations as being without "foundation." House Majority Whip Roy Blunt (R-Mo.) said he offered no deals to Smith. Like other Republican leaders, he called attention to Smith's clarification of his initial remarks, saying, "Nick has learned that words do matter, and they need to be both thoughtful and accurate."

House Ways and Means Committee Chairman Bill Thomas (R-Calif.), whose political action committee donated \$360,000 to Republican candidates in 2002, has said through a spokesman that he "did not offer campaign support" to Smith's son that night. Rep. Nancy L. Johnson (R-Conn.), who chairs the Ways and Means subcommittee on health, said her discussions that night "were focused solely and exclusively on the merits of the bill."

Only Rep. Randy "Duke" Cunningham (R-Calif.) has acknowledged speaking directly with Smith about his son. He said if Smith's son would vote the way Smith did, "he would not support the son's candidacy," spokeswoman Jessica Boulanger said. But Cunningham "did not threaten him," she added.

On the other hand, at least eight members of the Republican Study Committee -- a group of fiscally conservative House lawmakers, including many who opposed the Medicare bill -- said in interviews that they believe Smith told the truth about the pressure he received.

Rep. Gil Gutknecht (R-Minn.), who was present at the dinner, recalled Smith saying it was "people from leadership" who had offered the money. He said Smith did not say who it was, but he assumed it was someone who controlled a "large leadership PAC, who can raise a hundred thousand dollars by hosting a few fundraisers."

"I think something happened," Gutknecht said. "If it happened, then somebody in the leadership is guilty of at least gross stupidity. . . . Whoever made that comment should resign."

Rep. Tom Tancredo (R-Colo.), who was also at the dinner, recalls Smith telling the group that "someone had said his son . . . would be the beneficiary if he would vote for the bill, up to the tune of about \$100,000. . . . If Nick Smith said it happened, it happened."

Rep. Jeff Flake (R-Ariz.) recalls Smith telling the group that his son was promised an endorsement and funds

from the National Republican Congressional Committee. Carl Forti, a spokesman for NRCC Chairman Thomas M. Reynolds (R-N.Y.), said Reynolds "did not make any sort of offers to Mr. Smith."

"It's all going to be just as Nick said," said Rep. Roscoe G. Bartlett (R-Md.). "When you see people making more than a million dollars a year on K Street, there is just too much money in the process."

Researchers Karl Evanzz and Margaret Smith contributed to this report.

© 2003 The Washington Post Company

Exclusive Report

Smith: Heavy arm-twisting, no money offered

Congressman details pressure for 'yes' vote on drug bill, says he's cooperating with probe.

By Lisa Zagaroli and Deb Price / Detroit News Washington Bureau

WASHINGTON — U.S. Rep. Nick Smith, the Michigan Republican under fire for suggesting he was promised money for his son's Congressional campaign in exchange for a vote, reaffirmed Wednesday he was offered "aggressive and substantial" support that he interpreted to include finances.

"Nobody mentioned any dollar amount," Smith said. "Members of Congress are really too smart to come up to you on the floor and say, 'We'll give you so many dollars for this.'"

In his first extensive comments on the matter since shortly after he refused to vote for a controversial Medicare prescription drug benefit in late November, Smith told The Detroit News that he would cooperate with a House ethics committee inquiry that may be the subject of a closed-door hearing today.

The case has become a political hot potato, with some Democrats and other critics calling for an investigation into whether the incident strayed beyond intense but normal legislative arm-twisting into the realm of bribery.

The case could have broad impact for Smith and the U.S. House.

Smith, due to retire this year, could find his six-term career and reputation as a lawmaker of high integrity overshadowed by the controversy.

Politically, the flap already is adding fuel to the Democrats' election-year pitch to voters to return them to control over the House, arguing that Republican stewardship has deteriorated into a hardball game heavily influenced by business interests.

Republicans counter that the Democrats, also skilled arm-twisters, are bitter about having been voted into the minority and are merely trying to gain political advantage.

Meanwhile, congressional watchdog groups are seizing on the incident to call for a sweeping overhaul of how the chamber polices itself.

Smith, a farmer from the south central Michigan town of Addison, last



Smith

- ▶ [Comment on this story](#)
- ▶ [Send this story to a friend](#)
- ▶ [Get Home Delivery](#)

year announced he wouldn't seek re-election this November. One of his sons, Brad, launched a bid to replace him.

A longtime fiscal conservative who frets over matters like the national debt limit and the long-term solvency of Social Security, Smith decided to vote against President Bush and many of his fellow Republicans because he thought the prescription drug benefit for senior citizens was underfunded.

"I had researched and studied this bill I suspect as well as any member who was on the committees that put it out," he said.

Because the legislation was so important, Smith said he decided to stay on the House floor after casting his no vote. "I took a lot of heat," he said.

Smith estimated that between 40 and 60 lawmakers pressured him the night of Nov. 21 and into the morning of Nov. 22, as Republicans held the vote open for about three hours to collect enough votes for the final 220-215 passage.

First, lawmakers offered help getting his son elected, Smith said.

"I was told we could give Brad aggressive and substantial campaign support," he said. "I interpreted that as to include financial support for his campaign. Nobody actually said there will be financial support for Brad."

Made two mistakes

Smith said he made two mistakes after the vote. In a column he wrote the next morning for a Michigan newspaper, he used the word "financial" when he wrote that "members and groups made offers of extensive financial campaign support and endorsements for my son, Brad."

In the same column, he wrote that "bribes and special deals were offered to convince members to vote yes."

He said his second mistake was repeating on the radio a figure he read in syndicated columnist Robert Novak's column, which claimed Smith had been offered \$100,000.

Smith insisted nobody had attached a dollar figure to their support. Nonetheless, he reportedly told colleagues at dinner that the amount was offered to help his son.

Under federal bribery law, it is illegal if anyone "directly or indirectly, corruptly gives, offers, or promises anything of value to any public official" to influence an official act.

When Smith wouldn't change his vote, his son was "threatened," Smith said. He wouldn't elaborate on what was said or name those who did so, saying, "I'm going to leave this up to the ethics committee."

However, he did tell of money-tinged threats. "One person came by and said 'We've got some money collected already to make sure your son doesn't get here,' but that was after the vote," he said.

Dems aggressive, too

Smith said he regretted that the issue had become politicized by Democrats he claims were leaning just as heavily on their own members to oppose the bill.

"This is where \$20 million bridges get built, when leadership is pushing votes like this," he said of the negotiating that goes on during close votes.

"Democrats and Republicans know no side is less guilty in the pressure and the arm-twisting they put on members. Part of the question this is bringing up as far as us examining ourselves is what's reasonable. The

Democrats were just as aggressive.”

Smith said he’s been on the receiving end of high-pressure tactics before, but this case was different for one reason:

“With me personally they crossed the line when they threatened my son,” he said.

“I’m very insulted. I was angry. There’s no question when they start using my family and threatening my son,” he said.

‘New level of hardball’

Former House Minority Whip David Bonior, D-Mount Clemens, said what he has heard of the Medicare vote suggests the arm-twisting had reached “a new level of hardball.”

Before leaving Congress in 2000, Bonior served as a whip, a leadership role whose job it is to gather votes to pass party-backed legislation.

Arm-twisting is part of good politics, he said, and lawmakers are sometimes rewarded with pet projects for their district, plum committee assignments or fund-raising visits by high-profile lawmakers to their district to return the favor of a much-needed vote.

Threatening a member would be counter-productive, Bonior said, as would be offering money, which could raise ethical and legal questions.

“You make your best case,” he said of what he considers acceptable arm-twisting. “You would hurt your case by threatening people in an adult world. It is not worth doing for practical or moral purposes.

“You give it your best shot, with your best argument. And when they are in a tough situation, that’s the kind of person you will want to help.”

Bonior said holding a vote open for three hours to get enough support is unheard of.

The House Committee on Standards of Official Conduct said it has begun a fact-finding inquiry into the case, and has a meeting scheduled today. But because it conducts its business behind closed doors, it’s unclear whether Smith is on the agenda.

You can reach Washington correspondent Lisa Zagaroli at (202) 906-8206 or lzagaroli@detnews.com.

JOEL HEFLEY, COLORADO
CHAIRMAN
DOC HASTINGS, WASHINGTON
JUDY BIGGERT, ILLINOIS
KENNY C. HULSHOF, MISSOURI
STEVEN C. LATOURETTE, OHIO

JOHN E. VARGO,
CHIEF COUNSEL/STAFF DIRECTOR
PAUL M. LEWIS,
COUNSEL TO THE CHAIRMAN
COLLEEN McCARTY,
ASSISTANT TO THE RANKING
MINORITY MEMBER

EXHIBIT 14

ONE HUNDRED EIGHTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515-6328

February 13, 2004

ALAN B. MOLLOHAN, WEST VIRGINIA
RANKING MINORITY MEMBER

STEPHANIE TUBBS JONES, OHIO
GENE GREEN, TEXAS
LUCILLE ROYBAL-ALLARD, CALIFORNIA
MICHAEL F. DOYLE, PENNSYLVANIA

SUITE HT-2, THE CAPITOL
(202) 225-7103

Personal and Confidential

The Honorable Nick Smith
U.S. House of Representatives
2305 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Smith:

This concerns your response of December 17, 2003 to our letter of December 8, 2003 requesting information on communications made to you concerning your vote on the Medicare Prescription Drug Act and your son's candidacy for the House. Pursuant to Committee Rule 18(a), we wish to follow up on three points.

First, your letter of December 17th states that before the vote started on the evening of November 21st, a friend, who was neither a Member of Congress nor a lobbyist, called and told you that if you voted for the bill, your son's campaign would receive "substantial and aggressive support" or words to that effect. We consider that call to be an extremely serious matter, and while this Committee's jurisdiction is limited to House Members and staff, we believe there are a number of circumstances in which a call such as you have described may implicate the Committee's jurisdiction. Accordingly, we request that you identify the individual who called you, and that you describe in as much detail as you can what the individual said to you, and what you said to that individual.

Second, your letter refers to "members' comments that there could be endorsements, business support and members coming to Michigan to campaign for my son" if you voted for the legislation, but also states that "it would be unfair for me to try to reconstruct exactly the words that were said and who said them. I simply cannot do that with precision." While you may not be able to recall the precise words that were said, to the best of your ability, please identify any individuals whose comments to you referred to "business support" for your son's campaign or expressly or impliedly referred to financial support for his campaign, or included any representation whatsoever that a benefit, monetary or otherwise, would result to you or your son or materialize in any fashion in exchange for your vote on the Medicare legislation. In addition, please describe those comments in as much detail as you can, and identify any other individuals who were present when those comments were made.

The Honorable Nick Smith

February 13, 2004

Page 2

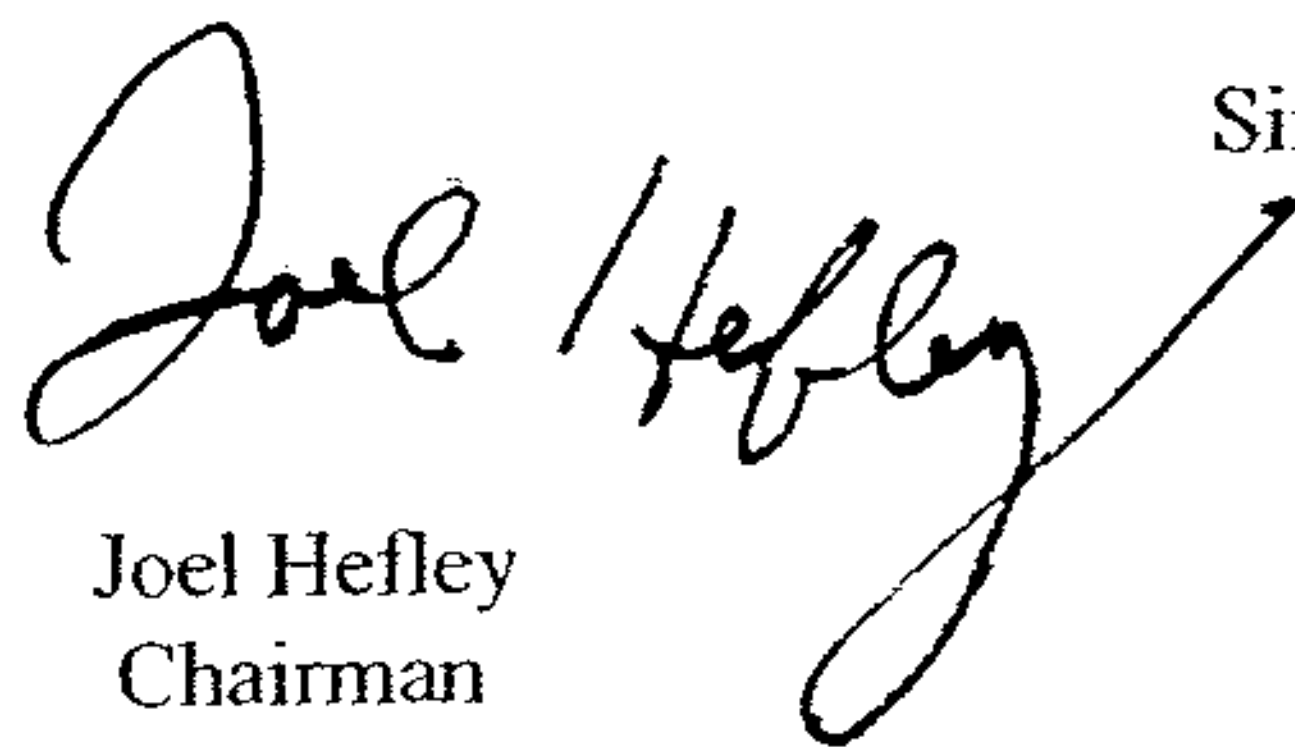
Finally, our letter of December 8th, which was based on a report that had appeared in the news media, asked about communications made to you in the period of November 21-22, 2003. In view of an article that appeared in the *Washington Post* of December 23, 2003, a copy of which is enclosed, we are now concerned that the time frame we utilized in that letter was unduly limited. That article describes a meeting of certain Members regarding that legislation that occurred at a local restaurant on November 21. It states that according to two Members who were present at the meeting, you "told the gathering that House Republican leaders had promised substantial financial and political support for [your] son's campaign if [you] voted yes." It quotes one of the Members as recalling that you told the group that someone had said that if you voted for the bill, your son would be the beneficiary of "up to the tune of about \$100,000." The article also states that another Member recalled your telling the group that your son was promised an endorsement and funds from the National Republican Congressional Committee.

With regard to each statement, promise or other communication relating to your son's campaign that you referred to at the above-noted meeting of November 21st, we request that you provide us with a complete description of the statement, promise or communication, irrespective of when it was made. Regarding each, to the best of your ability, please provide the name(s) of the other participant(s) and any other individual(s) who were present when it was made, and a description of the substance of the promise, statement or communication.

We request that your responses to our requests be as specific and detailed as possible, and that you also provide us with any documents in your possession that support your response. As we noted in our previous letter, the provision of information to us under Committee Rule 18(a) is voluntary. However, we urge you to be entirely forthcoming, so that the decisions we are required to make on this matter will be made in the most informed manner possible.

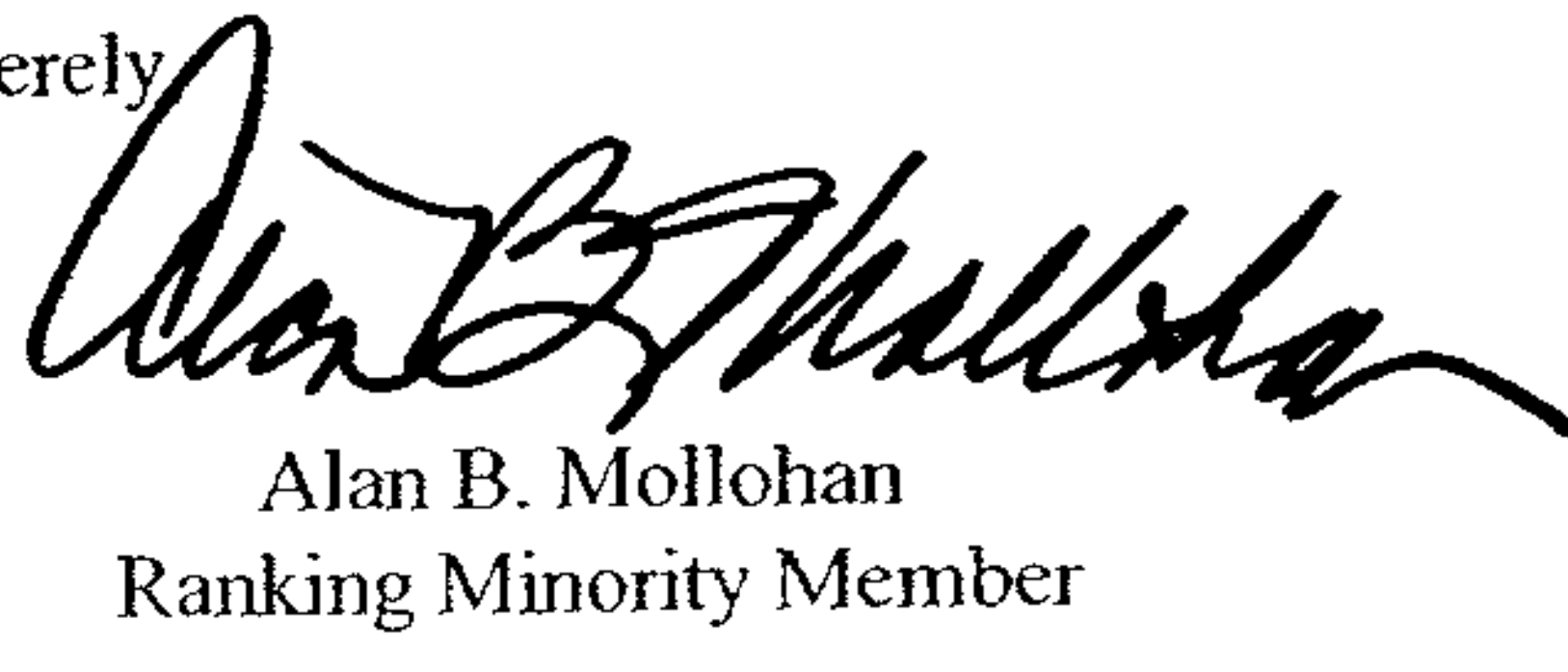
We also note that you are free to retain a private attorney to advise you regarding, or to represent you in, your communications with the Committee on this matter. Particularly in that, as you noted to Committee counsel, the Justice Department is also making inquiry on this matter, you should consider consulting with private counsel.

We request that you submit your response to the Committee by February 24, 2004. If you have any questions, please contact the Committee's Chief Counsel, John E. Vargo, at (202) 225-7103.



Joel Hefley
Chairman

Sincerely



Alan B. Mollohan
Ranking Minority Member

Enclosure

EXHIBIT 15

LAW OFFICES
WILLIAMS & CONNOLLY LLP

725 TWELFTH STREET, N.W.

WASHINGTON, D. C. 20005-5901

(202) 434-5000

FAX (202) 434-5029

DAVID D. AUFHAUSER
(202) 434-5049
daufhauser@wc.comEDWARD BENNETT WILLIAMS (1920-1980)
PAUL R. CONNOLLY (1922-1978)

March 5, 2004

PRIVILEGED AND CONFIDENTIAL**VIA FACSIMILE AND FIRST-CLASS MAIL**The Hon. Joel Hefley, Chairman
The Hon. Alan B. Mollohan, Ranking Member
House Committee on Standards of Official Conduct
HT2 Capitol
Washington, DC 20515-6328**Re: Representative Nick Smith**

Dear Chairman Hefley and Ranking Member Mollohan:

I am in receipt of your February 13, 2004 letter to Representative Nick Smith. As suggested by your correspondence, Representative Smith has referred the matter to undersigned counsel.

In December 2003, Representative Smith submitted to your Committee a lengthy and complete statement of his recollection of events surrounding the somewhat tumultuous late evening and early morning hour November 21-22 vote on amendments to the federal Medicare program, particularly as they apply to prescription drugs. Representative Smith heard argument and debate from numerous sources about the merits of the bill and the political cost of opposing it. In the end, Nick Smith followed his long-standing principles and voted "no."

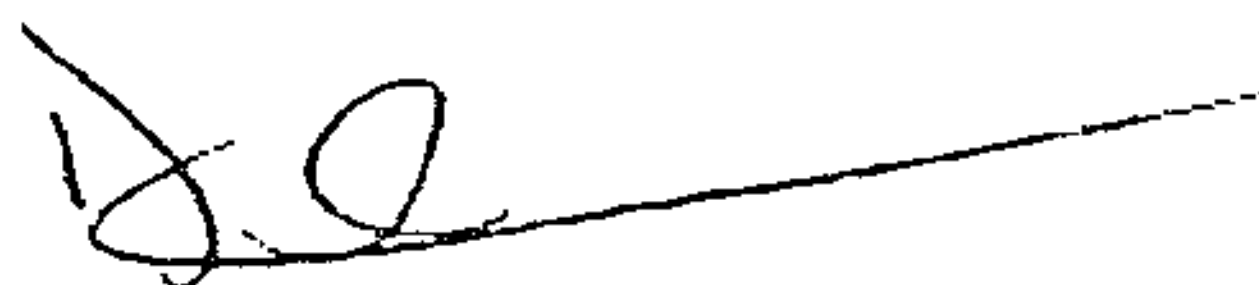
In his letter of December 17, Representative Smith confirmed to your Committee that, notwithstanding press reports characterizing some of the speech and debate as implying that financial support for his son's Michigan congressional

WILLIAMS & CONNOLLY LLP
Representative Nick Smith
March 5, 2004
Page 2

PRIVILEGED AND CONFIDENTIAL

campaign could be affected by his vote, "no House member made an offer of financial assistance . . . for my son's campaign in exchange for my vote." By this reply, Representative Smith reaffirms that recollection.

Very truly yours,



David D. Aufhauser

cc: Representative Nick Smith

JOEL HEFLEY, COLORADO
CHAIRMAN

DOC HASTINGS, WASHINGTON
JUDY BIGGERT, ILLINOIS
KENNY C. HULSHOF, MISSOURI
STEVEN C. LATOURETTE, OHIO

JOHN E. VARGO,
CHIEF COUNSEL/STAFF DIRECTOR

PAUL M. LEWIS,
COUNSEL TO THE CHAIRMAN

COLLEEN McCARTY,
ASSISTANT TO THE RANKING
MINORITY MEMBER

EXHIBIT 16

ONE HUNDRED EIGHTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515-6328

July 8, 2004

ALAN B. MOLLOHAN, WEST VIRGINIA
RANKING MINORITY MEMBER

STEPHANIE TUBBS JONES, OHIO
GENE GREEN, TEXAS
LUCILLE ROYBAL-ALLARD, CALIFORNIA
MICHAEL F. DOYLE, PENNSYLVANIA

SUITE HT-2, THE CAPITOL
(202) 225-7103

CONFIDENTIAL

The Honorable Tommy G. Thompson
Secretary of Health and Human Services
The Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Investigation of Certain Allegations Related to Voting on the Medicare Prescription Drug Improvement and Modernization Act of 2003

Dear Secretary Thompson:

As you already may be aware, an Investigative Subcommittee of the Committee on Standards of Official Conduct (the "Committee") is conducting a formal inquiry regarding the above-captioned matter. As set forth in the enclosed resolution adopted by the Committee on March 17, 2004, the inquiry pertains to public statements made by Representative Nick Smith that he received communications linking support for the congressional candidacy of his son with Representative Smith's vote on the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (hereafter the "Medicare Prescription Drug Act").¹

We understand that you were present on the House floor during the nearly three hour vote on the above-referenced legislation. According to various press accounts, you spent a portion of your time on the House floor either in the vicinity of, or in direct communication with, Representative Nick Smith. Because of your reported proximity to Representative Nick Smith during events relevant to our inquiry, by this letter we are seeking a written statement from you setting forth your recollections of events that may have occurred during the vote on the Medicare Prescription Drug Act.

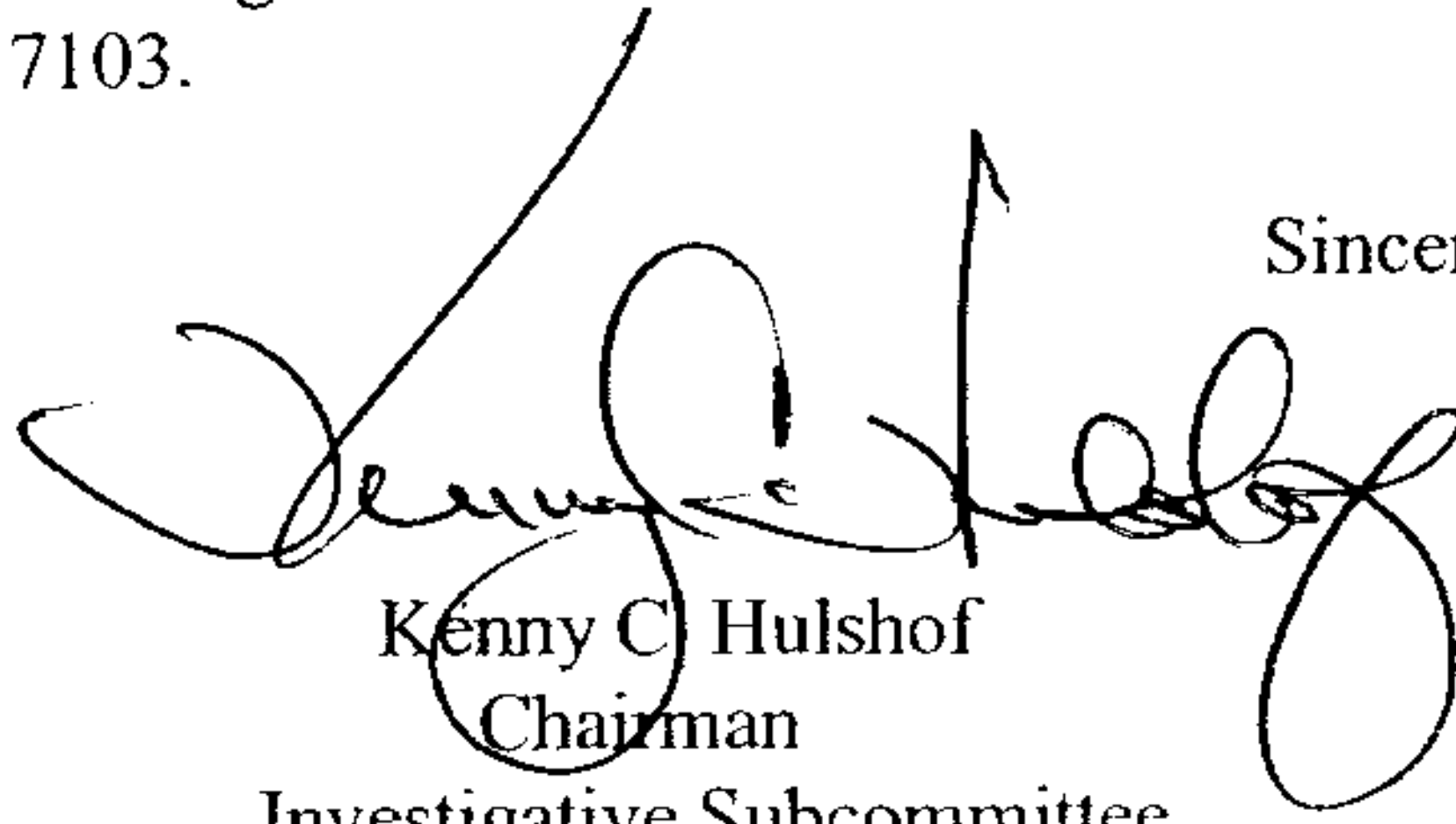
Specifically, we request that you submit a written response to the attached list of questions. In addition to providing answers to the attached questions, we would welcome any other information you possess relevant to the above-described public statements made by Representative Smith. We request that your submission to the Investigative Subcommittee be made under oath.

¹ A copy of the Rules of the Committee on Standards of Official Conduct for the 108th Congress is also enclosed with this letter.

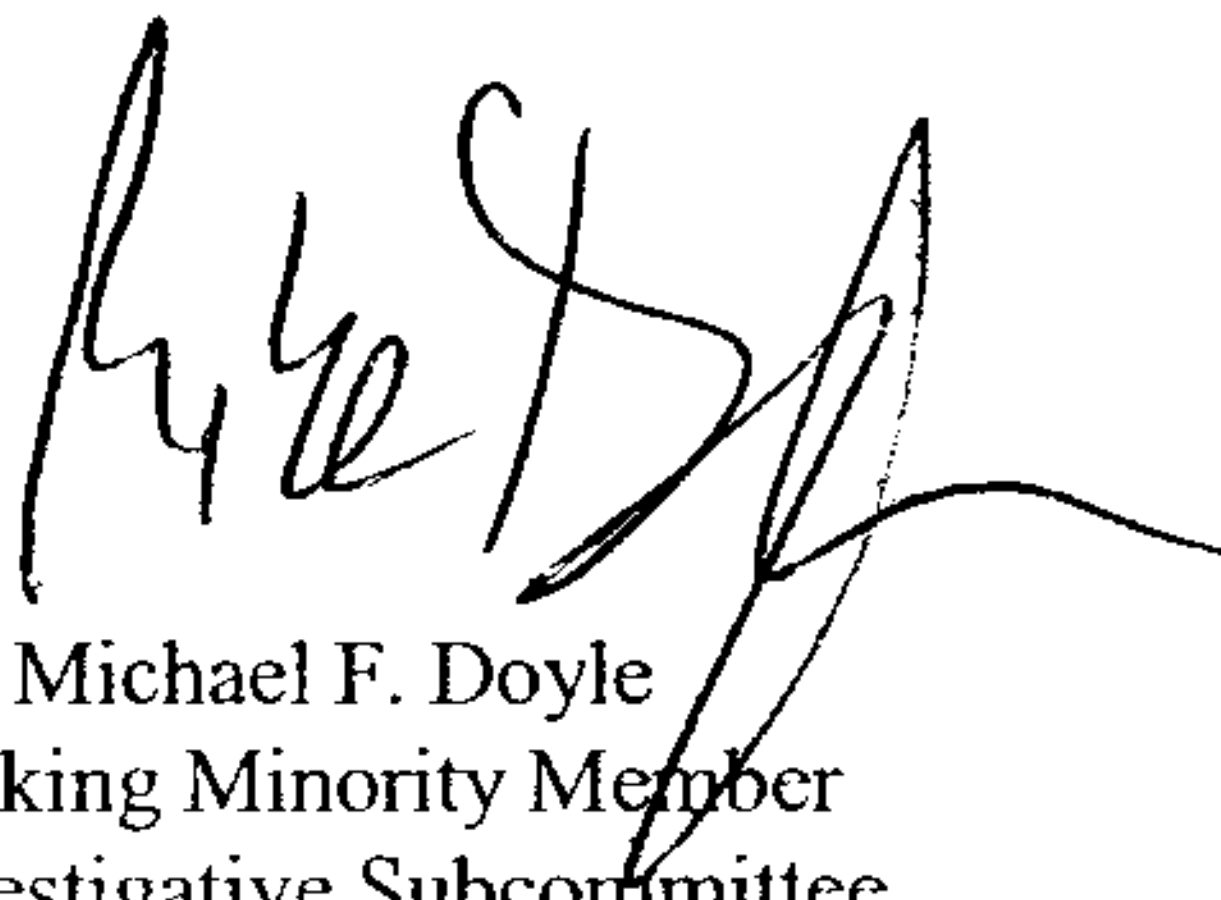
We note for your attention the provision in the Committee's resolution that provides that "the Committee intends that all witnesses who provide testimony before the Investigative Subcommittee should be sequestered and should not communicate with any other witnesses regarding any aspect of their testimony unless the Investigative Subcommittee permits otherwise." Accordingly, we request that you maintain the confidentiality of this communication and of your response to the Investigative Subcommittee and not discuss this matter with anyone other than your legal counsel.

Your cooperation in this matter is appreciated. We request the submission of your response by July 28, 2004. If you have any questions, please contact Counsel to the Investigative Subcommittee Kenneth E. Kellner or Bernadette C. Sargeant at (202) 225-7103.

Sincerely,



Kenny C. Hulshof
Chairman
Investigative Subcommittee



Michael F. Doyle
Ranking Minority Member
Investigative Subcommittee

Enclosures

**Before the Investigative Subcommittee of the
Committee on Standards of Official Conduct
U.S. House of Representatives**

Questions to the Honorable Tommy G. Thompson

1. To the best of your ability, please describe how you came to be present on the House floor during the vote on the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (hereafter the "Medicare Prescription Drug Act") on November 22, 2003. Please include in your response a description of the purpose of your presence on the House floor during the vote.
2. Please identify any aides or officials from the Department of Health and Human Services and from the White House that accompanied you to the House of Representatives on November 22, 2004, and/or were present on the House floor during the vote on the Medicare Prescription Drug Act. Please provide the full name, title, employing office, address, and telephone number for each individual you identify in your response.
3. Please explain the circumstances under which you came to speak with Representative Nick Smith during the vote on the Medicare Prescription Drug Act on November 22, 2004.
4. Please describe in as much detail as possible your conversations with Representative Nick Smith during the vote on Medicare Prescription Drug Act, including, to the best of your recollection, a description of the statements made by you to Representative Smith, and statements made by Representative Smith to you. Please also identify any other persons who participated in your conversations with Representative Nick Smith, and summarize any statements made by those persons.
5. Please describe any communications you had with officials of the Federal Bureau of Investigation or the Department of Justice regarding any matter related to allegations made by Representative Nick Smith.
6. Please describe your understanding of Representative Nick Smith's position on the Medicare Prescription Drug Act both before and after you spoke with him on the floor of the House of Representatives on November 22, 2003.
7. As you may be aware, on November 23, 2003, the day after the vote on the Medicare bill, Rep. Smith issued a press statement in which he said the Medicare vote was held open "as bribes and special deals were offered to convince members to vote yes." Please state whether you have any knowledge as to what Representative Smith was referring to when he uses the terms "bribes" and "special deals."

8. Please state whether in any conversation with you, Representative Nick Smith referenced any pressure placed on him to vote in favor of the Medicare Prescription Drug Act.
9. Please state whether you have any knowledge of any person suggesting or mentioning offers of support for Brad Smith's congressional campaign if Representative Nick Smith voted in favor of the Medicare Prescription Drug Act.
10. Please provide any information you have about a possible endorsement of Brad Smith by the National Republican Congressional Committee if Representative Nick Smith voted in favor of the Medicare Prescription Drug Act.
11. Please state whether in any conversation with you, Representative Nick Smith referenced any dollar amount that he had been offered by anyone for his son's campaign.
12. Please state whether anyone suggested to you the possibility of using Brad Smith's campaign to persuade Representative Nick Smith to vote in favor of the Medicare bill
13. Please provide any other information that you have that you think might be relevant to the Investigative Subcommittee's inquiry. Please include in your response the names of any individuals who you might think would have information relevant to this inquiry.



EXHIBIT 17

The Honorable Kenny C. Hulshof
Chairman, Investigative Subcommittee
Committee on Standards of Official Conduct
U.S. Houses of Representatives
Washington, D.C. 20515

The Honorable Michael F. Doyle
Ranking Member, Investigative Subcommittee
Committee on Standards of Official Conduct
U.S. House of Representatives
Washington, D.C. 20515

Re: Investigation of Certain Allegations Related to Voting on the Medicare
Prescription Drug Improvement and Modernization Act of 2003

Dear Mr. Chairman and Ranking Member Doyle:

By letter dated July 8, 2004, the Investigative Subcommittee of the U.S. House of Representatives' Committee on Standards of Official Conduct, issued certain questions to Secretary Tommy G. Thompson regarding the above-referenced investigation. Pursuant to my conversation with Kenneth E. Kellner, Counsel to the Investigative Subcommittee, the Subcommittee extended the date by which it requested a response by one week, to August 4, 2004.

Please find enclosed Secretary Thompson's written responses to the Subcommittee's questions, executed under oath, pursuant to the Subcommittee's request that the submission be made under oath.

Sincerely,

A handwritten signature in black ink, appearing to read "Alex M. Azar II".

Alex M. Azar II

Enclosure

**WRITTEN RESPONSE OF THE HONORABLE TOMMY G. THOMPSON,
SECRETARY OF HEALTH & HUMAN SERVICES**

I, Tommy G. Thompson, make the following responses, under penalty of perjury, to the questions propounded to me by letter dated July 8, 2004 from the Investigative Subcommittee of the Committee on Standards of Official Conduct of the United States House of Representatives in the Investigation of Certain Allegations Related to Voting on the Medicare Prescription Drug Improvement and Modernization Act of 2003.

I understand that the resolution adopted by the Committee states that “the Committee intends that all witnesses who provide testimony before the Investigative Subcommittee should be sequestered and should not communicate with any other witnesses regarding any aspect of their testimony unless the Investigative Committee permits otherwise.” Although this request by the Committee is not binding, I have endeavored to accommodate the Committee’s request. Therefore, I have not discussed the substance of my responses to the Subcommittee’s questions with my senior staff (except for the members of the Office of the General Counsel who have assisted in the preparation of this written response), as I normally would, to refresh my recollections, set forth below, of the events that took place on the night of November 21, 2003 and early morning of November 22, 2003. The Subcommittee’s questions deal with a very discrete and short interaction that occurred late at night or early in the morning over six months ago and that was but a very small part of a very active and lengthy process related to the passage of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (the Medicare Modernization Act). Accordingly, my memory of these events is somewhat vague, and I will do my best to provide information to the Subcommittee, within the confines that the Committee has requested regarding discussions with other individuals.

1. To the best of your ability, please describe how you came to be present on the House

floor during the vote on the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (hereafter the "Medicare Prescription Drug Act") on November 22, 2003. Please include in your response a description of the purpose of your presence on the House floor during the vote.

I cannot remember all the details of how I came to be present on the House floor during the vote on the Medicare Modernization Act. My present recollection is that I was in the Capitol Building from approximately 10:00 p.m. on the evening of November 21, 2003 until about 6:30 a.m. the following day. At first, I was in the office that was serving as the headquarters for the vote; this may have been an office of Majority Leader DeLay, but I cannot be sure of that fact. As it got closer to voting, I was escorted to the House cloakroom, and was asked to talk to Members to provide them with any information they might need regarding the proposed legislation as they decided how to vote on the Medicare Modernization Act. I believe White House staff and departmental staff were with me in the cloakroom and were asking me to speak with particular Members. At various points in time, Members would also ask me to come with them onto the floor of the House to speak with other Members to see if they would vote for the legislation and to answer their questions. My purpose for being at the Capitol Building and on the floor of the House during the vote was to assist in securing passage of the Medicare Modernization Act and to answer any questions Members might have with regard to the proposed legislation.

- 2. Please identify any aides or officials from the Department of Health and Human Services and from the White House that accompanied you to the House of Representatives on November 22, 2004 [sic], and/or were present on the House floor during the vote on the Medicare Prescription Drug Act. Please provide the full name, title, employing office, address, and telephone number for each individual you identify in your response.**

As I previously mentioned, I was in the Capitol Building for a considerable period of time, and therefore cannot remember every individual who was there from the White House or the

Department. Staff from the Department and the White House were coming and going all night. I do not recall staff from either entity being on the floor of the House, but cannot be certain of that fact. To the best of my recollection, the following individuals from the Department or the White House were with me at one point or another that evening:

- Jennifer Young, Assistant Secretary for Legislation
Office of the Assistant Secretary for Legislation
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201
(202) 690-7627
- I do not currently recall who from the Centers for Medicare and Medicaid Services (CMS) was there, but I would assume that individuals from CMS were there. I believe Thomas A. Scully was coming and going all night. He is currently Senior Counsel, Alston & Bird LLP, 601 Pennsylvania Avenue, N.W., Washington, D.C. 20004, (202) 756-3459.
- Amy Jensen-Cuniffe, Special Assistant to the President for Legislative Affairs
Office of Legislative Affairs, House Liaison Office
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500
(202) 456-6620
- Possibly Eric Pelletier, Deputy Assistant to the President for Legislative Affairs
Office of Legislative Affairs
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500
(202) 456-2230
- Doug Badger, Special Assistant to the President for Economic Policy
National Economic Council
Eisenhower Executive Office Building
1650 Pennsylvania Avenue, N.W.
Washington, D.C. 20501
(202) 456-2800
- David W. Hobbs, Assistant to the President for Legislative Affairs
Office of Legislative Affairs
The White House

1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500
(202) 456-2230

3. **Please explain the circumstances under which you came to speak with Representative Nick Smith during the vote on the Medicare Prescription Drug Act on November 22, 2004 [sic].**

Someone asked me to talk to Representative Smith because he or she thought that Representative Smith could be convinced to change his mind and vote in favor of the Medicare Modernization Act. I do not remember who it was who asked me to speak to Representative Smith; it is possible that it may have been a Member from Michigan, but I am not sure.

4. **Please describe in as much detail as possible your conversations with Representative Nick Smith during the vote on Medicare Prescription Drug Act, including, to the best of your recollection, a description of the statements made by you to Representative Smith, and statements made by Representative Smith to you. Please also identify any other persons who participated in your conversations with Representative Nick Smith, and summarize any statements made by those persons.**

My conversation with Representative Nick Smith was brief. I remember asking Representative Smith if he had any questions on the bill that I could answer, or if there was any information that I could provide to him. He said no. I also asked him if there was any chance that he would vote for the bill. He said no. At some point, I remember Speaker Hastert coming over while I was in the presence of Representative Smith. I recall the Speaker saying, entirely in a joking manner, that if Representative Smith did not vote for the bill, he would wrestle him or sit on him.

Another Member also spoke with Representative Smith at the time. Other Members were around Representative Smith and me at the time of our discussion, but I do not recall who they were. I believe the Member who had asked me to speak with Representative Smith was present during our discussion. While I was present, one Member – I do not recall who – told Representative Smith that, since Representative Smith was not running for re-election,

Representative Smith should vote for the bill because it is a good piece of legislation. I believe this was the first time that I learned that Representative Smith was not running for reelection. This discussion took place on the floor, and then some Member – I do not recall who – asked me to talk to someone else about the bill. There were Members all around during my conversation with Representative Smith. At some point, either during my conversation with Representative Smith, or shortly thereafter, I learned that Representative Smith had a son who was running for Representative Smith’s seat in the House of Representatives. To the best of my recollection, no White House or Department staff were present during my conversation with Representative Smith.

5. Please describe any communication you had with officials of the Federal Bureau of Investigation or the Department of Justice regarding any matter related to allegations made by Representative Nick Smith.

I have not had any communications with officials of the Federal Bureau of Investigation or the Department of Justice regarding any matter related to the allegations made by Representative Smith.

6. Please describe your understanding of Representative Nick Smith’s position on the Medicare Prescription Drug Act both before and after you spoke with him on the floor of the House of Representatives on November 22, 2003.

Prior to speaking with Representative Smith on the floor of the House on November 21/22, 2003, it was my understanding that Representative Smith was opposed to the Medicare Modernization Act. I believe I learned this from the Member who asked me to speak to him. Nothing in my conversation with Representative Smith caused me to think that he would change his mind.

7. As you may be aware, on November 23, 2003, the day after the vote on the Medicare bill, Rep. Smith issued a press statement in which he said the Medicare vote was held open “as bribes and special deals were offered to convince members to vote yes.” Please state whether you have any knowledge as to what Representative Smith was referring to when he uses the terms “bribes” and “special deals.”

It would not be appropriate for me to speculate as to what Representative Smith meant in that statement.

8. **Please state whether in any conversation with you, Representative Nick Smith referenced any pressure placed on him to vote in favor of the Medicare Prescription Drug Act.**

In my conversation with Representative Smith, he made no reference to any pressure being placed on him to vote in favor of the Medicare Modernization Act. Representative Smith seemed very resolute to me in his opposition to the bill.

9. **Please state whether you have any knowledge of any person suggesting or mentioning offers of support for Brad Smith's congressional campaign if Representative Smith voted in favor of the Medicare Prescription Drug Act.**

Apart from what I have read in the press subsequently, I have no knowledge of any person suggesting or mentioning offers of support for Brad Smith's congressional campaign if Representative Smith voted in favor of the Medicare Modernization Act. As I mentioned previously, I believe that night was the first time that I learned that Representative Smith was not running for re-election, and either during my conversation with Representative Smith, or shortly thereafter, I learned that his son was running for Representative Smith's seat in the House of Representatives.

10. **Please provide any information you have about a possible endorsement of Brad Smith by the National Republican Congressional Committee if Representative Nick Smith voted in favor of the Medicare Prescription Drug Act.**

I have no such knowledge.

11. **Please state whether in any conversation with you, Representative Nick Smith referenced any dollar amount that he had been offered by anyone for his son's campaign.**

During my conversation with him, Representative Smith made no such reference.

12. Please state whether anyone suggested to you the possibility of using Brad Smith's campaign to persuade Representative Nick Smith to vote in favor of the Medicare bill.

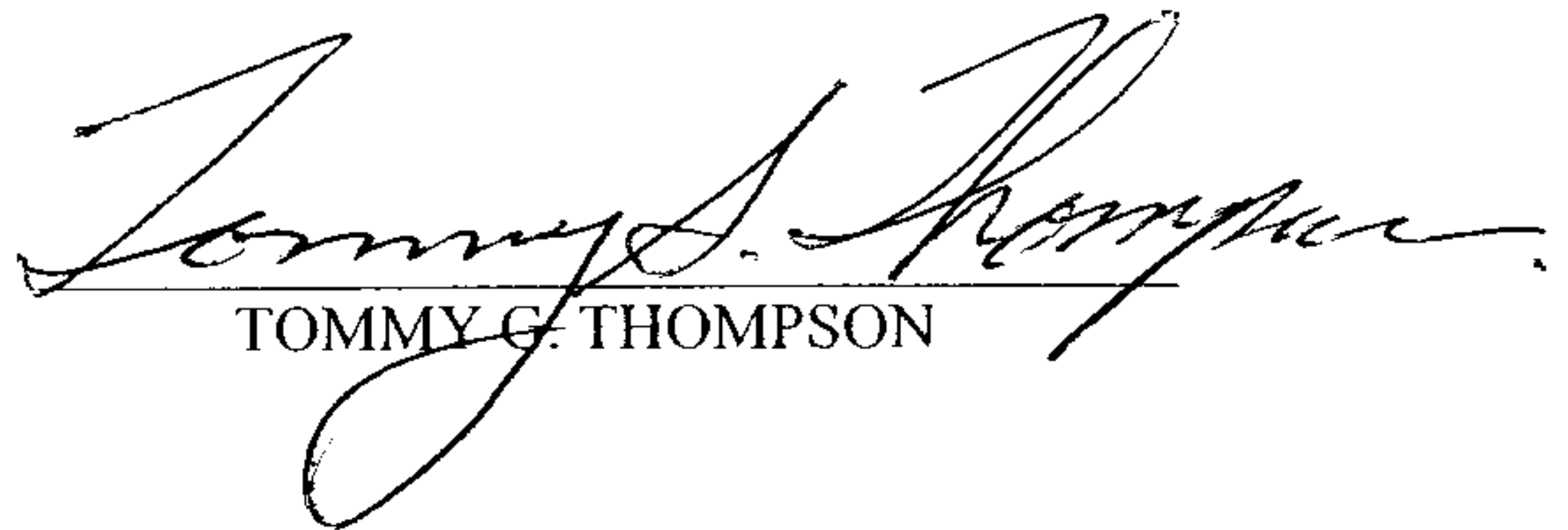
No one made any such suggestion to me.

13. Please provide any other information that you have that you think might be relevant to the Investigative Subcommittee's inquiry. Please include in your response the names of any individuals who you might think would have information relevant to this inquiry.

Beyond what I have related above, I do not believe that I have any further information that might be relevant to the Investigative Subcommittee's inquiry.

I declare under penalty of perjury under the laws of the United States of America, pursuant to 28 U.S.C. § 1746, that, to the best of my recollection, the foregoing is true and correct.

Executed on August 4, 2004, in Washington, District of Columbia.



TOMMY G. THOMPSON

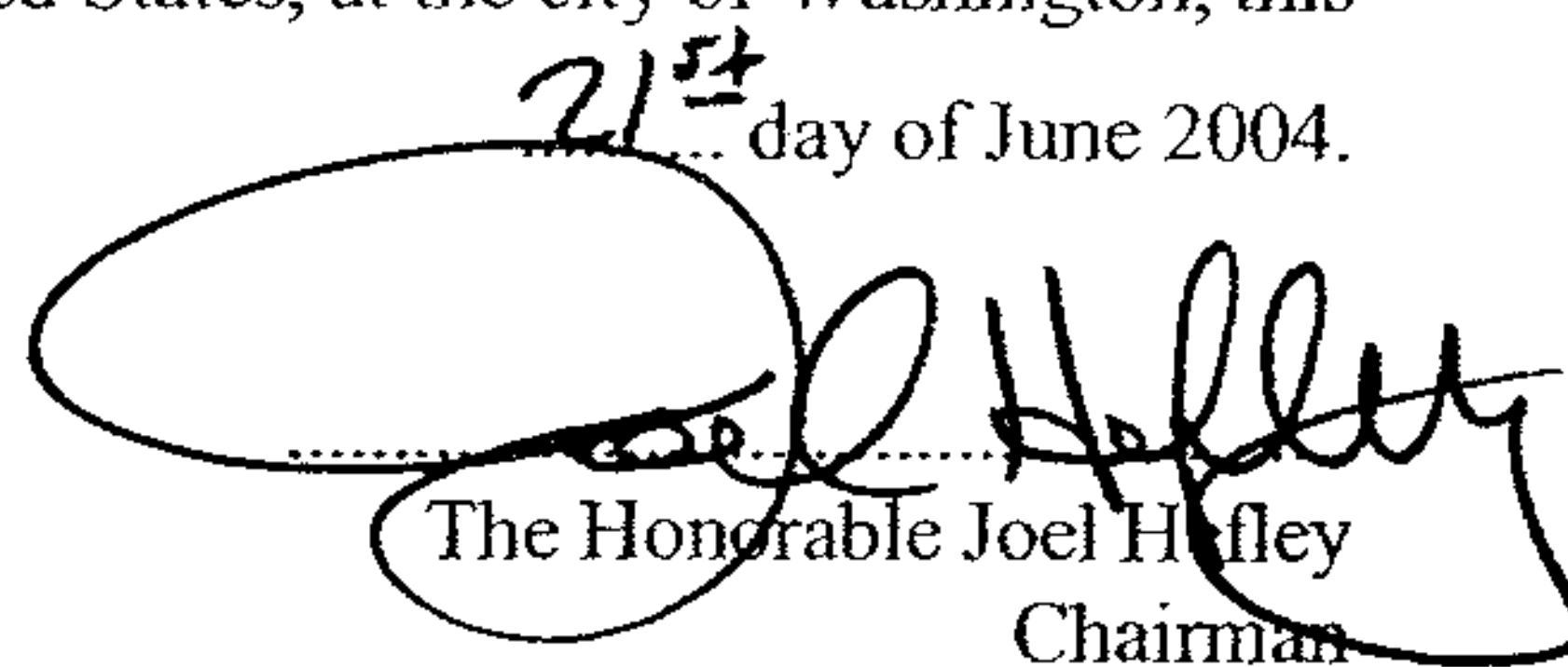
Subpoena Duces Tecum

**By Authority of the House of Representatives of
The Congress of the United States of America**

To: The Honorable Nick Smith, 2305 Rayburn House Office Building,
Washington, D.C. 20515

You are hereby commanded to produce before the Investigative Subcommittee of the Committee on Standards of Official Conduct of the House of Representatives of the United States, of which the Honorable Kenny C. Hulshof is chairman, in Suite HT-2 of the Capitol, in the city of Washington, by no later than 12:00 p.m. on June 22, 2004, the things identified in the attachment to this subpoena concerning matters of inquiry committed to said Subcommittee, pursuant to the instructions specified in the attachment.

Witness my hand and the seal of the House of Representatives
of the United States, at the city of Washington, this
21st day of June 2004.



The Honorable Joel Hulley
Chairman

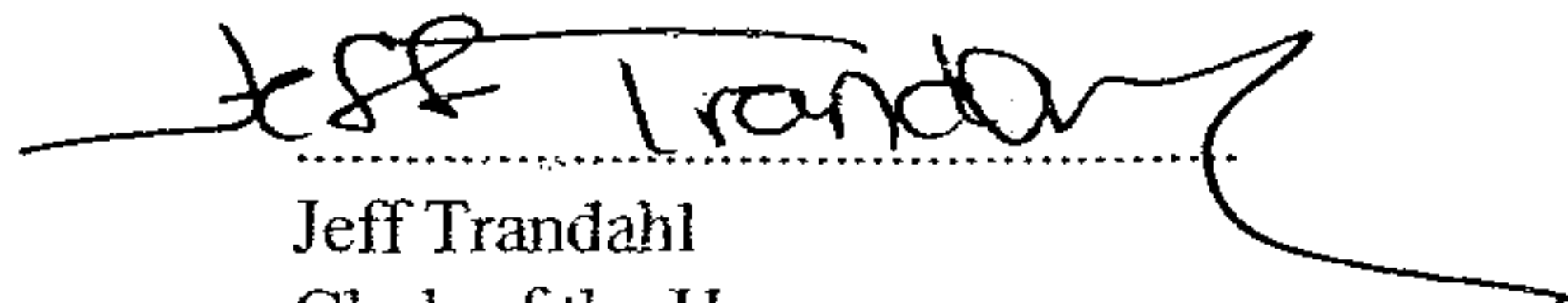
Committee on Standards of Official Conduct



The Honorable Alan B. Mollohan
Ranking Minority Member

Committee on Standards of Official Conduct

Attest:



Jeff Trandahl
Clerk of the House

ATTACHMENT TO SUBPOENA

The Honorable Nick Smith

A. Documents to be Produced

The original, complete, and unredacted journals or diaries of Representative Nick Smith for the calendar years 2003 and 2004.

B. Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

4. The terms "person" or "persons" means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.
5. As used herein, "referring" or "relating" means and includes "constituting, "pertaining," "evidencing," "reflecting," "describing," or "having anything to do with," and in each instance, directly or indirectly. These terms mean, without limitation, any reference or relationship which either (a) provides information with respect to the subject of the inquiry, or (b) might lead to individuals who, or documents which, might possess or contain information with respect to the subject of the inquiry.

C. Instructions

1. This subpoena is addressed to you in both your official and personal capacities and includes, but is not limited to, documents from, or in the possession of, your campaign or your congressional offices, or any other responsive documents in your possession, custody, or control.
2. In complying with this Subpoena, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You are also required to produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. No records, documents, data or information called for by this request shall be destroyed, modified, removed, transferred or otherwise made inaccessible to the Investigative Subcommittee.
3. In the event that any entity, organization or individual denoted in this subpoena has been, or is also known by any other name than that herein denoted, the subpoena shall be read also to include them under that alternative identification.
4. Each document produced shall be produced in a form that renders the document capable of being copied.
5. Documents produced in response to this subpoena shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when this subpoena was served. Also identify to which paragraph from the subpoena such documents are responsive.
6. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same document.

7. If any of the subpoenaed information is available in machine-readable form (such as punch cards, paper or magnetic tapes, drums, disks, or core storage), state the form in which it is available and provide sufficient detail to allow the information to be copied to a readable format. If the information requested is stored in a computer, indicate whether you have an existing program that will print the records in a readable form.
8. If compliance with the subpoena cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.
9. In the event that a document is withheld, in whole or in part, based on a claim of privilege, provide the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter of the document; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
10. If any document responsive to this subpoena was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
11. If a date or other descriptive detail set forth in this subpoena referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
12. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.

13. Send all responsive documents and records to:

Kenneth E. Kellner
Bernadette C. Sargeant
Counsel to the Investigative Subcommittee
Committee on Standards of Official Conduct
U.S. House of Representatives
Suite HT-2, the Capitol
Washington, DC 20515

november 17
 november 23

S M T W T F S
 1 2 3 4
 5 6 7 8 9 10 11
 12 13 14 15 16 17 18
 19 20 21 22 23 24 25
 26 27 28 29 30 31

17 monday

Ed took me to Det AP
 good catch up in DC
 started reading group
 on Drug Bill - see Cochran?
 called Tom Sawyer of let
 AFM - Hentzer, Am Enterprise
 #8-127 at the court

18 tuesday

Worked out w/ Tom Raa
 3rd degree try award voted -
 Meeting on Congressional
 goes ahead for Business Math
 Live Science effort - going well
 - debate Bill regarding GM B
 to include "unfunded" liabilities
 in annual budget report

19 wednesday wk out at 6:30

Met w/ Day on Medication -
 prescription drug - spoke
 at Republican Conference
 on Measures of unfunded
 liabilities of Drug bill -
 #7-12 Truleham on top of meeting
 #14.7 - Mary Christ gabal
 3 wk notice (S&B news)

EXHIBIT 19

december 2003
 S M T W T F S
 1 2 3 4 5 6
 7 8 9 10 11 12 13
 14 15 16 17 18 19 20
 21 22 23 24 25 26 27
 28 29 30 31
 30

20 thursday wk out at 6:30

met w/ IR - Secret
 briefing w/ Walfo w/ t
 and Glen Meyer (Chf of Staff)
 Reported in Policy Committee
 and later in Rep. Study Comm
 increased cost of Med-care - drug
 bills - why is leadership saying
 it will slow down cost of Med-care

21 friday

Dedn't wt out - started
 getting lobbied on Drug Bill -
 Jason Roe called at 5:30 & said
 Business would contribute "heavily" to
 Brode company - IF - 6:30 Also -
 NRCC would endorse Brode if
 I would vote yes -
 David McCoy -

22 saturday

More Pressure - 1:30 AM
 T.D. said he would
 Remotely endorse Brode (I feared)
 to thank Sec. T. Thompson
 and Speaker D. Hastert
 sat next to me and cost "personal"
 favor - Pres Bush called me -
 Candice M. said she would work as
 B. I. I voted No // Gay & Marry

sunday

23



notes

addresses

resources

October 2003
 S M T W T F S
 5 6 7 8 9 10 11
 12 13 14 15 16 17 18
 19 20 21 22 23 24 25
 26 27 28 29 30 31

November 24
 November 30

November 2003
 S M T W T F S
 1
 2 3 4 5 6 7 8
 9 10 11 12 13 14 15
 16 17 18 19 20 21 22
 23 24 25 26 27 28 29
 30



24 Monday

- Out home - D.C. called
 and sent Dave Broadley
 box - (A-1 News in work box)
 Nick Smith will stand at
 6 other Press calls
 My statement - Br heard called
 "I don't want to get to Congress
 that way" - "Do what's right"
 Good article

25 Tuesday

Maybe 10 more press
 calls. Twice my staff
 said that I said off the
 newspaper rather than
 newspaper rather than
 newspaper rather than

26 Wednesday

Don't know how much
 this is good or bad for
 Brando Campaign

27 Thursday

Thanksgiving day

Votes called of
 Dec 1 and scheduled
 Dec 6 or 7th (Monday)
 Great Smith Thanksgiving
 Dinner at Church and
 evening at our home.
 Stacia & Paul came on 7

28 Friday

Breakfast at B & D
 Mike visit in Stacia & Paul

29 Saturday

Lowered 3/4
 Bed in Back
 Bed Room -
 Bought small
 freezer and took
 to Stacia's for Birthday
 Dinner dinner
 w/ Stacia & Paul

30 Sunday

Parting - didn't
 go to church

december 1
december 7

november 2003
S M T W T F S
2 3 4 5 6 7 8
9 10 11 12 13 14 15
16 17 18 19 20 21 22
23 24 25 26 27 28 29
30

1
monday

7 AM called S to wish
happy Birth day

Medline hearing - esp on
new use of BRIBES to
get you votes on Medicaid
bill - A wrote an Medicaid
support in my calendar

tuesday

2 Called Ben - (WRCC
Brywan) he suggested
put out written statement
that no member actually
offered me money for Brad's
I voted yes - I don't ex
ort but included A was
offered before and after vote

wednesday

3 started a expensive and
substantial support for Brad's
campaign & A voted yes
and opponent to his
election - I voted NO
press just used the part of
me backing off change
of "BRIBERY"

thursday

4
Wp North of BS
Meeting spoke at breakfast
Ben - spot put out other side of field
talked to Dee Ann Dean in
A.P. - said no member offered
money surprisingly - just phin
like this would guarantee Brad
election - another see 76

friday

5
Sutton This could be serious
big time support for Brad
Boris suggests A ask
Gail Tolken - maybe some
wasn't mentioned it is not
Tech money but being - but sure
is nothing below the belt to get a wife

saturday

6
Went to Jackson GOP
E.V. Court in section
Brad there - sort of
thing I went -
I think

sunday

7

december 2003
S M T W T F S
1 2 3 4 5 6
7 8 9 10 11 12 13
14 15 16 17 18 19 20
21 22 23 24 25 26 27
28 29 30 31

january 2004
S M T W T F S
1 2 3
4 5 6 7 8 9 10
11 12 13 14 15 16 17
18 19 20 21 22 23 24
25 26 27 28 29 30 31



december 8
december 14

november 2003
S M T W T F S
2 3 4 5 6 7 8
9 10 11 12 13 14 15
16 17 18 19 20 21 22
23 24 25 26 27 28 29
30

8 monday

Back to washing car
for approx vote - Brad
George came -

9 tuesday

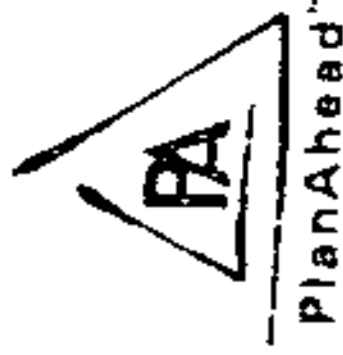
George had good
tape on home floor
w/ Nick -
Members Congrat
Spones Shorthand party
Coralcal - Brad had good
fun - this & at white house

10 wednesday

Took George to white
house & gardening for full
voluntary re-education for
Chinabea promised -
Good pictures - glass
had good experience

notes

addresses



december 2003
S M T W T F S
1 2 3 4 5 6
7 8 9 10 11 12 13
14 15 16 17 18 19 20
21 22 23 24 25 26 27
28 29 30 31

11 thursday

Dryer is running
\$4700 for Dave the
Electrician and
already paid consumers
\$3,300 - for 400 Amp Service

12 friday

13 saturday

Breakfast at
Brendo
Shirley &
Clair &
Henry

14 sunday

Christmas Play
at Church
Emily did
outstanding job
- Best ever!

HNS 0025

FINAL VOTE RESULTS FOR ROLL CALL 656

H R 1904 YEA-AND-NAY 21-Nov-2003 3:09 PM

QUESTION: On Agreeing to the Conference Report**BILL TITLE:** Healthy Forests Restoration Act

	<u>YEAS</u>	<u>NAYS</u>	<u>PRES</u>	<u>NV</u>
REPUBLICAN	216	9		3
DEMOCRATIC	70	130		5
INDEPENDENT		1		
TOTALS	286	140		8

FINAL VOTE RESULTS FOR ROLL CALL 657

H RES 453 2/3 YEA-AND-NAY 21-Nov-2003 3:20 PM

QUESTION: On Motion to Suspend the Rules and Agree, as Amended

BILL TITLE: Condemning the terrorist attacks in Istanbul, Turkey, on November 15, 2003, expressing condolences to the families of the individuals murdered and expressing sympathies to the individuals injured in the terrorist attacks, and standing in solidarity with Turkey in the fight against terrorism.

	<u>YEAS</u>	<u>NAYS</u>	<u>PRES</u>	<u>NV</u>
REPUBLICAN	225			3
DEMOCRATIC	200			5
INDEPENDENT	1			
TOTALS	426			8

FINAL VOTE RESULTS FOR ROLL CALL 658

S 1156 2/3 YEA-AND-NAY 21-Nov-2003 3:29 PM

QUESTION: On Motion to Suspend the Rules and Pass**BILL TITLE:** Veterans Health Care, Capital Asset, and Business Improvement Act

	<u>YEAS</u>	<u>NAYS</u>	<u>PRES</u>	<u>NV</u>
REPUBLICAN	223	2		3
DEMOCRATIC	199			6
INDEPENDENT	1			
TOTALS	423	2		9

FINAL VOTE RESULTS FOR ROLL CALL 659

H RES 459 YEA-AND-NAY 21-Nov-2003 7:09 PM

QUESTION: On Ordering the Previous Question

BILL TITLE: Waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Relating to Medicare)

	<u>YEAS</u>	<u>NAYS</u>	<u>PRES</u>	<u>NV</u>
REPUBLICAN	225			3
DEMOCRATIC		201		4
INDEPENDENT		1		
TOTALS	225	202		7

FINAL VOTE RESULTS FOR ROLL CALL 660

H RES 459 YEA-AND-NAY 21-Nov-2003 7:19 PM

QUESTION: On Agreeing to the Resolution

BILL TITLE: Waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Relating to Medicare)

	<u>YEAS</u>	<u>NAYS</u>	<u>PRES</u>	<u>NV</u>
REPUBLICAN	225			3
DEMOCRATIC	3	199		3
INDEPENDENT		1		
TOTALS	228	200		6

FINAL VOTE RESULTS FOR ROLL CALL 661

H RES 458 YEA-AND-NAY 21-Nov-2003 7:27 PM

QUESTION: On Ordering the Previous Question

BILL TITLE: Waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Regarding certain appropriations bills.)

	<u>YEAS</u>	<u>NAYS</u>	<u>PRES</u>	<u>NV</u>
REPUBLICAN	225			3
DEMOCRATIC		201		4
INDEPENDENT		1		
TOTALS	225	202		7

FINAL VOTE RESULTS FOR ROLL CALL 662

H RES 458 RECORDED VOTE 21-Nov-2003 7:35 PM

QUESTION: On Agreeing to the Resolution

BILL TITLE: Waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Regarding certain appropriations bills.)

	<u>AYES</u>	<u>NOES</u>	<u>PRES</u>	<u>NV</u>
REPUBLICAN	224			4
DEMOCRATIC		202		3
INDEPENDENT		1		
TOTALS	224	203		7

FINAL VOTE RESULTS FOR ROLL CALL 663

H CON RES 206 2/3 YEA-AND-NAY 21-Nov-2003 7:44 PM

QUESTION: On Motion to Suspend the Rules and Agree

BILL TITLE: Supporting the Bone Marrow Donor Program

	<u>YEAS</u>	<u>NAYS</u>	<u>PRES</u>	<u>NV</u>
REPUBLICAN	223			5
DEMOCRATIC	199	2		4
INDEPENDENT	1			
TOTALS	423	2		9

FINAL VOTE RESULTS FOR ROLL CALL 664

H J RES 79 YEA-AND-NAY 21-Nov-2003 9:37 PM

QUESTION: On Passage

BILL TITLE: Making further continuing appropriations for the fiscal year 2004, and for other purposes

	<u>YEAS</u>	<u>NAYS</u>	<u>PRES</u>	<u>NV</u>
REPUBLICAN	222			6
DEMOCRATIC	184	16		5
INDEPENDENT	1			
TOTALS	407	16		11

FINAL VOTE RESULTS FOR ROLL CALL 665

H RES 463 YEA-AND-NAY 21-Nov-2003 11:19 PM

QUESTION: On Ordering the Previous Question

BILL TITLE: Waiving points or order against the conference report to accompany H.R. 1; Medicare Prescription Drug, Improvement, and Modernization Act

	<u>YEAS</u>	<u>NAYS</u>	<u>PRES</u>	<u>NV</u>
REPUBLICAN	228			
DEMOCRATIC		203		2
INDEPENDENT		1		
TOTALS	228	204		2

FINAL VOTE RESULTS FOR ROLL CALL 666

H RES 463 RECORDED VOTE 21-Nov-2003 11:28 PM

QUESTION: On Agreeing to the Resolution

BILL TITLE: Waiving points of order against the conference report to accompany H.R. 1; Medicare Prescription Drug, Improvement, and Modernization Act

	<u>AYES</u>	<u>NOES</u>	<u>PRES</u>	<u>NV</u>
REPUBLICAN	225	1		2
DEMOCRATIC		203		2
INDEPENDENT		1		
TOTALS	225	205		4

FINAL VOTE RESULTS FOR ROLL CALL 667

H R 2622 2/3 YEA-AND-NAY 21-Nov-2003 11:37 PM

QUESTION: Suspend the Rules and Agree to the Conference Report

BILL TITLE: Fair and Accurate Credit Transactions Act

	<u>YEAS</u>	<u>NAYS</u>	<u>PRES</u>	<u>NV</u>
REPUBLICAN	224	3		1
DEMOCRATIC	155	45	1	4
INDEPENDENT		1		
TOTALS	379	49	1	5

EXHIBIT 21

Voice message for Rep. Nick Smith
8:49 p.m. Friday, November 21, 2003

"Hi Dad. It's Brad calling... about 10 to 8. I'm sorry I missed your call. I left you a message on your cell. Ah, it's about 10 to 9, rather. I was at a fundraiser. I really hope that you pick this up.. and that you don't sway from your convictions and support the Medicare bill. Who cares what they say about me. This is our country we're talking about ...and your grandchildren's future. So, please stick to your guns. Thanks, bye."

CNS0001

EXHIBIT 22

November 19, 2003

Wednesday

All Day V#11/22/03
 1. 11/22/03 airfare from DCA to MI. \$299. Etx: 0122195561265. 2. 11/17/03 airfare from MI to DCA. \$210. Etx: 0122195496310. 3. 11/7/03 airfare from DC to MI \$299. 0122195105272. 4. airport mileage \$ 88.56 5. district mileage \$342.36

All Day NS in DC

7:45 AM - 8:00 AM Radio: WTVB-Coldwater -- 517.279.1590-Ken Delaney every Wednesday

8:00 AM - 9:00 AM *Conservative Opportunity Society - 121 Cannon -- Newt Gingrich; Terry Jeffrey, "Human Events" editor

9:00 AM - 10:00 AM NS: GOP Conf Mtg -- 1100 LHOB

10:00 AM - 10:00 AM *Grover Norquist Mtg -- 1920 L St, NW, Ste 200. 202.785.0266 Americans for Task Reform.

10:00 AM - 10:00 AM HOUSE MEETS - V -- HR 2754 - Energy & Water - conf rpt

11:30 AM - 12:00 PM GOP Press Conf - HC-5 -- Jobs-Economy
 House GOP Leadership, other members of the House GOP Conference, and small business owners who have benefited from tax relief at a rally to mark the recent gains in America's Economy! WHERE: HC-5, the U.S. Capitol. WHEN: Wednesday, November 19th 11:30 AM

12:00 PM - 12:00 PM *Paul Weyrich Lunch -- 717 2nd St, NE - 202.546.3000 Free Congress Foundation. www.freecongress.org

12:30 PM - 12:30 PM NS/David/Brian: National Corn Growers Mtg re: corn genome research -- 2305 RHOB
 Re: Corn Genome Research. Staff, please note: Corn Growers specifically asked for Sci Research committee staff to participate in this mtg. National Corn Growers Contact: 202.628.700, Betsy Croker. Attendees: Members of National Corn Growers Genome Research Committee: Gary Davis (Delaware, OH); Gayl Hopkins (Salix, IA); Kurt Jones (Sioux Rapids, IA); Sam Creed (Mo)

1:15 PM - 1:15 PM NS/Kurt: RSC Mtg - H-236 -- room change!
 There will be an RSC Members meeting tomorrow (Wednesday, November 19) at 1:15 PM in HC-5.

1:30 PM - 1:30 PM NS: Intl Terrorism Hrg - 2172 RHOB -- Afghanistan - democratization and human rights
 OPEN joint hearing of the Subcommittee on the Middle East and Central Asia and the Subcommittee on International Terrorism, Nonproliferation and Human Rights to be held in Room 2172 Rayburn House Office Building:

SUBJECT: Afghanistan: Democratization and Human Rights on the Eve of the Constitutional Loya Jirga

WITNESSES: Panel I: The Honorable Lorne W. Craner, Assistant Secretary- Bureau of Democracy, Human Rights and Labor, Department of State; Honorable John V. Hanford III, Ambassador-at-Large- Office of International Religious Freedom, Department of State. Panel II: T. Kumar, Advocacy Director for Asia

November 19, 2003 Continued
Wednesday

and Pacific-Amnesty International, U.S.A.

2:30 PM - 2:30 PM

NS/Brian: Rural Caucus Mtg - B308 -- Secy Thompson

The meeting with all CRC members and Sect. Thompson will be held in Room B-308 Rayburn tomorrow at 2:30.

3:00 PM - 3:00 PM

NS/Kurt Meet w/ Brian Rosa of GM -- 2305

November 20, 2003

Thursday

All Day V#11/22/03 Please See Above

All Day NS in DC Please See Above

All Day Dexter HS Journalism Class - cap tour -- Rod Satterthwaite, 734.424.4240 x7407
Home: 734.428.8800. 10950 M-52, Manchester, MI 48158. Group size: 21 (kids +
chaperones). Request recd in DC 9/16/03, mec.

7:10 AM - 7:10 AM NS: WAAM-Ann Arbor; Dave Pekar -- 734.971.1607
re: Energy bill.

7:45 AM - 7:45 AM Photo w/Jhoon Rhee

8:35 AM - 8:50 AM Radio Call WKHM-Jax -- 517.787.3397 (Greg O'Connor)
Every Thursday

9:00 AM - 10:00 AM NS: Special GOP Conf -- CHC- Pres Dining Room

10:00 AM - 10:00 AM HOUSE MEETS - V -- HR 2754 - Energy and Water - conf rpt

11:00 AM - 11:00 AM CANCELLED -- NS/Dave: Sci Mtg re Math/Sci Award -- 2305 RHOB
Tom Lindsley (National Center for Educational Accountability), Susan Traymen (Business
Roundtable)

11:45 AM - 11:45 AM NS: Morgan Seitz, Chelsea HS -- 2305 RHOB

12:00 PM - 1:00 PM POSTPONED -- Lunch w/ Nick -- Nick is assigned to Ford Bldg -- cannot lv for lunch
Moved to Friday.

2:00 PM - 2:00 PM NS: Tom Davis -- 2348 RHOB

3:00 PM - 3:30 PM NS: MidEast Subc hrg - 2172 RHOB -- Saddam's Human Rights Violations
Subcommittee on the Middle East and Central Asia <mecahear108.htm>
2:00 p.m., 2172 Rayburn House Office Building
Hearing: Human Rights Violations Under Saddam Hussein: Victims Speak Out

4:45 PM - 4:45 PM NS: Members Only Classified Briefing on Iraq -- 2118 RHOB
Members-Only Classified Briefing on Iraq/War on Terror

Thursday, November 20, 2003

4:45pm

**Armed Services Committee Hearing Room
2118 Rayburn HOB**

Administration Officials:

**Hon. Don Rumsfeld, Secretary of Defense
Gen. Richard Myers, Chairman, Joint Chiefs of Staff**

November 21, 2003

Friday

All Day V#11/22/03
1. 11/22/03 airfare from DCA to MI. \$299. Etx: 0122195561265. 2. 11/17/03 airfare from MI to DCA. \$210. Etx: 0122195496310. 3. 11/7/03 airfare from DC to MI \$299. 0122195105272. 4. airport mileage \$ 88.56 5. district mileage \$342.36

All Day NS in DC

9:00 AM - 9:00 AM HOUSE MEETS - V

9:00 AM - 9:00 AM NS: GOP Policy Mtg - H122 -- OMB Director Josh Bolten
HOUSE POLICY MEETING END-OF-SESSION SPENDING GAME PLAN: OMB Director Josh Bolten will meet with the House Policy Committee at 9 a.m., Thursday, November 20, 2003, in the Speaker's Dining Room, H-122, the Capitol.
The agenda will include final FY04 spending legislation and the FY05 outlook. Breakfast will be available.
RSVP to 5-6168 or lara.walton@mail.house.gov; this meeting is Members Only.

9:00 AM - 9:00 AM NS: Theme Team H-236 -- PAUL WOLFOWITZ

10:30 AM - 11:00 AM NS: Dave Finger/Dan Byers - 2305 RHOB -- USFA bill

11:00 AM - 11:00 AM NS: Tape "Washington Report" cable show - energy bill. -- House Recording Studio, B310
Topic: Energy Bill. Guest: Rep. Billy Tauzin, chairman of the Energy and Commerce Committee. Contacts: Becky Kuhn, Rep. Tauzin's scheduler, x54031. Recording studio: x53941.

12:00 PM - 1:00 PM BLOCK for Lunch w/Nick S.

4:00 PM - 4:30 PM *Annual Jackson Christmas Parade -- Michigan Ave
Downtown Development Authority: 788-4355

7:00 PM - 7:00 PM NS: GOP Conf mtg -- HC-5

8:15 PM - 8:15 PM AntiPrescription Drug Dinner - Toomey -- Hunan Restaurant (Penn betw 2nd & 3rd)

November 22, 2003

Saturday

12:00 AM - 12:00 AM V#11/22/03
Please See Above

12:00 AM - 12:00 AM NS in DC
Please See Above

All Day *Battle Creek Holiday Parade - 5:20p

9:35 AM - 9:35 AM NS: Lv DCA on NW Flight to Kalamazoo -- V#112203W
Rec Loc MYP872. ETx 0122195561265 \$299.

12:30 PM - 12:33 PM NS had reservatiосn on NW# 263 -- Seat 3C. \$120 govt
Rec Loc MYP872 (but NS actually took 9:30 am flight)

5:20 PM - 7:20 PM GREG/NS: B.C. X-Mas parade -- Dwntrwn B.C.
Meet in MI Works parking lot, 135 Hamblin Ave.
GOP has float.

5:30 PM - 6:00 PM **Veteran's Appreciation Night -- Western High School
contact Western HS student: Ben Stafford @ 517-531-3502

Lasagna dinner @ 6PM with program @ 7PM
Program: Speakers, Russ McLogan, WWII veteran & author of *Boy Soldier* & Lt. Col
Jefferson, Tuskegee Airman
Student vocal performances, special video tribute to veterans, student speeches, local
dignitaries will attend

General Admission for non-veterans is \$2.00. Must be reserved by contacting Ben Stafford.



HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

NICK SMITH
SEVENTH DISTRICT
MICHIGAN

11/23

Dear Mr. Speaker,

It was so difficult to say no to someone I respect so much yesterday morning. I've been proud to stand with you on so many issues because I know we both work for what we think is best for the country.

On the drug entitlement, we both felt strongly about our positions. I look forward to working with you again in the future.

Nick —

EXHIBIT 24

**SCHEDULE B (FEC Form 3)
ITEMIZED DISBURSEMENTS**

Use separate schedule(s)
for each category of the
Detailed Summary Page

FOR LINE NUMBER:
(check only one)

PAGE 52 / 62

<input type="checkbox"/>	17	<input type="checkbox"/>	18	<input type="checkbox"/>	19a	<input type="checkbox"/>	19b
<input type="checkbox"/>	20a	<input type="checkbox"/>	20b	<input type="checkbox"/>	20c	<input checked="" type="checkbox"/>	21

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee

NAME OF COMMITTEE (In Full)
WALSH FOR CONGRESS COMMITTEE

Full Name (Last, First, Middle Initial) A. Brad Smith For Congress		Transaction ID: D05Nv01 Date of Disbursement 12 / 11 / 2003	
Mailing Address P. O. Box 128		Amount of Each Disbursement this Period 1000.00 Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53	
City Somerset Center	State MI		Zip Code 49282
Purpose of Disbursement POLITICAL DONATION (PRIMA)	Candidate Name C00381183		
Category/ Type	Office Sought: <input checked="" type="checkbox"/> House Senate President State: MI District 7 Disbursement For: 2004 <input checked="" type="checkbox"/> Primary General Other (specify) ▼		

Full Name (Last, First, Middle Initial) B. Brady Faith Center		Transaction ID: D05H202 Date of Disbursement 11 / 03 / 2003	
Mailing Address P. O. Box 883		Amount of Each Disbursement this Period 100.00 Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53	
City Syracuse	State NY		Zip Code 13201
Purpose of Disbursement DONATION- PATRON	Candidate Name		
Category/ Type	Office Sought: House Senate President State: District Disbursement For: 2004 Primary <input checked="" type="checkbox"/> General Other (specify) ▼		

Full Name (Last, First, Middle Initial) C. C. N. Y. Black Repub,		Transaction ID: D05No01 Date of Disbursement 10 / 04 / 2003	
Mailing Address P. O. Box 281		Amount of Each Disbursement this Period 200.00 Refund or Disposal of Excess Contributions Required Under 11 C.F.R. 400.53	
City Syracuse	State NY		Zip Code 13214
Purpose of Disbursement DONATION	Candidate Name		
Category/ Type	Office Sought: House Senate President State: District Disbursement For: 2004 Primary <input checked="" type="checkbox"/> General Other (specify) ▼		

SUBTOTAL of Disbursements This Page (optional)	▶	1300.00
TOTAL This Period (last page this line number only)	▶	

FEC Schedule B (Form 3) Rev. 02/2003