

THE PRESIDENT

3-13-00

THE WHITE HOUSE

WASHINGTON

March 10, 2000

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Eric Liu

SUBJECT: DPC Weekly Report

1. Crime – Juvenile Crime Conference. In a letter sent Thursday, Representative Conyers asked Representative Hyde to help press Senator Hatch for a meeting of the conferees within two weeks. Conyers added that if a conference meeting could be scheduled, he would work in good faith with Hyde to develop a “middle ground” on gun provisions. Conyers specifically cited your idea – allowing the deposit of guns with local police departments in the few instances where gun show background checks take longer than 24 hours – as a measure he would be willing to consider in the spirit of compromise. As of Friday afternoon, Hyde had not responded. Meanwhile, the NRA on Thursday sent out alerts to members of Congress urging them to oppose the Lofgren motion to instruct conferees on the juvenile crime bill. The Lofgren motion merely calls on conferees to meet in the next two weeks, and makes no explicit mention of gun provisions.

2. Crime – HUD Gun Buyback. On Thursday, the House Appropriations Committee voted on its supplemental appropriations bill. As you know, the bill originally contained language to rescind funding for HUD’s gun buyback program. At the last minute, Subcommittee Chairman Walsh offered an amendment to strike the rescission language. In doing so, however, he argued that rescission language was not needed since HUD does not actually have legal authority to spend Drug Elimination Grant money on buybacks. He further threatened that if money were obligated prior to authorization of a buyback program, he would refer the issue to the GAO and would initiate appropriate action. HUD maintains that Congress gave it clear authority to make grants to eliminate drug-related and *violent* crime. To date, about 80 public housing authorities – including Flint and Memphis – have committed to conducting buybacks with HUD funding.

3. Education – ESEA Action. The Senate Health, Labor, Education, and Pensions Committee passed out an ESEA bill this week, with all Democrats voting against it. The bill includes a provision that would turn Title I into a block grant. Democratic amendments on class size, teacher quality, after-school, school modernization, public school choice, and accountability were defeated. Meanwhile, Senator Lieberman and seven New Democratic colleagues introduced their own ESEA proposal this week. The Lieberman bill includes accountability measures and a class size authorization similar to our bill. It consolidates a number of programs into broad performance-based grants, including some key administration priorities like after-school and education technology. At our urging, Lieberman included minimum percentages that

must be spent on those priorities, but he still consolidates more than we would like. Lieberman plans to offer his bill as an amendment during floor consideration of ESEA, expected early next month. We expect the floor debate on the Republican ESEA bill to divide sharply along partisan lines.

4. Health Care – Medicare Coverage of Augmentative Communication Devices.

After receiving a letter from Stephen Hawking, you asked for an update on HCFA's review of the feasibility of providing Medicare reimbursement for augmentative communication devices. On April 1, HCFA will announce its decision to extend Medicare coverage for these devices to beneficiaries with severe speech language or communication disorders. We will draft a response at the appropriate time advising Hawking of this good news and thanking him for his guidance.

5. Health Care – Alleged Sales of Fetal Tissue. You inquired about recent reports alleging a widespread black market in fetal tissue. If true, the allegations on "20/20" and in letters from Kate Britton are clearly illegal. That said, the two primary witnesses cited by "20/20" proved at a congressional hearing Thursday to be unreliable. The first refused to testify altogether; the second recanted virtually all of his initial charges. Nonetheless, NIH this week contacted all 150 institutions currently receiving federal funds for fetal tissue research to reiterate their legal obligations regarding the use and acquisition of fetal tissue. NIH has also begun a series of random record audits, and we will work with them to monitor this issue closely.

6. Health Care – CBO Scoring of Administration's Drug Benefit. On Thursday, CBO released its budget estimates, with Medicare costs and savings figures quite comparable to those of OMB/HCFA. In fact, the prescription drug benefit was scored at \$10 billion less than the number estimated by OMB/HCFA (\$160 billion versus \$150 billion). We had feared a wide gap, and this removes a major barrier to consensus. It is important to note, however, that CBO's future projections of a benefit for catastrophic drug expenses may significantly exceed ours. CBO is reportedly concerned that an open-ended benefit for catastrophic drug expenses might provide too little incentive for pharmaceutical companies to constrain the price of their products.

7. Health Care – Medicare and Finance Committee. We have heard reports that Chairman Roth is contemplating a universal, subsidized Medicare drug benefit in the context of a down payment on reform. The benefit would be income-related, effectively reducing the subsidy for higher-income individuals. If true, this could lay the foundation for eventual agreement with Committee Democrats. The Committee now plans on marking up a reform initiative in early May after it completes hearings. We are scheduled to transmit our legislative language next week.

8. Health Care – Response to New York Times Article on Prescription Drugs.

Earlier this week, the New York Times inaccurately suggested that a series of studies published in Health Affairs revealed the shortcomings of our prescription drug proposal. The findings include: that low-income beneficiaries would be helped disproportionately by a drug benefit; that some seniors experience catastrophic drug expenses and need extra protections; and that some private health plans provide coverage to Medicare beneficiaries that meets or exceeds benefits provided by our plan. We have responded simply by pointing out that our plan provides additional protections to low-income beneficiaries; includes \$35 billion to add coverage for Medicare beneficiaries with catastrophic drug costs; and makes the new benefit optional so that those with more generous plan can stay in them.

✓ 9. **Health Care – Update on Minnesota’s CHIP Waiver Request.** You asked for an update on Minnesota’s CHIP waiver request, described by Governor Ventura in a recent letter. By the end of the month, Minnesota plans to submit a draft waiver proposal to exceed the 10 percent cap on CHIP administrative expenditures for costs associated with identifying and enrolling uninsured children. We have historically opposed such requests. At the same time, a number of states have not spent their full CHIP coverage allotments and many are in the process of submitting waivers to use their enhanced federal matching payments for other purposes.

X Minnesota may be a somewhat sympathetic case, since it has already extended coverage to 45 percent of children, but we will have to make waiver decisions with an eye to precedent and to the likely deluge of requests from other states. We want to preserve CHIP’s original intent (to most efficiently cover as many children as possible), without passing up a possible way to cover more of the uninsured. We have begun to explore options and will keep you apprised.

10. **Health Care – Update on Colon Cancer.** Earlier this month, you proclaimed March National Colorectal Cancer Awareness Month. This coincides with the work of Katie Couric and others to promote public awareness of the disease and the importance of screening. We are considering a radio address for you to highlight federal efforts on this front.

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THE WHITE HOUSE
WASHINGTON

July 31, 1998

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Health Care -- Patients' Bill of Rights: The Senate adjourned this week without bringing patients' bill of rights legislation to the floor. Earlier this week, Senators Chafee, Lieberman, and Graham introduced their own bill of rights proposal. The proposal includes all of the rights recommended by your Quality Commission, in addition to enabling individuals to sue health plans for economic (but not non-economic or punitive) damages in federal court. This enforcement scheme is an attempt to split the difference between the provision in the Kennedy bill, which allows individuals to sue health plans in state court for all damages, and the provision in the Republican Leadership bill, which relegates individuals to a schedule of civil monetary penalties that bears no relation to the amount of damages actually suffered.

Senator Lott is placing pressure on Republicans not to co-sponsor the Chafee-Lieberman bill, and Senator Spector is the only Republican likely to join it. At the same time, Senators Daschle and Kennedy have criticized the bill, especially its enforcement provision, as inadequate. We have kept our distance from the bill, both because most Senate Democrats do not yet want to compromise and because early Administration support for such an approach could *decrease* the likelihood of eventually getting a strong bill out of the Senate. We have tried, however, to refrain from any sharp criticism of the bill, given that it is in fact a quite strong piece of legislation. Our task for this month is to emphasize the differences between the Republican and Democratic bills, so that when the Senate Republicans return, they feel a need to engage seriously with the Administration and Senate Democrats on this issue.

2. Health Care -- DeSario Case and Guidance: The Department of Health and Human Services will issue a guidance letter to all state Medicaid directors this week on their obligations to cover medical devices. The guidance comes in the wake of a controversial decision by the U.S. Court of Appeals for the Second Circuit in the DeSario case, holding that Connecticut could limit coverage to a list of approved medical devices, which the State had compiled by reference to the needs of the average Medicaid beneficiary. The HHS guidance letter will adopt a contrary interpretation of the law, stating that although states may set some limits on coverage of medical devices, they must take into account when doing so the special needs of Medicaid beneficiaries with disabilities. The guidance also will remind the states of their obligation to provide notice of any coverage restrictions, and to put in place a public and timely appeals process. Some Governors will complain that HHS's interpretation will increase

their Medicaid expenditures; and although most disability advocates will welcome the letter, some will complain that it allows states to impose certain restrictions, rather than requiring them to pay for all medically necessary devices. We believe that the letter represents the best possible balance between these competing interests.

3. Tobacco -- Legislative Update: House Republicans have decided not to introduce tobacco legislation next week, as originally planned, and are arguing among themselves as to whether to do so when they return from recess. Speaker Gingrich and Congresswoman Pryce (whom Gingrich appointed to head the tobacco effort) continue to want to pass a skinny tobacco bill, with a counteradvertising campaign, some access restrictions, limited FDA authority, and no lookbacks or price increase. Other prominent Republicans, however, argue that such a bill will be subject to attack by Democrats and that there is no advantage in reviving this issue. If the Republicans do decide to bring a bill to the floor after recess, Democrats are ready with numerous amendments, including two full substitutes: the comprehensive Hansen-Meehan bill and a new Waxman bill that replaces an up-front price increase with lookback penalties of huge proportions.

Senator Hatch is talking with Democrats -- particularly Senator Conrad, to whom a great many Democrats defer on tobacco -- about possible compromise legislation, but their talks have not yet progressed very far. Conrad is willing to make some compromises on price and perhaps even on lookbacks, but he is insistent that liability protections be put into the bill only in conference and that they be limited to an \$8 billion annual cap. Hatch wants more extensive liability protections, and remains adamant that they go into the bill prior to conference (even though he knows that Senators Gregg and Leahy will again try to strip the liability protections on the floor). We have been talking to both sides in an effort to move them closer together, but something more dramatic is probably necessary to break the current impasse.

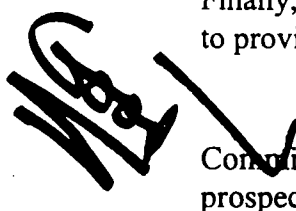
4. Tobacco -- State and Federal Suits: The settlement discussions between the industry and the state attorneys general "recessed" late last week, with industry negotiators saying that they needed further guidance from the CEOs of the companies. The talks so far have focused on non-monetary issues, with both sides apparently assuming that the industry will pay about \$200 billion. Opinions are very mixed as to whether the AGs and industry will return from the recess ready to strike an agreement.

We continue to have discussions with Justice Department attorneys about the possibility of filing suits against the companies for federal Medicare costs. (We say "suits" because the most likely way to bring such litigation is to file not a single national suit, but a number of suits in different states.) They continue to be very resistant, arguing that these suits probably would be thrown out of court on a motion to dismiss, and that this result would subject the Department to criticism that it brought litigation for political reasons. Other attorneys experienced in tobacco litigation -- Dick Scruggs, Stan Chesley, John Cole, etc. -- have far greater confidence that federal suits could survive a motion to dismiss and that such suits could bring the tobacco companies to the table and force them to make substantial concessions (perhaps even before

motions to dismiss are decided). The Attorney General may raise this matter with you when she sees you this week.

5. Tobacco -- New CDC Data: The Centers for Disease Control released a study on Thursday indicating that minority populations would be more likely than whites to quit smoking in response to a cigarette price increase. The study found that controlling for income and education, blacks are twice as responsive as whites to price increases, and Hispanics are even more price responsive. For example, the study found that about 25 percent of 18-24 year old Hispanic smokers and approximately 10 percent of 18-24 year old black smokers would quit smoking in response to a 10-percent cigarette price increase, while only about 1 percent of white smokers of the same age would do so. The study examined data on adults only, finding that in African-American and Hispanic communities price responsiveness decreased with age, while among whites, price responsiveness remained steady.

6. Welfare Reform -- Medicaid 100-Hour Rule and Anniversary Event: You are scheduled to participate in an event this week to mark the progress of welfare reform over the past two years and announce steps to ensure that even more families make a successful transition from welfare to self-sufficiency. Most important, you can announce new administrative action (repealing the so-called 100-hour rule) to allow states to provide Medicaid to two-parent working families. (Old welfare rules precluded states from providing Medicaid to these families if the adults worked more than 100 hours each month.) You also can announce the release of HHS's first report to Congress on the new welfare law. This report focuses on the dramatic gains made in moving welfare recipients into work opportunities. Because this month is also the one-year anniversary of enacting the \$3 billion Welfare-to-Work program, we are also planning for you to announce new formula grants to 5 states (MD, VA, WV, NM, NH). Finally, we may recommend that you use this opportunity to endorse the House and Senate bills to provide Individual Development Accounts for low-income families.



7. Education -- Charter Schools: The Senate Labor and Human Resources Committee reported out the charter schools bill unanimously last week, increasing the prospect that Congress will send this bill to you in September. We are attempting to work out one remaining issue with Senator Coats before the bill comes to the floor, so that we can avert a controversial amendment that could derail the bill's smooth passage. Coats wants to modify a requirement in existing law that charter schools use a lottery to select students if the school is oversubscribed. Coats thinks that charter schools should be able to guarantee slots for the children of founders and siblings of students already enrolled, as well as to use certain kinds of selective admission requirements (e.g., an audition for a performing arts school). We are working with the Education Department and Coats to see if we can accommodate Coats' concerns through new administrative guidance, without violating current law and without opening the door to abuses that could increase the number of racially identifiable schools.

Education -- D.C. Charter Schools: We are working with Congress to address a potential shortfall of funding for charter schools in the District of Columbia during the next academic year. The budget developed earlier this year by the Control Board and the D.C. Government significantly underestimated the number of students likely to attend charter schools, providing only \$12 million of the approximately \$30 million needed for full per-pupil allocations to support the 4,000 students projected to attend charter schools this year. Although the original D.C. appropriations bills introduced in the House and Senate included only the \$12 million recommended for charter schools, the House has added \$20 million from the federal payment, with the support of the Administration. In the Senate, we are encouraging a manager's amendment on the floor either to provide additional funding for charter schools out of the D.C. surplus or to direct the Control Board to find an offset within the D.C. budget for additional funding.

Education -- National Board for Professional Teaching Standards: In preparation for the conference on the Higher Education Act, we are working on a strategy for eliminating the Goodling provision that prohibits continued funding for the National Board. This fight will be very difficult, given (1) the overwhelming majorities by which this bill passed both Houses; (2) Goodling's apparent unwillingness to compromise on the issue; and (3) the lack of interest in the Board among House Democrats. There is bipartisan support for the Board in the Senate, and we are working closely with the NEA and AFT, Governors Hunt and Voinovich, and a variety of business leaders to put pressure on conference members to remove the Goodling provision. At the same time, we are working on compromise proposals that would give Goodling the ability to say that he corrected abuses or problems in the program, relating for example to the high salary of the Board's President and the high financial cost of seeking board certification.

10. Education -- Ed-Flex: The Senate Labor and Human Resources Committee reported out an Ed-Flex bill which would allow all states to waive federal education requirements if they have academic standards, assessments, and accountability measures in place. We worked hard to improve the bill, and it now reflects the principles you announced at last winter's NGA meeting. The prospects for floor action are not clear at present.

11. Crime -- Prison Population: The Justice Department will release a report on Sunday showing that in 1997, the nation's adult prison population grew by 61,186 men and women -- a 5.2 percent increase from 1996, but lower than the average annual growth of 7 percent since 1990. The total number of federal and state inmates reached over 1.24 million adults, with 1.13 million inmates in state prisons (a quarter in California and Texas alone) and 112,900 in federal prisons. The report shows that since 1990, the inmate population increased by 60 percent. Violent offenders were responsible for much of this growth, accounting for a full 50 percent of the increase.

12. Service -- Work-Study Funds: New figures show that colleges and universities are spending more work-study funds on community service, but that there is still much room

for improvement. According to the data, the average college/university spent 10 percent of its work-study funds on community service in 1996-97, up from 7 percent in 1994-95. As you know, a law enacted in 1992 required schools to spend at least 5 percent of work-study funds on community service. In 1996-97, 9 percent of all schools failed to meet this requirement, as compared with 24 percent two years earlier. (The Education Department does not penalize schools that fail to meet this requirement.) Only 12 percent of schools use more than 20 percent of their funds for service, and only 2 percent of schools use more than half their allocation for service. We are beginning discussions with the Education Department and Corporation for National Service on possible ways to improve these numbers.

THE WHITE HOUSE

WASHINGTON

7-29-98

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July 24, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

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1. Health Care -- Patients' Bill of Rights: The House passed the Republican Leadership's Patients' Bill of Rights on Friday by a 216-210 margin, while defeating the Dingell-Ganske substitute by a 217-212 vote. The Democratic Leadership believes that the Administration's veto message helped secure the strong showing (including about 10 Republican cross-over votes) for Dingell-Ganske. The Senate appears likely to postpone a vote on patients' bill of rights legislation until after recess. Senators Chafee, Lieberman, and Graham will unveil compromise legislation later this week. From all reports, it will be a strong package that has no poison pills and includes many if not all of the patients' protections we have supported. The enforcement mechanism is still unknown, but the Senators may allow suits in federal (but not state) courts for economic (but not non-economic) damages. We still do not think that this bill will attract much support -- perhaps as few as two to four Republican votes.

X/ You have two events scheduled next week in which you can raise patients' rights. You will meet with key members of the disabilities community on Wednesday to discuss a range of issues, and can take the opportunity to plug a strong bill. (Members of the community are joining with Senator Kennedy and other Democrats for a rally in support of Daschle-Kennedy the day before.) In addition, you are tentatively scheduled to go to a health care facility on Long Island with Republican Congressman Michael Forbes on Saturday to highlight his support for the Dingell-Ganske bill, as well as to announce that the Department of Defense is now ready to come into compliance with the Patients' Bill of Rights.

2. Health Care -- Provider Taxes: After your line-item veto of legislation permitting New York to use provider taxes to fund its Medicaid program, we notified all states that we would seek legislation giving the Secretary of HHS authority to waive enforcement action against states with impermissible provider taxes so long as they drop these taxes and begin complying with the law. We also informed states that if Congress did not grant us this authority by August, we would have to begin enforcement proceedings. It is now becoming clear that Congress will not pass this legislation. States that have complied with the law see no reason to forgive states that have not. States that have not complied with the law do not believe we will enforce it in any event. As a result, no one has pushed this legislation. In a meeting with Erskine last week, we discussed whether and when to start enforcement activities. We arrived at a consensus, pending consultation with HHS

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and DOJ lawyers, to delay action until after the Congress adjourns so that neither Congress nor the states can charge that we have provided insufficient time to pass the necessary legislation.

3. Tobacco -- Court Decision on Second Hand Smoke: A Federal district court judge in North Carolina ruled for the tobacco companies in a case challenging the EPA's finding, in a 1993 risk assessment, that environmental tobacco smoke (ETS) is a Class A carcinogen causing lung cancer in adults. (The decision left standing the EPA's finding that ETS causes respiratory harm to children.) The court found that the EPA "disregarded information and made findings based on selective information; deviated from its risk assessment guidelines; failed to disclose important opposing findings and reasoning; and left significant questions without answers." The ruling has no direct impact on federal, state, or local second-hand smoke rules, but the industry may try to use it to lobby against new restrictions or ease existing ones. The decision also will make second-hand smoke litigation much more difficult to win. We hope to be able to announce an appeal of this decision very shortly. We also can unveil a new EPA public service announcement that targets ETS in the home by informing parents of ways to protect their children from second hand smoke.

4. Education -- NEA/AFT International Teachers Congress Speech: You are scheduled to speak on Wednesday to the International Congress of Teachers, an international teachers organization tied to both the NEA and the ATF. Because national education standards are commonplace in most other industrialized countries, this forum provides a good opportunity to restate the case for national standards and tests, and to renew your threat to veto the Labor-HHS-Education appropriations bill for blocking work on the tests and failing to support necessary education investments. We also may use the occasion to highlight Congress's failure to fund summer job programs.

5. Disability Issues -- ADA Anniversary Event: You will commemorate the eighth anniversary of the Americans with Disabilities Act on Wednesday by signing a directive recommended by your Task Force on Employment of Adults with Disabilities. As you recall, you created the Task Force by executive order in March, and it is co-chaired by Secretary Herman and Tony Coelho. Its mandate is to help bring the employment rate of adults with disabilities "as close as possible" to that of the general population. The directive will instruct DOJ, EEOC, and SBA to do outreach on the ADA, and instruct HHS to do outreach on a state option, enacted as part of the Balanced Budget Act, to enable people with disabilities to buy into Medicaid as their earnings increase. In addition, you will announce that we are working with Senators Kennedy and Jeffords on additional health care legislation for people with disabilities who want to return to work. The disabilities community will greet this announcement very warmly because the Kennedy-Jeffords bill is their top priority. The current version of the bill costs \$5 billion over five years, but we are working with the Senators' staff on a more affordable alternative.

6. Crime/Guns -- Appropriations Votes: During floor consideration of the Commerce-Justice-State appropriations bill last week, the Senate voted on several important gun issues. First, the Senate defeated (61-39) Senator Boxer's amendment to require federal gun dealers to provide a child safety lock with every handgun sold, while passing (72-28) Senator Craig's amendment to

Good require dealers only to make safety locks available. Second, the Senate defeated (69-31) Senator Durbin's amendment to hold adults liable for failing to store firearms away from children. Third, the Senate passed (69-31) Senator Smith's amendment to prohibit the FBI from collecting a fee for Brady background checks when the National Insta-Check System (NICS) goes into effect in November. If the FBI cannot charge a fee for checks, DOJ estimates that the cost to the federal government will be \$75 million in the first year, with the potential to rise in subsequent years. In the wake of this vote, we are planning an event in early August in which you would (1) call for a five-day waiting period even after NICS goes into effect, (2) release a long-planned DOJ rule on funding the NICS through user fees, and (3) attack the Smith amendment as a veiled attempt to gut the Brady law. These actions should attract a great deal of attention, particularly after last week's tragic shooting in the Capitol.

7. Drugs -- Methamphetamine Penalties: The House Judiciary Committee marked up legislation last week to equalize federal penalties for methamphetamine trafficking and crack cocaine trafficking. Under current law, 10 grams of pure meth triggers the 5-year mandatory sentence and 100 grams of meth triggers the 10-year sentence; under the House bill, 5 grams of meth would trigger the 5-year sentence and 50 grams would trigger the 10-year sentence. Consistent with our prior statements, we endorsed the concept of equalization, but not at these low levels. At the same time, the Senate passed an amendment to the Commerce-Justice-State Appropriations bill offered by Senator Hutchison that would undermine DEA's regulatory authority over precursor chemicals that can be used to manufacture drugs such as methamphetamine. The amendment would (1) increase the difficulty of proving that drug sellers have violated record-keeping and reporting provisions of the Controlled Substances Act, and (2) decrease the penalties on drug sellers for violating these provisions. These measures would weaken the Comprehensive Methamphetamine Control Act you signed in 1996 by making it easier for drug sellers to divert legal chemicals into the manufacture of methamphetamine, and we will strongly oppose them.

8. Welfare Reform -- Urban Institute Study: A study to be released this week by the Urban Institute shows that people moving from welfare to work enjoy significantly increased income, even if they move into low-wage, part-time jobs. The study -- *Does Work Pay? An Analysis of the Work Incentives Under TANF* -- examines how monthly income for a family of three changes as a family member moves from no work to a part-time minimum wage job to a full-time minimum wage job, and finally to a full-time \$9.00 per hour job. The study calculates these changes in 12 states (AL, CA, CO, FL, MA, MI, MN, MS, NJ, NY, TX, WA). Not surprisingly, the lower the welfare payment, the greater the incentive to work. (For example, moving from welfare to a part-time minimum wage job increases family income by 38 percent in Washington and 108 percent in Mississippi.) Across all 12 states, family income increases by an average of 51 percent in the transition from welfare to a part-time minimum wage job, with income growing by another 20 percent between part-time and full-time minimum wage work and still another 16 percent between a full-time minimum wage job and full-time work at \$9.00 per hour.

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The study confirms that federal and state policies make a big difference in making work pay. In particular, the EITC helps families maintain income as they lose other benefits over time. For

* // example, in Mississippi the EITC almost doubles the increase in family income between welfare and a part-time job -- from 67 percent to 108 percent. In New York, EITC makes the difference between a 19 percent and 45 percent increase in income.

9. **Welfare Reform -- Washington State Report:** A recent survey by the State of Washington shows relatively high levels of employment and earnings for people who left welfare between December 1997 and February 1998. The study found that 68 percent of people who have left welfare are currently working, at an average hourly wage of \$8.42. Total family income for these families, including child support, was 137 percent of the federal poverty level. Though Washington has a generous child care program, only 31 percent of families reported using subsidized care. More than half responded that they did not need subsidies because they received care for free.

* { 10. **Welfare Reform -- Mayor Giuliani's New Plan:** In a speech last week, Mayor Giuliani announced that he would transform New York from the welfare capital of the country to its work capital, by requiring everyone able to work to do so. Giuliani's new approach is similar to that adopted in Wisconsin -- which is unsurprising given that he recently hired Jason Turner, Governor Thompson's former welfare reform guru, to head New York's welfare program. Although not publicly backing away from the workfare program he has championed, the mayor is now making workfare only one part of a comprehensive work-first, employment-focused approach which includes unsubsidized and subsidized private sector employment. The mayor announced that under this approach, he would transform every welfare office into an employment center, divert as many applicants as possible to work so that welfare is the last rather than first resort, require mothers with newborns to attend a parenting class, expect those with disabilities not severe enough to qualify for disability payments to work (in specialized settings if necessary), and compel those with substance abuse problems to participate in work and treatment.

both good ✓ The Mayor's new approach sets very high expectations for both recipients and the welfare system. An approach this ambitious will have a lot to overcome given New York City's size, bureaucracy, political dynamics, and continuing high unemployment. But if welfare reform can make real headway in New York City (as well as in California, which has lagged behind the rest of the country), it can succeed anywhere. HHS intends to contact city officials to determine whether we can give them any assistance in implementing this far-reaching program.

good 11. **Welfare Reform -- NGA Report on Employment Retention:** The National Governors Association will release a report next week on how states can help people remain employed once they have left welfare. The report emphasizes that "work first" means not simply placing people in entry level jobs, but working with people after they are employed to help them keep their jobs, avoid returning to welfare, and advance within the labor market. The report suggests that states should: promote learning at the workplace; help people get jobs that give them access to career ladders; improve the quality of "transitional employment" by combining it with education, training, career guidance and job placement; and improve access to education and training that complements work. The report also encourages: ongoing case management and mentoring; access to supportive services such as child care, transportation, health care, housing; and financial incentives such as the federal

and state earned income tax credits. We are working with HHS to put out a press release praising the report and highlighting once again an NGA report issued in May (which we previously described to you) showing that states are investing more than ever before in child care and work opportunities.

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12. Children and Families -- Nutrition Bill: With Administration support, the House on Monday passed a reauthorization bill for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); the Summer Food Service Program; the Farmers Market Nutrition Program; the Nutrition Education and Training Program; and State administrative support for the School Lunch Program. The bill advances your after-school care agenda by incorporating a variety of Administration recommendations, such as enabling States that are enrolled in the School Lunch and Breakfast Program to provide snacks to children in after-school education and enrichment programs, and allowing institutions that provide after-school care for "at-risk" school children aged 12 through 18 to participate in the Child and Adult Care Food Program. The bill also strengthens protections against WIC fraud and abuse, and requires states participating in WIC to provide program participants with education on drug and alcohol abuse. The Senate is expected to act on its bill shortly.

13. Children and Families -- Child Care: The House Government Reform and Oversight Committee unanimously passed the Quality Child Care for Federal Employees Act last week, and both the House and Senate are likely to pass the bill by unanimous consent before they recess. The legislation in part mirrors the executive memorandum you issued in March to improve federally-sponsored child care in the executive branch, by ensuring proper background checks of child care providers, and achieving full accreditation of child care facilities. The pending legislation also applies to child care sponsored by the judicial and legislative branches of the federal government, and includes additional important provisions, such as: (1) giving GSA new oversight responsibilities for most federally-sponsored child care and directing GSA to develop, issue, and enforce uniform health and safety standards; and (2) authorizing agencies to use appropriated funds for child care subsidies for their low-income employees.

THE WHITE HOUSE

WASHINGTON

September 4, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

9-8-98

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1. Health Care -- FDA Commissioner Update: Jane Henney's confirmation hearing before the Senate Labor Committee this week went well. The two major remaining roadblocks are: an unpopular regulation on the dissemination of information about off label uses of prescription drugs; and a likely hold by Senator Nickles and others who may attempt to trade her nomination for a nomination they care about or to make hay over FDA's approval of RU-486. We are pushing to have Dr. Henney voted out of committee within the next two weeks and are developing a strategy to get her confirmed in this session.

2. Health Care -- Medicare Commission: The Medicare Commission is scheduled to meet again September 8th and 9th. Senator Breaux says he is most interested in reforms that include: some type of prescription drug benefit; changes in the cost sharing structure to reduce the need for inefficient Medigap policies; and having health plans compete for Medicare business through regional bids. This last idea is similar to an approach advocated by Bob Reischauer that assumes Medicare pays the median bid and Medicare beneficiaries pay for the additional costs of more expensive plans. While we believe this concept has some promise, it is unlikely to achieve significant savings at least for the foreseeable future.

3. Health Care -- FEHBP Premium Increases: After Labor Day, OPM will announce that FEHBP plans will have a 10 percent increase in premiums. This follows an 8 ½ percent increase from last year. OPM believes that these hikes will closely reflect the premium increases expected in other private sector health plans. We are reviewing all available data to determine if FEHBP growth rates are significantly exceeding other private health plans and, if so, why. The increase also somewhat undermines the arguments of those who advocate using an FEHBP type system for Medicare. It may well be, however, that one important constraint on OPM to be more efficient is its statutory obligation to include all health plans who wish to participate in its health care system, which limits its ability to use market leverage to get better prices from a fewer numbers of plans.

4. Consumer Product Safety -- Advanced Air Bags: You will announce on Thursday a new proposed rule that will require *advanced* air bags in American cars and light trucks. The new air bags will be safer than the air bags that are now in many cars while preserving the significant

benefits of air bags. Air bags have saved almost 3,500 lives, and they are projected to save 3,000 lives each year once they are in all cars. But we also now know air bags have killed 113, mostly young children and small-sized adults. The proposal you will announce should help prevent virtually all of these deaths. It will also make air bags more effective than the 20-35 percent depowered bags now being installed in most new vehicles. The rule will expand the crash dummy family by adding 1-, 3-, and 6-year-old child dummies, and a 5-foot female dummy, to the standard 170-pound male dummy that is now the only dummy used to test air bags. The rule also will add a 30-mph crash test with belted and unbelted male and female dummies to test the entire safety system. This test will replace the less effective, but industry-favored sled test now in use. The proposal will require companies to phase in advanced air bags into their fleets beginning in model year 2003. The Department of Transportation estimates that advanced air bags could save 640 additional lives each year. The new air bags will add \$4-126 to the cost of each vehicle depending on the technology that is used. The rule will be supported by consumer and safety groups. Car companies have already publicly announced their opposition to replacing the sled test. There is significant media and Congressional interest in the rule.

5. Welfare Reform -- Food Stamp Fraud: We are preparing three anti-Food Stamp fraud announcements for you to make as part of a radio address on the 12th or the 19th. We have prepared directives that will: 1) Ensure that Food Stamp recipients who die are immediately removed from the rolls, by requiring the Social Security Administration to share its death records with Food Stamp program; 2) Require USDA to develop a plan to create an interstate matching system to ensure Food Stamp recipients are not receiving benefits in multiple states; and 3) Require Treasury to collect (through offset of federal payments and other means) unpaid fines owed by retailers that have violated Food Stamp rules, such as exchanging Food Stamps for cash.

6. Welfare Reform -- Wisconsin: September 1st marked the one-year anniversary of implementing Wisconsin Works (W2). Caseloads are down 68% in the past year alone, and there are only 11,000 families left on welfare in Wisconsin. Five counties have no one left on cash assistance, and over half of the counties have fewer than 10 cases. The state reports that the average starting wage for people leaving welfare is \$6.77 an hour, which puts a typical family 25 percent above the poverty line even after paying a child care co-payment (the state pays a share of child care costs for low income working families whether or not they receive welfare).

A recent study of people leaving the welfare rolls in Wisconsin shows encouraging results. The study found that 70% of those who left the rolls did not return; the 30% who did return did so within four months of exiting. Leavers were more likely to: have more education; be white, or to a lesser extent Hispanic, and U.S. citizens; have fewer children and other adults in the household; not be receiving SSI for the mother or children; and have more work experience and higher earnings in the two years before they left the rolls. Families were generally better off when they left welfare, though small families did better than large families. Over half of all families saw their income rise when they left welfare, though slightly less than half of families with more than three children experienced income gains. Leavers had earnings well above their income on

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welfare, and these increased over time. All leavers earned about \$1,000 more during the quarters they were not receiving AFDC than they did while they were on AFDC.

7. Welfare Reform -- Rockefeller Institute Research: Last week, we met with Dick Nathan, director of the Rockefeller Institute, about a nationwide study his group is doing on the effect of welfare reform on the culture of the welfare office. Already, the study has found a surprising degree of bureaucratic change. Nathan finds a strong and consistent change in signaling by all levels of government on the importance of work and time limits which has been matched by immense change in individual welfare recipient behavior, particularly in terms of increased work. Nathan believes the broad public support for time-limited welfare linked to work has resulted in a "detoxification of welfare" that now makes it politically feasible to provide services to help people get and keep jobs. While sanctions have become more frequent, they tend to be selective and graduated. Based on extensive interviews with front-line staff, he finds most workers support the welfare reform changes and see them as an opportunity to help people improve their lives. He is also struck by the amount of devolution from states to localities. A major concern is the importance of good information systems for oversight, evaluation, and helping front-line workers do their job. We will explore what more can be done to help in this area.

8. Drugs -- Youth Drug Use and Attitudes: On Tuesday, the National Center on Addiction and Substance Abuse (CASA) at Columbia University released its 1998 Back to School Teen Survey. One thousand teens, age 12 to 17-years-old were surveyed, as well as over 800 teachers and 800 principals. The survey found the transition from age 12 to 13 as a critical turning point in use of, access to, and attitudes towards drugs. The survey found that at age 13, teens were about three times more likely than a 12-year-old to know other students who use and sell marijuana, acid, cocaine, or heroin; to learn where to buy drugs and from whom to buy them; and to report students who use and sell drugs.

For the third straight year, the number of high school teens reporting that drugs are used, sold, and kept at their school has risen: from 72% in 1996 to 78% in 1998. Meanwhile, only 18% of high school principals believe that their schools are not drug-free. Teens who attend religious services four times a month were significantly less likely to smoke cigarettes or marijuana, or drink alcohol than those who did not regularly attend services. Although nearly half of teens reported that their parents never discussed the dangers of drugs with them, the 43% of teens who never smoked marijuana cite their parents as having the most influence over their decision. On the other hand, 50% of those who do smoke marijuana cite their friends as most influential. Teens who used one substance were found to be much more likely to use another. For instance, 79% of teen smokers also smoke marijuana, compared with 14% of teens who have never smoked. And of teens who smoke marijuana, 45% also smoke cigarettes, as compared with only 3% of non-marijuana smokers.

9. Crime -- Senate Democratic Crime Bill: Senate Democrats will introduce an omnibus crime bill on Thursday. While we have not reviewed the legislative language, we understand the

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bill will be primarily comprised of Administration and legislative proposals already before the Congress -- and is intended to give Senate Democrats a consensus piece of legislation to rally around between now and the November elections. Provisions in the draft bill include: a patchwork of school safety and juvenile crime proposals that mirror the Administration's juvenile crime strategy; a prospective gun ban for violent juveniles; funding for high-intensity gang activity areas; an extension of the COPS program and the Violence Against Women Act; funds for drug treatment and testing; a reauthorization of the Drug Office; funds to improve state criminal history records, communications systems and forensic labs; money laundering improvements; new drug, gang, and gun penalties; and portions of the Administration's International Crime Bill.

10. Education -- McKay Event: On Wednesday, you will visit an elementary school in Orlando with Buddy McKay to announce the release of a report by the Department of Education on the gap in NAEP achievement levels of 4th graders in high- and low-poverty schools. While the gap in reading and math achievement is significant, there are recent signs of improvement, particularly in math. However, the continuing gap allows you to point to the need for the education investments you have proposed: smaller class sizes and well-prepared teachers; modernized schools; after school programs; America Reads; and extra support for disadvantaged children to enable them to master the basics through increases in Title I funding. You will also announce the release of over \$16 million in COPS school-based partnership grants to 155 law enforcement agencies across the country. The grants will be used by policing agencies to work with schools and community-based organizations to address crime at and around schools using principles of community policing.

11. Political Reform -- Campaign Finance Reform Letter: We have prepared a letter for you to send Lott and Daschle next week calling on the Senate to join the House and pass Shays-Meehan/McCain-Feingold this Fall. There is a good possibility McCain and Feingold will try to bring their legislation to the floor next week.

~~MR~~ PRESIDENT.

The campaign finance letter
was sent on Friday at
Rahm's urging. I had it
auto-penned on your behalf.

Q

Phil Caplan
9/5

THE WHITE HOUSE
WASHINGTON

July 10, 1998

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

7-13-98

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1. **Tobacco -- State Attorneys General:** Next week, the state attorneys general will meet to consider a possible new agreement between the states and the tobacco industry. The industry is interested in a new "state-only" deal that would give the states the \$200 billion over 25 years they negotiated last year in return for settling the state cases. No federal or state legislation would be required. The deal would produce a price increase of 30-35 cents per pack, but would not say anything about FDA authority, farmers, lookback surcharges, or federal investments in research, counteradvertising, cessation and so on (although states would have substantial funds to invest in counteradvertising, tobacco education and prevention, etc.). The industry would agree to the advertising restrictions from the Minnesota settlement (no billboards, no promotional products, no film placements). Apart from settling the state cases, the industry would receive none of the liability protections of the June 20th agreement.

If such a deal materializes, we believe we should 1) embrace it, and try to bring the attorneys general to the White House to announce it; and 2) challenge Congress to finish the job by passing a streamlined bill that includes a smaller (e.g. 50-cent) tax increase to pay for targeted tax cuts (marriage penalty, long-term care), along with FDA authority, counteradvertising, and lookback surcharges. We'll still need to figure out what to do about farmers (paid for by the industry) and whether we can persuade the states to use a portion of their settlement for tobacco control, children's health, and/or child care. The state-only deal may take some pressure off Hill Republicans on tobacco (although it's not clear they were feeling much pressure anyway). But they remain under intense pressure to find revenue for a tax cut, and they can hardly sustain the argument that it's better to use Social Security and the surplus than tax tobacco.

2. **Tobacco -- House and Senate Legislative Activity:** When the House returns from recess, we can expect Rep. Pryce to unveil the Republican Leadership's tobacco legislation. Although we have not yet seen the legislative language, we are preparing to say that it will not save lives because it lacks a significant price increase and contains weak advertising restrictions (OMB and Treasury are preparing draft estimates based on likely scenarios). In addition, Representative Waxman is planning an event to highlight that members of the Republican House Leadership have taken hundreds of rides in recent years on tobacco industry corporate jets, paying only commercial fares for trips worth tens of thousands of dollars.

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In the Senate, Senators Conrad and Kerry are approaching Domenici and Gorton about a streamlined bill that would settle the state cases in return for a 75-cent price increase (with another 50-cent increase in five years if teen smoking is not cut in half), FDA authority, warning labels, and other public health provisions, but no new federal programs. Three-quarters of the money would go to the states, which would have to spend one-third on tobacco control and one-third on our menu, with one-third unrestricted. The rest of the money would go for a marriage penalty tax cut. The industry would be required to pay for Ford's tobacco farmer program over the next ten years. Domenici does not seem very interested in a comprehensive bill, even at 75 cents, and Gorton raised concerns about the FDA authority and the proposal's lack of attorneys' fees limitation (a state-only settlement would diminish Gorton's interest as well)

3. **Tobacco -- Executive Memoranda on Industry Documents:** On Friday, July 17, in your remarks to Girls Nation, you will announce two directives to make tobacco industry documents far more accessible to the public. The first directive will require HHS to develop a plan for a user-friendly database and/or index of the documents and make them widely available. The second directive will instruct DOJ to file a brief to support the State of Minnesota's effort to make public an industry-created index to their documents. The release of this index would provide the public with a critical roadmap to industry documents and may identify documents that have not yet been produced.

4. **Tobacco -- Study on African Americans and Nicotine:** On Tuesday, the Journal of the American Medical Association published a study revealing that African American smokers have higher levels of metabolized nicotine than whites or Mexican Americans. This is true even though African Americans smoke fewer cigarettes per day than white smokers. This finding may help explain why African American smokers have more difficulty in quitting smoking, and are at higher risk of developing and dying from lung cancer than whites, and will prompt more research in this area.

5. **Education -- Charter Schools:** The Education Department is completing its second year evaluation of charter schools, as well as a guide to help chartering agencies (e.g., state and local school boards) do a better job selecting charter schools and holding them accountable. We will package these reports together for you to release, perhaps at an AFT/NEA event on July 29. The Senate Labor and Human Resources is expected to mark up a charter schools bill on July 22. The bill strengthens incentives for states to promote charter schools, and provides greater flexibility for charter schools while demanding increased accountability. There is growing resistance from the education community to passing a charter schools bill this session, and growing pressure on Democrats to drag their feet on the bill. We continue to support the committee in its efforts, and believe the bill will ultimately be reported out of committee.

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6. **Education -- Bilingual Ed:** The Education Department has completed work on its bill to overhaul bilingual education, and it is ready for transmittal if and when needed. Next week, we will begin consultations with House Democrats, seeking their views on whether an alternative to Riggs is needed, and sharing with them the approach in our bill. In addition, we are working closely with the Education Department and other agencies to make sure we have a robust package of steps you can take or propose, in addition to changes in the bilingual education program, that will actually make it possible for students to succeed in learning English. These steps include strengthening Head Start to better prepare LEP students for school, forming partnerships to help school districts recruit and train qualified teachers, and using technology to train teachers of LEP students and help students acquire English skills. We anticipate completing work on the entire package within the next 2 weeks.

7. **Health Care -- Patients' Bill of Rights Update:** Next week, we are planning two events to increase your visibility on the patients' bill of rights legislation. The first is a roundtable with physicians and patients who have had bad experiences with managed care plans, such as being denied access to a specialists, that would have benefited from a patients' bill of rights. We are currently working with the American Medical Association to see if they would be willing to host this event. The second event could be with the Democrats on the Hill. It may also be possible to highlight Congressional Budget Office estimates of the Dingell-Kennedy-Ganske legislation, which we expect will project premiums to increase by about 4 percent for the average employee, which amounts to about \$7 a month (a cost that will be split between employers and employees). We are also looking to see if we could unveil a new Families USA report that highlights what states are doing in this area. On the Hill, the Senate Republicans are working on their patients' rights bill. We expect that their legislation will contain many, but not all of the patients' protections, including some type of modest enforcement provision.

8. **Health Care -- 25th State Approved for Children's Health Insurance Program (CHIP):** Next week, HHS is planning to approve Utah and Maryland, which will represent the 24th and 25th states for CHIP. Taken together, these 25 state proposals will provide health care coverage for more than 2 million uninsured children. We should highlight this, possibly through a public event with these Governors, both of whom have expressed interest in participating. If you are not available, we may want to consider having the Vice President do this event.

9. **Children and Families -- Well-Being Report:** Next Wednesday, the Federal Interagency Forum on Children and Family Statistics will release its second annual report, *America's Children: Key Indicators of Well-Being*, which you called for in 1997 by Executive Order. The report compiles regularly measured and representative Federal Government statistics on children. This year's report will show positive trends in the overall condition of the nation's children, including decreases in childhood mortality (with infant mortality at an historic low); increases in childhood immunization; dramatic decreases in the number of children with high blood lead levels; lower teen birth rates; and higher college graduation rates. The report will also point to high levels of cigarette smoking, alcohol consumption, and drug use among children; high numbers of children without health insurance (10.6 million in 1996, up from 9.8 million in

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1995); an increase in low-birth-weight babies; and no significant change in the number of children in poverty (about 20 percent). We will try to time the CHIP approvals to coincide with this data, and the First Lady will highlight the findings in her weekly column the following week.

10. Welfare Reform -- Child Support Penalties Bill Coming to You for Signature:

With our strong support, the House and Senate have passed legislation that makes a number of positive changes to child support law. The bill creates more sensible penalties for states that fail to meet the 1988 Family Support Act's requirement to establish state-wide child support computer systems. Instead of the current draconian penalty of withholding all federal child support funds -- a penalty unlikely ever to be imposed -- it puts in place smaller, automatic, and escalating penalties, ranging from 4% of funds for the first year to 30% for the fifth year that a state fails to implement such a system. A dozen states may face penalties. The largest is California, which is still years away from having a functioning system. Los Angeles County unsuccessfully sought an exemption from its portion of California's penalty on the grounds that its system has performed well even if the state has not, but Republicans opposed it.

The bill provides a new formula, proposed by an Administration-led working group, for distributing child support incentive funds based on states' performance on a number of key child support goals, such as paternities, child support orders, and collections, rather than simply cost effectiveness as under current law. It will also make it easier for states to establish medical support orders in cases where the non-custodial parent has private health insurance, by putting in place a process to create a medical support order form that all companies will recognize.

While the bill is a good one, we have not pushed for an event in connection with the signing because it could serve to emphasize how long it has taken some states to comply with the 1988 law requiring state-wide computer systems, and because the press may choose to stress the fact that the bill significantly reduces penalties for those states that have not yet put them into place.

THE WHITE HOUSE
WASHINGTON

June 19, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DRC Weekly Report

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1. **Tobacco -- Meeting with Senator Hatch:** As you requested, Erskine, Larry, and we met with Senator Hatch to discuss his alternative tobacco legislation. Although Hatch would not give us a copy of his bill, his remarks suggested that it differs little from the June 20th settlement. We do not think this bill could command majority support (let alone the 60 votes needed to invoke cloture) in the Senate. The liability provisions (not only an annual liability cap, but also a prohibition on punitive damages and class actions) should make it unacceptable to most of the 60-plus Senators who just two weeks ago voted to strip the much weaker liability protections from the McCain bill. In addition, the payment and lookback provisions (probably resulting in an increase of about 75 cents per pack, plus abatable surcharges) would be too small -- and the FDA provisions too weak -- for most Democrats. Hatch himself admits that this legislation would not pass the Senate without the strong support of Senators Lott and Daschle. But even if Lott were to become sufficiently nervous to enter into a deal of this kind, Daschle almost surely would refuse to do so. The bill, at least as it now stands, is simply too close to the June 20th agreement to obtain the support of more than a handful of Democrats. Our meeting with Hatch -- and the present state of his bill -- reinforced our conviction that we need to spend some time putting pressure on Republican senators before we enter into any compromise discussions.

2. **Tobacco -- Medicare Suits:** We have asked the Department of Justice to analyze the possibility of bringing suit against the tobacco companies for losses suffered by the Medicare program as a result of tobacco-related disease. This suit would be an analogue to the suits brought by 42 states for losses suffered by their Medicaid programs. We expect the Justice Department to note the significant possibility of losing such a suit, perhaps even within a few months. (One large problem is that the Medicare statute does not clearly authorize suits against third-party tortfeasors, as the Medicaid statute does; the suit thus would be subject to an immediate motion to dismiss.) We and the Counsel's Office will transmit to you the Justice Department's analysis, and also will advise you on how such a suit would affect our broader youth smoking strategy.

3. **Tobacco -- Events:** We are preparing a directive for you to announce on Monday (at the Gores' family conference) to initiate work on a new survey to measure youth smoking. This survey, which HHS will develop and conduct, will provide the most accurate possible

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measure not only of overall youth smoking rates, but also of the distribution of youth smoking among different tobacco companies and brands. The survey, which the McCain bill would have mandated, also would form the basis of any lookback surcharges imposed in future tobacco legislation. We also are considering a number of other tobacco-related announcements, including a new Treasury report on the effect of price increases on youth smoking (to highlight the insufficiency of the expected no-money House bill) and a directive preventing movie makers from using federal lands (e.g., military installations and national parks) if their movies contain or glamorize youth smoking.

4. Health -- Vice President's Family Conference: The Gores will host their annual family conference next week, which will focus on health care. In addition to urging Congress again to pass a patients' bill of rights, you and the Vice President will announce an executive directive on children's outreach and a multi-faceted national health initiative for older Americans. The initiative for the elderly includes: new preventive benefits for Medicare beneficiaries; a national Internet site for Medicare beneficiaries; and a new nationwide public/private Medicare council with over 80 organizations that is designed to encourage prevention and wellness among older Americans and to ensure that they have the information they need to select the best possible health plan. To highlight the new preventive benefits, the First Lady will release a new public service announcement on osteoporosis, featuring her and Mrs. Gore. You also will reiterate your commitment to comprehensive anti-tobacco legislation and announce an executive directive to develop a survey on youth smoking (see above).

5. Health -- Medicare and Hyde Amendment: Secretary Shalala will transmit a letter to Senator Nickles on Tuesday that reaffirms the Health Care Financing Administration's longstanding policy to apply the Hyde Amendment to the Medicare program. Prior to the release of the letter, we will hold meetings with the women's advocacy organizations, the Catholic Health Association (CHA), and Senator Nickles's staff. In our meeting with the CHA, we will offer a way for Catholic health plans to decline to provide any abortion services (even those permitted under Hyde) and still become Provider Sponsored Organizations eligible to receive Medicare payments.

6. Health -- FDA Commissioner Nomination: You are tentatively scheduled to announce on Tuesday that Jane Henney is your nominee for FDA Commissioner. We do not expect Henney to have an easy road to confirmation, but we are working closely with Sen. Domenici, her home-state sponsor, to ensure that she gets the best possible send-off.

7. Health -- Patients' Bill of Rights Legislation: The Republican House Leadership is expected to release proposed health care legislation next week, which apparently will include a watered-down patients' bill of rights initiative combined with "Health-Mart" and "multi-employer welfare association" (MEWA) provisions. The patients' bill of rights initiative almost certainly will lack both a strong enforcement mechanism and any "body-part mandates" (e.g., for breast reconstruction following a mastectomy). The Health-Mart and MEWA provisions probably will enable small businesses to exempt themselves from state

health regulations (including state-passed patients' bills of rights) and lead to further segmentation of the insurance market (i.e., separating healthy from sick populations). The Republican initiative also may include some inefficient tax incentives. As of now, we are not sure whether this bill will satisfy Congressman Norwood's desire for a patients' bill of rights initiative. If it fails to do so, we expect him to work with Congressman Dingell on a discharge petition to bring strong bill of rights legislation to the House floor.

8. Drugs -- Drug Courts: In response to your interest in drug courts, we are preparing an event in which you will announce the release of the latest Justice Department drug court grants. Approximately 150 jurisdictions will receive \$27 million in grants to help plan, implement, enhance, or evaluate drug courts. Some of the cities receiving grants are San Francisco, Omaha, Little Rock, Washington, D.C., and Atlanta. We may want to combine this announcement with the nationwide launch of our anti-drug media campaign, tentatively scheduled for July 9.

9. Drugs -- PRIDE Survey: The National Parents' Resource Institute for Drug Education (PRIDE) released on Thursday its annual report on teen drug use. The report shows that drug, alcohol, and tobacco use by teens generally dropped during the 1997-98 school year -- the first across-the-board declines since the 1990-91 school year. Among the most notable declines: (1) marijuana use among junior and senior high students fell from 15% to 13% and from 36% to 33%, respectively, last year; and (2) cigarette use by junior high students fell from 32% to 29% last year -- the first such decline in the 11-year history of the PRIDE survey. The single discordant note in the report is that students in the 12th grade reported slight increases in their use of cigarettes, cocaine, uppers, and downers.

10. Drugs -- Pulse Check Report: ONDCP will release on Thursday its biannual Pulse Check report on the use and distribution of illicit drugs in 30 cities. The information contained in Pulse Check is gathered from ethnographers, law enforcement officials, and drug treatment providers. Some of the report's key findings include: (1) methamphetamine has continued its spread eastward and is now considered an emerging drug in Baltimore and Columbia, MD; (2) heroin use is stable or rising, with young users who snort or smoke the drug increasing across the country; (3) crack is failing to attract new users, although powder cocaine use is rising among the affluent in a few areas; and (4) marijuana use is widespread, crossing economic and social groups. Director McCaffrey is planning to unveil the Pulse Check report with DEA Administrator Tom Constantine and NIDA Director Alan Leshner.

11. Crime -- Brady Handgun Checks: The Justice Department will release on Sunday a report on Brady checks conducted in 1997. The report shows that state and local officials conducted 2.5 million background checks last year and prevented 69,000 sales of handguns. About 62 percent of the 69,000 rejections were for felony convictions or current indictments; 9 percent were for domestic violence misdemeanors; 6 percent were for fugitive status; and 2 percent were for domestic violence protective orders. The report also states that from February 28, 1994 (the Brady Law's effective date) through the end of 1997, background

checks have prevented 242,000 handgun sales to prohibited purchasers. We previously have used a slightly higher figure (300,000 sales), based on a Justice Department estimate that could not fully separate sales of handguns and long guns.

12. Crime -- Modified Assault Weapons: We successfully deflected an attempt last week to add a rider to the Senate Treasury-Postal appropriations bill that would have undermined our recent decision to prevent the importation of modified assault weapons. The rider would have grandfathered more than a hundred thousand of these weapons into the country. To prevent the rider from passing, we helped craft an alternative amendment to reimburse importers for a limited number of firearms (roughly 2,000 to 3,000) that were in or en route to bonded warehouses when we announced our administrative action. This amendment, which also provides for the destruction of these weapons, passed instead of the broad rider originally proposed.

13. Crime -- Zero Tolerance: As you know, you signed a law in 1995 requiring all states to adopt a zero-tolerance standard for underage drinking and driving by October 1, 1998. On June 29, South Carolina will become the 50th state to enact a zero-tolerance law. Delaware's zero tolerance law, however, does not fully comply with the federal standard and must be amended.

14. Education -- Teacher Education: Senator Bingaman has proposed an amendment to the Higher Education Bill (to be taken up by the Senate next week), which would impose new accountability requirements on teacher education programs. The amendment would require teacher education programs to publish the percentage of their students passing state teacher certification tests, and would cut off financial aid to students in programs with less than a 70 percent pass rate. The amendment has the strong support of the NEA, but is opposed by the higher education community and Senators Jeffords, Coats, Kennedy, and Dodd. We are working with Bingaman and Kennedy to find an approach that retains the amendment's strong emphasis on accountability without penalizing students for the low quality of their program.

15. Education -- Charter Schools: The Senate Human Resources Committee will mark up a bill to expand the charter schools program when the Senate returns from its July 4th recess. The House passed a similar bill last summer, which you supported. We are working with Sen. Kennedy to ensure that the Senate's version of the bill enables charter schools to expand more rapidly, while making sure they are held accountable for outcomes.

16. Welfare Reform -- GAO Report: The GAO issued a report last week showing sharp increases in the proportion of welfare recipients going to work. The GAO found that in three of the seven states studied (California, Louisiana, and Maryland), the proportion of welfare recipients who obtained jobs more than doubled between 1995 and 1997 and in another two states (Oregon and Wisconsin), the proportion increased by more than 70 percent. In one state (Texas), the proportion declined very slightly. In the last state (Connecticut), data

on jobs was not available, but there was a substantial increase in the number of families leaving welfare because of increased earnings.

17. Welfare Reform -- Conference of Mayors Report: The U.S. Conference of Mayors released a report Friday on welfare reform in urban areas. A survey of 125 mayors included in the report indicates that while they see some cause for optimism after the first 18 months of welfare reform, they remain concerned about creating enough jobs and connecting people to those jobs. They note especially the lack of adequate child care, transportation, and affordable housing near employment. The report also estimates that the number of welfare recipients in urban areas needing jobs over the next five years could exceed by about 350,000 the number of jobs created in that time. HHS has methodological questions about this overall projection, noting for example that the study ignores welfare recipients who are already working and can take advantage not only of new jobs, but of turnover in the existing labor market. The study, however, clearly shows significant disparities among urban areas in the size of projected job gaps. In areas such as Fort Worth, Las Vegas, Little Rock, Miami, Phoenix, and San Francisco, projected job growth exceeds the expected number of job seekers; in areas including Detroit, Providence, Newark and Cleveland, the projected ratio of low skill job seekers to jobs is very high.

18. Welfare Reform -- Civil Rights Guidance: A number of agencies, including HHS, DOJ, EEOC, and DOL, have drafted guidance on the application of civil rights laws to welfare reform, particularly work requirements and time limits. The guidance notes, for example, that a racially neutral criterion that exempts disproportionately few racial minorities from the five year time-limit is permissible, but only so long as the state has a substantial and legitimate justification for this criterion and there is no comparably effective alternative that would exempt more minorities. HHS intends to share this guidance in the coming weeks with civil rights groups, advocates, and the states. Although we share HHS's view that the guidance is useful, we are somewhat concerned that the states may interpret it as imposing new requirements, rather than simply showing how existing law applies to new programs. We accordingly are working with HHS to ensure a smooth roll-out of this draft guidance to the states.

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THE WHITE HOUSE
WASHINGTON

March 13, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

*See Weekly
Strategy Notes*

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10. Crime -- Prison and Jail Population: The Justice Department will release on Sunday its mid-1998 report on prison and jail inmates. The report shows that a total of 1.8 million persons -- or one out of every 150 U.S. residents -- were incarcerated in the nation's prisons and jails. The prison population (totaling 1.27 million) increased 4.8 percent from the previous year, a fair bit less than the average annual increase of 6.9 percent since 1990. States with the largest increases in prison population were: ND (19.5 percent), MT (18.3 percent), and HI (13.6 percent). States with the largest decreases were: the District of Columbia (10.9 percent), ID (3.6 percent), and WY (3 percent). The jail population (totaling 592,000) increased 4.5 percent from the previous year, slightly less than the average annual growth rate of 4.9 percent since 1990. Local jails were filled to 97 percent of capacity, the same as last year and lower than in 1990, when they operated at 4 percent over capacity.

THE PRESIDENT HAS SEEN

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11. Crime – Hatch Crime Bill: We learned last week that Senator Hatch may introduce a crime bill as early as next week. Reports on the bill are sketchy, but it may include: (1) a version of the COPS program, but with stricter accountability provisions; (2) an authorization for the Local Law Enforcement Block Grant; (3) an expansion of the DeWine/Leahy law enforcement technology grants program; (4) the juvenile crime bill Hatch pushed last year; (5) an expansion of Project Exile to prosecute more gun crimes in federal courts; (6) a ban on the sale of alcohol over the Internet; (7) a reauthorization of the Violence Against Women Act; and (8) a sense of the Senate resolution on the rights of crime victims. You are tentatively scheduled to unveil your 21st Century Crime Bill on March 31.

Don't need to
rush up

Drugs – Medical Marijuana: At ONDCP's request, the Institute of Medicine (IOM) will release a study Wednesday on the medicinal use of marijuana. The study finds that although cannabinoid drugs (primarily THC) have potential therapeutic value for controlling pain and nausea and stimulating appetite, smoked marijuana is a crude THC delivery system that also delivers harmful substances. In particular, the report notes that marijuana smoke is an important risk factor in respiratory disease. (The report does *not* say marijuana acts as a gateway drug or that its medicinal use would increase use among the general population.) Because of the health risks associated with smoking, the report concludes that smoked marijuana generally should not be recommended for medicinal use. The report, however, makes two important exceptions. First, the report approves the use of limited clinical trials of smoked medical marijuana in order to develop a nonsmoked cannabinoid delivery system. Second, the report approves the short-term use (less than six months) of smoked marijuana under medical supervision for patients with debilitating symptoms (chronic pain, vomiting) who have documentation that all other approved medications have failed to provide relief.

Children and Families – Child Care: The House Ways and Means Subcommittee on Human Resources will hold a hearing on child care next week – the first hearing on the issue since we introduced our child care initiative last year. Administration officials will lead off the hearing testimony. Prior to the hearing, Congressman Cardin, the Subcommittee's ranking Democrat, will introduce a child care bill based largely on the Administration's proposals. In the Senate, a group of mostly moderate Republicans, including Senators Chafee, Snowe, and Hatch, will reintroduce their child care bill from last year, which overlaps with ours to a significant extent.

3-22-99

THE WHITE HOUSE

WASHINGTON

March 20, 1999

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Tobacco – Recoupment Issue: The Senate rejected, by a vote of 71-29, a Specter-Harkin amendment to the supplemental appropriations bill that would have allowed the states to retain all tobacco settlement funds in exchange for a commitment to use 20 percent of the funds to combat teen smoking and 30 percent to expand public health programs and/or assist tobacco farmers. The vote leaves intact a provision in the supplemental (offered by Senator Hutchison in committee) that would give up the federal share of the tobacco settlement without any commitment by the states. Those opposing the Specter-Harkin amendment included a number of normally anti-tobacco Democrats (such as Conrad, Leahy, and Kerry) who decided not to buck their governors on this issue. Senator Daschle is attempting to determine whether a watered-down version of the amendment (either requiring only the 20 percent set-aside for tobacco prevention programs or providing simply that the states spend 50 percent of the funds on some combination of tobacco prevention, farmer assistance, education, public health, or children) would garner greater Democratic support. (Note that seven Republicans voted for Specter-Harkin, so the amendment would have passed had all Democrats supported it.) Neither Daschle nor we, however, are very hopeful that he can find a formula to bring Democrats back on board. Our best hope now is that our demand for a clean bill will convince the conference committee to strip the recoupment provision from the supplemental, and that the governors, having lost this opportunity to resolve the issue, will decide to negotiate with us rather than await the next potential vehicle.

2. Health Care – Patients' Bill of Rights: The Senate Labor Committee reported out patients' rights legislation on Thursday by a party-line vote. The legislation applies only to patients in self-insured plans, thus relegating the 80 million Americans in insured plans to state law protections; it omits crucial patient protections, such as access to specialists; it essentially allows HMOs to define what services count as medically necessary in the independent appeals process; and it lacks any adequate enforcement mechanism. Although some Republican Senators (particularly Chafee and Specter) may support some strengthening amendments on the floor, the odds of significantly improving the bill in the Senate are slight. (There is also a question about whether Senator Lott will bring the bill to the floor in the absence of a very constraining time agreement.) The House should pass a stronger bill (though probably not as strong as the Dingell version), setting up the possibility of some middle-ground compromise in conference if the legislation gets that far.

3. Health Care -- Medicare: We are currently preparing options for your consideration on Medicare reform, so that you can put out your own plan as soon as possible. We will not be able to evaluate some questions fully until after March 30, when the Social Security/ Medicare trustees are scheduled to issue their annual report. We expect this report to push out the exhaustion date of the Medicare trust fund by a number of years (perhaps to 2012 or even later). Because these new numbers will make it easier to reach the goal of ensuring solvency until 2020 -- enabling the Republicans to claim the excess funds for tax cuts -- all your advisors agree that you should stop making reference to the year 2020 in articulating the goals of Medicare reform. But because we may want to tap into some of these excess funds ourselves -- in our case, for a more generous prescription drug benefit -- we also do not advise that you insist on adding 10 or 12 years to whatever the trustees announce as the new exhaustion date. For now, we all agree that you should simply demand that we dedicate 15 percent of the surplus (\$686 billion over 15 years) to Medicare. This formulation will allow us some latitude on the question whether all this money should go toward extending solvency or some could go to a drug benefit.

4. Health Care -- Nursing Home Quality: The Senate Aging Committee, chaired by Senator Grassley, released a GAO report last week -- and will release another next week -- criticizing HCFA's enforcement of nursing home quality standards. The reports state that HCFA often declines to investigate serious complaints and takes insufficient corrective action when it does find violations. The reports especially castigate HCFA for failing to enforce quality standards against repeat offenders. Although a nursing home quality initiative you unveiled last year is addressing some of these problems, we believe additional steps are necessary. We instructed HCFA last week to ensure investigations of serious complaints (*i.e.*, those alleging harm to residents) within 10 working days, increase the minimum fine for facilities violating quality standards, and make it easier to impose larger fines. We are also working on a set of more far-reaching changes for inclusion in the new crime bill you will announce on April 1. The most important part of this package is a provision to give the Department of Justice new authority to impose criminal and civil penalties on individuals, facilities, chains, or management companies that engage in a pattern of conduct resulting in physical or mental harm to nursing home residents. Enactment of this provision will ensure that HCFA is not the sole federal entity with specific authority to bring enforcement actions against irresponsible nursing home operators.

5. Health Care -- Nursing Home Resident Protection Act: You are tentatively scheduled to have a signing ceremony next week for a bill to protect Medicaid patients in nursing homes that decide to withdraw from the Medicaid program. Under the legislation, these nursing homes can refuse additional Medicaid patients, but cannot evict current Medicaid patients.

6. Health Care -- Medicaid Guidance: At our request, HCFA will release on

Monday new guidance to states to ensure that individuals eligible for Medicaid -- especially children -- are enrolled as soon as they ask to apply. As you know, some state or local governments appear to be imposing waiting periods before issuing applications for Medicaid or determining eligibility for the program. This guidance makes clear that these delays violate the law and that welfare reform efforts (including diversion programs) cannot reduce access to the Medicaid program. We believe that advocates will applaud the guidance, while states will not seriously object to it.

7. **Health Care -- Antibiotics in Animal Feed:** You recently asked about a report indicating that feeding antibiotics to livestock may increase the prevalence of antibiotic-resistant bacteria and thereby decrease our ability to cure infections in people. The FDA has become concerned about this problem and is planning to issue a draft regulation requiring manufacturers to test their antibiotic feed additives at regular intervals to see if they foster the growth of resistant bacteria. If the products are found to do so, the FDA will curtail their distribution or remove them from the market. The drug and agriculture industries will object to the draft regulation, arguing that antibiotic feed additives are necessary to produce affordable meat and poultry and are not dangerous to the people who consume these products. Public health advocates probably will say that the regulation does not go far enough, because it does not immediately eliminate or severely restrict the use of antibiotics in animal feed. The FDA should issue the draft regulation within a few weeks, with a formal NPRM several months away.

8. **Health Care -- Stem Cell Research:** The next issue of *Science* will include a letter from 73 prominent scientists, including 67 Nobel Prize winners, supporting NIH's plans to fund stem cell research. This letter, which makes clear the scientific and medical potential of stem cell research, should help us to defeat legislation proposed by pro-life members of Congress to prohibit NIH from funding such experiments.

9. **Education -- Ed-Flex/Class Size/Special Education:** The conference committee on the Ed-Flex bill is expected to get under way after the two-week congressional recess. When the House appoints conferees next week, Congressman Clay will offer a motion instructing House conferees to "insist that funds appropriated . . . for class size reduction" be used only for that purpose and that "additional funding should be appropriated" for special education. We have heard from several sources that Lott, Frist, Hastert, and Goodling all have said that they intend to take the class size/special ed provision out of the Ed-Flex bill in conference. We are not taking this outcome for granted, however, and we are continuing to work with the education groups to maintain pressure for deleting this provision.

10. **Education -- University of California Admissions Policy:** The University of California Board of Regents yesterday approved, by a vote of 13 to 1, a plan to guarantee a place in one of the university system's eight undergraduate campuses for the top four percent of the students in each of the state's high schools. Although Governor Davis proposed this action as a way to increase diversity in the wake of the state's affirmative action prohibition,

it is not expected to have a dramatic effect on the racial composition of the university system. The plan will add about 3,600 students of all racial backgrounds to the current pool of eligible applicants, increasing the eligibility rate for African-Americans from 2.8 to 3.6 percent, for Hispanics from 3.8 to 4.7 percent, for whites from 12.7 to 14.4 percent, and for Asian Americans from 30 to 31.5 percent. The plan was based on a policy adopted in Texas that guarantees admission to the top 10 percent of every graduating class.

11. **Welfare Reform -- TANF Rule:** HHS, OMB, and we have reached consensus on the major issues in the final welfare regulation and expect to be able to release it in mid-April. While continuing to hold states generally accountable for work requirements, time limits, and maintenance of effort provisions, we have responded to their (and the advocates') pleas for additional flexibility. In particular, the final rule will allow states to use TANF funds to provide child care, transportation, job retention services, and other supports to non-welfare working families without triggering time limits or other TANF requirements. While many states have wanted to use TANF funds for these purposes to ensure that families coming off the rolls do not go back on, they have hesitated to do so for fear that such assistance would count toward the federal five-year time limit. The rule alleviates this fear by defining such supports for working families as "non-assistance," which is not subject to TANF requirements. The rule also treats work subsidies given to employers as "non-assistance," which we think will encourage more states to use them. (In 1997, only 1 percent of working welfare recipients were in subsidized jobs.) We expect a generally positive reaction to the regulation and are exploring appropriate announcement opportunities.

12. **Welfare Reform -- Cuts in TANF Funds Restored:** The Senate passed an amendment offered by Senator Stevens on Thursday to eliminate from the supplemental appropriations bill the \$350 million cut in TANF funds. As you know, our SAP opposed the TANF cut and Governors lobbied hard against it. Stevens substituted a change to HUD's Section 8 housing program which OMB assures us has no adverse programmatic impact: although the provision defers spending from FY 1999 to FY 2000, so many housing contracts straddle both years that this provision is little more than a change in accounting.

THE WHITE HOUSE

DOMESTIC POLICY COUNCIL
FAX: (202) 456-2878

To: Chris Jennings
Jose Cerda
Cynthia Rice
Paul Weinstein
Nicole Rabner
John Schnur
Tanya Martin
Tom Freedman
Irene Bueno

Date: March 15, 1999

Fax #:

Pages: 6, including this cover sheet.

From: Elena Kagan

Subject: DPC Weekly Report

COMMENTS:

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10. Crime -- Prison and Jail Population: The Justice Department will release on Sunday its mid-1998 report on prison and jail inmates. The report shows that a total of 1.8 million persons -- or one out of every 150 U.S. residents -- were incarcerated in the nation's prisons and jails. The prison population (totaling 1.27 million) increased 4.8 percent from the previous year, a fair bit less than the average annual increase of 6.9 percent since 1990. States with the largest increases in prison population were: ND (19.5 percent), MT (18.3 percent), and HI (13.6 percent). States with the largest decreases were: the District of Columbia (10.9 percent), ID (3.6 percent), and WY (3 percent). The jail population (totaling 592,000) increased 4.5 percent from the previous year, slightly less than the average annual growth rate of 4.9 percent since 1990. Local jails were filled to 97 percent of capacity, the same as last year and lower than in 1990, when they operated at 4 percent over capacity.

THE PRESIDENT HAS SEEN

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11. Crime -- Hatch Crime Bill: We learned last week that Senator Hatch may introduce a crime bill as early as next week. Reports on the bill are sketchy, but it may include: (1) a version of the COPS program, but with stricter accountability provisions; (2) an authorization for the Local Law Enforcement Block Grant; (3) an expansion of the DeWine/Leahy law enforcement technology grants program; (4) the juvenile crime bill Hatch pushed last year; (5) an expansion of Project Exile to prosecute more gun crimes in federal courts; (6) a ban on the sale of alcohol over the Internet; (7) a reauthorization of the Violence Against Women Act; and (8) a sense of the Senate resolution on the rights of crime victims. You are tentatively scheduled to unveil your 21st Century Crime Bill on March 31.

*Do you
need to
look up?*

Drugs -- Medical Marijuana: At ONDCP's request, the Institute of Medicine (IOM) will release a study Wednesday on the medicinal use of marijuana. The study finds that although cannabinoid drugs (primarily THC) have potential therapeutic value for controlling pain and nausea and stimulating appetite, smoked marijuana is a crude THC delivery system that also delivers harmful substances. In particular, the report notes that marijuana smoke is an important risk factor in respiratory disease. (The report does *not* say marijuana acts as a gateway drug or that its medicinal use would increase use among the general population.) Because of the health risks associated with smoking, the report concludes that smoked marijuana generally should not be recommended for medicinal use. The report, however, makes two important exceptions. First, the report approves the use of limited clinical trials of smoked medical marijuana in order to develop a nonsmoked cannabinoid delivery system. Second, the report approves the short-term use (less than six months) of smoked marijuana under medical supervision for patients with debilitating symptoms (chronic pain, vomiting) who have documentation that all other approved medications have failed to provide relief.

Children and Families -- Child Care: The House Ways and Means Subcommittee on Human Resources will hold a hearing on child care next week -- the first hearing on the issue since we introduced our child care initiative last year. Administration officials will lead off the hearing testimony. Prior to the hearing, Congressman Cardin, the Subcommittee's ranking Democrat, will introduce a child care bill based largely on the Administration's proposals. In the Senate, a group of mostly moderate Republicans, including Senators Chafee, Snowe, and Hatch, will reintroduce their child care bill from last year, which overlaps with ours to a significant extent.

THE WHITE HOUSE
WASHINGTON

June 11, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

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1. Tobacco -- Senate Update: The Senate passed several important amendments to the McCain bill this week. The Craig-Coverdell amendment, approved by a 52-46 vote, authorizes about \$2 billion per year for anti-drug efforts. Although we support most of these efforts, the money for them would come out of the funds previously reserved for public health programs: if the appropriators were to provide the full amounts authorized for these anti-drug efforts, funding for smoking cessation, education, and counteradvertising programs would decrease by about 80 percent. The amendment also prohibits the use of federal monies for needle exchange and allows states to give education vouchers to students who have been the victims of school violence.

The Senate also passed by a vote of 50-48 the Gramm tax-cut amendment. The Gramm amendment would cost \$16 billion over the first four years and an additional \$30 billion in the next five years; in these years, all the cost would come out of tobacco revenues. After 2008, the estimated cost of the proposal would increase dramatically to over \$10 billion each year; one-third of all tobacco revenues would go to pay for this tax cut, with other revenues (presumably the surplus) accounting for the rest. The amendment would provide all couples with annual incomes below \$50,000 a new tax deduction of \$825 this year, rising to \$3,300 in 2008, and would provide full deductibility of health insurance for the self-employed.

Finally, the Senate passed by a vote of 66-33 an amendment sponsored by Senators Kerry and Bond to require states to spend 25 percent of the funds they receive under the bill on child care subsidies. (States would have to spend another 25 percent of their funds on the menu of programs we negotiated with the NGA, which includes child care subsidies; states could do whatever they wished with the remaining 50 percent of their funds.)

As a result of these votes, key groups have expressed concern about the diminishing dollars available to them. The Governors have drafted a letter objecting to the state financing section of the bill because the funding level has dropped below the \$196.5 billion over 25 years originally provided in the bill (the same level contained in the June 20 settlement). The Governors also may object to the further restrictions placed on state spending by the passage of the Kerry-Bond amendment. At the same time, public health groups such as the Campaign for Tobacco Free Kids, the American Cancer Society, and the American Heart Association are

deeply concerned that sufficient funding will not be available for anti-smoking programs. Erskine, Secretary Shalala, and we met with them on Friday to explain that the bill would not move through the Senate without funding for tax cuts and anti-drug programs, and to urge them to work hard over the next few days to achieve final passage.

With the addition of a tax cut and anti-drug programs, Republicans should find it more difficult to oppose the bill. Many Republican Senators, however, harbor a very deep hostility to this legislation, and they read new polls to suggest that obstructing it will have little electoral consequence. Senator Lott sharply criticized the bill on this Sunday's talk shows and indicated that it would not pass the Senate. He noted that the Senate still had not dealt with the issues of tobacco farmers or attorneys' fees and that either issue could cause the legislation to explode. (Actually, the Senate has rejected two amendments to cap attorneys' fees -- one limiting fees to \$250 per hour and the other limiting fees to \$1,000 per hour -- but apparently Lott believes this issue remains open.) He also indicated that while there were not 50 votes in the Senate to defeat the legislation, there also were not the 60 votes necessary to pass it.

You will be speaking on Monday to 150 high school Presidential scholars and can use the event to urge swift passage of the tobacco legislation.

2. Education -- National Testing: The National Academy of Sciences (NAS) released an interim report last week, as required by last year's Labor-HHS-Education appropriations bill, on the feasibility of linking scores from existing commercial and state reading and math tests to each other and/or to NAEP. The NAS concluded that it is not technically feasible to compare student scores on different tests to each other and/or to the NAEP standards. This conclusion of course undermines Rep. Goodling's argument that existing tests could be used to accomplish the purpose of a national test in reading and math. We do not expect, however, that this report will dampen his opposition to our testing initiative. Indeed, earlier this week, he received assurances from the Republican leadership about supporting an anti-testing rider on this year's appropriations bill. (The leadership provided these assurances when they decided to remove an anti-testing provision, as well as a sweeping education block grant provision, from the conference report on the Craig-Coverdell education tax bill; as you know, they believe that removing these provisions will make it harder for you to veto the bill.)

3. Crime -- PRIDE Study: The National Parents' Resource Institute for Drug Education (PRIDE) will release on Thursday its annual survey on teen drug use and violence for the 1997-98 school year. We have not yet seen the data on drug use among teens, but PRIDE has shared with us some of its findings on school violence. The study finds that the percentage of students who reported carrying a gun to school decreased by over a third since the 1993-94 school year -- from 6 percent to 3.8 percent (or nearly 1 million students). Of those students who brought a gun to school, almost half did so six or more times, over half threatened to harm a teacher, and nearly two-thirds threatened to harm another student. Drug use was very high among students carrying guns: 30 percent used cocaine in the month prior

to carrying a gun to school; 32 percent used stimulants such as methamphetamine; and 31 percent used hallucinogens. Perhaps most important, the survey reaffirms the effectiveness of involving kids in after-school programs and school activities. Students who did not bring guns to school were 53 percent more likely to be involved in after-school programs and 34 percent more likely to be active in school activities (such as band and sports teams) than those who carried guns.

4. Child Care -- House Legislation: The First Lady and Secretary Shalala joined House Democrats last week as they unveiled a comprehensive child care bill that includes all the pieces of your child care initiative, plus a tax credit for families with a stay-at-home parent and children under four years of age. The \$20 billion package will be sponsored by more than 100 members. The proposal does not specify funding sources.

5. Child Care -- After-School Event: You are currently scheduled to announce on Wednesday \$40 million in grants for after-school programs. These grants, the first awarded under the new 21st Century Learning Centers Program, will allow 315 schools in 36 states to establish or expand after-school initiatives. You also will release a new report, titled *Safe and Smart: Making the After-School Hours Work for Kids* and jointly authored by the Departments of Justice and Education, which finds that quality after-school programs decrease juvenile crime and improve the academic performance of participating children. This event, also involving the First Lady and Vice President, will support our efforts to expand the 21st Century Learning Centers Program in this year's appropriations process.

6. Health -- Patients' Bill of Rights: Larry Stein and Chris Jennings met with Rep. Dingell last week to discuss patients' bill of rights legislation. Dingell said he would work closely with the Administration in the event that he and Rep. Norwood begin to talk seriously about developing a unified bill to be brought to the floor by way of a discharge petition. For the moment, Dingell believes (and we agree) that he should stand firmly behind his bill as written, including its state-court liability enforcement provisions, rather than signal any willingness to compromise. Dingell noted, however, that the CBO may soon issue a high estimate of the costs associated with his bill's enforcement provision. We have heard that the Republican leadership has insisted on reviewing the CBO's estimate before it is released and is subjecting the CBO staff to relentless pressure. We will talk with Dingell about an appropriate response when we learn more about the CBO's estimate.

7. Health -- Vice President's Announcement of the Quality Forum: The Vice President is scheduled to unveil on Wednesday a planning committee to establish a "Quality Forum," a private sector entity that will develop and disseminate uniform standards for high-quality health care. Your Quality Commission recommended establishing this Forum, and you asked the Vice President to oversee the process. In conjunction with this announcement, we are releasing a report that highlights the many shortcomings of the current system: the report will note, for example, one study's estimate

that preventable errors in hospital care lead to 180,000 needless deaths each year. Developing uniform measures of quality and encouraging health plans to adopt these measures has great potential to improve health outcomes, increase confidence in the health care system, and save costs. We will describe this effort as the natural complement to our patients' bill of rights proposal in the effort to promote health care quality.

8. Health -- FDA Commissioner: We plan to announce the nomination of the new FDA commissioner, Jane Henney, as soon as the Senate completes consideration of the McCain bill. (We do not think it would be helpful either to confirming Henney or to passing the tobacco bill to announce her nomination in the middle of the current debate in the Senate.) So far, advance word of her nomination has prompted neither major objections nor strong support. It is possible that Republicans will try to portray Henney as a David Kessler protégé essentially chosen by Senator Kennedy. One positive development is that Senator Domenici has agreed to accompany Henney on courtesy visits to Republican members of the Senate Labor Committee.

Manpower ✓
9. Housing/Welfare Reform -- Welfare-to-Work Housing Vouchers: The Senate Appropriations Subcommittee for VA and HUD last week voted in favor of a demonstration program that would give \$40 million to seven cities or counties for 7,000 "self-sufficiency" housing vouchers targeted to people moving from welfare to work. The seven sites chosen were New York City, Los Angeles, Cleveland, Miami-Dade County, Anchorage, Charlotte, and Prince George's County. Although the Subcommittee provided substantially fewer welfare-to-work vouchers than the Administration requested -- 7,000 instead of 50,000 -- the vote is a good first step for the Administration's initiative. The Chair of the VA/HUD Subcommittee in the House (Jerry Lewis) has expressed interest in the program, and we are hopeful that he will support a greater number of vouchers.

10. Welfare Reform -- Portland Study: HHS is preparing to release an evaluation of Portland, Oregon's mandatory welfare reform program which shows that the program has led to increased employment and earnings and reduced welfare expenditures. The study, conducted by Manpower Demonstration Research Corporation as part of HHS's national evaluation of welfare-to-work strategies, tracked over 5,500 recipients from 1993 through mid-1996. The study found that after two years, participants in the program had earnings that were 35 percent higher and employment levels that were 11 percent higher than comparable individuals in the control group. Participants also received 17 percent less in welfare payments than people in the control group; 41 percent of program participants still received welfare after two years, as compared with 53 percent in the control group. The program had a measurable positive impact both for people with few barriers to employment and for people considered harder to place.

Portland required all welfare recipients with children older than one year to participate in its program and sanctioned 21 percent of recipients for failure to comply with program rules. (The sanction rate is in the mid-range for comparable programs.) The

program generally had a strong employment focus, but a significant number of participants also participated in short-term education and training activities. The staff emphasized child care arrangements in their case management, and the program had relatively high child care usage and costs. The program, however, did not increase overall welfare costs.

✓ 11. **Welfare Reform -- New Jersey Family Cap Study:** Secretary Shalala has sent you a memo on the draft Rutgers University study issued last week which concluded that New Jersey's family cap policy has resulted in a "small but non-trivial" effect on abortion rates (an estimated additional 240 abortions per year). As the memo relates, both New Jersey and HHS have raised serious questions about the study's methodology and findings. Rutgers is currently revising the study in response to these criticisms. A total of 22 states have adopted a family cap policy since the passage of the welfare law (up from 15 states that had waivers to implement this policy).

✓ 12. **Disabilities -- Bunning-Kennelly Legislation:** The House last week passed legislation, sponsored by Reps. Bunning and Kennelly and supported by both the Administration and the disability community, to move SSDI and SSI beneficiaries into the workforce by using a "pay for performance" approach. People on the SSDI and SSI rolls currently get rehabilitation services through state vocational rehabilitation agencies, which receive reimbursement for their costs. Under Bunning-Kennelly, beneficiaries could choose their own rehabilitation providers from among a number of public and private entities. Providers that successfully assist beneficiaries to leave the rolls and return to work would receive a percentage of the disability benefits saved. These payments would continue as long as the person remained off the rolls, up to a maximum of five years. The premise of the bill is that providers will have a greater interest in their clients' long-term success if they are rewarded for results rather than reimbursed for costs. Notwithstanding widespread support for this approach, the bill's fate in the Senate is uncertain. Senators Jeffords and Kennedy may not want to move the bill unless it is paired with their proposal to extend Medicare and Medicaid benefits to those leaving SSDI or SSI. We have a number of problems with the Jeffords-Kennedy bill, including its cost (estimated at over \$1 billion each year) and complexity. We are meeting this week with staff for the Senators to discuss these issues, as well as the possibility of moving the Bunning-Kennelly bill forward.

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THE WHITE HOUSE
WASHINGTON

THE PRESIDENT
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July 2, 1998

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

✓ 1. **Tobacco -- Legislative Strategy Update:** We and Larry Stein believe that we should proceed along two fronts in our effort to get tobacco legislation back on track. On the first track, we must try to bring increased pressure to bear on Senator Lott to pass a comprehensive bill. To this end, we have worked with the public health community (which is generally demoralized and weak) on various grassroots activities over the congressional recess. We also have worked with Senator Daschle's office on a strategy for continuing to force votes on tobacco legislation on the Senate floor. Our preferred approach (which we think we can persuade Sen. Daschle to adopt) is to offer a tobacco amendment that makes no spending decisions (and so refutes somewhat the "tax-and-spend" argument) and therefore is not subject to a point of order (and so requires only 50 votes). Democrats could offer this amendment on either the VA-HUD appropriations bill or the product liability bill this week. We do not expect this amendment to win, but hope that it will make Lott recalculate the costs of killing comprehensive legislation. On the second track, we should explore with Lott and other Republicans what they need to support comprehensive legislation and whether a new deal is in reach. We will discuss with Erskine as soon as he comes back how to proceed with this part of our strategy.

2. **Tobacco -- Executive Orders:** We are also working on additional executive actions on tobacco to keep the pressure on Congress over the coming weeks. As you know, your announcement of a new HHS survey of youth tobacco use received a very favorable response. We are now completing a directive to HHS and DOJ to make the recently released tobacco documents more accessible to the public health community, the scientific community, litigants, and the general public. Although these documents are currently available on the Internet, no one can make effective use of them because they have not been organized in any comprehensible manner. The directive will require the departments to (1) create a user-friendly database and/or index of the documents and make this database and/or index widely available, and (2) require scientific analysis of the documents for information advancing public health goals. We are also exploring directives to (1) produce counteradvertisements on youth smoking for use by states and serve as a clearinghouse for state-produced counteradvertisements; (2) ban underage smoking on federal property and deny filming privileges on federal property for movies that portray youth smoking; (3) require strict enforcement of a Goals 2000 provision to ban smoking in facilities receiving federal funds to

provide children's health care, day care, education, or library services; and/or (4) require OSHA to issue within a year a standard protecting workers from environmental tobacco smoke.

3. Health Care -- HIPAA Enforcement: You are scheduled to announce on Tuesday that the federal government will take additional action against insurers who are circumventing the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Earlier this year, we received a number of troubling reports that insurers were giving financial incentives to agents to avoid or delay enrolling Americans with pre-existing conditions, in contravention of the intent of HIPAA. Although the number of reports has declined since you directed HCFA to send guidance to insurers in March, insurer misconduct of this kind may still be a problem. To help ensure full compliance with HIPAA, you will direct the Office of Personnel Management (OPM) to take all appropriate action -- up to and including termination of a participating health plan from the Federal Employees' Health Benefit Plan (FEHBP) -- if the agency determines that a plan is engaging in insurance practices that are inconsistent with the letter or spirit of HIPAA. FEHBP, which contracts with 350 carriers and has 9 million enrollees, also will require health plans to certify that they are abiding by HIPAA before they can participate in the program. You also will direct HCFA to report any abuses they discover to OPM, and you will announce that the National Association of Insurance Commissioners has agreed to report any violations of HIPAA to OPM.

4. Health Care -- CBO Cost Estimates of Patients' Bill of Rights: The Congressional Budget Office (CBO) is expected to release on Thursday estimates of the cost of the Dingell/Ganske/Kennedy patients' bill of rights legislation. We anticipate that the CBO will project that this legislation will increase premiums by about 4 percent for the average employee, which amounts to about \$7 a month (a cost that will be split between employers and employees). We are working on a positive roll-out strategy for this estimate to buttress our claim that the benefits of such legislation are more than worth the modest costs. Opponents of this legislation will try and use the estimates to argue that the patients' bill of rights will increase health care costs and the number of uninsured. Assuming we are successful at portraying these costs as moderate, the primary outstanding issue on patients' bill of rights legislation will concern the appropriate enforcement mechanism. We will send you an options memo soon on how best to position the Administration on this issue.

5. Health Care -- Report on Low-Income Medicare Beneficiaries: Families USA will release a report early this week showing that over 3 million low-income Medicare beneficiaries are eligible for but not enrolled in the Qualified Medicare Beneficiary (QMB) program. The QMB program pays Medicare copayments and deductibles for beneficiaries below 100 percent of poverty and pays premiums for beneficiaries below 135 percent of poverty. (Prior to last year's Balanced Budget Act, premium assistance went to beneficiaries below 120 percent of poverty). Many beneficiaries, however, are not aware of this assistance or have difficulty applying for it. To respond to this problem, we are preparing a multi-faceted effort by SSA and HCFA to enroll eligible beneficiaries in QMB by: (1) encouraging simple

mail-in applications; (2) posting information about QMB in SSA offices; (3) including information about QMB in the pamphlets going to all Medicare beneficiaries this fall, and in annual cost-of-living-adjustment (COLA) notices received by Social Security beneficiaries; and (4) creating a new task force to find other ways to enroll eligible beneficiaries. We are preparing to announce these measures just around the time the Families USA report is issued.

6. Health Care -- Medicare Handbook: Secretary Shalala decided recently not to release this year's version of the Medicare handbook, which was supposed to inform beneficiaries of their new program options. The draft of the handbook that the Secretary received was unintelligible, and the Secretary decided that it would confuse beneficiaries. The Secretary instead instructed HCFA to send beneficiaries a short pamphlet providing basic information on the new choices and making clear that beneficiaries can remain in fee-for-service plans. Senator Breaux and Congressman Thomas sharply criticized the Secretary's decision, but advocates generally supported it on the ground that the handbook as written would have misled beneficiaries.

7. Health Care -- Catholic Health Plans and Medicare: We have reached agreement with the Catholic Health Association (CHA) on a way to allow Catholic health plans to become Medicare contractees even though they will not provide abortion services. Under this approach, Catholic health plans will disclose that they do not cover abortion services and Medicare will reduce payment to the plans by a small amount. (Beneficiaries of Catholic plans needing an abortion can go to fee-for-service providers.) We are meeting with HHS to determine whether to implement this plan through new legislation or administrative action; we should conclude this matter in a few weeks.

8. Health Care -- FDA Commissioner Nomination: We are working with Senator Domenici to introduce Jane Henney to as many Senators as possible. In meetings last week, most Senators appeared open to her candidacy. Senator Coats, who is expected to be the lead Republican on the Labor committee for this confirmation, expressed discomfort with Henney's link to Senator Kennedy and David Kessler, but also acknowledged that Doc Bowen, President Reagan's HHS Secretary, strongly supports the nomination. We will continue to work with Domenici on this nomination, and to try to secure a hearing date before the August recess; right now, we are cautiously optimistic about Henney's prospects.

9. Crime -- Youth Handgun Safety: You are scheduled to participate in an event on Wednesday that will focus on keeping firearms out of the hands of children. You will announce a final Treasury Department regulation requiring all federally licensed gun dealers to display signs (17" by 22" in size) warning prospective gun purchasers that: (1) misuse of handguns is a leading contributor to juvenile violence and fatalities; (2) safely storing and securing firearms will help prevent the unlawful possession of handguns by juveniles, stop accidents, and save lives; (3) federal law prohibits, except in certain limited circumstances, anyone under 18 from knowingly possessing a handgun, or anyone from transferring a handgun to persons under 18; and (4) a knowing violation of the prohibition against

transferring a handgun to a juvenile is, under certain circumstances, punishable by up to 10 years in prison. You also will endorse in principle Child Access Prevention (CAP) legislation introduced by Senators Durbin and Chafee to impose legal liability on adults who allow juveniles access to firearms. We are working with the Justice Department and staff from Durbin's and Chafee's offices to improve this legislation by carefully defining the standard of liability and toughening the penalties for violating it.

10. Drugs -- National Anti-Drug Media Campaign: You are scheduled to announce on Thursday that the national anti-drug youth media campaign -- currently a pilot project in 12 cities -- is now going nationwide. New television ads will appear during prime time on all the major networks that night; new radio ads will begin to air in the top 100 markets; full-page print ads will run in 25 major newspapers; specialized spots with targeted anti-drug messages will appear in 75 media markets reaching approximately 80 percent of the population; a new web site will open on the internet; and a national 800-number, featured in all of the new ads, will become operational. Your comments at the announcement will be linked by satellite to five regional events and 200 community watch parties.

11. Drugs -- Drug Courts and Arrestee Data: You are currently scheduled to make two drug-related announcements in your radio address next week. First, you will release new Drug Use Forecasting (DUF) data from the Justice Department showing that the number of arrestees testing positive for most drugs -- and especially for cocaine and crack -- is down in most cities, but that the number testing positive for methamphetamines is climbing (after falling substantially last year) in key Western and Midwestern cities. Second, you will announce \$27 million in Justice Department grants to implement and enhance drug court initiatives in 150 cities across the nation. We also are exploring a new policy announcement to promote coerced abstinence programs.

12. Civil Rights -- EEOC and Fair Housing Initiatives: We have been working with the EEOC, Congressional staff, and civil rights leaders to try to maximize funding for the Commission while avoiding a rider prohibiting the EEOC from using its funds to hire employment testers. Some months ago, Speaker Gingrich testified that he would support your proposed increase in funding for the EEOC conditioned on a number of "reforms," the most controversial of which relates to the use of testers. The EEOC in fact has no plans to hire testers with FY99 money, but wants to avoid a rider, which will be difficult to remove in future years. We are exploring whether a letter from the EEOC committing not to use FY99 money to employ testers would enable us to avoid a rider and secure a significant funding increase. The civil rights community supports this strategy so long as we do nothing to signal that testing is an illegitimate tool for civil rights enforcement. Ironically, the House VA-HUD appropriations subcommittee mark-up includes \$7.5 million (we requested \$10 million) to fund your proposal for a nationwide program using testing to measure housing discrimination and facilitate enforcement actions against those who violate fair housing laws.

13. Welfare Reform/Housing -- Welfare-to-Work Housing Vouchers: The House Appropriations Committee included \$100 million in the VA/HUD appropriations bill for 17,700 welfare-to-work housing vouchers. Although this appropriation is only one-third of our request, it is more than double the Senate committee level of \$40 million for 7,000 vouchers, and represents significant progress for this new Administration initiative. The House language on how to distribute and use the funds is virtually identical to our proposal, whereas the Senate establishes a narrower demonstration program. We are continuing to push for our full request.

signed
14. Welfare Reform/Community Empowerment -- Individual Development Accounts: The Coats/Harkin IDA demonstration program was included in the Human Services Reauthorization bill passed unanimously out of the Senate Labor and Human Resources Committee last week. The bill authorizes \$100 million over four years to provide matching funds for low-income individuals who save to buy a home, pursue higher education, or start a small business. It is not clear whether the House will include a similar program in its Human Services Reauthorization bill, which will be marked up after the recess. The DPC and NEC have worked with staff for Senators Coats and Harkin to improve their legislation, and we are exploring an appropriate time and place to announce your support for the IDA program.

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15. Abortion -- RU-486: Just prior to recess, the House passed an amendment to the agriculture appropriations bill that would prohibit the use of FDA funds for the testing or approval of RU-486. The amendment, which passed by a vote of 223-202, represents the first time that Congress has interfered with the drug approval process at the FDA. In response to press inquiries about this vote, we criticized Congress for restricting scientific research that can offer women the safest possible medical choices. We are reaching out to the pharmaceutical industry and scientific community during this recess to minimize chances that the Senate will pass a similar amendment.

16. Education -- Ed-Flex: Just prior to Congressional recess, Senators Frist and Wyden introduced a new bill, strongly supported by the NGA, to extend Ed-Flex to all fifty states. The bill is generally constructive, but it does not incorporate all the accountability measures of the current Ed-Flex program -- e.g., a requirement that states have standards and assessments in place and that they submit a statewide reform plan to the Secretary. We will work with Frist, Wyden, and the NGA to improve the bill's accountability provisions. In the worst-case scenario, the Education Department can send up an alternative Ed-Flex bill.

17. Education -- Education Block Grant: Also just prior to the Congressional recess, the House Education and the Workforce Committee passed a block grant bill by a straight party-line vote to consolidate 31 federal education programs, including Goals 2000, Eisenhower grants, technology literacy grants, afterschool grants, and school-to-work grants. The bill also would expand Ed-Flex to all fifty states, but in a way that fails to link increased

flexibility to real accountability for high standards. Secretary Riley sent a letter to Rep. Goodling indicating that he would recommend a veto.

18. Children and Families – Head Start Reauthorization: The Senate Labor and Human Resources Committee unanimously approved the Human Services Reauthorization bill, which would reauthorize Head Start, the Low-Income Home Energy Assistance Program, and the Community Services Block Grant programs, while establishing a new demonstration program for Individual Development Accounts (see above). Sponsored by Chairman Jeffords and Senators Kennedy, Coats, and Dodd, the bill included most of the Administration's priorities, including an increase in the new Early Head Start program over the next five years. The bill will be named after Senator Coats, who is retiring this year. We will be working with the bipartisan sponsors of the bill to secure full Senate approval as quickly as possible. In the House, there are danger signals: the Education and the Workforce Committee may schedule a mark-up on the legislation in July, but Subcommittee Chairman Riggs has indicated an interest in attaching several highly controversial measures to the bill, such as Head Start vouchers.

THE WHITE HOUSE
WASHINGTON

June 4, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

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Scrub all
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1. Tobacco -- Senate Update: The Senate passed two amendments to the McCain bill this week. The first, sponsored by Senator McCain and approved by voice vote, provides \$3 billion over five years to the Veterans' Administration to assist veterans with smoking-related illnesses. The second, approved by a 66-29 vote, greatly increases the surcharges imposed on individual companies that fail to meet youth smoking targets. This amendment, supported by most Democrats as well as by those Republicans who want to kill tobacco legislation (on the theory that a lack of balance will bring the bill down), would impose penalties equaling or exceeding anticipated industry profits on a company that has a significant youth market and misses its youth reduction targets by 20 percent.

Next week, the Senate is scheduled to consider a proposal by Senator Gramm to use tobacco revenues for a tax cut to all married couples earning less than \$50,000 per year (whether or not they now pay a marriage penalty). A prior version of this proposal would have decimated just about all other spending immediately, but Gramm reportedly is phasing in his amendment to avoid this result. The latest version would cost \$13 billion over the first four years (28 percent of total receipts), an additional \$30 billion in the next five years (42 percent of total receipts), and \$225 billion in the remaining years of the bill (78 percent of total receipts). Even this "scaled back" version of the amendment, of course, is incompatible with our and the Democratic Caucus's spending priorities. For this reason, Senator Daschle has prepared an alternative tax amendment, which would provide relief for those married couples earning less than \$60,000 per year who now pay a marriage penalty, as well as accelerating the deductibility of health insurance costs for the self-employed. This alternative proposal would cost \$11 billion over the first four years and would continue to consume between 20 and 25 percent of total revenues throughout the lifetime of the bill. It is conceivable that McCain and Senator Kerry will strike a deal with Gramm next week that splits the difference between these two proposals. Such a compromise certainly would grease Senate passage of the tobacco bill, but at some cost to our public health and research priorities.

The Senate also is expected to vote next week on an amendment offered by Senators Craig and Coverdell, which would allocate about \$2 billion each year to anti-drug efforts, again cutting into the funding available in the bill for public health and research. The Craig-Coverdell amendment also includes a permanent prohibition on the use of federal monies for

Public Health Policy

needle exchange and a program to allow education vouchers to students who have been the victims of school violence. We are working to draft a modified version of the Craig-Coverdell amendment that spends less money on anti-drug efforts and eliminates the amendment's poison pills. We hope that we will be able to convince a bipartisan group of Senators, including McCain and Kerry to support this modified anti-drug amendment.

Cloture votes are scheduled for Tuesday and Wednesday, but because Senator Lott strenuously opposes cutting off debate at this time, no one expects these motions to pass. We are hopeful that by the end of the week, the Senate will have dealt with the tax and drug issues, as well as the two Republican substitute bills and the farmers provisions, and that it then will be ready to vote for final passage.

Good!
try to get this done!

2. Health – Patients' Bill of Rights: Congressman Norwood called Chris Jennings on Thursday to express interest in organizing a discharge petition that would send patients' bill of rights legislation immediately to the House floor for a vote. As you know, Norwood is the author of a patients' bill of rights bill with over 200 co-sponsors. Norwood told Chris that he might be interested in entering into negotiations with Congressman Dingell to merge their bills and bring the resulting legislation to the floor. Norwood said, however, that he would wait until the end of this month before firmly committing himself to this course of action, in order to give the House Republican Task Force a final chance to offer a proposal that he believes can pass the Congress. Chris is meeting with Dingell this week to discuss Norwood's proposal.

*Good!
Review addendum?*

3. Health – Prostate Cancer: We will announce on or around Father's Day the release of over \$25 million in new Department of Defense grants for prostate cancer research. This announcement will allow us to highlight significant actions the Administration has taken or can take in the future to prevent prostate and colorectal cancer. In response to new scientific developments, the National Cancer Institute (NCI) is increasing funding for research in this area, and these new research efforts will proceed even more quickly if Congress passes your proposed 67 percent increase in cancer research. In addition, the NCI is beginning new clinical trials on prostate cancer, which will have the greatest chance of success if Congress enacts your proposal, now included in the McCain tobacco bill, to provide Medicare coverage of cancer clinical trials. Finally, the new Medicare preventive benefit for prostate and colorectal screening will go into effect in the year 2000, by which time further developments in testing and treatment should ensure that this benefit will lead to lower mortality rates.

4. Health – Assisted Suicide: The Justice Department issued an opinion letter on Friday stating that the Controlled Substance Act (CSA) does not give the Drug Enforcement Agency the authority to take adverse action against physicians who assist their patients to commit suicide. As you will recall, Senator Hatch and Congressman Hyde requested this opinion in the hope that the CSA would preempt Oregon's new assisted suicide law. As you directed, the Justice Department's letter notes your "longstanding position against assisted suicide" and indicates that you "remain open to working with . . . members of Congress on this

complex but extremely important issue." We expect Hyde and Hatch, and perhaps Senator Nickles as well, to introduce legislation soon that would make physician-assisted suicide a federal offense enforceable by the DEA or some other federal agency.

5. Health -- Medicare Coverage of Abortion: We are currently considering issues relating to Medicare coverage of abortions, which have been raised by Senator Nickles and the Catholic Health Association (CHA). The issues arise because some women of child-bearing age receive Medicare benefits as a result of their eligibility for Social Security Disability Insurance. The CHA is concerned that Catholic institutions will have to provide abortion services if they wish to become Provider Sponsored Organizations eligible for Medicare payments, as allowed under the Balanced Budget Act. CHA and Nickles have asked the Administration whether the Hyde Amendment applies to the Medicare program and/or whether Catholic institutions can refuse to provide abortion services for religious reasons under the Medicare program. We are working with HHS, OMB, DOJ, and the Counsel's office to determine current Medicare coverage practices as well as to develop options on how to respond to these inquiries. We are very concerned that Senator Nickles will soon highlight this issue, adding it to the growing list of abortion proposals Congress will take up this year. We will send you an options memo this week.

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6. Health -- Medicaid Coverage of Viagra: HHS is expected to announce this week that the Medicaid statute requires coverage of Viagra as long as it is prescribed for a medically necessary reason. To prevent abuses, states can impose a prior authorization requirement (which requires physicians to provide an explicit medical rationale for the dispensing of this medication) and limit the number of pills an individual can receive. Even with these protections, states will oppose the HHS ruling vigorously; they fear that it will open the door for required coverage of numerous other "designer drugs." In issuing its ruling, the Department will stress that the Secretary has authority to reverse the ruling and exclude the drug if experience shows that the drug is being inappropriately or excessively prescribed. HHS will work closely with state Medicaid directors to collect data on Viagra prescriptions, so that it can determine in the future whether such an exclusion is warranted.

7. Health -- Private Plans' Coverage of Viagra and Birth Control: Although most private plans have decided to cover Viagra (with various kinds of limitations), many still do not cover birth control pills. Some women's groups charge that these coverage rules demonstrate a kind of double standard; these groups support a bill, introduced this year by Senator Snowe, that would require private plans to cover birth control. (Medicaid does require coverage of birth control bills, so there is no federal disparity on this issue.) Since the debate on the Health Security Act, we have generally hesitated to endorse benefit mandates in private insurance. We can expect, however, to face increasing pressure on this issue from the women's community during the next Congress.

8. Health -- Genetic Discrimination Legislation: Labor and Human Resources Committee Chairman Jeffords has asked us to participate in a workgroup to develop a bill

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prohibiting genetic discrimination by health insurance plans. This legislation responds to your call to build on the anti-genetic discrimination provisions in the Kennedy-Kassebaum law by passing new protections (1) to ensure that genetic information is not used to deny access to health insurance or to raise premium rates and (2) to prevent insurance companies from disclosing genetic information to other parties. Jeffords intends to put forward a freestanding bill containing these protections because he believes that the Senate may not pass any broader health initiative this year. We are somewhat concerned that Jeffords will produce a watered-down bill in order to increase its chance of passage, but we will participate in his workgroup in the hope that we can prevent this outcome.

9. Health -- Ricka Powers Case: The Vice President spoke on Wednesday to the AARP Conference in Minneapolis, where he called on Congress to pass a patients' bill of rights and highlighted the experience of Minneapolis resident Ricka Powers to show the need for such legislation. Following the event, the HMO that Ms. Powers accused of mishandling her case (Health Partners) vehemently denied her accusations. Because Minnesota law prohibits the plan from releasing specific information about a case without the patient's permission -- which Ms. Powers declined to give -- we cannot determine the full truth of the matter. We therefore recommend that you and the Vice President avoid referring to this case in the future.

10. Welfare Reform -- HHS Study: HHS just announced that it will make funds available to eight to ten states to track people leaving the welfare rolls. The studies also will attempt to collect information on families that are not coming onto the welfare rolls because of diversion programs, new eligibility rules, or other factors. Results of the study probably will not be available for several years.

11. Drugs -- Drug Courts: The National Center on Addiction and Substance Abuse (CASA) released last week the first major study on the effectiveness of drug courts. The study found that drug courts provide more comprehensive supervision, monitoring, testing, and treatment than other forms of community supervision of drug offenders. According to the report, 55 percent of drug courts require at least two drug tests per week, 35 percent require weekly tests, and 10 percent require tests every other week. By comparison, among jurisdictions using simple probation supervision, none require drug tests more than once each week, eight percent require weekly tests, 52 percent require monthly drug testing, and 33 percent test on a less frequent or random basis. In addition, CASA found that drug use and criminal behavior are substantially reduced while offenders are under drug court supervision, as well as after they leave the program. Drug courts have flourished in the past few years, largely because of the 1994 Crime Act which authorized the first-ever federal funding for drug courts. Between 1995 and 1997, the Justice Department provided \$56 million to drug courts, and as of last month, drug courts existed in 275 jurisdictions.

12. Children and Families -- Child Support Bill: You will soon receive for signature the legislation you called for in 1996 making it a federal felony for parents to cross

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state lines to evade child support. The Senate approved the bill by voice vote yesterday, while the House passed it by a vote of 402-16 last month.

13. **Women's Issues -- Equal Pay Act Event:** You, the Vice President, and the First Lady are currently scheduled to participate in an event on Wednesday to commemorate the 35th anniversary of President Kennedy's signing of the Equal Pay Act. Dr. Dorothy Height, who attended the signing in 1963, is also expected to participate. You will urge Congress to pass Senator Daschle's and Congresswoman DeLauro's equal pay bills, which would strengthen enforcement of the Equal Pay Act -- primarily by providing for compensatory and punitive damages, rather than mere liquidated damages and backpay. (The Vice President previously announced the Administration's support for this legislation.) You also will release a report by the Council of Economic Advisors on the wage gap, which shows that although the gap between women's and men's wages has narrowed substantially, women still make just over 75 percent of what men do.

14. **Education -- Class Size Reduction:** Senator Murray is preparing to introduce your class size proposal within the next week to ten days. She has lined up 10 to 12 cosponsors, and believes she can more than double that number before the bill is introduced if she can identify a credible offset to replace the tobacco funding we proposed in our budget. We and OMB have been working with Murray's office to identify potential offsets, and will suggest several to her this week. We are also working closely with Murray, as well as with Senator Daschle, the teachers' unions, and other education groups, to design and carry out a coordinated legislative, communications, and grass roots strategy on this issue.

15. **Education -- Bilingual Programs:** The House Education and Workforce Committee passed, on a party line vote, Congressman Riggs' proposal to replace the existing bilingual and immigrant education programs with a block grant to states that requires all students to be placed in regular English-language classes within 2 years. The Education Department is nearing completion of an Administration alternative to this bill, which will be ready for transmission by the end of next week, should you wish to put an alternative forward now rather than waiting for the reauthorization of the bilingual program next year. The Hispanic Caucus is strongly opposed to the introduction of any alternative at this time, but other Democrats may want the cover that an alternative bill would provide in order to vote against the Riggs bill. We will send you a memo on this issue this week.

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THE WHITE HOUSE
WASHINGTON

May 1, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

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1. Tobacco -- Legislative Update: The Senate Commerce Committee filed on Friday a new version of the McCain bill, which includes technical changes. Senator Lott apparently has acceded to Senator Roth's request that the Finance Committee have a chance to consider the bill; that Committee is now expected to hold a mark-up during the week of May 11. If all goes well, Lott will bring the bill to the floor the next week.

We are still trying to set up negotiations involving the Administration, Lott and Daschle (or their designees), and McCain and Hollings. The aim of these negotiations would be to develop an agreed-upon manager's amendment as well as an amendment strategy for the floor. Without these negotiations, we are fearful that (1) Lott will decide not to bring the bill to the floor, or (2) the bill will not survive the floor in a viable form. So far, however, neither Lott nor Daschle have definitively agreed to this strategy.

Senator Daschle has set up a number of working groups to develop possible amendments to the McCain bill. The working groups -- some of which have begun to meet already and some of which will begin next week -- tend to be slanted toward the left, with heavy participation from Senators Conrad and Kennedy. Preliminary information from Daschle's staff suggests that the working groups are considering greater increases in price (\$1.50 over three years) and look back penalties (uncapped penalties with a very significant company-specific component) than we support. The price issue may become less important once CBO scores the McCain bill, but the lookback issue is likely to remain troublesome.

In addition to providing Sen. McCain's staff with purely technical amendments, which they incorporated in the new version of the bill, we have given them (or will give them this week) two sets of amendments designed to better effect the aims of the legislation. First, we provided McCain's staff with language to strengthen the bill's licensing provisions, so as to ensure that we have an adequate mechanism in place to prevent smuggling. (Deputy Secretary Summers gave highly effective testimony on this issue to a skeptical Senator Hatch last week.) Second, in response to a request from McCain's staff, we will give them advice early this week on how to restructure the bill so that it can operate effectively regardless of industry consent. Our suggested changes, drafted by the Justice Department, would reorganize the bill into two parts: the first part (Titles 1-11) imposing measures on all tobacco

manufacturers regardless of consent, the second part (Title 12) creating a protocol by which manufacturers would agree to additional, otherwise unconstitutional marketing restrictions (and also agree not to challenge any provisions in the first part of the bill) in exchange for the bill's liability cap. We will make clear that this organizational proposal is in the nature of legal/technical advice, and does not indicate agreement with the McCain bill's substantive "bargain."

2. Crime -- COPS Initiative: At our request, the Department of Justice is preparing to provide \$240 million in a new kind of COPS grant to hire about 2,000 police officers for high-need areas. The Department will waive the standard 25 percent local match for these grants, which will go to 16 cities (8 small and 8 large) to hire officers for crime and drug "hot spots" and/or economically distressed neighborhoods. We are working with Rahm to devise a good forum to announce these new grants. You can link them to your race initiative by stressing the historic and pervasive underprotection of minority populations against criminal activity.

*Stuart
Cohen
Rahm
Gale
10/25/00*

3. Crime -- Assault Weapons: The Administration beat back an effort to include in the supplemental appropriations bill a provision to weaken your recent executive action on modified assault weapons. This provision, pressed by Senator Craig, would have exempted from the new ban on importation any weapons "in transit" to an importer -- an exemption affecting tens, or even hundreds, of thousands of weapons. We unfortunately have not seen the last of this fight: Craig is very likely to offer a similar amendment during the appropriations process.

4. Health -- Medicare Coverage for Prescription Drugs: The DPC and NEC are setting up a long-term working group, led by Chris Jennings, to consider whether Medicare should cover any of the costs of prescription drugs. As you may know, prescription drugs are the highest out-of-pocket health care cost for three out of four elderly people. Many older Americans "stretch out" their supply of these drugs to lessen costs; their non-compliance with drug regimens often results in additional, more expensive health care treatments. For this reason, a number of your Medicare Commissioners, as well as a host of outside validators (including Bob Reischauer and Henry Aaron), have expressed interest in providing prescription drug coverage for Medicare beneficiaries. These experts believe that given the increased importance of drug-based medical treatments, Medicare's current lack of coverage of out-patient drugs is both antiquated and counterproductive. At the least, these experts favor requiring Medicare's managed care plans -- which remain overcompensated relative to the patients they serve -- to offer a prescription drug benefit to their members, as more than half already do. Chris's working group will evaluate all options in this area, in the expectation that we may want to show relatively early in the Medicare debate that a good long-term reform package involves not only financing measures but quality improvements.

*Laquer
W. Miller*

5. Health -- Patients' Bill of Rights: Rep. Ganske and six other Republicans joined Rep. Dingell's Patients' Bill of Rights legislation on Wednesday. Their action will increase

the pressure on Republican leaders to move legislation on this issue this year. We released a written statement from you praising these members for providing "new momentum towards ensuring that a patients' bill of rights will become the law of the land." Also last week, Chris Jennings met with disability advocates to encourage them to step up their efforts on behalf of the Dingell bill. The advocates indicated to Chris that they would make quality legislation a high priority.

6. Education -- This Week's Events: You are currently scheduled to meet with approximately 10 mayors on Thursday to discuss urban education. We expect your remarks to focus on your Education Opportunity Zones initiative, including its emphasis on eliminating social promotions. The remarks will note the increasing number of cities, including Washington, D.C. and New York, that have adopted no-social-promotions policies since you began to highlight this issue. You will speak to the Delaware State Legislature the next day regarding your education agenda, this time with an emphasis on your class size initiative. Delaware has made a strong effort to reduce class size, and you can call on Congress to provide it and other states with assistance.

7. Education -- Unz Initiative: Secretary Riley issued a detailed statement on Monday opposing California's Unz Initiative, but advocating reforms to the current system of bilingual education, including a three-year goal for moving students into regular English-language classes. Senior staff in the offices of Intergovernmental Affairs, Political Affairs, and Public Liaison have reported a good response from the Hispanic community and most state and local leaders to both the content and the timing of the announcement.

8. Education -- Charter Schools in California: After two weeks of negotiations among Silicon Valley high-tech executives, the California Teachers' Association (CTA), and state legislators, the California legislature passed and Governor Wilson signed new charter school legislation. The new law, which moots a charter school ballot initiative sponsored by Silicon Valley, allows 150 new charter schools in the first year and an additional 100 in each subsequent year. The bill also eases the requirements for starting a charter school.

9. Family -- Child Support Enforcement: The House and Senate are about to begin conferencing on legislation to set realistic penalties for states' failure to put in place statewide computer systems to track parents who owe child support. The two bills are very similar, but the Senate version is slightly less tough; it gives the states an additional year to comply without penalty and allows them to recover some prior penalties once they come into compliance. These more lenient provisions were crafted to satisfy members from California, which is years away from having a functioning statewide system and accordingly faces greater penalties than any other state. (About 15 states in total are likely to face a penalty under the legislation.)

L.A. County is now lobbying hard for a new provision that would reduce California's penalty by the precise share that the State intends to pass along to the County. (If Congress

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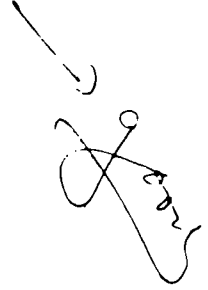
were to enact this amendment, California would excuse L.A. County from paying any part of the State's penalty.) L.A. County District Attorney Gil Garcetti argues that L.A. County has a well-functioning system, which was designed with federal involvement under a waiver several years ago. Senator Feinstein supports Garcetti's proposed change to the child support legislation, but many House members from other parts of the State oppose it. DPC, HHS, and OMB oppose the provision because (1) numerous counties in non-complying states could make an identical argument and (2) optimal tracking of deadbeat parents across state lines requires statewide (not just well-functioning countrywide) systems.

10. Welfare Reform -- Welfare-to-Work Transportation Initiative: At our request, Secretaries Slater and Herman and HHS Assistant Secretary Olivia Goinden will participate in an event on Thursday to highlight your Access to Jobs initiative. The event also will include several Governors and Members of Congress. On the same day, Slater, Herman, and Secretary Shalala will issue guidance to states and communities on ways to use TANF and Welfare-to-Work funds to break down transportation barriers. The Access to Jobs initiative currently appears to be in good shape; we think it will emerge from the ISTEA conference authorized at \$150 million per year -- \$50 million more than we requested. We now must keep the spotlight on this initiative for purposes of ensuring an adequate appropriation.

11. Disability Task Force -- Health Issues: The task force you created last month by executive order on employment of people with disabilities got off to a strong start last week at its first meeting. The all-day meeting, chaired by Secretary Herman before an audience of 200 disability activists, included panels on health care, education and training, and civil rights. The task force hopes to issue a few recommendations in July, with a fuller report in November. We face particular challenges crafting policies in the health care area. The disability community's highest priorities in this area are: (1) a bill, sponsored by Senators Jeffords and Kennedy and Representatives Bunning and Kennelly, to encourage people with disabilities on the SSDI or SSI rolls to return to work by allowing them to retain Medicare or Medicaid even after they find a job, and (2) a bill known as CASA that would provide greater Medicaid coverage of "community based attendant services" and thereby allow more people with disabilities to live in communities, instead of in nursing homes or other institutions. Both pieces of legislation raise budgetary concerns: in the form advocated by the disabilities community, CASA would cost no less than \$10-20 billion each year. Chris Jennings will work with the Disability Task Force and HHS to develop feasible proposals that will go some way toward responding to the disability community's needs in this area.

12. Immigration -- H1B Visas: The House Immigration Subcommittee approved by voice vote on Thursday a bill, authored by Rep. Lamar Smith, increasing the cap on H1B visas while making substantial reforms to the program. The bill is surprisingly in line with Administration objectives: although it raises the cap somewhat more than we would (to 115,000) and fails to include a training component, it includes strong provisions to protect U.S. workers from being displaced or passed over in favor of foreigners. Bruce and Gene sent

Smith a letter just prior to the mark-up indicating that the Administration would support the bill if it were modified to include meaningful training provisions and a more modest increase in the cap. The full Judiciary Committee mark-up is set for next week, and we expect some movement in our direction. Sally and Elena will brief Democratic staff prior to the mark-up, as well as meeting with representatives of the high-tech community.

A handwritten signature, possibly "Sally", is written in cursive. A straight arrow points from the text above down to the signature.

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THE WHITE HOUSE
WASHINGTON

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March 20, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

EW

1. **Tobacco -- Senate Commerce Committee Activity:** We have been meeting regularly with staff for Sens. McCain and Hollings, as they try to put together a comprehensive tobacco bill that a bipartisan coalition on the Commerce Committee can support. McCain is very pleased with our cooperation, as we are with his genuine desire to gain our support, and he is aiming to complete a mark-up before the April recess. But at least two serious obstacles remain. First, many Republicans -- including Sens. Jeffords and Hatch, who are not on the Committee, but whom McCain feels he must work with closely -- object to our proposal on FDA authority. Whereas we want Congress to affirm that the FDA can regulate tobacco products under its normal drug-and-device authority, these Senators want Congress to create a separate -- and we believe, less potent -- statutory scheme to govern the regulation of tobacco products. We have met with a bipartisan group convened by McCain and Hollings -- including staff for Sens. Hatch, Jeffords, Kennedy, and Conrad -- to discuss this issue, but so far have made little progress. One problem is that the Republicans have no incentive to give us what we want on FDA jurisdiction -- until they know whether we will approve the limits they want on the tobacco companies' liability.

But we're not getting any

Second, Sen. Daschle will pressure Democrats on the Committee to oppose any bill with liability protections, regardless of what else is in it. Daschle argues that if Congressional Democrats give up liability limits as an issue now, they will find it more difficult to get what they want on spending priorities later. (The Commerce Committee bill will not address the issue of how to spend the revenues it generates.) But because McCain believes he must include some liability limits in his bill -- he is leaning toward the Chafee-Harkin model of a cap on annual damages, with no limitations on class actions or punitives -- Sen. Daschle's approach poses a risk of wholly derailing the Commerce Committee effort. Although Daschle will not be able to control the votes of Hollings, Ford, or Breaux, he could persuade Inouye, Wyden, and Kerry, who are now generally supportive of McCain's effort, to repudiate the legislation. At that point, McCain might decide to abandon the project, rather than face a partisan attack on this issue. Erskine and Larry will talk with Daschle this week to ask him not to discourage Committee Democrats from supporting an otherwise good bill.

2. **Tobacco -- State by State Numbers:** In a speech to the PTA on Monday, the Vice President will unveil new Treasury Department statistics demonstrating that your tobacco plan

will cause a significant reduction in youth smoking -- and therefore in premature deaths -- in every state in the nation. As you recall, you announced last month that over the next five years, your plan would deter 3 million American teens from smoking and prevent one million from dying prematurely. The new Treasury statistics break down these figures on a state-by-state basis, showing for example that California alone will have 83,000 fewer tobacco-related deaths. We are giving these numbers to the state Attorneys General for separate announcements on the same day; after the Vice President holds a conference call with them in the morning, many will hold news conferences to release the numbers and demand that Congress pass bipartisan, comprehensive tobacco legislation. Later in the week, Deputy Secretary Larry Summers will give a speech at the George Washington University School of Public Health on the economic costs of smoking.

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3. Crime and Drugs -- Conference on Drug Treatment: The Justice Department, ONDCP, and HHS will hold a three-day conference on drug treatment in the criminal justice system next week. The conference will explore effective drug treatment services, obstacles to their adoption, and gaps in scientific knowledge on drug addiction. The Attorney General will unveil a new legislative proposal -- developed pursuant to your January 12, 1998 directive -- to allow states to use their Federal prison construction and substance abuse treatment funds to provide a full range of drug testing, treatment, and sanctions for offenders under criminal justice supervision.

4. Crime and Drugs -- Probation Study: The Department of Justice will release the first survey of the nation's 3.2 million probationers on Sunday. The survey found that:

-- Forty percent of all probationers were under the influence of alcohol, and another 14 percent were on drugs, at the time they committed the criminal offense for which they were sentenced.

-- Almost 70 percent of probationers reported past drug use, 32 percent during the month of their arrest. Overall, 67 percent had used marijuana, 31 percent crack or other forms of cocaine, 25 percent stimulants, 20 percent hallucinogens, 15 percent barbiturates, and 8 percent heroin or other opiates.

-- Almost half of all probationers reported having been tested for drug use while on probation. This figure rose to 65 percent among those who had used drugs during the month before their criminal offense, and to 74 percent among those who committed their offense to obtain drug money.

-- About 17 percent of all probationers reported participating in a drug treatment program during their sentence, but this percentage rose as the severity of their prior drug use increased. More than half -- or 52 percent -- of probationers who were on drugs when arrested had participated in a drug treatment program.

-- Sixty four percent had driven a car while drunk or drugged; 50 percent had been involved in a domestic dispute while drunk or high; and 35 percent had consumed as much as a fifth of a gallon of alcohol in a single day.

5. Crime -- COPS: The COPS Office will announce on Thursday \$58 million in hiring grants to 285 police departments to fund about 900 additional officers. This announcement will put the total number of officers funded through the COPS Program at over 72,000.

6. Health -- Patients' Bill of Rights I: Rep. Gephardt is insisting that the Democratic Leadership's version of patients' rights legislation include whistleblower protections for hospital employees. Although we are sympathetic to these protections, we believe their addition to the bill would diminish the prospect of passing legislation this year. Rep. Dingell believes equally strongly that including whistleblower protections would be a strategic mistake, because they would prevent Blue Dog Democrats like Reps. Stenholm, Tanner, and Barry from supporting the bill. Indeed, Dingell has said that he would reconsider his decision to be the bill's lead sponsor in the House -- still further decreasing the chance of Congressional action -- if these provisions were added. We will continue to work with Gephardt, Dingell, and the Blue Dogs to see if compromise language can be developed. The Democrats are currently scheduled to introduce their bill as early as Wednesday.

7. Health -- Patients Bill of Rights II: Larry Stein and Chris Jennings had a good meeting on Thursday with Rep. Norwood, the Republican sponsor of patients' rights legislation in the House. Norwood believes there is strong bipartisan support in the House to pass this legislation, and wants to work with us to achieve this goal. We agreed that we should aim to pass a bill by July, and that the House would have to act first to put pressure on the Senate. Norwood said he would continue to support a strong enforcement scheme for patient protections, in part because he thinks such a scheme is necessary to maintain the backing of the AMA and consumer groups. He also indicated that he and his Republican colleagues would oppose any provisions mandating insurance plans to provide certain benefits.

*For
Gephardt*
8. Health -- Children's Health Implementation: HHS will announce the approval of Ohio's and California's children's health program next week. Because of the size and strength of these programs, we may want to highlight their approval at the White House, possibly with the Vice President participating in your absence. Also within the next ten days, HHS will make a decision on whether to approve New York's children's health proposal. New York's application has a controversial provision involving provider taxes that may lead HHS to disapprove it. The plan also takes insufficient steps to ensure that federal dollars not substitute for health insurance currently covered by the private sector.

9. Health -- Assisted Suicide Law: We met this week with representatives of the Catholic Health Association (CHA) to discuss the Justice Department's likely ruling that doctors in Oregon who assist their terminally ill patients to commit suicide, in conformance with state law recently enacted through referendum, do not violate the federal Controlled Substances Act

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(CSA). CHA informed us that Sen. Hatch and Rep. Hyde will introduce legislation amending the CSA to prohibit such action as soon as the Department issues this ruling. CHA is working with Hatch and Hyde on ways to draft legislation so that it will not inhibit physicians from the appropriate use of painkillers for the terminally ill, such as incorporating physician review boards into the prosecutorial and/or sentencing process. We will try to delay the release of the Justice Department's ruling until we have developed a roll-out strategy, including a position on federal legislation prohibiting physician-assisted suicide. You can expect a memo from us on that subject immediately after your return from Africa.

10. Education -- Coverdell Bill: Democrats defeated a cloture motion on the Coverdell bill last week after the Senate Majority Leader prevented them from offering any amendments. We expect a compromise to be worked out next week, and the Democrats to proceed with our plan of offering our school modernization proposal as a substitute. Although many in the education community are actively supporting this amendment, we expect it to be defeated on a party-line vote. If that happens, Coverdell will pass because the Democrats do not have enough votes to sustain a filibuster. As of now, however, there are sufficient votes to sustain a veto.

11. Education -- Teacher Training Program: At a mark-up of the Higher Education Act this week, the House Education and Economic Opportunity Committee rejected your teacher training proposal, which would provide scholarships to students who will commit to teaching in high poverty school districts. The Committee instead approved a much smaller and less well-focused provision sponsored by Rep. Goodling, which would provide grants to Governors to address a range of teacher preparation issues such as raising certification standards. To make matters worse, the Committee decided to fund this teacher preparation block grant by eliminating federal support for the National Board for Professional Teaching Standards. We are working with Gov. Hunt and the National Board staff to reverse this action on the House floor, including by demonstrating strong bipartisan gubernatorial support for the Board. At the same time, we are attempting to ensure that the Senate Education and Labor Committee produces a better teacher training provision.

12. Political Reform -- Free Television Time: We persuaded Senate Republicans last week to remove language from the Supplemental Appropriations bill that would prohibit the Federal Communications Commission (FCC) from establishing a system of free television time for candidates for federal office. The Republicans will add this rider to another bill, however, unless we can find some compromise approach to the issue. Sen. McCain is the key to a settlement, and we are meeting with his staff this week. One possible solution is for the FCC to put off issuing a Notice of Rulemaking to establish a system of free TV, and instead issue a simple Notice of Inquiry to review the issue. After your Advisory Committee on Public Interest Obligations of Digital Television Broadcasters has completed its work later this year, the FCC could determine to go ahead with a rulemaking.

14. Community Empowerment -- Brownfields: The Vice President announced last week the 16 winners of EPA's \$28 million Brownfields Showcase Communities program.

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Among the selectees were Baltimore, Chicago, Dallas, Kansas City, Los Angeles, St. Paul, Salt Lake City, Seattle, and Trenton. The program was very popular, with over 231 communities submitting applications, and we are exploring the possibility of funding a second round in the future.

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THE WHITE HOUSE
WASHINGTON

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March 6, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Health -- CBO Analysis of Medicare Buy-In: The Congressional Budget Office (CBO) released on Thursday a very positive analysis of your Medicare buy-in proposal. CBO confirmed our view that the proposal will have no notable impact on the Medicare Trust Fund. Even more strikingly, CBO projected both greater participation and lower costs than the Administration had estimated. According to CBO, your proposal will provide coverage for 410,000 people, rather than the 300,000 we had claimed. Also according to CBO, beneficiaries will have to pay only \$10 extra per month after they turn 65 to cover the costs of the buy-in, rather than the \$16 we had estimated. We are hopeful that these estimates will give a needed shot in the arm to your buy-in proposal, which Senator Moynihan will introduce as legislation sometime in March.

√2. Health -- AMA Speech on Quality: You are scheduled to give a speech on Monday to the American Medical Association (AMA) highlighting our shared commitment to enhancing health care quality. (The speech will also note our shared goal of reducing tobacco use.) The speech -- which will lead off a week in which your Quality Commission will issue its final report and the Democratic leadership will introduce its quality bill (see below) -- will mark the first time you have addressed the AMA and the first time any President has spoken to the AMA since Ronald Reagan in 1983. You will release a new survey prepared by the DPC that documents how many states have enacted the consumer protections recommended by your Quality Commission. The survey will show that more than 43 states -- including 25 with Republican Governors -- have enacted one or more of the recommendations. As you know, the AMA supports strong federal legislation in this area, including a provision to ensure judicial enforcement which the business community vehemently opposes. This enforcement provision is contained in both the Norwood bill and the Democratic leadership bill. The Administration has yet to take a position on it, primarily because the resulting business opposition might cripple the effort to enact any quality legislation.

3. Health -- Democratic Patients' Bill of Rights Bill: The Democratic leadership is scheduled to unveil a patients' protection bill on Thursday. This legislative proposal will receive broad-based support among Democrats in the House and less diverse support in the Senate. The bill includes controversial enforcement provisions (see above); as well as new requirements that health plans cover all clinical trials and all services associated with mastectomies, including

What about colonoscopy coverage?

breast reconstructive surgery. The business community will argue that these provisions will lead to increased litigation, higher premiums, and more uninsured Americans. As you know, we believe that you should support this legislation without embracing it as your own. The bill stands little chance of passing, and too strong a signal of support may sharpen the business community's opposition to quality legislation and alienate important Republican members -- such as Reps. Hastert, Thomas, Bilirakis, and Bliley -- who have indicated a desire to work with us on this issue.

Can I receive it - to [unclear]?

4. Health -- Final Quality Commission Report: Your Quality Commission is scheduled to release its last report later this week. This report will focus not on patients' rights, but on the development and use of health care standards. Although this subject has not received as much attention as the patients' bill of rights, many health policy experts believe that this aspect of the Commission's work may have even greater potential to improve the health care system. Numerous quality problems now plague the health care system, including avoidable errors, variation in services, and overutilization of services. Each year, for example, 80,000 American women undergo unnecessary hysterectomies and more than one million Americans suffer harm as a result of avoidable errors. The Commission will propose the formation of a Quality Council to develop goals and strategies to improve health care quality. The Commission also will propose the establishment of a Quality Forum, comprised of private and public sector purchasers, that will develop a consistent set of health quality measures, to facilitate meaningful comparisons among plans and providers.

5. Health -- Kyl Private Contracting Issue: The Senate Finance Committee held a hearing last week on Senator Kyl's proposal to make it easier for doctors to enter into private contracts with Medicare eligible individuals. As you know, we have objected to this proposal on the grounds that it would reduce the access of non-wealthy Medicare beneficiaries to the best doctors -- or in some areas, to any doctors at all -- and create significant opportunities for fraud. All of the witnesses at last week's hearing, with the exception of Senator Kyl and a right-wing aging group called United Seniors, echoed these criticisms. Most policy and political analysts -- including the AMA, which is one of the Kyl amendment's most ardent supporters -- believe that this legislation is dead at least for this Congress.

I want to discuss [unclear] [unclear]

6. Education -- Meeting on TIMSS Results: You are currently scheduled to meet on March 16 with a group of business, education, and math and science leaders to discuss how the nation should improve math and science education in the wake of the recent TIMSS results. Among those planning to attend are: Mayor Daley, Rudy Crew, Diane Ravitch, Sandy Feldman, Bob Chase, Ed Rust (the CEO of State Farm, who chairs both the National Alliance of Businesses and the Business Roundtable's Education Task Force), Bill Schmidt (the director of the TIMSS study), and Bruce Alberts (the President of the National Academy of Sciences). This meeting will provide an opportunity to demonstrate the need for standards-based school reforms and to highlight your own education agenda. It is especially important because some in the education community responded to the TIMSS results by dismissing the significance of low test scores.

✓ **7. Education -- Opportunity Zones:** Rep. Clay, the ranking minority member on the House Education and Economic Opportunities Committee, has agreed to introduce your Education Opportunity Zones legislation in the House, and to try to recruit bipartisan sponsors. DPC and Education staff are working with Clay to finalize the legislation. We expect to have it ready for transmittal to Congress within the next few weeks.

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8. Child Care -- Speech and Directive: You are currently scheduled to go to Connecticut on Tuesday to give a speech on your child care proposal. You can announce a directive on that day to ensure that all federal child care centers (except those run by Congress or the judiciary) become accredited by the year 2000, and that all do proper background checks of child care workers. You also can announce a new HHS report showing that states are using Child Care and Development Block Grant funds wisely, but that they have far too little money to reach the entire population of eligible children. On the same day, the Children's Defense Fund will issue a report showing the need for increased investment in child care programs.

OK

✓ **9. Child Support -- Penalties Legislation:** The House passed 414-1 last week a bill introduced by Rep. Shaw to set realistic penalties for states' failure to put in place statewide computer systems to track parents who owe child support. The legislation, which we helped Shaw to develop, sets penalties at 4 percent of federal child support funds in the first year of noncompliance, going up to a high of 20 percent in the fifth year and thereafter. The legislation further provides for a state to get a rebate of a portion of the penalties once HHS certifies its computer system. Prospects for Senate passage of the legislation are extremely high.

Good

✓ **10. Crime -- Modified Assault Rifles:** The Treasury Department is almost ready to report back to you on whether it can permanently halt the importation of modified assault rifles under the Gun Control Act of 1968 for failure to comply with the "sporting purposes" test. (As you recall, you directed Secretary Rubin in November to suspend temporarily the importation of these weapons, while the Treasury Department conducted its review.) Treasury has studied the features and uses of the 5 basic kinds of modified assault rifles, and is now considering whether to recommend halting the importation of all five or only two (AK-47s and Uzis). We are carefully reviewing the evidence and legal arguments, so that we can determine whether a broader or narrower ban is appropriate. Treasury may be ready to make its recommendation in time for next week's radio address.

*Yes
push*

✓ **11. Crime -- COPS Grants:** The COPS Office awarded \$31 million on Thursday to 186 law enforcement agencies in small towns across the country. The grants will fund 467 full-time and 67 part-time officers.

✓ **12. Drugs -- NIJ Study on Drug Use:** The Justice Department's National Institute of Justice released a study this week on drug use and purchase patterns among individuals arrested for crack, powder cocaine, and heroin offenses in six cities. The report found that heroin users were the most likely to be daily users (a substantial majority in all cities), followed by crack users (40 to 50 percent), and cocaine users (10 to 40 percent). In addition, a greater percentage

of crack users than of heroin or powder cocaine users lived on the streets or in shelters prior to their arrest.

✓ **13. Campaign Finance Reform -- Free TV Petition:** With the defeat of McCain-Feingold, we are now focusing on your petition to the Federal Communications Commission (FCC) to establish a system of free or discounted broadcast time for candidates for federal office. The FCC has received letters of support for this petition from 83 Members of Congress, including a few notable Republicans such as Sen. Roth and Rep. Shays. Sen. McCain, however, has expressed strong opposition to such FCC action, and he intends to offer an amendment to the supplemental appropriations/IMF bill, as early as next week, to prohibit the FCC from imposing a free-time regime. In addition, all the Republicans on the House Commerce Committee have written the FCC in opposition to your request that the FCC begin a rulemaking procedure. David Broder intends to write a column tomorrow supporting our petition, and we are trying to round up additional editorial support.

✓ **14. Race -- EEOC Budget Request:** Newt Gingrich testified at an EEOC oversight hearing on Thursday that he would support your proposed increase in funding for the EEOC on the condition that the EEOC not use any FY99 funds on testing programs to uncover employment discrimination. Acting Chair Paul Igasaki responded at the hearing that although the EEOC is currently conducting a pilot program on the use of testing in the employment context, its FY99 budget request does not include any money for testers. This exchange would seem to commit Gingrich to supporting our EEOC budget request, but his testimony also contained criticism of class actions and he could try to link an increase in EEOC funding to restrictions on this litigation device. In addition, Gingrich's criticism of testing programs bodes ill for our proposal that HUD significantly expand its use of testing to uncover housing discrimination.

15. Tobacco: We are sending you a separate memo today on communications and legislative strategy on tobacco.

THE WHITE HOUSE
WASHINGTON

March 13, 1998

3-16-98

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

✓ 1. **Tobacco -- Senate Commerce Committee Activity:** As you know, Senator McCain is leading an effort, blessed by Senator Lott, to report a comprehensive tobacco bill out of the Commerce Committee. McCain plans to begin marking up a bill on March 25th. His staff spent last week in discussions with staff for Senator Hollings; they plan to start meeting next week with staff for Senators Gorton, Breaux, and Wyden. McCain has asked us to participate in the meetings of this bipartisan staff-level group, and we have agreed to do so. He has told us that he wants to understand our views so that he can produce a bill we can support -- or at least, that we will not sharply criticize. Many Senate Democrats are fearful that we and/or Committee Democrats will cut a deal with McCain, depriving them of the opportunity to have a floor fight on the issue. Our recommended approach to these discussions is to set a high bar consistent with your oft-expressed principles on tobacco legislation. If, as we expect, McCain meets some but not all of our demands (on matters such as price, penalties, and FDA jurisdiction), we should praise the progress he has made, but explain what Congress must do to improve the bill further. On the off chance, however, that McCain gives us all that we ask for, we should support the bill. Erskine, Larry, and Bruce will meet with McCain again on Monday.

✓ 2. **Tobacco -- Chafee-Harkin Legislation:** The public health community responded very favorably to the Chafee-Harkin bill, notwithstanding its annual caps on legal liability. Even Drs. Koop and Kessler, who have expressed the strongest views against granting legal protections to the tobacco companies, wrote a letter congratulating the senators "for crafting a very strong comprehensive package of tobacco reforms" and calling the proposal "tough medicine for a tough problem" and "a major step forward." The bill, however, may not gain much support from Members of Congress. Senator Lott has made clear to Republicans that his preferred vehicle is the McCain bill and that they should not sign on to Chafee-Harkin. Senator Daschle similarly has indicated his strong desire that Democrats unite around the Conrad legislation.

3. **Tobacco -- Funding for Counteradvertising Campaigns:** You recently asked how much money the various tobacco bills spend on counteradvertising. The original June 20th settlement proposed to spend \$500 million each year. The Jeffords and Kennedy bills match that figure; the Conrad bill provides \$700 million; and Chafee-Harkin proposes \$750 million. Our budget does not specifically allocate money for counteradvertising, instead including these funds

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in a broad "other uses" category (also including money for farmers, states, and legal judgments) totaling \$22 billion over the five-year budget window.

4. Health -- Medicare Buy-in Event: You are scheduled to join the Democratic sponsors of your Medicare buy-in proposal on Tuesday for the unveiling of their legislation. The recent, very positive CBO analysis of this proposal has increased support for it among Members and others. The Kaiser Foundation is planning to release a report next week that underscores the difficulty many older Americans have in gaining access to health insurance. Kaiser has agreed to let us discuss some of its key findings in our announcement. Senator Moynihan, the lead sponsor of this legislation in the Senate, will figure prominently in the event next week. So too will the three Democratic members of the Medicare Commission who are co-sponsors of the legislation (Sen. Rockefeller and Reps. Dingell and McDermott). We are still holding out some hope that Senator Kerrey will endorse the bill, but Senator Breaux will not do so.

5. Health -- Missouri Children's Health Proposal: HCFA met last week with Governor Carnahan's staff to discuss Missouri's children's health insurance proposal. As you know, Missouri previously insisted on financing its program through provider taxes that HHS believes to be illegal. The State now has offered a new proposal that HCFA may be able to accept. HCFA has asked the State to provide additional information, and negotiations remain very delicate. We are hopeful, however, that we have turned a corner in dealing with this problem.

6. Health/Crime -- Assisted Suicide: The Department of Justice soon will decide whether doctors in Oregon who assist their terminally ill patients to commit suicide, in conformance with state law recently enacted through referendum, violate the federal Controlled Substances Act (CSA). In response to a letter from Sen. Hatch and Rep. Hyde, the DEA Administrator informed Congress in November that the CSA authorizes him to bring actions against doctors who engage in this activity. We understand, however, that the Attorney General probably will reverse this legal determination and find that the federal government does not have authority under the CSA to take adverse action against a physician for assisting a suicide. If she does so, Hatch and Hyde are likely to offer legislation amending the CSA to make physician-assisted suicide a federal crime, punishable by the revocation of professional licenses or even more severe penalties.

We should consider carefully our approach to this issue, including what the Attorney General should tell Hatch and Hyde about the Administration's receptivity to such legislation. Although you historically have opposed physician-assisted suicide, you have not indicated (at least as far as we know) that it should be made a federal crime. Many medical groups argue that highly-publicized federal legislation on this issue will inhibit physicians from the appropriate use of painkillers for the terminally ill. Indeed, even the Catholic Health Association (CHA), which strongly opposes physician-assisted suicide, has concerns about a new statute for this reason. We are meeting with CHA officials this coming week to discuss the issue. For the moment we urge some caution in addressing this kind of legislation.

7. Education -- TIMSS Roundtable: You will meet on Monday with leaders of the education, science, and business communities and other public officials to discuss ways of improving math and science education in the wake of the recently announced TIMSS results. The roundtable will take place at Springbrook High School in Silver Spring, Maryland, and participants will include Govs. Glendening and Underwood, Mayors Daley, Riordan and Lee Clancey (Cedar Rapids IA), Sandy Feldman and Bob Chase, Bill Nye "the Science Guy" from the PBS show, Diane Ravitch, and New York City schools chancellor Rudy Crew. Secretary Riley and Secretary Pena also will participate. You can use this event to highlight your overall K-12 education agenda, including national standards and tests, smaller class size, the elimination of social promotions, school modernization, and mentors and reading tutors. You also can use the event to urge others to do their part -- to challenge, for example, students to take more rigorous academic courses, businesses to emphasize and reward academic achievement, and states to require new teachers to pass tough tests of subject matter competency.

8. Education -- Single-Sex Schools: As you recall, the ACLU filed a complaint last year with the Education Department's Office of Civil Rights, charging that New York City's Young Women's Leadership Academy, an all-girls public high school in East Harlem, violates federal civil rights law. Staff from the Education Department and the New York City Chancellor's office will meet next week in a continuing attempt to develop the soundest legal basis -- probably a remedial justification -- for keeping the school open. We and the Counsel's Office have urged the Education Department to bring this matter to a successful conclusion as soon as possible. As you know, Chancellor Crew feels passionately about this school, and he could discuss it with you when he attends the TIMSS meeting on Monday.

Complicating the situation somewhat, the American Association of University Women (AAUW) released a report last week finding no evidence that single-sex education is better for girls than coeducation. The AAUW urged school districts to focus on raising standards and reducing class size, rather than creating separate schools, to improve educational opportunities for young women. Secretary Riley issued a statement agreeing with the report's emphasis on standards and class size, but also restating the Administration's commitment to maximizing choice within the public school system wherever consistent with the law.

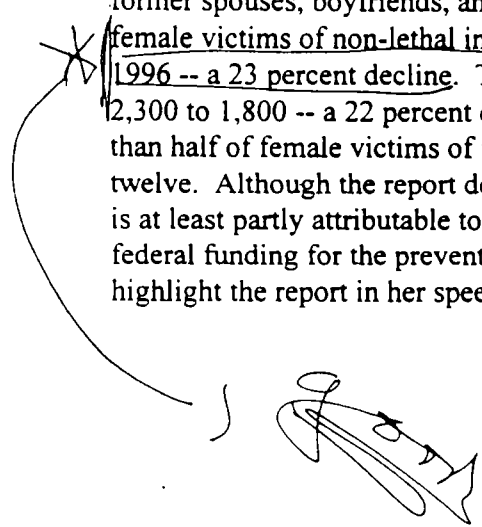
9. Education/Crime -- School Safety: The Department of Education and the National Center on Education Statistics will be ready to release a survey on school safety next week; if your schedule allows, you could announce the results on Thursday morning. The survey finds that:

- Fifty seven percent of public schools experienced at least one crime incident that was reported to law enforcement officials in the 1996-97 school year; 37 percent experienced one to five of these incidents, and 20 percent experienced six or more.

- Ten percent of schools experienced at least one serious violent crime during that year (i.e., murder, rape, other sexual battery, suicide, physical attack or fight with a weapon, or robbery).
- Overall incidents of crime and violence include: 190,000 physical attacks or fights without a weapon; 116,000 thefts or larceny; 98,000 incidents of vandalism; 11,000 physical attacks or fights in which a weapon was used; 7,000 robberies; and 4,000 rapes or other forms of sexual battery.
- Middle and high schools were more likely to experience an incident of crime and violence than elementary schools (74 and 77 percent, as opposed to 45 percent, for all violent incidents; 19 and 21 percent, as opposed to 4 percent, for serious violent crimes). Differences in robbery rates were not significant.

10. Welfare -- Transportation Funding: The ISTEA bill passed by the Senate includes an amendment offered by Senators Specter, Santorum, and Moseley-Braun that authorizes \$150 million each year -- \$50 million more than we requested -- for welfare-to-work transportation services. Like our proposal, this provision would provide competitive grants to communities to design innovative transportation solutions for low-income individuals, including those moving from welfare to work. The Senate amendment authorizes another \$100 million each year for grants to help transport any workers, regardless of income, from the cities to the suburbs. We expect that the final ISTEA bill will include these authorization levels. House appropriators, however, have expressed doubts about whether any additional monies are needed for welfare-to-work transportation services; we will have to mobilize both welfare and transportation groups to support our request for this funding.

11. Children and Families -- Intimate Violence Study: The Department of Justice will release a study on Monday showing a marked decline in violence by intimates (current and former spouses, boyfriends, and girlfriends) during your first term in office. The number of female victims of non-lethal intimate violence declined from 1.1 million in 1993 to 840,000 in 1996 -- a 23 percent decline. The number of victims of lethal intimate violence declined from 2,300 to 1,800 -- a 22 percent decline -- in the same years. The report notes that slightly more than half of female victims of intimate violence live in households with children under the age of twelve. Although the report does not address the causes of this decline, many experts believe it is at least partly attributable to the enactment of the Violence Against Women Act and increased federal funding for the prevention and prosecution of domestic violence. The First Lady will highlight the report in her speech at a child abuse center in Texas on Monday.



THE WHITE HOUSE
WASHINGTON

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July 21, 1998

MEMORANDUM FOR THE PRESIDENT

FROM:

Bruce Reed
Elena Kagan

SUBJECT:

DPC Weekly Report

7-22-98

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1. Health Care -- Patients' Bill of Rights Update: Congressional Democrats were thrilled with the two patients' bill of rights events you held last week. The media gave these events good coverage, but expressed skepticism about whether Democrats really want to pass legislation this year. Our best response to these doubts -- regardless of whether we want legislation or a political issue -- is to remain nonpartisan in tone, as you did in your remarks. As of now, both the House and the Senate may bring patients' bill of rights legislation to the floor this week. In the House, the Republican Leadership is attempting to pass a rule for separate up or down votes on the Republican Task Force bill and the Dingell/Ganske legislation. Under this scenario, the Task Force bill may pass, but with few or no Democrats and with a few Republican defectors. The Dingell/Ganske bill probably will receive about 200 votes. In the Senate, the Leadership will allow amendments, as well as complete substitutes, to the Republican bill; for this reason, the Senate is likely to produce a stronger bill than the House even though the Senate Republican bill is the weakest proposal on the table. It is still unclear whether Senators Chafee and Graham will introduce a bill. If they do, it is likely to have a full set of patient protections and an enforcement mechanism that is stronger than the limited civil monetary penalties in the House Republican bill but not as strong as the state-court enforcement option in the Dingell-Ganske bill. Because of the partisan divide on this issue, this kind of compromise approach may receive little support.

2. Health Care -- Nursing Home Enforcement: Senators Grassley and Breaux will release next week a scathing GAO report on inadequacies in nursing home care across the country. This report will criticize HCFA sharply for failing to monitor or oversee nursing home quality. As you know, we have worked with HHS to develop a strong initiative, including both legislative proposals and administrative actions, to make improvements in this area. The package provides for criminal background checks on nursing home workers, strengthened penalties for nursing homes that fail to meet standards, and closer federal oversight of state enforcement mechanisms. (The briefing memo we sent you described the initiative more fully.) Your announcement of this package today should blunt the impact of the GAO report, though it still will receive media attention.

3. Health Care -- Long Term Care: Congressman Mica, the Chairman of the Government Oversight Committee with jurisdiction over the Federal Employees Health Benefits

Program (FEHBP), is planning to mark up a bill this week that would allow federal employees to purchase private long-term care. We have serious concerns about Mica's proposal, primarily because it does not ensure that the packages offered will be high-quality. We are developing an alternative proposal on this subject to include in a broader long-term care package that you can announce later this summer. In the meantime, OPM will write Mica a letter noting your longstanding interest in this issue while raising concerns about his proposed policy.

4. Tobacco -- Meetings with Hatch: Bruce Lindsey, Larry Stein, and we met with Senators Hatch, Feinstein, Torricelli, and Breaux last week to explore options for moving their tobacco bill in the Senate. As you know, the bill is based on the June 20th settlement, but with a slightly higher price and somewhat increased lookbacks. We expressed some concerns about the FDA provisions in his bill, and noted our fear that the absence of any company-specific lookback penalties and the scope of the liability provisions -- including not only a liability cap, but also a prohibition on class actions and punitive damages -- would prevent the bill from gaining strong Democratic support. Because Torricelli and Feinstein said that a significant number of Senate Democrats look to Senator Conrad for guidance on this issue, we all agreed to have another meeting, this time with Conrad in attendance. That meeting will take place on Tuesday afternoon. Following the principals' meeting, we also sat down with Hatch's staff to discuss further his FDA proposal. Although we continue to have some differences on this issue, the meeting went well; there is little reason to think that the FDA issue would stand in the way of a deal if everything else could be satisfactorily resolved.

5. Tobacco -- Counteradvertising Campaign: We are exploring with ONDCP whether to incorporate tobacco counteradvertising in our national youth anti-drug media campaign. Although ONDCP's \$195 million budget must go toward anti-drug ads, we could encourage the television networks to use some of the matching funds they provide to air anti-tobacco messages. If we decide to go down this route, we would work with HHS and public health groups such as the Campaign for Tobacco Free Kids to propose programming ideas and produce specific advertisements.

6. Crime -- Values-Based Anti-Crime Initiative: You are scheduled to unveil a new values-based violence prevention initiative at an event on the South Lawn this Wednesday. The initiative will support the efforts of community organizations, including faith organizations, to provide values-based instruction and activities for at-risk youth to improve public safety. Some of the activities undertaken by the grant recipients, in partnership with law enforcement, schools, courts, and service providers, include gang intervention, gun abatement, truancy prevention, mentoring, drug and alcohol abuse, conflict resolution, and job training. The initiative will provide grants of between \$75,000 and \$150,000. The grant recipients are located in 16 cities: Salinas, CA; Los Angeles, CA; Washington, DC; Miami, FL; Chicago, IL; Indianapolis, IN; Baltimore, MD; Detroit, MI; Kansas City, MO; Hempstead, NY; Portland, OR; Philadelphia, PA; Charleston, SC; San Antonio, TX; Richmond, VA; and Seattle, WA.

7. Crime -- Appropriation for Youth Crime Gun Interdiction Initiative: The Senate now has joined the House in fully funding your Youth Crime Gun Interdiction Initiative. The new funding will allow us to place additional ATF agents in each of the 27 cities in which the initiative is now operating; it also may enable us to expand the initiative to other cities.

8. Education -- Charter School Legislation: The Senate Labor and Human Resources Committee is scheduled to mark-up a charter schools expansion bill this week. The bill will contain many of the provisions we have recommended, and has solid bipartisan support. We will work to convince Democrats to use other bills -- perhaps including the Ed-Flex bill discussed below -- as a vehicle for forcing votes on other education priorities, so that we have a chance of moving this bill expeditiously through the Senate and to conference. In addition, we are planning to release an estimate of charter school enrollment for the upcoming school year and two Education Department reports -- one on what parents should look for in charter schools, the other on what guidelines chartering agencies should set -- at your speech to Boys Nation this Friday.

9. Education -- Ed-Flex Legislation: The Labor and Human Resources Committee also is scheduled to mark-up a Frist/Wyden Ed-Flex bill this week. As you know, the 12 states now participating in the Ed-Flex demonstration program have authority to waive most requirements in the major federally funded elementary and secondary education programs. The Frist-Wyden bill would give this flexibility to any state meeting specified requirements. We and the Education Department have worked hard with Frist and Wyden's staff, as well as with the NGA, to ensure that the preconditions for participation in Ed-Flex are sufficiently stringent -- i.e. that states get waiver authority only if they have in place standards and assessments, school report cards, and procedures for intervening in failing schools. You announced support for this kind of approach at the last NGA Winter meeting. Democrats and most of the education community are at best lukewarm to this bill; even if Senate Democrats support it in committee, they are likely to use it as a vehicle for trying to move higher priority items, such as our class size reduction initiative. Republicans also may attempt to use the bill as a vehicle for their favorite proposals -- e.g., vouchers and block grants -- so its ultimate fate is quite uncertain.

10. Food Safety -- Appropriations Victory: The Senate passed last week, by a vote of 66-33, an amendment offered by Senator Harkin to restore \$68 million for funding of your food safety initiative. Harkin's amendment funded the increase by requiring the tobacco industry to take over the administrative costs associated with the USDA's tobacco program. We worked closely with Harkin and consumer groups to promote the amendment, and several newspapers, including the Los Angeles Times, published strong editorials in support. We will continue this effort to ensure that we get a good result on this issue in conference.

11. Welfare Reform-- Wellstone Amendment on Work Requirements: As part of its passage of the Higher Education Act, the Senate approved an amendment offered by Senator Wellstone, by a vote of 55-43, to allow states to count up to two years of vocational education or college toward the welfare work requirements. States currently can count one year of vocational

education toward the work requirements, subject to a 30% cap on the percentage of the caseload that can count this activity as work; the cap would continue to apply under the Wellstone proposal. Supporters of the amendment argued that it would help welfare recipients increase their earning potential and improve the chances of their permanently leaving the welfare system. Opponents argued that it would weaken the work requirements, which are the lynchpin of the welfare law and the engine for caseload reduction. We understand that House Republicans will try to eliminate the Wellstone amendment in conference.

One possible compromise might be to let college attendance count for up to half of a person's work requirement (i.e., 10-15 hours) for up to two years. Amended in this way, the law would expect college students receiving welfare to perform some work, but would recognize the difficulty of juggling work, classes, and parenting responsibilities. Of course, if the Republicans succeed in simply knocking out the Wellstone amendment, we will continue our efforts to encourage states to use the existing flexibility in the welfare law (and in work-study programs) to accommodate college students.

12. Welfare Reform -- Illegal Immigrants: HHS will issue a list this week of "federal public benefits," which illegal immigrants are not eligible to receive under the welfare law. The list includes adoption assistance and foster care, child care, low-income heating assistance, Medicare, Medicaid, the Social Services Block Grant, the new Child Health Insurance Program, and TANF, as well as 20 smaller programs. The list excludes community health centers and maternal and child health programs, which will continue to be available to all comers. House Republicans (e.g., Lamar Smith) may argue that HHS should not have excluded these programs, but there are good policy reasons and a sound legal basis for doing so. At the same time, DOJ will issue a proposed rule instructing providers of federal public benefits on how to determine whether a potential recipient is an illegal alien. The rule requires a provider to look at documents for everyone, unless the provider has applied for and received a temporary waiver. Providers will view this requirement as a serious administrative burden, but the law left little room for any alternative approach.

13. Abortion -- Congressional Update: A series of contraception- and abortion-related votes occurred last week in the House, and we expect more next week. First, the House passed by a vote of 224-198 the Lowey proposal to require health plans participating in the FEHBP to provide coverage of contraceptives. Second, the House passed by a vote of 276-150 legislation making it illegal to transport a minor across state lines in order to avoid a state's parental consent law. Third, a House committee passed an amendment offered by Congressman Istook to require parental consent for Title X family planning services. We can expect the House to turn this week to the Partial Birth Abortion Act and the "Mexico City" international family planning restrictions.

14. Community Empowerment -- Community Reinvestment Act (CRA): According to a report by the National Community Reinvestment Coalition (NCRC), the private sector has pledged more than \$1 trillion going forward in loans to distressed communities, with more than

95 percent of these financial commitments made since 1992. The NCRC also reported that there have been 23 times more financial commitments to distressed communities from banks in the past 5½ years than in the previous 15 years. In addition, lending commitments under the CRA have increased 69-fold from the pre-1993 era -- from an average of \$2.6 billion per year between 1977 and 1992 to about \$180 billion per year in the past 5½ years. Despite the success of your Administration's reform of CRA, some in Congress are working to attach riders to the Credit Union Membership Access Act which would gut the program. Over the next weeks, the NEC, DPC, and Treasury will monitor this situation closely.

THE WHITE HOUSE
WASHINGTON

August 7, 1998

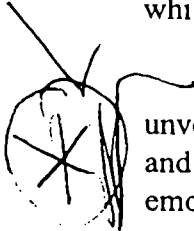
MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

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1. Health Care -- Patients' Bill of Rights Event: You are scheduled to go to Kentucky on Monday to participate in an event on patients' bill of rights legislation. In line with your pledge to the Democratic caucus last week, you will highlight the many shortcomings of the Republican bills and show how they differ from the Kennedy-Dingell-Ganske alternative. The President of the Kentucky Medical Association, a lifelong Republican, is currently scheduled to give a speech at this event, expressing the AMA's disappointment with the Republican proposals. Other major provider and consumer organizations will repeat the same message and praise your leadership on this issue. In addition, you will announce at this event that the Federal Employees Health Benefits Program is now ready to implement an anti-gag rule -- thus taking still another step in our continuing effort to bring all federal health programs into compliance with the patients' bill of rights, even while Congress delays in passing legislation.



2. Health Care -- Elder Abuse: We are working on an initiative that you could unveil as early as Thursday to respond to continuing reports of elder abuse. By that time, HHS and NIH should be ready to release reports documenting the physical, psychological, emotional, and financial abuse which older Americans suffer, often at the hands of family members. As part of the initiative, you would (1) announce the creation of a new center on elder abuse; (2) release new Justice Department grants to help identify and prevent elder abuse; and (3) call on Congress to reauthorize the Older Americans Act, which includes services to help elders at risk for abuse. We also will work with aging advocates and others to help highlight some of the best practices in the states to crack down on elder abuse. This initiative complements your recent efforts to ensure that patients in nursing homes receive high quality services, and we will try to draw that connection.

3. Health Care -- Home Care Reimbursement: Home care providers are pressing Congress to modify a Medicare reimbursement policy passed as part of last year's Balanced Budget Act. In that Act, Congress established a phased-in prospective payment system, similar to the system that has constrained hospital payments, to curb the dramatic increase in home health expenditures (from \$4.7 billion in 1990 to \$17.2 billion in 1997). Now home care providers are claiming that the new policy reduces rates too much, penalizes efficient providers, and disproportionately harms some providers who serve very ill patients. A number

of the providers' complaints appear to have some validity, but there is little HCFA can do about them without new legislation. Congress would like to respond, but so far has failed to devise a viable alternative. Budget-neutral changes in the reimbursement policy cannot attract sufficient support because they inevitably would hurt as many home care providers as they would help. But non-budget-neutral revisions also have significant problems, because they would require new and almost certainly unpopular Medicare offsets. In response to this difficulty, Congressman Thomas and other members of the Ways and Means Committee have begun to allege that the Administration bears primary responsibility for solving the problem. We expect pressure to grow even stronger over the next month or so for the Administration to identify new Medicare savings and provide cover for using them for this purpose.

4. Education -- National Board for Professional Teaching Standards:

Congressman Goodling agreed to drop the provision in the Higher Education Act to prohibit funding for the National Board for Professional Teaching Standards in exchange for OMB's promise to accept the CBO's scoring of the student loan program. Goodling also agreed not to attack the Board in any other legislation that Congress will vote on this year. While this deal protects the Board for the time being, we expect Goodling to pursue his vendetta against the Board in next year's reauthorization of the Elementary and Secondary Education Act. Our efforts over the last few weeks have demonstrated that although the Board enjoys broad bipartisan support in the Senate, it has no real following in the House; in addition, our efforts have shown that even champions of the Board have questions about certain aspects of its work -- particularly about the very high cost of certification. We will continue to work closely with Governor Hunt and others on a strategy to shore up support for the Board among members of Congress, including by urging the Board to make needed reforms.

5. Education -- Bilingual Education: The House Republican Leadership scheduled Congressman Riggs's bilingual education bill for a floor vote on Thursday, but pulled the bill at the very last minute. Democratic opposition to the bill was strong, and a few Republicans from New Mexico, Texas, and Florida also might have voted against it. It is unclear whether the Leadership will schedule new time for the bill in September.

6. Community Empowerment -- Empowerment Zones: A bipartisan coalition of Senators including Senators Jeffords, Leahy, and Warner last week introduced legislation that would provide grant funding for the second round of Empowerment Zones (EZs). This bill, the result of months-long negotiations between Administration and Senate staff, not only would provide flexible grants to the second-round EZs (as the Administration's earlier proposal did), but also would provide: (1) funds for a new demonstration program called Rural Opportunity Communities (ROCs) to spur economic development in communities that cannot qualify for the EZ/EC program; (2) a new pool of money for high-performing EZs and ECs that have exhausted their existing resources; and (3) a preference for high-performing first-round ECs that are applying for a second round EZ. In the next weeks, DPC, OVP, and NEC will continue to work closely with HUD and USDA in procuring additional cosponsors for this

legislation, and will work to secure its passage as part of any revenue-related legislation coming out of the Senate Finance Committee.

7. Crime -- Concealed Weapons Legislation: The House Judiciary Committee approved legislation last week to expand the right of certain persons to carry concealed weapons across interstate lines. As originally introduced -- upon the request of the Fraternal Order of Police -- this bill would have allowed current and former law enforcement officers to carry concealed firearms across state lines. As amended in the Judiciary Committee -- with strong support from the NRA -- the bill also would allow private citizens with permits to carry concealed weapons in their home states to do the same in any other states that permit concealed weapons.

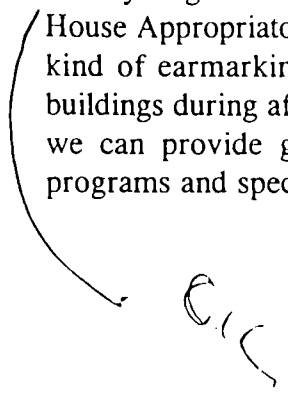
Currently, 29 states must issue concealed-weapons permits upon request to all persons not prohibited from owning a firearm (generally, convicted felons); 13 states may issue concealed-weapons permits, but retain some discretion in approving and denying applicants; one state -- Vermont -- does not even require a permit to carry a concealed weapon; and only seven states flatly prohibit the carrying of a concealed weapon. Thus, the practical effect of the legislation passed last week is to allow millions of gun owners to carry concealed and loaded weapons on an interstate basis in 43 of the 50 states. We are considering making this legislation a central piece of the gun event you will do in California next week (which also will focus on Brady), but first must consult with Grey Davis and others.

8. Crime -- Law Enforcement: The House Crime Subcommittee is scheduled to mark up legislation next week to provide college scholarships to the children and spouses of local law enforcement officers killed in the line of duty. You called on Congress last year to pass this legislation, after signing a bill in 1996 to provide such scholarships to the dependents of slain federal officers. Similar legislation passed the full Senate in May.

9. Gay and Lesbian Issues -- Sexual Orientation Executive Order: The House last week voted down an amendment, sponsored by Congressman Hefley, to prohibit funding to implement your executive order of May 28 banning discrimination based on sexual orientation in the federal civilian workforce. The vote was 252 to 176, with 63 Republicans rejecting the Hefley measure. A recent Wall Street Journal/NBC News Poll showed that 72 percent supported the order, while only 20 percent opposed it.

10. Children and Families -- After-School Programs and Service: You recently asked us to look into a proposal from a White House Fellow to earmark 15 percent of proposed funding for the 21st Century Community Learning Centers program for after-school programs run through the Corporation for National Service (CNS). Strengthening the connection between service and after-school activities is important, and service is in fact already a significant part of the current 21st Century program. But specific earmarking from an Education Department program to the CNS might be disadvantageous for both programs for the following reasons: (1) funds from the Education Department come with

many more restrictions on their use than CNS dollars; (2) additional earmarking would drain the 21st Century program of needed resources (the Administration's budget proposal already targets 10 percent of program funding to community-based organizations, and the House Appropriators cut our budget request from \$200 million to \$60 million); and (3) this kind of earmarking would lessen our ability to promote greater utility of public school buildings during after-school hours. We will, however, continue to explore ways in which we can provide greater support and funding both to traditional after-school learning programs and specific service-oriented programs.



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THE WHITE HOUSE
WASHINGTON

September 16, 1998

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC October Event Ideas

Health Care

Long-Term Care: If Democrats decide to introduce an alternative tax bill, we could do an event (either before or concurrent with the Democratic unveiling) that highlights the President's long-term care initiative. The President's proposal would provide for a \$500-\$1,000 tax credit to people with long-term care needs or their caregivers. It would cost about \$5 billion over 5 years and help about 2.2 million people. At the same time, the President could call for the Federal Employees Health Benefit plan to offer long-term care insurance to federal employees. OPM estimates that 300,000 people would buy these policies.

Work Incentives and Health Care for People with Disabilities: Within a week, we will know whether the Senate will vote on the Jeffords-Kennedy Work Incentives Improvement Act -- the disability community's top health priority -- this year. If the bill does come to a vote, we could do a strong event with the disability and AIDS communities emphasizing our involvement in developing the bill and calling on the Senate to pass it. We also could announce the approval of four states for the new "date certain" grant program. This initiative (long sought by the disability community) gives states the ability to use Medicaid funds to offer a time-limited opportunity for institutionalized disabled persons to return to their communities to receive the long-term care services they need. The disabilities community views the program as an important step in moving Medicaid away from its historic bias toward institutionalizing the chronically ill.

Children's Health: October is the first anniversary of the effective date of the Children's Health Insurance Program (CHIP), and October 5 is Child Health Day. We could release the first annual report on states' progress in implementing CHIP, which is expected to coincide with a sufficient number of state approvals to cover 2.5 million kids. At this event, we would launch phase one of our children's health outreach campaign with NGA, which includes new radio ads in 10 states (set to begin October 1) targeted to parents of uninsured children eligible for CHIP or Medicaid. We also are trying to get a commitment from Americorps to participate in signing families up for Medicaid and CHIP on the local level.

Patients' Bill of Rights: We would like to do at least one more patients' bill of rights event, preferably on the road, prior to the election. We might want to do a kind of wrap-up event, now

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Mike
Jose

Jen
Cynthia
Tom
Paul

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② AHA/ADA
→ working

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that we have just about finished applying the bill of rights to federal health plans, toting up everything we have done by executive action (i.e., how many people covered) and comparing it to what Congress has accomplished (i.e., nothing). The AFL-CIO (per Jerry Shea) strongly favors this event.

Cancer Event(s): In addition to the September 26 Cancer March (and the President's possible involvement through a radio address), October is National Breast Cancer Awareness month. It is also the fifth anniversary of the President's launching of the National Action Plan on Breast Cancer. We have tentatively scheduled October 21 for an event with the First Lady to (1) release a new report on the progress the Administration has made in the fight against breast cancer, and (2) highlight a new information outreach and screening campaign focused on underserved minorities. Because of the President's strong cancer record, as well as his desire to underscore our commitment to ending health disparities among races, the President might want to participate in this event.

Elder Abuse: See Crime section of this memo.

Education

September Grants: The Education Department will announce prior to September 30: (1) technology grants (\$30 million to 17 states); (2) charter school grants (\$60 million to 20 states); (3) safe and drug free school grants (\$5 million for model school partnerships and universities); and (4) school-to-work grants (\$40 million to urban and rural communities, which must be given on September 30). We can try to combine as many of these grants as possible into a single event, perhaps in Chicago.

Potential Bill Signings: (1) The Higher Education Act is virtually certain to pass this session, though the timing is uncertain. It is likely to contain provisions to reduce student loan interest rates, as well as programs based on our High Hopes and Teacher Recruitment and Preparation proposals. (2) Prospects for passing the charter schools legislation are decent, though hardly guaranteed. (3) Ditto the prospects for passing an early literacy bill.

Safe Schools Conference: On October 15, the President will host a White House Conference on School Safety and take the following actions: (1) release the first annual report on school safety, including school crime data, information on model safe schools, and recommended action steps for parents and teachers; (2) unveil a proposal to reform the Safe and Drug Free Schools program and call for additional funds in the FY 2000 budget; (3) announce a new FEMA-like program of assistance for communities that have experienced school-related violence; (4) launch new comprehensive school safety grants that will bring together disparate streams of funding from the Departments of Justice, Education, and Health and Human Services; and (5) start a partnership with MTV on school safety, which includes a year of PSAs.

9-21-98

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Crime*can do what
in LA?**Seems*

September COPS Grants: The President could announce in late September \$370 million in grants to hire or redeploy 11,500 more police officers. This announcement would include \$100 million for Los Angeles to hire 700 new police officers, \$70 million for the rest of California to hire 800 new officers, and \$200 million for COPS MORE grants to allow police departments in communities across the nation to redeploy more than 10,000 officers.

Let's do an announcement on this good

Elder Abuse and Fraud: The President could take several actions to combat elder abuse and fraud, including: (1) releasing the preliminary findings of an HHS study on elder abuse; (2) creating a new national center on elder abuse; (3) calling on Congress to reauthorize the Older Americans' Act, which includes services to help older Americans at risk for abuse; (4) launching a new partnership between the Justice Department and AARP to create Elder Fraud Prevention Teams (EFPTs) in four cities (Miami, Phoenix, San Diego, and Seattle); (5) releasing roughly \$3 million in Justice Department grants to combat fraud against the elderly (by September 30); and (6) posting new information on telemarketing fraud on the Department of Justice Web site.

TOP COPS Legislation: The President could sign legislation to expand educational benefits for the children of slain local law enforcement officers at the NAPO TOP COPS event on October 9, assuming the legislation is passed in time. The President endorsed this proposal at last year's TOP COPS event. The bill has passed the Senate and is waiting for a floor vote in the House.

Good

1997 FBI Crime Statistics: Coinciding with the October 18 release of the final 1997 FBI Uniform Report -- which will continue to show large decreases in crime -- the President could give a major policy speech on how this Administration's efforts have helped to fuel the longest sustained drop in violent crime in nearly 40 years. The speech would commemorate the fourth anniversary of the landmark 1994 Crime Act; highlight the crime policies, including signature initiatives such as COPS, that have helped to change the nation's approach to crime; and begin to make the case for new crime proposals that will be included in the State of the Union and FY 2000 budget.

Youth Crime Gun Interdiction Initiative: Anytime after October 23, the President could: (1) release the second annual report on the Youth Crime Gun Interdiction Initiative (YCGII), which will provide new ATF data on guns used in crimes in 27 cities; (2) announce the availability of new funds to hire new ATF agents to investigate gun trafficking in these 27 cities; and (3) propose a dramatic expansion of this initiative in the FY 2000 budget to all major cities (i.e., the 65-70 cities with populations of 250,000 or more), which would cost about \$30 million (pending OMB's approval). Additionally, because we expect the YCGII report to make a strong case for cracking down on "straw purchasers" and gun shows, we are considering whether the President should announce his support for legislation requiring background checks for all secondary market gun purchases.

*Seems
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good idea**May gun
are to pass
my Monday*

Children and Families

Head Start Reauthorization Bill: The President should have the opportunity to sign a Head Start Reauthorization bill this year. A bill signing could highlight the how the Administration has (1) significantly increased Head Start participation; (2) dramatically improved program quality; and (3) created Early Head Start for infants and toddlers.

Quality Child Care for Federal Employees Act: The President may get an opportunity to sign the Quality Child Care for Federal Employees Act, which makes important improvements to federally-sponsored child care by building on an executive memorandum that the President issued in March 1998. (Congress, however, might add this measure to an appropriations bill.) We could announce new CCDBG data (see just below) at this signing.

New Child Care Data. The President could announce new data of the number of children served with child care assistance through the Child Care and Development Block Grant (CCDBG). This data will point to the need for increased investment in the block grant; we expect the data to indicate that we are serving approximately 1.8 million children of the 10 million eligible for assistance. This is the first data to examine the CCDBG created by welfare reform in 1996 (when four child care assistance programs were consolidated).

CEO Roundtable Discussion on Work/Family Issues: The President could host a meeting of CEOs to discuss "family-friendly" workplace practices that meet the needs of the nation's changing workforce. The President could release a new CEA report, if it is ready, on Families and the Changing Labor Market. Additionally, the President could signal support for the design of a paid parental leave program (policy development process required). This meeting would build on the work of the Treasury Child Care Working Group, run by Secretary Rubin.

Welfare

National Child Support Case Registry: HHS is almost ready to put in place a new national database of child support cases, called a Federal Case Registry. This database will make it easier to locate deadbeat parents, especially if they have moved to a different state; HHS will check the Registry daily against an existing database of new employees; when it finds a match, it will report the information to the state, which then will arrange to garnish the wages of the delinquent parent. The registry was proposed by the President in 1994 and enacted as part of the 1996 welfare reform law. States will begin to submit their case data to HHS on October 1; HHS expects to have 30 states in its system by the end of October and 40 states by the end of the year. We could unveil the new registry anytime in October.

Work Participation Rates and Other Statistics: In late October, the President could visit a welfare-to-work program and announce (1) new state work participation rates, showing that almost all states are meeting the welfare law's single-parent requirements, but some are failing to meet the law's separate two-parent requirement; (2) new caseload data showing continuing

declines; and (3) new data on the number of people who were on welfare in 1997 and working in March 1998.

Tobacco

OSHA Rule: The President could sign an Executive Order directing OSHA to issue within one year a standard establishing a smoke-free workplace for all private sector employees. OSHA has been working since 1991 on a standard regulating all indoor air pollutants (including but not limited to environmental tobacco smoke), but is years away from completing the standard, principally because there is scanty scientific evidence to justify the regulation of certain non-ETS pollutants. If the President ordered a separate standard only on ETS, OSHA believes it could complete the work within a year. The resulting standard would be similar to the August 1997 Executive Order banning smoking in federal buildings.

Counteradvertising: In an event focusing on counteradvertising, the President could direct HHS to: (1) designate the CDC's Media Campaign Resource Center as a National Clearinghouse on Tobacco Counteradvertising; (2) collect and disseminate a package of the top-10 advertisements for preventing youth smoking, and make these available to states and organizations for television placement free of charge; and (3) make effective anti-tobacco curriculum available to every school. Supermodel Christy Turlington and the musical group "Boyz II Men" have made PSAs that would be among the top-10 package, and we could invite them to participate in the event.

Department of Defense Anti-Tobacco Plan: The President could help unveil the DOD's new comprehensive anti-tobacco plan. This plan includes: health plan coverage of over-the-counter nicotine replacement therapies; an extensive counteradvertising campaign; and the incorporation of anti-tobacco messages into military education and training programs. The total cost is about \$60 million. The Secretary of Defense and/or Chairman of the Joint Chiefs of Staff could join the President.

Food Safety

 **Salmonella and Research:** The President could announce a preliminary USDA study showing that salmonella risks have declined by almost 50 percent in chicken and almost 40 percent in swine, largely because of the HACCP program. At the same time, he could participate in a kind of "show and tell" event demonstrating the importance of research to food safety, showing for example how federal research has led to technologies dramatically reducing salmonella in chicken and e-coli in cows.

Service

 **AmeriCorps 100,000th Member Event:** CNS is planning national service events in Washington and around the country on October 23 to celebrate the swearing-in of the 100,000th AmeriCorp member. At this event (or at some other time), the President also could announce: (1) new grants

to support 500-1000 Americorps Promise Fellowships to support the goals set at the Presidents' Summit; (2) the recipients of the President's Service Awards, the nation's highest volunteer service award; and (3) the recipients of the President's Student Service Awards.

Community Empowerment

Individual Development Accounts: The President may have an opportunity to sign a bill to provide funds for IDAs, which the President has supported since 1992. At the bill signing, the President could announce that he is sending a letter to the bank regulators asking that IDA accounts count towards a financial institution's CRA requirements.

THE WHITE HOUSE
WASHINGTON

September 19, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena KaganSUBJECT: DPC Weekly Report*copied
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1. Education -- Charter Schools: Senator Harkin continued this week to prevent charter school legislation from coming to the Senate floor. As you recall, Harkin is insisting that the legislation set aside funds for innovative non-charter schools in states (such as Iowa) that have not passed charter school legislation. Harkin is motivated in part by a desire to get money for Iowa and in part by opposition toward the charter school movement. Senator Coats will not compromise with Harkin, arguing that the set-aside would minimize the difference between charter and non-charter schools and decrease incentives for states to pass charter legislation. Coats also may be responding to leadership pressure to use all available excuses to deny you a legislative accomplishment. Secretary Riley is scheduled to talk with Senator Harkin this weekend to urge him to drop his objection; in particular, Riley will explore with Harkin whether there is some other effective way to support innovative public schools in Iowa. If Riley does not succeed in convincing Harkin to back off, we probably will ask you to make a phone call to Harkin.

2. Education -- Single Sex Schools: Senator Kay Bailey Hutchison is threatening to offer her single-sex schools amendment to the early literacy bill -- a move that almost certainly would prevent passage of the bill -- unless we work with her to develop a version of the amendment that we could accept as part of the Labor-HHS-Education appropriations bill (or an omnibus appropriations package). As you recall, Hutchison's amendment expressly allows school districts to use funds from Title VI of the Elementary and Secondary Education Act for single-sex schools, so long as the districts provide comparable educational opportunities to students of both sexes. The Department of Education believes that this amendment is unnecessary (because it simply restates the governing legal standard) and confusing (because it may lead school districts to believe that some other standard governs non-Title VI funds). Given the nature of these reservations, we probably could work out mutually agreeable language with Hutchison. But most women's groups and a number of Senate Democrats (including Senators Kennedy and Harkin) appear to have much more fundamental objections to the Hutchison amendment; they would like substitute language that makes single-sex schools a good deal harder to establish. Because of their strong feelings on this issue, we have not yet agreed to negotiate with Hutchison; we are going to have further discussions this week with the groups and Senate staff.

3. Education -- Block Grants/Class Size: The House passed education block grant legislation on Friday by a vote of 212-198. Congressman Clay offered your class size proposal as an amendment during the debate. Republicans defeated the amendment by a vote of 216-190, thus putting themselves on record as opposing measures to reduce class size in the lower grades. We do not expect the Senate to take up the block grant legislation.

4. Children and Families --Head Start Reauthorization: The House passed a generally good Head Start Reauthorization bill on Monday, after Congressman Goodling agreed to strip several highly controversial provisions -- involving, for example, vouchers and the Davis-Bacon Act -- that the Republicans had added in committee. The Senate already has passed a strong reauthorization bill, and we hope for a speedy conference and a bill signing next month. Both the House and the Senate bills reauthorize the program at sums near your request and add important new goals for the program, such as "school readiness." The most important issue left for conference concerns how to allocate new funds between quality improvement and program expansion. We have advocated a careful balance between improving quality and serving more children, very much along the lines of the Senate bill; the House bill puts more of the new money into quality improvements, such as salary enhancements. We will work in conference for the Senate version, but expect to see some middle-ground position emerge from conference.

5. Crime -- COPS Grants: The COPS Office released last week over \$20 million in grants to 27 jurisdictions to hire 331 officers. The office is now ready to release another \$300 million in grants, including: (1) \$200 million in COPS MORE grants to allow 600 law enforcement agencies across the country to redeploy 10,000 officers; (2) \$100 million for Los Angeles to hire over 700 new police officers (with a long-awaited waiver of the normal matching requirement); and (3) \$6 million to four other law enforcement agencies in California to hire an additional 82 officers.

6. Crime -- Juvenile Crime Legislation: The House attached two major juvenile crime bills that it had passed during the past year -- H.R. 3, a penalties bill which we have opposed; and H.R. 1818, a prevention bill which we have supported -- to a noncontroversial bill coming from the Senate to reauthorize funds for the Center for Missing and Exploited Children. The amended bill passed on the suspension calendar by a vote of 280-126, thereby setting up a conference on the juvenile crime measures. Senate Democrats will oppose the appointment of conferees, but they may eventually have to back down and accept a conference on juvenile crime. We will continue meeting with them this week to discuss how best to proceed on this issue.

7. Health Care -- Medicare Home Health Update: Ways and Means Subcommittee Chairman Bill Thomas unveiled a proposal last week to modify the home health care reimbursement provisions passed in the Balanced Budget Act. As you recall, home health providers (including Val Halamandaris) have complained that these provisions set rates too low and prevent providers from offering quality service to Medicare beneficiaries. The

Thomas proposal would raise payment rates overall, while also lessening geographical disparities in reimbursement. Although not fully satisfying the industry, the proposal goes a long way toward meeting their objections. (Val, for example, sent generally positive signals about it.) The primary problem with Thomas's approach is that it would cost \$1.4 billion over 5 years -- and that it takes this amount out of the budget surplus. We believe that House Democrats will hold firm in opposing the proposal's surplus financing, but that they will feel real pressure to propose an alternative financing mechanism. The difficulty, of course, is that the Medicare offsets that could pay for Thomas's home health proposal are themselves politically nonviable. We will meet with the Democrats next week to discuss how to proceed on this sensitive issue.

8. Welfare Reform -- New Federal Child Support Case Registry: HHS is almost ready to put in place a new national database of child support cases, called the Federal Case Registry. This registry -- another of the critical building blocks of the interstate child support system proposed in your 1994 welfare reform bill and enacted in 1996 -- will make it easier to locate deadbeat parents, especially if they have moved to a different state. HHS will check the Registry daily against an already operative database of employees (the National Directory of New Hires, which was created in October 1997 and is updated daily with "new hire" information submitted by employers). When this computer check produces a match, HHS will report information about the delinquent parent to the state in which child support is owed; the state then will arrange to garnish the wages of the parent. States will begin to submit their child support case data to HHS on October 1; HHS expects to have 30 states in its system by the end of October and 40 states by the end of the year. The National Directory of New Hires already has made it easier to find delinquent parents (the Directory helped locate one million parents in just its first nine months of operation); the addition of the Federal Case Registry will increase still further the ability of states to find and proceed against deadbeat parents.

9. Welfare Reform -- Research Grants: HHS awarded \$3 million in grants to 10 states and 3 counties last week to study what happens to families coming off the welfare rolls. The research studies will track employment and earnings; returns to welfare; participation in Food Stamps, Medicaid, child support, and child welfare programs; and family and child well-being. Florida's study is specifically designed to explore the impact of welfare reform on different ethnic groups, and Arizona's study is directed in part toward the State's large Native American population. Massachusetts will examine, among other matters, the first group of families to hit the State's 24-month time limit. Several of the states also will track what happens to families who have been diverted from the welfare rolls.

10. Immigration -- H-2A Agricultural Guestworkers: We met several times last week with Democratic Members of Congress interested in the H-2A visa program for agricultural workers to inform them that we would continue to oppose the H-2A provision on the Senate's Commerce-Justice-State (CJS) appropriations bill, but that we would engage in a broad-based process to consider future legislative reform of the program. Senators Wyden and Graham co-sponsored the provision on the CJS bill, but Hispanic groups, labor unions,

and their many Democratic friends in Congress (including Senator Kennedy and Congressmen Berman and Becerra) just as strongly oppose it. We believe that there is good reason for this opposition, because the Wyden/Graham amendment would weaken labor protections for migrant farmworkers. At the same time, we believe that the growers have legitimate concerns about the program, and that we should take a hard look at the way it operates. After several meetings, Wyden and Graham decided that they would continue to push their amendment on the CJS bill, but that they also would join a working group (which will include as well Kennedy, Berman, and Becerra) to consider different ways to reform the H-2A program. We will begin meetings of this working group this week, in the hopes of developing a consensus proposal and introducing it at the beginning of the next session of Congress. In the meantime, we believe that we are in a strong position to defeat the Wyden-Graham amendment, especially because anti-immigrant Republicans also oppose it.

11. Community Empowerment -- Regulation B: We have heard that the Federal Reserve may be coming close to approving a change in Regulation B, which implements the Equal Credit Opportunity Act, to allow (but not require) banks to collect data on the race and income of loan applicants. The Administration sent a letter to the Fed last Spring, arguing that this change in the regulation would allow banks to assess their outreach and approval practices for a variety of loans, including loans to small businesses. The Fed considered and rejected a similar proposal in December 1996, but may change its mind between now and the end of the year because of the Administration letter, supportive letters from several large banks, and recent changes in the composition of the Board of Governors.

THE WHITE HOUSE
WASHINGTON

98 SEP 27 PM 7:28

September 26, 1998

MEMORANDUM FOR THE PRESIDENT

FROM:

Bruce Reed
Elena Kagan.

SUBJECT:

DPC Weekly Report

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pg 4:
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1. Tobacco -- State Settlements and Federal Recoupment: Rumors about a state settlement with the tobacco companies continue to run rampant. We heard in the middle of last week that the states were only days away from wrapping up an agreement that would give them about \$200 billion and a limited set of advertising restrictions. We heard on Friday, however, that new disputes had emerged and that there is not likely to be a settlement this week.

In preparation for a settlement, the NGA and NAAG are asking Congress to pass legislation extinguishing the federal government's claim to any share of the money that the companies will pay the states. (As you know, the federal government is entitled to an average of 57 percent of any state recovery of Medicaid expenditures; although the states will try to argue that the tobacco settlement is not -- or at least is not primarily-- a Medicaid recovery, the Justice Department will disagree strongly.) Governor Bush, who already has a settlement in hand, is pressing especially hard for this legislation.

lager During a meeting with Erskine last week, Governor Chiles urged the Administration to support compromise legislation on this subject, predicated on the agreement we reached with the NGA in the context of the McCain legislation. Under this approach, the federal government would relinquish its claim to a state recovery if but only if the state agrees to use half its money on a menu of seven items: child care, child welfare, the maternal and child health block grant, the substance abuse block grant, the safe and drug free schools program, Eisenhower education grants, and the state match for the children's health insurance program. Erskine, Secretary Shalala, Jack Lew, Bruce Lindsey, and we believe that this solution is a good one, and Erskine responded fairly positively to the proposal. Such legislation, however, would involve a serious budget issue, because the Congressional Budget Office currently scores the federal share of state tobacco recoveries as worth \$1.2 billion over five years. Chiles apparently has a plan for the states to reimburse the federal government this amount, thereby making the legislation budget-neutral, but neither we nor OMB has yet seen his proposal.

2. Health -- Medicare Managed Care Program: A number of major HMOs currently participating in the Medicare program are likely to pull out of select markets prior

to the October 1st plan enrollment deadline. As of this writing, we expect these defections to affect between 100,000 and 500,000 Medicare beneficiaries -- about five to seven percent of the five to six million beneficiaries participating in Medicare HMOs; these individuals will have to find a new HMO (if one is available) or return to traditional fee-for-service coverage. The HMOs will blame excessive regulation and inadequate payment rates for their actions. Many health economists, however, note that (1) most of these plans comply with similar regulations in the private sector, and (2) the plans are "cherry picking" among regions for those with the most generous payment rates and/or the largest HMO market shares.

The industry is now urging HHS to stop the anticipated exodus of plans from the Medicare program by allowing them to increase premiums or reduce benefits, particularly drug coverage. HHS is currently evaluating the effects of such action on HMO participation in the program, and will brief Erskine on Monday. In the meantime, we are consulting with key members of Congress and aging advocates (like AARP). Although some Republican members may use this development to impugn our patients' bill of rights proposal (arguing that increased regulation leads to decreased health care choices), so far we have found little sympathy among the Republicans most knowledgeable about health care issues for the HMOs' position.

3. Health -- Number of Uninsured: The Census Bureau will release on Tuesday new statistics showing that the number of uninsured Americans has increased by about 1.7 million, from 41.7 million in 1996 to 43.4 million in 1997. According to the Bureau, the number of uninsured children remained constant at 10.7 million, and the number of uninsured poor stayed at about 11.2 million. The increase in uninsured appears to consist mostly of Americans who are working and earning income above the poverty level, but whose firms do not provide affordable coverage. Although some of these individuals may have come off the welfare rolls (becoming ineligible for Medicaid because they now make too much money), the total increase far exceeds the size of this welfare-to-work population. Most of the increase probably reflects general trends in employer-based coverage, particularly among small to mid-sized firms. We will continue looking into this matter, and provide you with whatever further information we can discover.

How much has # of uninsured increased since 1993?

4. Health -- FDA Commissioner Update: The Senate Labor and Human Resources Committee last week reported out by voice vote the nomination of Jane Henney as FDA Commissioner. Although the vote was very encouraging, we remain concerned that one or more conservative Republicans (perhaps Senator Nickles) will object to bringing the nomination to the floor for a vote. We will work closely with Senator Domenici, Henney's homestate Senator, to try to prevent this from happening.

5. Health/Crime -- Event on Elder Abuse and Fraud: We have prepared an event for you on elder abuse and fraud, scheduled for either this week or next. At the event, you would announce a new HHS study finding that more than 500,000 Americans aged 60 and

over were the victims of abuse or neglect in their own homes during 1996. You also would note the extent to which fraudulent telemarketers target older Americans as their primary victims. To combat these problems, you would: (1) announce the creation of a new national center on elder abuse, which will train officials to detect and respond to elder abuse; (2) call on Congress to reauthorize the Older Americans' Act, which helps states to prevent and redress elder abuse; (3) launch a new partnership between the Justice Department and AARP to create Elder Fraud Prevention Teams; and (4) release a small amount of grant money to prosecute telemarketing scams and other forms of fraud against the elderly.

6. Crime -- COPS Grants: The Vice President will announce this week a total of \$370 million in grants to hire or redeploy about 11,000 more police officers. This total includes over \$100 million for Los Angeles and other communities in California to hire 800 new police officers, and \$200 million in COPS MORE grants for communities across the nation to redeploy almost 10,000 officers.

What does this mean for the total?

7. Welfare Reform -- New Employment Statistics: The Census Bureau's new statistics on income and poverty show that the rate of employment among former welfare recipients is at an all-time high. Thirty-four percent of the individuals who received welfare in 1997 were working in 1998 -- the highest percentage ever reported. This employment rate has risen by nearly 60 percent since you took office and by about 28 percent since you signed the welfare law (from 21 percent in March 1993 to 26 percent in March 1996 to 34 percent this year). These numbers indicate that the movement from welfare to work is proceeding apace even while the caseloads decline and the harder cases begin to predominate. We are continuing to analyze these trends, with an eye toward putting together another welfare event (perhaps also involving new caseload numbers and state work participation rates).

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8. Welfare Reform -- National Child Support Case Registry: HHS will initiate this week a new national database of child support cases, called the Federal Case Registry. This database will make it easier to locate deadbeat parents, especially if they have moved to a different state. HHS will check the Registry daily against an existing database of new employees; when it finds a match, it will report the information to the state, which then will arrange to garnish the wages of the delinquent parent. You proposed this mechanism for finding delinquent parents in 1994, and two years later Congress made it part of the welfare law. The new system has extensive privacy protections in place to guard against any unauthorized use of child support data. We expect USA Today to run an article on Monday about the new database, as well as the Administration's other efforts to increase child support collections.

9. Education -- Congressional Agenda Event: We are working with Senator Daschle's and Congressman Gephardt's offices on a rally event in which you and Congressional Democrats would call on the Republican Leadership to devote just one day before Congress leaves to voting on your education agenda. Though we are still discussing with Congressional staff the particular education programs to highlight, we probably will

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make class size the centerpiece of the event. As you know, Senator Murray has introduced legislation to enact your full class-size proposal, and has identified offsets to pay for it. In addition, she and Senator Harkin have prepared a scaled-down class-size initiative that would involve about \$500 million in additional Title 1 funding. Democrats on the Hill want to call attention to these efforts and to the Republicans' refusal to give them serious consideration.

10. Education -- Charter School Legislation: We are continuing to work with congressional staff to bring charter school legislation to the floor of the Senate. Senator Harkin promised Secretary Riley last week that he would refrain from offering his amendment to the bill so long as no other Senators offer amendments. We are currently not aware of any other amendments, and we are working with congressional staff on a consensus manager's package to bring to the floor within a week.

11. Food Safety -- Salmonella Report: USDA will release on Monday a report showing that your science-based food safety program -- called the Hazard Analysis Critical Control Point (HACCP) program -- has led to an almost 50 percent reduction in the frequency of salmonella in broiler chickens and an almost 40 percent reduction in the frequency of salmonella in swine. We leaked this report to the Washington Post, which ran an excellent story in Sunday's newspaper and may run a supportive editorial tomorrow. The new data comes just as the Agricultural Appropriations conference begins deliberations on funding for your food safety initiative.

12. National Service -- AmeriCorps Recruitment: You recently asked about the status of AmeriCorps recruiting and the feasibility of a proposal to locate AmeriCorps recruiters in military recruiting offices. AmeriCorps is currently recruiting very successfully, and it expects to pass the 100,000-member milestone this fall. ~~(By way of comparison, it took the Peace Corps two decades to reach the 100,000 member mark.)~~ AmeriCorps has identified a number of ways to improve recruiting further, but believes that it should steer clear of proposals involving closer links to the military. AmeriCorps already relies to a limited extent on the Selective Service: the acknowledgment sent to people who register for the draft asks if the person would like more information about joining the Armed Forces or AmeriCorps. Republican members of Congress have criticized this arrangement as interfering with military recruiting efforts, and Rep. Ron Paul has introduced legislation to prohibit the practice. Given this response to a much more limited kind of joint arrangement, AmeriCorps is reluctant to locate recruiting personnel in military offices.

13. Children and Families -- After-School Poll: Secretary Riley participated in the release of a new national poll on Thursday finding that Americans overwhelmingly endorse the expansion of after-school programs. Ninety-three percent of those surveyed said they favor making safe, educational programs available to all children in the hours after school, with strong support across party lines and among parents and non-parents. In addition, 80

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percent said they would be willing to use additional federal or state tax dollars to fund after-school programs in their community at a cost of \$1,000 per child, even if doing so raised their individual tax bills by \$10 a year. The Secretary also announced a new partnership among the Administration, NBC, "People Magazine," the Ad Council, and the Entertainment Industry Foundation to create a new public service announcement campaign to support the expansion of high-quality after-school programs in public schools.

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THE WHITE HOUSE
WASHINGTON

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October 3, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Tobacco -- State Settlement: Rumors continue about an upcoming settlement between the states and the tobacco companies, as R.J. Reynolds and Brown & Williamson returned yesterday to the negotiating table. The parties, however, still have not worked out some difficult problems -- most prominently, how to prevent companies that do not join the settlement from gaining a competitive advantage -- and the return of RJR and B&W to the table may make resolution of these issues even more complicated. As you know, some plaintiffs' lawyers continue to suggest a broadening of the current negotiations to include the federal government. Both the states and the companies, however, have responded negatively to these proposals, fearing that the intrusion of the federal government would queer the deal they have been working on for so many months.

2. Health -- Medicare Managed Care Program: As you know, Friday marked the last day that HMOs participating in Medicare could decide whether to stay in the program for the upcoming year. Preliminary data from HHS indicates that some 25 companies in 320-400 counties serving 240,000-300,000 beneficiaries -- about 5 percent of the six million beneficiaries now in Medicare HMOs -- have decided to withdraw from the program. Most affected beneficiaries will have the option of joining another HMO in the same county. But in 60-100 counties, some 30,000-75,000 beneficiaries -- less than two percent of the total -- will no longer have any HMO option and will have to return to traditional fee-for-service coverage. Secretary Shalala has recommended that in these 60-100 counties we (1) expedite the approval of new plans, and (2) allow plans that have just withdrawn to come back into the market with increased premiums and/or decreased benefits. She argues that these steps will allow us to say that we have done everything possible to ensure that Medicare beneficiaries have access to managed care plans. We believe, however, that the second part of the Secretary's recommendation would reward bad actors and create perverse incentives for the future. We will meet with the Secretary and Erskine Monday to resolve our differences on this matter (and if necessary, come to you), so that we can announce our response as soon as possible.

3. Health -- CHIP Waiver Request: Governor Thompson is pushing HHS to approve a waiver that would allow Wisconsin to use federal match dollars from the Children's Health Insurance Program (CHIP) to provide insurance coverage for parents as well as

children. Thompson has broad support in Wisconsin for this proposal (including among some traditionally Democratic constituencies), and last week Senators Lott and Roth sent a letter to Secretary Shalala saying that she should grant the waiver and suggesting that they would seek legislation next year if she did not do so. HHS so far has refused to approve any waivers from CHIP, reasoning that we should first get the baseline program off the ground. HHS also has serious substantive objections to Thompson's proposal, believing that CHIP dollars were designed for children rather than adults, and that granting waivers of this kind could prevent us from reaching our goal of covering five million children. Many supporters of the CHIP program in Congress agree with HHS, including Senators Hatch, Rockefeller, Jeffords, and Chafee and Congressmen Dingell and Waxman. We believe that HHS should refuse the waiver request and work with this bipartisan group of legislators to try to defeat any legislative attempt to reverse this ruling.

4. Health -- Statistics on Uninsured: You asked last week about the increase in the uninsured population since 1993. About 43.4 million Americans are now uninsured, up almost 10 percent from 39.7 million in 1993. Among the total number of uninsured are 10.7 million children, up from 9.6 million in 1993. As we noted last week, the number of uninsured children did not increase at all last year, in part because of our focus on children's health. We anticipate that within two years, we will see a noticeable decline in the number of uninsured children as a result of the full implementation of CHIP. In contrast, the number of uninsured people ages 55 to 64 increased by 7 percent last year, validating the need for your initiative to increase coverage options for this population. We will soon send you a more detailed memo shortly describing the new Census data and outlining additional policy options.

5. Health -- Dean Ornish: We have worked with Dr. Ornish in recent weeks to obtain funding for his research on the impact of diet on prostate cancer. The conference report on the DOD appropriations bill now includes \$2.5 million for this research initiative. Although Ornish had hoped for a \$5 million grant, he was very pleased with this amount. Ornish also has requested that we provide assistance in his ongoing efforts to obtain Medicare reimbursement for his diet treatment plan. Ornish will meet with high-level officials at HCFA later this month to discuss this issue, and we will ensure that they give his proposal full and fair consideration. We also discussed ways for him to engage members and staff of the Medicare Commission on this issue. Ornish is pleased with the Administration's responsiveness and asked us to pass along his personal appreciation to you.

6. Education -- Charter Schools: We are hopeful that Congress will pass charter school legislation prior to adjourning this year. House and Senate staff met last week to pre-conference the bill, and reached agreement on virtually every issue. We think that they will finish their work within the next few days, and that the leadership then will bring up the bill for a vote. The NEA and AFT continue to be lukewarm to the legislation, but we do not now anticipate that any Democrats will try to derail it.

7. Education -- Class Size Reduction: We are talking with Democrats in Congress about whether to insist on a scaled-down class size reduction initiative in the Labor-HHS-Education appropriations bill. Senators Murray and Harkin have developed a proposal to provide \$500 million in new Title 1 funds specifically for class size reduction. Secretary Riley believes that if we push hard enough, we can get the Republicans to sign on to this kind of proposal. Senate Democrats appear supportive of this approach. House Democrats, however, have sent mixed signals about whether to get a class size initiative in the bill or leave it out and preserve a campaign issue. We will continue to engage them on this matter.

8. Welfare Reform -- Noncustodial Fathers Study: The Manpower Demonstration Research Corporation released last week the first full-scale study of a program focusing on the non-custodial fathers of children on welfare (the Parents' Fair Share program, which was created by the Family Support Act). The results were generally disappointing. The program, which operated in 7 cities, raised child support payments by an average of \$173 or 7 percent, but failed to improve participants' employment status or earnings level. We are currently holding discussions with policy experts and government officials to try to find more effective approaches. Many states are using their Welfare-to-Work funds to serve the fathers of children on welfare, and we want to make sure that these funds are put to the best possible uses. We are hoping to have policy proposals ready for this year's budget and State-of-the Union.

9. Welfare Reform -- Federal Welfare-to-Work Hiring Numbers: Federal agencies hired 926 former welfare recipients last month, bringing the total number hired to 7,087 since April 1997. As you recall, our goal is to hire 10,000 welfare recipients by the year 2000, so we are well on our way to success in this area.

10. Crime -- COPS Grants: You asked last week about the total number of law enforcement officers that the COPS program has funded. The program now has provided \$5.2 billion to fund over 88,000 new and redeployed officers across the country. We will probably reach the 100,000 mark ahead of schedule -- in the middle of Fiscal Year 1999, rather than at the end of Fiscal Year 2000. As you know, however, there is a lag of about 18 months between the time funding is provided to hire police officers and the time the officers actually hit the street.

11. Crime -- NAPO Event: You are currently scheduled to participate in the NAPO Top Cops Award ceremony on Friday. Although we are still considering message options, we probably will recommend that you blast Congress for failing to pass legislation that would extend education benefits to surviving children of law enforcement officers killed in the line of the duty, despite widespread bipartisan support. At the same time, you could criticize Congress for failing to pass a host of measures that would continue our progress in fighting crime.

*OK - Not
True suggestions*

12. Drugs -- Medical Marijuana: Five states (AK, WA, OR, NV, CO) and the District of Columbia have medical marijuana initiatives on their ballots for November 3. We are working with ONDCP and other federal agencies on a targeted media and outreach strategy to inform the public about the Administration's position on this issue. The strategy will place special emphasis on D.C.'s medical marijuana initiative, and will include communications to local opinion leaders, elected officials, churches, and law enforcement officials. There are currently eight states with medical marijuana statutes.

13. Children and Families -- Head Start Reauthorization: We expect that Head Start Reauthorization (part of the Community Services bill that also includes LIHEAP and IDA demonstrations) will pass by the end of next week. The bill coming out of conference is generally quite good -- authorizing the program at levels near your request and adding an important new "school readiness" goal for Head Start grantees. The bill does include a requirement -- championed by Congressman Goodling and insisted upon by the Republicans in conference -- that a greater percentage of Head Start dollars be spent on activities to promote quality. Currently, 25 percent of dollars are set aside for quality improvement; this bill requires that 60 percent be set aside in fiscal year 1999, 50 percent in 2000, 47.5 percent in 2001, 35 percent in 2002, and 25 percent in 2003. Unless we obtain additional investments in Head Start in the future, this requirement will prevent us from reaching our goal of serving one million children by 2002.

14. Community Empowerment -- CDFI Fund: The CDFI Fund awarded \$75 million to 190 institutions last week. Of the total, \$44 million in loans and grants went to 42 CDFIs in 21 states, \$2.9 million in technical assistance grants went to an additional 70 CDFIs, and \$27.9 million went to traditional insured depository institutions that have increased their lending to distressed areas or invested in CDFIs. We are working closely with Treasury to ensure appropriate funding of your Fiscal Year 1999 CDFI budget request.

UNITED STATES DEPARTMENT OF AGRICULTURE

Food Safety
BSE

- **Wildfires:** New fire starts are minimal with only three fires over 500 acres reported, two in MT and one in CA. To date this fire season, while the number of fires exceeds the 10-year average, the acres burned is only 73 percent of the 10-year average.
- **Commodity Markets:** Wheat cash prices rose last week because of a pickup in corn prices, but futures fell on USDA's drop in its forecast of wheat exports. Corn cash and futures prices were up last week, as traders believed that USDA would not change its 1998-99 production forecast. Rice cash and futures prices dropped on prospects for higher yields in CA and the Delta states. Soybean cash fell slightly for the week as a whole, but futures received a boost late in the week from increased crush and rising soybean oil prices. Cotton prices eased, deflated by abundant foreign supply and weakening export demand. Cattle cash prices were up slightly last week, but futures rose sharply, supported by commodity funds. Hog prices rose, supported by an uptick in wholesale pork.

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going to
lead to
anything
interesting?
Elena.
cc: Bonnie

• **Bovine Spongiform Encephalopathy (BSE):** On September 28, USDA will hold a public meeting to examine the joint USDA--Harvard University School of Public Health risk analysis, to assess the potential pathways for entry of BSE or Mad Cow Disease into U.S. cattle and the U.S. food supply, to evaluate existing regulations and policies, and to identify additional measures to protect human and animal health.

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• **Food Aid Initiative:** On September 15, Secretary Glickman announced that within two weeks, USDA will begin shipping 19 million bushels of wheat and 45,000 tons of wheat flour and bulgur to the World Food Program for distribution to Afghanistan, Bangladesh, the Caucasus, Ethiopia, Eritrea, Guinea-Bissau, Indonesia, the southern Balkans, Liberia, Peru, Southern Sudan, and Yemen.

- **KS State Fair:** On September 19, Secretary Glickman will attend the Kansas State Fair, addressing the farm crisis and holding media events.

DEPARTMENT OF COMMERCE

- **Varig-Boeing Deal:** On September 9, Brazil's Ambassador to the U.S. Flecha de Lima met with Secretary Daley to announce that Varig Airlines has agreed to purchase \$3 billion in new aircraft from Boeing. The order includes the first four 777s ordered by a South American carrier, as well as fourteen 737s and six 767s.
- **APEC Electronic Commerce Task Force Meeting:** At a September 4 meeting of the Asia Pacific Economic Cooperation (APEC) Electronic Commerce Task Force held in Singapore, the U.S. team achieved major objectives in preparation for the November APEC Ministerial. The APEC Electronic Commerce Task Force agreed to develop a