

**NLWJC - Kagan**

**DPC - Box 014 - Folder 011**

**DPC [Domestic Policy Council] -  
Weekly Reports [1]**

## THE WHITE HOUSE

WASHINGTON

February 12, 1999

2-16-99

## MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

Copied:  
Reed  
Kagan  
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SUBJECT: DPC Weekly Report

**1. Tobacco -- Record Verdict:** A jury in San Francisco awarded a former smoker \$1.5 million in compensatory damages and \$50 million in punitive damages in her lawsuit against Philip Morris Co., the largest award ever in a suit filed by an individual smoker. The verdict sent tobacco stocks reeling, and stunned tobacco analysts who considered this a relatively weak case. This award could open the floodgates to similar claims against tobacco companies and may increase the pressure on the tobacco industry to settle the federal claims being brought by the Justice Department.

**2. Crime -- NY Gun Verdict:** On Thursday, a jury in the Federal District Court in Brooklyn found 9 gun manufacturers collectively liable for shootings with illegally obtained handguns due to their negligent marketing and distribution practices. The case, Hamilton v. Accu-Tek, represents the first time a jury has found gun makers liable on a theory of negligent distribution. The suit was brought on behalf of 6 homicide victims and a severely wounded teenager, all of whom were shot with illegally obtained handguns. The plaintiffs argued that gun manufacturers oversupply the market in southern states with weak gun laws, enabling traffickers to move guns up the "iron pipeline" to New York. Even though the plaintiffs could not prove which manufacturers' guns were used in any of the specific incidents, they argued that the defendants marketed and distributed handguns so negligently that they contributed to the illegal gun trafficking that ultimately resulted in the shootings. Of the more than 25 gun manufacturers named as defendants, the jury found 15 negligent but only 9 liable for any of the shootings. However, the jury awarded damages only to one plaintiff -- the surviving teen -- in the amount of \$3.95 million, of which he is expected to collect about \$500,000. The Justice Department is currently reviewing the details of this decision, and we intend to meet with them soon to discuss its implications on similar lawsuits recently filed by New Orleans, Chicago, and other cities.

**3. Health Care -- Ganske HMO Bill:** On Wednesday, Rep. Ganske and 10 other Republicans introduced a new version of the Patients Bill of Rights, which denies access to punitive damages for individuals suing plans for actions that result in harm. Although there were other modest changes to the underlying bill, the legislation effectively retains the core protections that Rep. Dingell has been advocating. Ganske and Dingell are contemplating a

joint press conference after the recess to highlight the similarities of the two bills and to underscore their belief that a compromise is easily within reach that can attract far more than the 218 votes necessary in the House. In the Senate, however, any bill will have a much lower threshold of protections. Our strategy should be to expedite House action in order to influence the Senate bill.

**4. Health Care -- Medicare Prescription Drug Benefit:** Chris Jennings reports that an internal committee of the Pharmaceutical Research and Manufacturers Association (PhRMA) will recommend that the association endorse the development of a Medicare prescription drug benefit that would be administered privately. This recommendation apparently will be forwarded to PhRMA's Board of Directors this week, and they may endorse the proposal as early as Thursday of next week. If true, such an endorsement will increase momentum for the inclusion of a prescription drug benefit in any Medicare Commission recommendation. On Wednesday, Rep. Allen and 65 Democratic cosponsors introduced legislation that allows pharmacists to provide prescription drugs to Medicare beneficiaries at Federal supply schedule prices, creating a system similar to the one used by the Veterans Administration. Chris believes that despite the fact that the drug industry can defensibly label this as something very close to price controls, the bill will provide pressure to move forward with a more realistic Medicare drug benefit. Chris is also hearing that some Republicans, like Senator Roth, are also interested in a Medicare drug benefit for all beneficiaries.

**5. Children and Families -- FMLA Verdict:** Kevin Knussman, a Maryland state trooper who was denied the right to take 12 weeks of paternity leave, won a \$375,000 jury verdict against the state of Maryland. You met Knussman in August 1995, and the First Lady wrote about his story in *It Takes A Village*. A state trooper for 18 years, Mr. Knussman needed to take 12 weeks of family leave when his first daughter was born in 1994, but his employer allowed him only 2 weeks because he was a man. The jury found that this conduct violated the FMLA and constituted unlawful sex discrimination under Title VII. Maryland is expected to appeal.

**6. Welfare Reform -- Elaine Kinslow:** You recently asked about a news story noting that Elaine Kinslow, the welfare-to-work success story from Indianapolis you saluted in last year's State of the Union, had to change jobs when her employer lost its government transportation grant. We have been in communication with that company, Pathfinder Transportation Service, many times over the past year. As you may recall, Pathfinder ran a van service for welfare recipients going to work, but lost its contract when the state decided not to use state funds for this purpose and wrongly contended that federal rules prevented the use of TANF funds. To correct this misunderstanding, we worked with HHS, Labor, and DOT to issue official joint guidance last spring explaining how TANF and other federal resources can be used to address transportation challenges for people moving from welfare to work, and made sure Pathfinder as well as the right Indiana state officials received copies. You sent a letter to every governor stressing the importance of investing TANF savings in transportation, child care, and other services. Despite this information, Indiana decided not to

continue the contract with Pathfinder. However, Pathfinder does receive funds from local employers and job placement agencies, and is part of an Indianapolis consortium applying for a federal Access to Jobs grant that DOT will consider this spring.

**7. Welfare Reform -- Washington State:** A recent survey of individuals leaving welfare in Washington shows high rates of employment and earnings, even as caseloads continue to decline. Most people left welfare for employment (67%), with the next most common reasons being increased income through child support or SSI (9%), and conflict with program requirements (8%). Seventy-one percent of those who left the rolls between April and August 1998 were still working when they were surveyed in the Fall of 1998, at an average wage of over \$8 an hour. Washington systematically contacts people once they've gone to work to help them find opportunities to increase their skills through short-term community college courses or other training and to find better jobs. The state also is investing TANF savings in extensive supports for working families, and recently reallocated TANF funds to increase reimbursement for child care providers who accept infants or provide care during non-standard hours.

try to keep  
them

6-15-99

Copied  
Reed  
Kagan

*See memo*

THE WHITE HOUSE  
WASHINGTON

June 14, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

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SUBJECT: DPC Weekly Report

**1. Guns -- Crime Gun Report on Youths Age 18-20:** At a Monday event with the U.S. Conference of Mayors, the Vice President will release a report by the Treasury and Justice Departments on gun crime by 18-20 year olds. The report shows that this age group leads all others in using guns to commit both homicides and non-lethal crimes, such as assault, rape, and robbery. The homicide findings are particularly striking. In 1997, 18 year olds ranked first, 19 year olds ranked second, and 20 year olds ranked third among all age cohorts in committing gun homicides; together, youths in this age group committed a full 24 percent of all gun homicides. The report also finds that crime guns recovered and traced by law enforcement officials were more likely to have been possessed by 19 year olds than by any other age cohort. Most of the crime guns recovered from these youth were handguns, with an especially large number of semiautomatic pistols. The report concludes from these findings that the high rate of crime in the 18-20 age group is linked to excessively easy access to firearms.

✓ **2. Guns -- Brady Report:** You will release early this week a Bureau of Justice Statistics (BJS) report showing that Brady has stopped over 400,000 prohibited users from buying guns. The report shows that between March 1994 and November 1998, Brady background checks stopped 312,000 prohibited purchasers -- including 207,000 individuals with felony convictions or indictments -- from buying handguns. The report also shows that since November 1998, when the National Instant Criminal Background Check System (NICS) went into effect, the FBI has blocked another 45,400 gun sales (both long guns and handguns) and states probably have blocked at least the same number (though the state number is an estimate based on the total number of checks they have done). We hope that release of this report, especially in combination with the youth crime gun report discussed above, will give a boost to our gun proposals when they come to the House floor later this week.

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**3. Crime -- COPS:** The Senate Appropriations Committee last week reported out a Commerce Justice State bill that would zero out the COPS program (though the bill would fund, through a different office, the part of our new COPS proposal that focuses on law enforcement technology). Administration officials called attention to the elimination of the COPS program at the meeting of the U.S. Conference of Mayors last weekend. As you

know, the Mayors are strong proponents of the program.

**4. Welfare – Two Parent Participation:** As you may recall, we announced in December that all 39 states needing to report work participation rates for FY 1997 met the 25 percent work rate required for all families, but that about half these states missed the 75 percent rate required for two-parent families. HHS now has sent letters to the non-complying states notifying them of the amount of penalty incurred and advising them that they may either accept the penalty or submit a corrective action plan showing how they will achieve the work rate target by a future date. For every state except California, the penalties, if imposed, will be very small (ranging from \$224 in Alabama to \$223,000 in Washington) because the amount of the penalty is adjusted for the share of the state's caseload consisting of two-parent families and for the amount by which the state missed the participation rate target. The penalty for California could be \$4.5 million -- a large amount, but still less than one percent of the state's 1997 TANF grant -- because the state has a high proportion of two-parent cases and missed the target by a large amount. While we expect a few states to accept minimal penalties, most probably will submit corrective action plans. We expect to have participation rates for FY 1998 later this summer.

**5. Welfare – Civil Rights Guidance:** We and the counsel's office are currently reviewing the final version of civil rights guidance to be sent to state welfare agencies and other interested parties. This guidance -- intended for use by welfare caseworkers and other staff -- explains the civil rights laws that apply to federally funded programs and to the workplace, using clear language and numerous practical examples. As you know, civil rights laws apply to TANF programs as they do to any other federally assisted programs, and they apply to employees on TANF just as they do to any other employees. This guidance, prepared by HHS with assistance from the Departments of Justice, Labor, Education, and Agriculture, will be distributed shortly.

**6. Education – Troops to Teachers:** The defense authorization bill passed by the Senate includes a provision to continue the Troops to Teachers program, but the provision differs from your ESEA proposal in a few important ways. Most important, the defense bill does not include your proposal to extend the Troops to Teachers model to other mid-career professionals interested in teaching high-need subjects in high-poverty schools. We are currently working with OMB to draft a SAP for conferees noting how we would change the provision. In addition, Congressmen Roemer and Davis plan to introduce our Troops to Teachers proposal this week as a freestanding bill.

**7. Education -- Republican Teacher Empowerment Act/Class Size:** House Republicans have introduced a teacher quality bill that in many ways resembles the teacher quality provisions in your ESEA proposal, but attempts to eliminate or undermine two of your signature programs. The Republican bill, like your proposal, focuses on supporting sustained, high-quality professional development and improving alternative routes to teacher certification. The bill, however, turns your class size initiative into little more than an

allowable use of funding by allowing districts to opt out of class size reduction activities for a wide variety of reasons (e.g., lack of facilities or qualified teachers). Equally problematic, the bill appears to preclude federal funding for the National Board for Teacher Certification. We currently expect committee mark-up of this bill before the end of the month. DPC and Department of Education staff will meet with congressional staff this week to try to work out differences on the bill. We will stress that we will oppose the bill unless it continues the class size program and authorizes funding for the National Board.

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**8. Education – Social Promotion in Los Angeles:** Officials of the L.A. Unified

School District unveiled a \$71 million initiative on Monday to end social promotion and launch intervention programs for students having difficulty meeting education standards. The District will use the Stanford 9 test and teachers' assessments to determine whether students in grades 2,3,4,5, and 8 meet standards in reading, language arts, and math. The District will provide students in danger of failing with special summer school, after school, and weekend classes. The community has responded very positively to the program, with parents overwhelmingly in favor of the effort and 7,000 teachers applying to provide the special instruction.

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**9. Education – School Uniforms:** You recently requested an update on the number

of school districts adopting school uniform policies. The Department of Education has not collected new data on this practice since July 1998. At that time, the Department estimated that 3 percent of all public schools had mandatory school uniform policies -- including schools in New York City, Dade County (Miami), San Antonio, Houston, Chicago, Boston, and Albuquerque. We know that other school districts have adopted mandatory uniform policies since the Department's last report, and Massachusetts is now considering putting the policy into effect on a statewide basis. The Department of Education is currently updating our data; we should have a new report for you within three months.

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**10. Health Care – Testimony on BBA's Provider Payment Provisions:** The

CBO, GAO, and Medicare Payment Advisory Commission testified before the Senate Finance Committee on Thursday about the effects of the Balanced Budget Act on health care providers. All three entities said there is little evidence that the BBA is causing significant access or quality problems, and all three counseled against any move to repeal or significantly modify the law. They attributed most of the decline in the Medicare baseline to success in curbing fraud and abuse, an excellent economy with low inflation, and some payment cycle issues that are short term in nature. The single provision of the BBA they all criticized is the physical therapy cap, which we also would like to eliminate. This testimony may take off some of the pressure to enact significant BBA giveback provisions, but given

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the significant lobbying efforts of providers, we should not expect it to arrest the move toward changing BBA provisions on teaching and rural hospitals, nursing homes, and other matters. For this reason, we believe that our own Medicare reform proposal must signal some willingness to moderate any excessive burdens on providers' ability to ensure affordable quality care to Medicare beneficiaries.

**11. Health Care -- Privacy Legislation:** The Senate Labor Committee is scheduled to mark up health care privacy legislation on Tuesday. Two critical issues have not yet been resolved. First, both the standard of liability and the enforcement mechanism are in hot dispute. The Chairman's mark could allow suit only if a violation is willful and intentional (a very hard standard to meet), and could limit non-economic damages to \$50,000 and eliminate punitive awards entirely. All Democrats on the Committee would view these provisions as unacceptably undermining privacy protections. Second, provisions in the bill for protecting minors' privacy have become a concern of both the pro-choice and the pro-life communities because of the potential for these provisions to affect teenagers' ability to get abortions without parental approval. Both sides claim they want to maintain the status quo, but both sides also say the current language does not achieve that end. Senator Jeffords is attempting to work out a compromise on this issue. If he succeeds, he will go forward with the mark-up despite the absence of consensus on the liability and enforcement issues; if he fails, he probably will postpone the mark-up.

THE WHITE HOUSE

WASHINGTON

April 17, 1999

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Reed  
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Podesta

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

1. **Education -- Ed-Flex:** In response to your veto threat, House and Senate conferees agreed Thursday to drop the Senate amendment that would have gutted the class size program, and will report out an Ed-Flex bill that you can happily sign. The conferees also agreed to strong accountability provisions to help make sure states that make use of this new flexibility get results. On Monday, Secretary Riley had sent conferees a letter threatening a veto over the Senate Republican provisions to weaken class size. Thirty-six Senate Democrats signed a letter in support of the veto. The final bill should reach your desk in the next few weeks.

2. **Education -- ESEA:** On Monday, we will meet with civil rights leaders and Sen. Kennedy's staff in our continuing effort to reach agreement on the social promotion provisions of ESEA. Bill Taylor is reviewing our language and drafting a counterproposal for the civil rights community. Once we see it, we will send you a separate memo on whether we can get the community -- or at least Sen. Kennedy -- to accept a compromise consistent with what you said in the State of the Union.

3. **Education -- National Teacher of the Year:** On Monday, you are scheduled to announce the National Teacher of the Year in a ceremony in Presidential Hall. Your remarks will focus on the importance of high-quality teachers and challenging young Americans to become teachers. After your remarks, you will present Andrew Baumgartner with the 1999 National Teacher of the Year award. Baumgartner, an ex-Marine, has taught for 22 years and is currently teaching kindergarten in Augusta, Georgia.

4. **Education -- Class-Size Study:** On April 29, Senator Patty Murray plans to announce the most recent findings of Project STAR -- the Tennessee study that has tracked the performance of students who were in smaller classes in grades K-3 in the mid-1980's. So far, the findings show that: students who were in smaller classes go on to take college entrance exams slightly more frequently than their peers in larger classes, and the gap in college entrance test-taking between poor and minority children and other children was substantially reduced. Researchers found no difference in ACT and SAT scores for students in smaller classes, although that could be due to the fact that a greater percentage of them were taking the tests. Senator Murray has suggested a White House event to release of the study, but we are waiting to see if stronger

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additional data becomes available from the researchers comparing the performance of students in smaller vs. larger classes on high school graduation rates, completion rates of advanced placement and other challenging courses, and grade-point averages.

 **5. Children and Families -- Child Care:** The final budget resolution passed by Congress this week includes \$6 billion for child care -- \$3 billion over 10 years in new subsidy funding and \$3 billion over 10 years in enhanced child care tax relief. Although half the original amount sought by Senators Dodd and Jeffords, this action provides a real opening to achieve important pieces of your child care initiative this year. The Senate voted 66-33 in support of a Dodd-Jeffords motion to instruct conferees to include the funding increase. We will now turn our attention to working with the Senate Finance Committee, which has jurisdiction over child care subsidy and tax issues; four Republicans on the Committee voted for the Dodd-Jeffords measure (Jeffords, Hatch, Chafee, and Grassley).

**6. Crime -- Prison Drug Treatment:** As you know, as a result of the Administration's efforts, the FY 99 omnibus spending bill contained a provision to allow states to use up to 10 percent of their prison construction funds for drug testing, intervention, and treatment for prisoners and parolees. We were recently informed that half of the states have requested to use the full 10 percent of their construction grants to fund such activities. The Justice Department plans to issue a report on this soon.

 **7. Health Care -- Medicare Update:** Starting next week, the Senate Finance Committee will hold a series of Medicare hearings. Senator Breaux and Rep. Thomas want you to unveil your legislative proposal first before they produce their own bill. In our meetings with Congressional offices over the last week, we are hearing (1) growing discomfort with the Breaux-Thomas recommendations; (2) the desire to develop a meaningful prescription drug benefit; (3) a great interest in the status of your Medicare reform package; and (4) increasing concerns about the imposition of additional provider payment reductions as we implement the 1997 BBA. Base Democrats are very concerned about the type of structural changes and programmatic savings we are developing for your consideration. While most are quite interested in a drug benefit, they are concerned about our possible approaches to modernize the program, make it more competitive, and achieve savings to help offset the cost of the drug benefit. In the wake of the good news by the Medicare Trustees about the new 2015 trust fund exhaustion date, members of Congress are more receptive than ever to provider concerns about reimbursement rates. To the extent that providers are successful in convincing the Congress to moderate these savings, it will become more difficult to find significant offsets that credibly go very far towards defraying the cost of the drug benefit.

**8. Health Care -- Shortcomings of HCFA Oversight of HMOs:** You recently asked our response to a recent GAO report that criticized HCFA for not assuring that HMOs are distributing accurate information about benefits, cost sharing, and appeals rights to Medicare beneficiaries. The report suggested that the lack of such information made it impossible for beneficiaries to challenge HMOs that have not provided contractually obligated benefits. In

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response to this report and our inquiries, HCFA has acknowledged shortcomings in this area. At our urging, HCFA has agreed to ensure that HMOs participating in the next Medicare open enrollment period will be required to provide information about their benefits and cost sharing requirements in a standardized format. This will ensure that HCFA can quickly and accurately evaluate the content of brochures and other marketing material. In addition, Medicare HMOs will be required to provide information about appeal rights and disenrollment in a standardized format in order to ensure that Medicare beneficiaries are informed about their right to appeal decisions denying care or payment for services. We have informed HHS (along with OPM and other affected agencies) that implementation of the Patients Bill of Rights must be carried out as smoothly and aggressively as possible and serve as a model for the private sector. The New York Times editorial criticizing HCFA on this matter did acknowledge that, even with its implementation problems, Medicare provides much greater protections to beneficiaries than the private sector.

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**9/ Health Care -- Jeffords-Kennedy Update:** Senator Helms added his name as a cosponsor to the Jeffords-Kennedy-Roth-Moynihan Work Incentives Improvement Act this week. This leaves Senator Nickles as the primary barrier to bringing this measure to the full Senate for a vote. Although Senator Nickles is pressuring Senator Lott not to bring this bill to the floor, there is a bipartisan movement in the Senate to permit a vote in the upcoming weeks. There is similar momentum on the House side as the Commerce Committee is hoping to finalize a full committee markup later this month or early in May. This legislation represents the highest legislative priority of the disability community and they hope to help us deliver you a bill for signature by June.

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**10. Health Care -- Patients Bill of Rights Update:** In the wake of your event promoting the Patients Bill of Rights last Friday and the positive New York Times editorial that the event inspired, moderate Republicans such as Senator Chafee have indicated interest ~~in developing a strategy to pass a compromise proposal.~~ These Republicans want to see this issue resolved prior to the 2000 elections. Unfortunately, the Senate Leadership, particularly Senator Nickles, have been able to seriously delay any progress on this issue within the Senate Finance Committee. In the House, Republicans such as Reps. Ganske and Norwood are reaching out to Rep. Dingell to determine if they can agree on a compromise measure that can attract well over 218 votes. Because these members are concerned about the lack of progress in the House on this issue, they may well be open to pursuing a discharge petition strategy in order to bypass a prolonged and unproductive committee process.

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**11. Health Care -- CHIP Update:** This week, the Washington Post reported that the CHIP program had enrolled 850,000 children to date, which they portrayed as a disappointing start to the program. On Tuesday, the First Lady will announce that in the first full year of program operation, the CHIP program has actually enrolled one million children. Your recent launching of the national toll-free number and a major public awareness campaign should help accelerate enrollment.

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**12. Tobacco -- Billboards:** As part of the state tobacco settlement, tobacco companies agreed to remove their outdoor and transit advertising by next Friday -- although the settlement does not prohibit smaller signs that are placed inside or outside retail establishments or billboards at adult-only events. The companies also agreed to keep paying for the space after taking down their billboards until their leases expire so that states and tobacco-prevention groups can display anti-tobacco ads. Preliminary estimates from HHS conclude that the value of this anti-tobacco advertising could be as high as \$100 million. To support efforts to replace tobacco industry billboards with tobacco-prevention messages, CDC, FDA, and the National Cancer Institute (NCI) have been working together to provide technical assistance and the bulk printing of a select set of billboards. Thirty-nine states are expected to put up tobacco-prevention billboards, with 26 using the CDC/FDA selected ads and the remaining 13 states choosing to do their own. April 23rd coincides with the NATO summit, which may prohibit White House involvement, but we are hoping Secretary Shalala can do an event, perhaps in Boston.

**13. Welfare -- Illegitimacy Bonus Rule:** This week HHS published a final regulation defining how it will distribute \$100 million a year in bonuses to states that reduce the percentage of children born out of wedlock. Up to five states and three territories may qualify for bonuses of up to \$25 million each. This bonus was included in the 1996 welfare reform law. The statute makes clear that bonuses will go only to states that simultaneously reduce both out of wedlock births and abortions. Nationwide trends are moving in the right direction -- preliminary 1997 data show that the out-of-wedlock birth rate has declined for three years in a row after rising for 20 years, although the percentage of births to unmarried women, on which the bonus will be based, has remained at just over 32 percent in recent years after decades of increases.

**14. Welfare -- Legal Immigrants Benefits:** This week, Sen. Moynihan and Rep. Levin introduced a bill to restore health, disability and nutrition benefits to certain legal immigrants. The bill includes our \$1.3 billion proposal to restore SSI and Medicaid to immigrants arriving after 1996 who become disabled, furnish food stamps to those in the U.S. by 1996 once they become elderly, and provide states the option to provide Medicaid or CHIP to children and pregnant women who arrive after 1996. The Moynihan-Levin bill's food stamp and SSI restorations are more expansive than ours (the bill does not contain any offsets), but its Medicaid/CHIP proposals are identical. We are currently completing the legislative language for our proposal and will begin seeking bipartisan sponsors shortly.

THE WHITE HOUSE  
WASHINGTON

May 7, 1999

## MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

**1. Education -- Achieve Math Test:** Achieve, Inc. -- a nonprofit group focused on education reform -- announced Monday that it will create a new challenging 8th grade math test to improve the performance of U.S. middle school students in mathematics. Ten states -- Illinois, Indiana, Maryland, Massachusetts, Michigan, New Hampshire, North Carolina, Vermont, Washington, and Wisconsin -- already have agreed to give the test, and more states are expected to sign up in the future. The result, of course, will be exactly what you proposed (and Congress rejected): a voluntary national test in eighth grade math that will measure student performance against world-class standards. Achieve also intends to train teachers and provide lesson materials in participating states to prepare students for the test.

**2. Education -- Charter Schools:** The Department of Education released on Friday its annual charter school report, which showed continued growth of the charter school movement. (We released an accompanying statement from you praising this progress.) The report found that the number of charter schools grew by more than 50 percent in 1998 -- to about 1,100 schools in 34 states and the District of Columbia, serving a total of about 160,000 students. The report also found that charter schools tend to serve a diverse group of students and that they often have many more applicants than they can accommodate. According to the report, the primary obstacle to charter school formation remains lack of start-up funding. This finding underscores the importance of your proposed 30 percent increase in funding for this purpose in the FY 2000 budget. It also highlights the need for a new rule, proposed last week, to ensure that new charter schools receive the federal funding for which they are eligible within five months of opening. This regulation implements provisions of the Charter School Expansion Act, which you signed last year.

**3. Health Care -- Families USA Report on Medicaid Enrollment:** Families USA will release a study on Thursday stating that welfare reform is primarily responsible for the recent decline in Medicaid enrollment. The study asserts that 675,000 low-income people became uninsured as a result of welfare reform, that the majority of these people were children under 19, and that the number of uninsured people is likely to increase further as welfare reform is fully implemented. Although HHS has not seen the full study, experts in the department believe that the methodology used is problematic. They think that the study ascribes to welfare reform increases in the uninsured population actually attributable to (1) the decline of small firms that

offer any health insurance coverage, (2) the decrease in contributions by employers to health insurance costs (which makes health insurance less affordable), and (3) the decline in the number of people with sufficiently little income to qualify for Medicaid. Although HHS will make these points in response to the study, we expect a spate of negative press stories. We will reiterate your longstanding and strong commitment to health coverage for this population (including your insistence on maintaining the Medicaid entitlement during the debate on welfare reform), and emphasize that your proposals have given states vastly increased options to cover working families under Medicaid as well as to insure children under the new CHIP program.

**4. Crime -- Federal Gun Prosecutions:** You recently asked about the NRA's claim that the number of federal firearms prosecutions has decreased in this Administration. It is true that the Bush Administration brought a higher total number of gun cases in federal court. For the most part, however, these prosecutions involved minor offenses. The number of federal prosecutions of serious gun offenders (persons serving sentences of over 5 years) is up by nearly 30 percent in this Administration. In addition, better federal coordination with state and local law enforcement has contributed to a 25 percent increase in the number of criminals sent to prison for state and federal weapons offenses since you became President.

THE WHITE HOUSE  
WASHINGTON

May 21, 1999

5-24-99

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

Copied  
Reed  
Kagan  
Podesta

SUBJECT: DPC Weekly Report

**1. Education – Coverdell/Torrecelli Bill:** The Senate Finance approved legislation that would allow parents to save up to \$2,000 a year in Educ and withdraw the money tax-free for costs of elementary and secondary education, including private school tuition, fees, books and computers. The Education IRAs currently are capped at \$500 annually and are available only for higher education expenses. This bill, sponsored by Senators Coverdell and Torrecelli, is almost identical to the one you vetoed last year. Secretaries Rubin and Riley sent a joint letter to the Hill opposing the bill and saying that if it passed, they would recommend that you veto it again. Their letter explained that this proposal would provide little benefit to lower- and middle-income families, and that the money would be better spent on much-needed school construction. Senator Conrad attempted to substitute your school construction proposal for this expansion of Education IRAs, but the Finance Committee defeated the amendment and then approved the bill with three Democrats voting for it.

**2. Health Care – Privacy Legislation:** Senator Jeffords' Labor Committee is scheduled to begin marking up medical records privacy legislation on Tuesday. The Committee's efforts are largely a result of your pledge in the State of the Union to implement privacy protections by regulation (in accordance with the Kennedy-Kassebaum law) if Congress fails to pass privacy legislation by August of this year. Numerous difficult issues -- including federal preemption of state law, law enforcement access to records, and research community access to records -- could stand in the way of Congress enacting legislation by your deadline. The best way to push legislation forward is probably to include a strong preemption provision in the bill; the insurance industry and business community would stop fighting even a strong federal privacy bill if it relieved them of the obligation to comply with a host of differing state privacy protections. We will be able to review the Chairman's mark on Monday; if it is sufficiently strong, we may ask Secretary Shalala to release a supportive letter to encourage continued progress.

**3. Health Care – Africa Report:** *USA Today* will publish a major story on the AIDS crisis in Africa this week. The story will note that in sub-Saharan Africa, 10 million people have died from the disease (83 percent of all AIDS deaths to date), and more than 11,000 new people become HIV+ every day. The article will document Sandy Thurman's

recent trip to Africa and indicate that you will soon receive a detailed report from her documenting the problem and providing policy recommendations. We are currently considering unveiling this report in conjunction with the dedication of a new NIH building, named for Senator Dale Bumpers, that will house research to develop an AIDS vaccine.

**4. Health Care – Patients' Bill of Rights:** Congressman Gephardt is planning to ask Marion Berry to introduce a resolution next week to begin the process for a discharge petition for the Patients' Bill of Rights. Gephardt believes that this action will highlight the Republican leadership's attempt to bury this issue, and he has asked us to issue a statement supporting the resolution. We are considering suggesting to Gephardt that he wait until after the Memorial Day recess to introduce the resolution. No Republicans will support a resolution introduced this week, whereas a few might consider breaking party ranks if the Leadership has not made a commitment on patients' rights legislation by the end of the recess.

**5. Health Care – Ornish Demonstration:** We informed Dean Ornish that the Health Care Financing Administration will set up a Medicare demonstration for his nutrition/lifestyle program, pending final (and expected) OMB approval. The demonstration will include only beneficiaries who have heart disease, which will allow the best measurement of the program's cost effectiveness. The only remaining issue concerns the reimbursement rate for the program. HHS and OMB probably will want to review all private market contracts to determine an appropriate rate. Nancy Ann Min DeParle believes, however, that this task can be done in short order and that the demonstration should be up and running by the end of the summer.

**6. Health Care – Market-Oriented Medicare Demonstration Projects:** HCFA is facing massive resistance from insurers and providers as it attempts to use the demonstration authority it received in 1997 to institute competitive bidding practices for managed care, durable medical equipment, and other specified health care services. We set up demonstrations in Florida, Arizona, and Kansas, but the same industry representatives and members of Congress who generally criticize Medicare's inefficiencies have attempted to block each of these programs. (In a couple of cases, the providers have taken HCFA to court to stop the reforms.) Health policy analysts generally have validated our efforts. The Wall Street Journal recently quoted Ira Loss, a leading equities researcher, as saying that Medicare providers are "interested in the free market only if it means that the government is getting away from bothering them. But when it comes to the government actually forcing them to compete for business, they are unhappy about it." This development makes clear the difficulty we will have in enacting the nationwide competitive purchasing mechanisms that are likely to be in our Medicare reform proposal.

**7. Tobacco – International Tobacco Control Efforts:** Secretary Shalala

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pledged last week, at a meeting of the World Health Assembly in Geneva, that the U.S. would support the World Health Organization's plans to hold a framework convention on tobacco control. This convention will establish a multilateral framework to reduce tobacco use worldwide. The framework is expected to take several years to develop and ratify and may be followed by negotiated protocols which would address specific obligations. The State Department has authorized HHS to lead the negotiating team for the framework convention, which will include representatives from the State Department and other interested agencies. We will conduct an interagency process to coordinate these efforts.

**8. Welfare -- Transportation Grants:** The Vice President released last week the first round of grants funded under your Access to Jobs initiative, which was enacted as part of last year's transportation bill. A total of \$71 million will go to 179 urban, suburban, and rural communities in 42 states to help welfare recipients and other low-income workers get to where the jobs are. The Indianapolis Public Transit agency received a \$500,000 grant on behalf of a consortium of transportation providers including the organization that employed Elaine Kinslow, the welfare-to-work success story you praised in last year's State of the Union.

**9. Welfare -- Linking Welfare-to-Work and Census 2000:** Also last week, the Department of Labor announced the availability of \$20 million in Welfare-to-Work funds for a competitive project to employ welfare recipients as Census 2000 enumerators and to connect these individuals with permanent jobs once the census work ends. This collaborative effort between Labor and Commerce builds on the Census Bureau's success in hiring over 4,700 welfare recipients. The new initiative will provide approximately 10,000 welfare recipients with well-paying, flexible temporary employment near their homes, while helping to improve the census count in low-income neighborhoods. We plan to explore announcement opportunities when a grantee is selected this summer.

**9. Immigration -- NACARA Regulations and Public Charge Guidance:** The Department of Justice issued a proposed rule Thursday establishing a "presumption of extreme hardship" for the up to 500,000 immigrants from El Salvador and Guatemala granted some relief by NACARA. This rule substantially diminishes the inequities created by NACARA and elicited high praise from the immigrant community. One advocate was quoted on the front page of the Los Angeles Times as saying that the rule is "a landmark in the struggle for Central American immigrants in this country" and a "tremendous victory that will make the process more fair and humane." Predictably, however, Congressman Lamar Smith attacked the regulation and made clear he would try to overturn it in Congress. Following on the heels of the NACARA regulation, the Vice President will announce this week in Texas new guidance on the "public charge" issue, which will make clear that immigrants who receive Medicaid, CHIP, and a variety of other services will not incur any immigration penalties.

**10. Crime – Gun Control Strategy:** We will give you a separate memo early this week outlining an aggressive strategy for administration officials and Democratic Members of Congress to press for quick passage of our gun control proposals. The meeting you held yesterday with House Members produced a terrific front-page (second lead) article in today's New York Times, headlined "House Democrats Press Early Vote on Firearms Bill" and perfectly conveying our intended message.

DPC Weekly

3-29-99

THE WHITE HOUSE  
WASHINGTON

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March 27, 1999

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

**1. Education -- Ed-Flex Legislation:** As a result of activity last week, we are now in a very strong position to ensure that the Republican amendment undermining your class size initiative is dropped from Ed-Flex legislation. Over 200 House members voted in favor of a motion to instruct conferees to drop this provision, and at least 35 Senators have signed a letter (not yet released) recommending that you veto the Ed-Flex bill if this provision remains in it. We are working with OMB on a letter to the Ed-Flex conference committee to convey a veto threat on the class size issue and express support for the strongest possible accountability provisions. As you know, we made good progress in both the House and the Senate on accountability; now our challenge is to combine these somewhat different accountability provisions to ensure that waivers are tied to gains in student achievement.

**2. Education -- Charter Schools and Desegregation:** We are working with the Education and Justice Departments on issues relating to the relationship between charter schools and desegregation orders. An op-ed by Clint Bolick in the Wall Street Journal this week attacked Bill Lann Lee for "waging a war" against charter schools because of his efforts to prevent proposed charter schools from changing the racial balance called for in existing desegregation orders. The op-ed made special reference to actions the Department has taken in Louisiana to block the creation of new charter schools and /or to insist that the schools or school boards involved take new steps to ensure continued racial balance in the community. The issues involved in these cases are very tricky. The Justice Department notes that new charter schools can undermine hard-won desegregation orders that ensure racial balance in school systems. Charter school advocates, on the other hand, argue that a rigid enforcement strategy in this area will prevent many communities -- including predominantly minority communities -- from gaining the benefits of charter schools. (The proposed charter schools involved in the Louisiana cases, for example, are in largely minority communities; Justice is fearful that these schools either will siphon white students from other schools in the system or will lead minority parents to take their children out of more integrated schools in the system to enroll them in the new charters.) The Education Department is now in the process of developing draft guidance on these issues.

**3. Education -- Social Promotion Policy:** We are attempting, though not with any great success, to make the civil rights community comfortable with your no-social-promotion policy. As currently drafted, your proposal would insist that states have plans to prevent social promotion

by requiring students to meet performance standards (as measured by multiple indicators, including a valid test) at three key transition points and providing qualified teachers and intensive support and intervention services for children in danger of failing. In a speech last week, Hugh Price called for postponing any no-social-promotion policies until states could prove that they are providing equal educational opportunities to all students. Wade Henderson and several other civil rights leaders expressed similar views to us yesterday, complaining in particular that our rhetoric on social promotion lends itself to being appropriated and misused by people who share none of our interest in giving children the tools they need to meet high standards. We are continuing to explore ways of responding to the civil rights community's concern on this issue, including by incorporating measures that the National Council of La Raza proposed to strengthen Governor Bush's social promotion legislation. These ideas focus principally on staging the various timetables in the bill and insisting on independent assessments of the adequacy of support and intervention services. We are not terribly hopeful, however, that these ideas will convince the civil rights community to support this aspect of our ESEA proposal (they strongly support the other accountability measures in the bill), and at some point futile attempts to win this support may become counterproductive.

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**4. Education -- Detroit School Reform:** Governor Engler is expected to sign a bill today to give Mayor Archer authority to oust the existing locally-elected school board and replace it with a new "reform board" made up of six of the Mayor's appointees plus the State Superintendent -- effectively giving Archer the same kind of power over the Detroit school system that Mayor Daley has in Chicago. The reform board will run the city's schools for five years, after which Detroit residents will vote on whether to keep it. Earlier versions of the proposal would have given effective control of the board to Engler rather than Archer, provoking general outrage among Detroit residents. Even as enacted, the bill remains controversial, although Archer strongly supports it.

**5. Children and Families -- Child Care:** The Senate last week passed an amendment to the Republican budget resolution increasing mandatory funding for the child care block grant by \$5 billion over five years and \$10 billion over ten years, with a corresponding decrease in any proposed tax cut. This action represents a significant step forward for your proposal to boost child care subsidies for low-income families (funded in your budget at \$7.5 billion over five years). The amendment, pushed hard by Senator Dodd with the help of Senator Jeffords, also includes a non-binding provision stating that tax relief for child care (through, for example, expansion of the Child and Dependent Care Tax Credit), should benefit all working families (presumably by making the credit refundable) as well as assist stay-at-home parents who care for an infant. Twelve Republicans -- Senators Abraham, Campbell, Chafee, Collins, Dewine, Frist, Hatch, Jeffords, Roberts, Snowe, Specter, and Warner -- voted with all Democrats to pass the amendment. The challenge now will be to ensure that the conference committee on the budget resolution retains this provision. We are looking for ways for you, the Vice President, and/or the First Lady to highlight this issue as the conference committee begins to meet.

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**6. Health Care -- Medicare Reform:** We and the NEC are developing options for the new Medicare plan that you recently promised, taking into account both new projections on solvency and political demands from Democrats in the House and Senate. As you know, we expect the Medicare trustees to project on Tuesday that the fund will remain solvent beyond 2008 (perhaps until 2015 or so) as a result of increased revenues and curbed spending. These new projections will diminish the urgency of using the surplus to extend solvency; they also will make legislators in both parties reluctant to support additional provider cuts, as providers will argue that they already have made a major contribution to the health of the trust fund. (An AARP letter issued yesterday praised the Republican budget proposal for, among other things, not proposing such cuts.) Without significant provider cuts as offsets and with the near-term solvency of the program apparently assured, proponents of a generous prescription drug benefit will gravitate toward using more and more of the surplus for this purpose. One of the questions we will have to answer in developing our new Medicare plan is whether (and, if so, by how much) we want to fund a drug benefit through the surplus.

More generally, we were reminded this week that we will have to navigate some treacherous political shoals in putting together a plan. While Senator Daschle made it clear that Senate Democrats need a credible plan as soon as possible, Congressmen Gephardt, Dingell, Stark, and McDermott made it equally clear that they have no use for an alternative plan and wished we had not agreed to do one. We will be pushed from the Senate side to include serious reforms in our plans, while being pushed from the House side to abjure such reform proposals. The challenge will be to balance the need to offer credible reforms with the need to keep base Democrats on board our proposal.

**7. Health Care -- Organ Donation:** Organ donation rates increased by six percent last year -- a big improvement from the one percent increases we saw in the previous two years. The jump is attributable in part to our new regulation on the issue; it is also attributable to recent media attention given to public figures needing organ transplants, such as retired NFL football star Walter Payton. The organ donation advocacy community would like you to highlight this issue sometime soon. If you are interested, we could put together an event at which you could announce a \$5 million grant program to increase organ donations, as well as some major private-sector commitments from the AFL-CIO, UAW, Aetna Health Plans, and Kaiser Permanente.

**8. Health Care -- Physical Restraints in Institutional Settings:** In the wake of a new legislative proposal, we are preparing administrative action to prevent the inappropriate use of physical restraints in institutional settings. Senators Lieberman and Dodd announced on Thursday that they will introduce a Freedom From Restraint Act to prohibit hospitals and mental health facilities participating in the Medicare or Medicaid program from using physical restraints on patients except when necessary to ensure the physical safety of the patient or other patients and upon the written order of a physician. Dodd and Lieberman began working on this legislation after reports last fall that several mentally ill children in psychiatric institutions in Connecticut died as a result of the improper use of restraints by facility staff. Similar abuses have occurred in other parts of the nation. While expressing support for the Dodd-Lieberman bill, we are also

directing HHS to expedite a regulation that will go a long way toward achieving the statute's objective. The regulation will prevent the improper use of physical restraints in all facilities covered by the Dodd-Lieberman bill except hospices and residential care facilities for children. (Applying protections in these excepted facilities does require new statutory authority.) If you are interested, you can announce release of this regulation when it becomes final in the summer.

**9. Tobacco – Medicaid Recoupment:** As you know, the conference committee on the supplemental bill will include a battle over Senator Hutchison's provision to waive all federal claims to tobacco settlement money. Assuming the whole bill does not simply die, House conferees will be inclined to keep this rider off the bill, while Senate conferees will point to the overwhelming vote in the Senate and insist on its inclusion. We can expect the Governors to weigh in heavily with the House leadership and conferees during the recess. Public health advocates are going to attempt to use the recess to urge elimination of the Hutchison provision, but we doubt they will be particularly effectual. In the meantime, Congressmen Waxman, Dingell, Rangel, and John Lewis introduced a bill last week requiring the expenditure of 25 percent of tobacco settlement funds on tobacco control and farmers (with a portion of this money going to a federal fund for a national education campaign and prevention efforts targeted at minority smokers) and another 25 percent on other public health activities. The bill also would require tobacco product manufacturers to purchase a set amount of domestically grown tobacco each year. Our best hope on this issue is still to get the Hutchison provision stripped from the supplemental and then to go back to the governors and persuade them that in the absence of any other obvious vehicle for this provision, their best interest lies in reaching an agreement.

**10. Tobacco – Florida Teen Smoking:** Cigarette smoking in Florida declined in every grade since the state began its anti-smoking campaign last year, according to a study released last week. The state-sponsored survey found cigarette use declined 19 percent among middle school students and 8 percent among high schoolers. Florida spent \$71 million of its tobacco settlement dollars on this campaign last year (about 13 percent of the total), one-third on a counteradvertising campaign and the rest on community and school based programs. Nine out of ten youth surveyed were aware of the state's counteradvertisements, which the CDC has made available to other states. Notwithstanding the program's success, funding for it will go down next year: the Governor's budget requested \$61.5 million for the program, but the Republican House appropriated no funds and the Democratic Senate included \$50 million.

**11. Welfare Reform – Urban Caseloads:** You recently asked us whether we could do more to strengthen welfare-to-work efforts in cities with relatively small caseload declines. Two new initiatives will help to do so. First, the Department of Labor just launched a two-year technical assistance initiative to help ten large cities (Boston, Houston, Detroit, Philadelphia, Chicago, Los Angeles, New York, Seattle, New Orleans, and Minneapolis) to develop strategies to move hard-to-employ welfare recipients into good jobs; the initiative will promote close coordination between the welfare and workforce systems and emphasize job retention and advancement. Second, the Welfare to Work Partnership is starting a targeted effort in 30 cities

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with high poverty rates and large concentrations of welfare recipients, including Atlanta, Baltimore, Chicago, Los Angeles, Miami, New Orleans, New York, Philadelphia, and Washington, D.C. The Partnership will hold a major convention in Chicago this summer for delegations from these cities, and Eli would very much like you to participate.

You also asked whether the slower rate of caseload decline in some cities is related to unemployment. In general, cities with slower rates of caseload decline did have higher unemployment rates. For example, El Paso, Los Angeles, New York, and Philadelphia had the slowest caseload declines and three of the four had central city unemployment rates above 7 percent -- compared to the national average of 4.5 percent -- when the caseload decline was measured. (The fourth city, Philadelphia, had an unemployment rate of 5.9 percent.) The correlation, however, is by no means perfect; for example, Baltimore and Cleveland also had high unemployment, but significantly larger caseload declines.

**12. Welfare Reform -- Economist Article:** We thought you might like to see the attached Economist article highlighting the Welfare to Work Partnership's success and chronicling the progress of welfare reform.

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## THE WHITE HOUSE

WASHINGTON

April 9, 1999

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena KaganCopied  
Reed  
Kagan  
PodestaSUBJECT: DPC Weekly Report

**1. Education -- Ed-Flex:** Hill staff met during the recess to hammer out differences between the Senate and House bills. On Monday, Secretary Riley will send conferees a letter threatening a veto over the Senate Republican provision to weaken class size. On Tuesday, Senate Democrats will release a letter with at least 35 signatures supporting that veto threat. We expect a quick conference and rapid action in both houses if the bill is acceptable.

**2. Education -- ESEA:** Despite extensive consultation with us, civil rights groups continue to oppose an ESEA bill that includes the Administration's position on social promotions. We and the Education Department have held a series of meetings with civil rights advocates including Hugh Price, Wade Henderson, Bill Taylor, and others in an unsuccessful effort to find a compromise. Education has suggested that we consider making one of several possible concessions, such as phasing in the requirement to end social promotions over a longer period -- but even that will not be enough to win the groups' support. Another option would be to split off the social promotion provisions in a separate bill. Senator Kennedy sympathizes with our predicament but would like to avoid a war with the civil rights community. We have asked his staff to take part in our continuing meetings with the groups, in the hope that we can at least secure Senator Kennedy's support, even if we fail to win over the civil rights community. You are tentatively scheduled to announce the ESEA bill on April 28.

**3. Education -- 1994 ESEA Report:** On Friday, the Department of Education released a congressionally mandated report evaluating the effectiveness of programs included in the 1994 ESEA reauthorization. The report submits that states have made progress in the development of academic standards, but that more accountability in federal education programs is needed -- along the lines of what you have called for in ESEA.

**4. Education -- California Class Size Waiver:** Last week Vice President Gore announced approval of a waiver sought by Gov. Davis to permit California school districts to use federal class size funding to reduce class size and improve teacher quality in any grade. The decision was based on California's progress in reducing class size in the early grades to 20 and the lack of additional school facilities and qualified teachers needed to accommodate smaller classes in those grades. Governor Davis will encourage California districts to use this funding

to reduce class size in 10th grade reading and math classes to help prepare students for a new high school exit exam that he signed into law.

**5. Health Care -- Update on Aetna's Affordable Choice:** On May 5, the Aetna Insurance Company is scheduled to hold an event to unveil a low-cost health plan option targeted to small businesses and their employees who cannot afford traditional health insurance. The plan is much less expensive than traditional insurance options because it limits its health coverage to capped, front-end benefits that provide front loaded coverage for hospital stays -- \$750 a day for the first three days, \$350 for days four through 10, and declining to \$100 a day after 10 days -- and up to eight physician's visits with a \$50 copayment. The plan allows enrollees to access a price discount on prescription drugs, which Aetna has extracted from the pharmaceutical industry in its negotiations on behalf of its other health plans. Past attempts to provide affordable, bare-bones coverage for this population have proven unsuccessful, primarily because employers and employees have not been attracted to coverage designed only to protect against catastrophic expenses. The Aetna plan takes the opposite approach. Even though these plans would not qualify as traditional insurance and are designed to avoid state mandated benefits, the Aetna plan will be endorsed by the NFIB and possibly the Chamber of Commerce. We are informed that a number of members of Congress (e.g. Representative Thomas and Senators Frist and Breaux) will endorse this offering and participate in the event. Eli Segal is also very supportive. Although the plan might help expand coverage somewhat, our traditional base Democrats, many provider groups, and consumer advocates are unlikely to be impressed with this coverage option. They will argue that the coverage provided is virtually meaningless, provides a false sense of security (since the average hospital cost per day is over \$1000 and the average length of stay is 7 days) and that the Kennedy-Kassenbaum insurance reforms you signed into law would not apply to this product.

**6. Health Care -- Medicare Prescription Drug Update:** ~~Next week, Senator Kennedy and Senator Rockefeller are tentatively scheduled to introduce legislation to provide for a Medicare prescription drug benefit.~~ As currently designed, in return for a \$10 to \$20 premium -- which would be added to the Medicare Part B premiums that provides for physician and other services -- beneficiaries would be reimbursed for 80 percent of drug costs after they paid a \$100 deductible. As currently designed, this benefit would be capped at \$1200 -- meaning that beneficiaries would not get any coverage after they had received \$1200 worth of prescription drugs -- and is projected to cost between \$50 and \$75 billion over 5 years (\$110 billion to \$140 billion over 10 years). The proposal, which is at the low end of the more modestly, front loaded benefits that we have been developing for your consideration, would require beneficiaries to pay catastrophic expenses out of pocket. Most health policy experts would be critical of the capped, front-loaded benefit because it leaves the sickest patients most vulnerable to excessive drug costs. However, this benefit is somewhat more generous than currently available in Medigap plans (particularly when one takes into account the lower premium) and the front-loaded nature of the program might be more popular than a back-end coverage policy. Because Senator Kennedy is introducing this legislation, it is more likely to be accepted as a substantial benefit than if we had produced the same package. Interestingly, Senators Moynihan, Gramm, and Bryant are in the process of developing a similar plan. While it clearly might be better strategically for Senator Moynihan to unveil his plan first, it is unlikely that he will be ready to

do so within the next two weeks. It is even less likely that Senator Kennedy can be convinced to delay the introduction of his bill until after Senator Moynihan introduces his. Notably, the Senate advocates of a drug benefit are unwilling -- if not completely unable -- to propose traditional Medicare provider and/or beneficiary savings that are significant enough to pay for the benefit. As a consequence, both Senator Kennedy and Senator Moynihan are likely to highlight the desirability of tobacco taxes and/or some use of the surplus to help finance their proposal. We are in the process of developing a number of options for your consideration, which we hope to review with you in short order.

**7. Tobacco -- Medicare Lawsuit:** This week the Justice Department entered into an agreement with the law firm of Robins, Kaplan, Miller & Ciresi, from Minneapolis to serve as consultants on the federal tobacco litigation. This firm represented the State of Minnesota and Blue Cross-Blue Shield in their lawsuit against the tobacco industry. The agreement is for the firm to advise and assist the Department's litigation team on a reduced-rate billing basis of \$75 per hour through June 30, 1999. The contract does not contemplate payment of any contingency fee related to potential recoveries. Jim Cramer, a leading Wall Street analyst, wrote that the hire shows "Justice means business."

**8. Tobacco -- Kick Butts Day:** The fourth annual Kick Butts Day is scheduled for April 14. The Vice President will participate in an event in Akron, Ohio where he will release a new HHS report on kids and tobacco. The report indicates that Marlboro (Philip Morris), Newport (Lorillard), and Camel (RJR/Nabisco) are the cigarette brands used most among teens who are current smokers. The dominant brand is Marlboro, which is preferred by about 60 percent of youth smokers and is as popular among girls as among boys.

**9. Community Empowerment -- Low Income Housing Tax Credit:** Shortly after coming back from recess, Senators Graham and Mack of Florida plan to introduce legislation to expand the Low Income Housing Tax Credit (LIHTC). Their bill will be very closely modeled on your proposal. In the House, Representative Nancy Johnson's bipartisan LIHTC bill has amassed 70 cosponsors.

**10. Welfare -- GW Study on Diversion Policies:** We expect George Washington University will issue the second of its reports funded by HHS which provides an inventory of state approaches and examines practices in five cities -- Atlanta, Annapolis, Kansas City, Missoula, and Cincinnati. The study finds that the most common form of diversion requires applicants for welfare to participate in a job search before they can receive cash assistance, and that the diversion payments offered by nearly half the states to help families meet short-term needs in lieu of welfare are being used on a limited basis. The study also notes that diversion has the potential to reduce initial access to Medicaid, especially as families bypass welfare entirely or go to work so quickly that they may not qualify for Medicaid under most states' current eligibility criteria. The study highlights the importance of our Medicaid outreach efforts and our initiatives to encourage states to take advantage of the flexibility they have under current law to expand Medicaid eligibility for low-income working families. HHS plans to award research

funds to several states or large counties to track what happens to families who are diverted from the caseload, including the extent to which they continue to participate in Medicaid and other programs to support working families.

**11. Crime -- 1996 Correctional Population:** On Friday, the Justice Department's Bureau of Justice Statistics released a report showing that an estimated 5.5 million adults were under some form of criminal justice supervision in 1996 -- comprising about 2.5 percent of all adults, up from 1.6 percent in 1985. Of the total 5.5 million adults: 510,000 were in jail; 3.2 million were on probation; 1.1 million were in state or federal prison; 704,700 adults were on parole; and 2,747 adults were held in military confinement. Between 1986 and 1996, the average annual rate increase for the jail population was 6.5 percent; for prisons, 8.4 percent; parolees, 8 percent; and for the probation population, 4.2 percent. Of the 1.6 million adults in local jail or prison, 821,900 were white, and 773,900 were black. Of the 3.9 million adults on probation or parole, 2.5 million were white and 1.3 million were black.

**12. Crime -- Police Misconduct:** Next week, the Attorney General is planning to give a speech at the National Press Club to discuss issues of police misconduct. As you know, she has convened meetings with leaders from the civil rights and law enforcement communities in response to your radio address last month. In addition, the Customs Service this week announced an independent commission to review its passenger processing policies and procedures. In recent months, there have been an increasing number of passenger complaints regarding the treatment they received during a Customs search, and there have been several lawsuits filed by passengers alleging personal searches based on racial profiling.

## THE WHITE HOUSE

WASHINGTON

April 9, 1999

## MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

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**6. Health Care -- Medicare Prescription Drug Update:** Next week Senators Kennedy and Rockefeller are tentatively scheduled to introduce legislation to provide a Medicare prescription drug benefit. In return for a \$10 to \$20 premium -- which would automatically be added to the Medicare Part B premiums that provides for physician and other services -- the beneficiary would have 80 percent of drug costs covered after they paid a \$100 deductible. This benefit would be capped at \$1600m -- meaning that beneficiaries would not get any coverage after they had received \$1600 worth of prescription drugs -- and is projected to cost between \$50 and \$75 billion over 5 years -- \$110 billion to \$140 billion over 10 years. Its design, which is similar to some of the more modestly, front loaded benefits that we have been developing for your consideration, would leave catastrophic expenses to be paid out of pocket by beneficiaries. Most health policy experts would be critical of the capped, front-loaded benefit because it leaves the sickest patients most vulnerable to excessive drug costs. Having said this, this benefit is far more generous than that currently available in Medigap plans and the front-loaded nature of the program might be more popular than a back-end coverage policy. Because Senator Kennedy is introducing this legislation, it is more likely to be accepted as a substantial benefit than if we had produced the same package. Interestingly, Senators Moynihan, Graham (FL), and Bryant (NV) are in the process of developing a similarly structured plan. While it clearly might be better strategically for Senator Moynihan to unveil his plan first, it is unlikely that he will be ready to

do so within the next two weeks. It is even less likely that Senator Kennedy can be convinced to delay the introduction of his bill until after Senator Moynihan introduces his. Notably, the Senate advocates of a drug benefit are unwilling -- if not completely unable -- to propose traditional Medicare provider and/or beneficiary savings that are significant enough to pay for the benefit. As a consequence, both Senator Kennedy and Senator Moynihan are likely to highlight the desirability of tobacco taxes and/or some use of the surplus to help finance their proposal. We are in the process of developing a number of options for your consideration, which we hope to review with you in short order.

**7. Tobacco -- Medicare Lawsuit:** This week the Justice Department entered into an agreement with the law firm of Robins, Kaplan, Miller & Ciresi, from Minneapolis to serve as consultants on the federal tobacco litigation. This firm represented the State of Minnesota and Blue Cross-Blue Shield in their lawsuit against the tobacco industry. The agreement is for the firm to advise and assist the Department's litigation team on a reduced-rate billing basis of \$75 per hour through June 30, 1999. The contract does not contemplate payment of any contingency fee related to potential recoveries. Jim Cramer, a leading Wall Street analyst, wrote that the hire shows "Justice means business."

**8. Tobacco -- Kick Butts Day:** The fourth annual Kick Butts Day is scheduled for April 14. The Vice President will participate in an event in Akron, Ohio where he will release a new HHS report on kids and tobacco. The report indicates that Marlboro (Philip Morris), Newport (Lorillard), and Camel (RJR/Nabisco) are the cigarette brands used most among teens who are current smokers. The dominant brand is Marlboro, which is preferred by about 60 percent of youth smokers and is as popular among girls as among boys.

**9. Community Empowerment -- Low Income Housing Tax Credit:** Shortly after coming back from recess, Senators Graham and Mack of Florida plan to introduce legislation to expand the Low Income Housing Tax Credit (LIHTC). Their bill will be very closely modeled on your proposal. In the House, Representative Nancy Johnson's bipartisan LIHTC bill has amassed 70 cosponsors.

**10. Welfare -- GW Study on Diversion Policies:** We expect George Washington University will issue the second of its reports funded by HHS which provides an inventory of state approaches and examines practices in five cities -- Atlanta, Annapolis, Kansas City, Missoula, and Cincinnati. The study finds that the most common form of diversion requires applicants for welfare to participate in a job search before they can receive cash assistance, and that the diversion payments offered by nearly half the states to help families meet short-term needs in lieu of welfare are being used on a limited basis. The study also notes that diversion has the potential to reduce initial access to Medicaid, especially as families bypass welfare entirely or go to work so quickly that they may not qualify for Medicaid under most states' current eligibility criteria. The study highlights the importance of our Medicaid outreach efforts and our initiatives to encourage states to take advantage of the flexibility they have under current law to expand Medicaid eligibility for low-income working families. HHS plans to award research

funds to several states or large counties to track what happens to families who are diverted from the caseload, including the extent to which they continue to participate in Medicaid and other programs to support working families.

**11. Crime -- 1996 Correctional Population:** On Friday, the Justice Department's Bureau of Justice Statistics released a report showing that an estimated 5.5 million adults were under some form of criminal justice supervision in 1996 -- comprising about 2.5 percent of all adults, up from 1.6 percent in 1985. Of the total 5.5 million adults: 510,000 were in jail; 3.2 million were on probation; 1.1 million were in state or federal prison; 704,700 adults were on parole; and 2,747 adults were held in military confinement. Between 1986 and 1996, the average annual rate increase for the jail population was 6.5 percent; for prisons, 8.4 percent; parolees, 8 percent; and for the probation population, 4.2 percent. Of the 1.6 million adults in local jail or prison, 821,900 were white, and 773,900 were black. Of the 3.9 million adults on probation or parole, 2.5 million were white and 1.3 million were black.

**12. Crime -- Police Misconduct:** Next week, the Attorney General is planning to give a speech at the National Press Club to discuss issues of police misconduct. As you know, she has convened meetings with leaders from the civil rights and law enforcement communities in response to your radio address last month. In addition, the Customs Service this week announced an independent commission to review its passenger processing policies and procedures. In recent months, there have been an increasing number of passenger complaints regarding the treatment they received during a Customs search, and there have been several lawsuits filed by passengers alleging personal searches based on racial profiling.

**Daily Report**  
**March 9, 1999**

**Education -- Ed-Flex and Class Size:** Senator Lott's motion to invoke cloture on the Ed-Flex bill failed for a second time today along party lines, after the first attempt failed last night. Immediately following both cloture votes, we issued statements from you calling once again on the Republican Leadership to allow an up-or-down vote on the class size amendment. The Vice President delivered similar messages Monday and Tuesday at the top of other events and in interviews with radio networks and CNN. Senator Lott says he wants to reach an agreement with Senator Daschle on a time agreement allowing a vote on class size and a couple of other amendments, but it is unclear whether an agreement will be reached. Lott has filed cloture motions for Wednesday and Thursday in the event a time agreement is not reached, and Murray will offer a motion to recommit the ed-flex bill to committee with instructions to include her class size amendment and bring it back to the Senate floor. None of these votes are likely to get the votes needed to succeed, and Lott could wind up pulling the bill by the end of the week if agreements are not reached. If Lott does allow a vote on class size, Senator Jeffords plans to offer amendments diverting class size funding into special education, and the Republicans have begun to attempt recasting the debate from whether to invest in smaller classes to whether to fully fund IDEA and special education before funding new initiatives like class size. One Jeffords amendment would permit local school districts to decide whether to use FY99 class size funding for reducing class size or for special education.

**Health Care -- Update on Medicare Commission:** Today's Washington Post reported that Senator Breaux had dropped his proposal to establish income related premiums in the Medicare program. The article also reported that he was seriously contemplating dropping the eligibility age increase, as well as exploring ways to dedicate all or part of the 15 percent of the surplus that you have proposed to dedicate to the Medicare program. This was surprising news because the elimination of the income related premium does not in any way respond to the concerns of the three swing Democrats -- Senator Kerry, Stuart Altman, and Laura Tyson -- who are quite supportive of income related premiums. Later this afternoon, it became clear that Breaux was disassociating himself from the removal of the income related premium, and as his staff said, the proposal was explicitly still on the table. The eligibility age and the financing issue remain unresolved. Tomorrow, Jack Lew will be testifying before the Senate Finance Committee to address the financial status of the Medicare program as well as to take questions about your surplus proposal and alternatives to it. Also in attendance will be CBO Director Dan Crippen, who despite his staff's serious reservations about the Breaux proposal, has provided a generally favorable review of the commission's work. The GAO's Comptroller General, David Walker, is also scheduled to testify. Jack intends to avoid any direct reference to the Medicare Commission's work so as not to be trapped into commenting on explicit provisions of the rapidly evolving proposals emerging from the Commission. Having said this, we fully expect the discussions surrounding the macroeconomics of the Medicare program to be quickly diverted into a potentially heated exchange over the work of the Medicare Commission and Medicare reform in general.

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

**1. Tobacco – Medicaid Recoupment:** The Senate Appropriations Committee decided Thursday to amend the supplemental appropriations bill by adding Senator Hutchison’s legislation to waive all federal claims to tobacco settlement funds received by the states. Before the markup, Senator Roth objected to the Appropriations Committee taking up the Hutchison bill, noting that this action would "bypass the jurisdiction of the Finance Committee" and that the bill "has enormous ramifications for the Medicaid program and should be thoughtfully considered through the committee process." He noted that the amendment was not paid for and urged the committee, if it felt compelled to act, to prevent recoupment only in 1999 or 2000 to give the Finance Committee time to act. Senator Stevens apparently asked Hutchison to withdraw her amendment in deference to Roth’s objection, but she refused to do so. In the event, the amendment passed by voice vote, with only Senators Harkin, Durbin, and Specter speaking against it. The committee rejected an alternative amendment proposed by Harkin to waive federal claims in exchange for a commitment by the states to dedicate 25 percent of the settlement funds to tobacco control programs.

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For some time now, we have been working with Senator Daschle and others to develop an alternative to the Hutchison bill -- essentially a menu of permissible state uses -- that could attract significant support; we have found, however, that many Senators, including a fair number of Democrats, are under great pressure from state officials to resist any restrictions on use of the money. As a freestanding piece of legislation, the Hutchison bill now has 40 co-sponsors, including nine Democrats (although some of the Democrats say they would be willing to accept an alternative along the lines we have suggested if it gave the states sufficient flexibility over spending). One possible approach to the current situation is to urge the NGA to negotiate an alternative bill with us right now for inclusion on the supplemental; although the NGA believes it has a very strong hand in Congress, it might accept this offer both because it wants immediate use of the money and because it fears a presidential veto. This approach, however, could anger some anti-tobacco Democrats (especially in the House), who still hold out the hope that we can use the recoupment issue as a vehicle for broader tobacco legislation. We are continuing to discuss options with John, Larry, and Jack and diverse people on the Hill (of course, all this is complicated by the other issues raised by the supplemental) and hope to have a recommendation for you shortly.

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**2. Tobacco -- New Evidence on Tobacco Use:** Two new studies show that cigarette sales declined sharply in Alaska and Oregon after the states increased tobacco taxes. Alaska tripled its tax from \$.29 to \$1.00 a pack in October 1997, raising the retail price of cigarettes by 39 percent. A study conducted by the state found that tobacco sales declined 17 percent the next year, without any apparent upsurge in smuggling or crime. Oregon raised its tax by \$.30 per pack in February 1997, increasing cigarette prices by 16 percent; it also devoted 10 percent of the proceeds to tobacco prevention programs. A study conducted by the CDC and Oregon Health Division found that tobacco sales fell 11.3 percent as a result. The study noted that this decline was far larger than expected given the size of the price increase, and attributed the additional drop to expanded prevention activities. Most studies have found that every 10 percent increase in price reduces overall smoking by about 4 percent (while reducing youth smoking by about 7 percent) -- essentially the effect found in Alaska. According to this model, the 16 percent price increase in Oregon should have resulted in a 6.3 percent decline in consumption -- far less than the 11.3 percent decline actually achieved. The difference, according to the study, resulted from the state's expenditure of \$8.5 million a year to fund community-based tobacco-use prevention coalitions in every county, a statewide public awareness and education campaign, comprehensive school-based programs, tribal tobacco-use prevention programs, multicultural outreach and education, and a quitters' help line providing smoking cessation support. These findings bolster the rationale for ensuring that states use at least part of their settlement money on tobacco prevention.

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**3. Education -- Ed-Flex Legislation:** As you know, the Senate will vote Monday afternoon on a cloture petition filed by Senator Lott to bring the Ed-Flex debate to an end and cut off consideration of the Kennedy-Murray class size amendment. Before the class size issue came to the fore, Democrats succeeded in strengthening the accountability provisions of the bill and providing additional protections for very high-poverty schools. The last (and most) significant issue is class size. (Although Democrats have offered other amendments, including some on dropout prevention and afterschool programs, Senator Daschle is trying hard to focus the message and debate on class size, lest Democrats appear simply obstructionist.) Secretary Riley and Senators Daschle, Kennedy, and Murray held a press conference Friday to urge the Republican Leadership to allow an up-or-down vote on a class size amendment; we released a statement from you at that event, and your radio address this weekend will serve to amplify this message. Secretary Riley and Bruce have met several times with the major education groups, which are now working hard to put pressure on Republicans. The Vice President probably will make a statement prior to the cloture vote on Monday, either at the White House or in a meeting on the Hill that Daschle, Kennedy, and Murray are holding with education groups.

**4. Education -- Individuals with Disabilities Education Act (IDEA):** We and Secretary Riley agreed to postpone issuance of the Education Department's new IDEA regulation until this coming Friday to give us more time to conduct outreach to Governors and other state officials. Bruce and the Secretary will participate in a conference call with Governors Carper, Leavitt, and Dean (and possibly others) this Tuesday. The postponement also should prevent any dovetailing of the regulation with the current Ed-Flex debate. Even without the regulation as a

catalyst, Republicans may second-degree Democratic amendments (including on class size) with proposals to increase support to the states for special education programs.

In a decision that may further exacerbate the simmering IDEA controversy, the Supreme court held 7-2 last week that the statute requires school districts to provide children with any health services necessary for the children to attend school, as long as the services need not be administered by a doctor. The case involved a quadriplegic student who needs assistance during the day to clear his tracheotomy tube and maintain his ventilator. The Justice Department filed an amicus brief on the side of the student, setting out the Education Department's longstanding interpretation of the statute. The costs of this decision to local school districts may not be exorbitant: only a couple of thousand students across the country need the kind of "high-end" health services involved in this case; fewer than 20,000 need any kind of health services covered by this decision; and Medicaid appropriately covers many of these students and services. The decision, however, may fuel growing public concerns about the costs of complying with IDEA. At the same time, it may intensify worries among Congressional authorizers that states are inappropriately tapping into Medicaid (e.g., for non-health services) to pay for special education programs. At a meeting at the White House yesterday, HHS and the Education Department agreed to release a joint letter explaining the scope of the decision and noting the potential for -- but also the limits of -- Medicaid funding.

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**5. Health Care -- Regulation on Over-the-Counter Drugs:** The Vice President will join Secretary Shalala and FDA Commissioner Henney on Thursday to unveil a new FDA regulation requiring that labels on over-the-counter drug products have a standardized format and large print, which will assist consumers to understand product warnings and comply with dosage guidance. Both consumer advocates and physician and other provider groups will praise this regulation, and even product manufacturers will acknowledge its usefulness. Studies indicate that people often have difficulty determining the correct dosage of over-the-counter medications, and that many of the elderly, who use significantly more over-the-counter drugs than others, have trouble reading the small type on product labels. This regulation will be an effective step toward preventing the thousands of hospitalizations each year caused by misuse of over-the-counter medications.

**6. Health Care -- Medicare Commission:** Senators Kennedy and Rockefeller and Congressmen Dingell and McDermott were pleased with the meeting on the Medicare Commission that you had with them on Thursday -- particularly with your understanding of the shortcomings of the Breaux plan and your commitment to inform them of any alternative Administration proposal. As you no doubt could tell from the meeting, base Democrats will express strong opposition to virtually anything that comes out of the Commission.

Laura Tyson and Stuart Altman held another meeting on Friday with Senator Breaux, Congressman Thomas, and a number of other Republicans to discuss compromise options. Because it now seems impossible to reach agreement on any detailed plan, Breaux and Thomas tried to convince Stuart and Laura to vote for a report that suggests agreement on a set of general

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propositions. Laura and Stuart rejected this approach for fear that Republicans would draft flawed legislation, ostensibly based on the report, and portray Laura and Stuart as having endorsed it. But Laura and Stuart are considering two other options. The first option is to vote for the Commission report (thus giving the Commission the 11 votes necessary to issue it), but insist on detailing in the report their objections to the Commission's proposal and their recommendations for making it acceptable. The second option is to vote against the Commission report, but issue a public statement (because Commission rules do not allow for minority views) that explains why they chose to vote against the proposal and outlines the approach to Medicare reform that they believe is desirable. Laura (and to some extent Stuart) are leaning toward the first option; they believe this option is more likely to provide momentum for Medicare reform, which they see as their first priority. Both Laura and Stuart understand, however, that the press will focus on the Commission's ability to report out premium support and other controversial reforms, and will overlook or minimize their detailed objections. For this reason, they have made no final decisions and wish to discuss these options further next week.

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**7. Crime -- Community Prosecutors:** Deputy Attorney General Holder plans to use his morning press availability on Thursday to highlight the community prosecutors portion of your 21st Century crime bill, which we plan to send up to the Hill later this month. As you know, your FY 2000 budget includes \$1 billion over the next five years for this proposed new program to hire and train community prosecutors. As the former U.S. Attorney for the District of Columbia, Holder helped to launch one of the first successful community prosecution programs, and he is personally committed to building public and congressional support for this initiative. On a related note, in testimony before the House Committee on Government Reform on Wednesday, Mayor Giuliani expressed support for community prosecution programs.

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**8. Crime -- Police Brutality:** We and Chuck Ruff are sending you a separate memo this weekend detailing a proposed course of action and set of policy initiatives to address the issue of police misconduct. As you may have seen in Saturday's newspapers, the U.S. Commission on Civil Rights voted 3-2 to investigate police practices and police-community relations in New York and other, as yet unspecified cities.

**9. Crime -- VAWA Decision:** As you may also have seen in the paper today, the en banc Court of Appeals for the Fourth Circuit invalidated the part of the Violence Against Women Act that permits victims of rape and domestic violence to sue their attackers for violating their civil rights. The Court held that neither the Commerce Clause nor the Fourteenth Amendment gave Congress the authority to pass the law: in the Court's view, "such a statute . . . simply cannot be reconciled with the principles of limited Federal Government upon which this nation is founded." The ruling means that in Virginia, Maryland, West Virginia, and the Carolinas, victims of rape and domestic violence will be able to sue their attackers only under state tort laws and in state courts. We and Chuck will talk with the Justice Department about filing a cert petition to seek Supreme Court review.

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**10. Welfare Reform -- Cuts in TANF Block Grant:** As you know, the Senate Appropriations Committee last week proposed paying for part of the emergency supplemental by cutting \$350 million in TANF block grant funding in FY 1999. (Of course, there are also numerous other objectionable offsets in the bill.) Although the bill would restore the cut in later years, this provision would establish a precedent of raiding TANF to pay for other measures. The governors will oppose the cut strongly, claiming it breaks Congress's commitment in 1996 to provide five years of full block grant funding. Some in Congress will defend the cut by pointing to unobligated balances in the TANF program. State data compiled by HHS (but not yet released) show that in FY 1998, states spent or obligated 84 percent of the \$16.5 billion TANF block grant, leaving \$2.7 billion or 16 percent unobligated. There is considerable state variation -- 19 states have obligated all their FY 98 funds, while 12 states account for three-quarters of the unobligated balances. We will provide you with a more complete report on these trends in a separate memo. For now, we note only that unobligated balances may result from sensible decisions by states to put off allocation of some TANF funds until they fully implement their welfare reform programs and/or they begin to experience an economic downturn. We are fearful that agreeing to cuts in TANF will undercut welfare-to-work efforts just as work requirements increase and the caseloads become more concentrated with the hardest-to-employ recipients.

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**11. Immigration -- Report on Declining Use of Public Benefits:** The Urban Institute will issue a report on Monday showing that between 1994 and 1997, use of public benefits by noncitizen families declined more than use of such benefits by citizen families. The study found that receipt of cash benefits (AFDC/TANF, SSI, and state-funded general assistance) by noncitizens declined 35 percent, while use by citizens declined only 15 percent. Similarly, the study found that use of Medicaid and Food Stamps declined 22 and 30 percent, respectively, among noncitizens, but only 7 and 21 percent among citizens. The report concludes that because most legal immigrants were still eligible for federal and/or state benefits through 1997, the difference in take-up rates was due to the welfare law's "chilling effect" -- i.e., misunderstandings about new eligibility rules and/or fear that receipt of benefits would adversely affect immigration status. We have been working closely with the Department of Justice and HHS on these issues, and we expect to issue guidance this month on the use by noncitizens of public benefits. The guidance will include a resolution of the "public charge" issue -- i.e., the question of when the receipt of public benefits renders a noncitizen a "public charge," so as to affect his or her ability to reenter the country -- that we expect immigrant advocates to greet warmly. In addition, of course, we will continue to press for our budget proposals to restore additional health, nutrition, and disability benefits to vulnerable legal immigrants.

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**12. Civil Rights -- Report on Paired Testing:** The Urban Institute also issued a report last week on the usefulness of paired testing to combat discriminatory practices. As you know, "paired testing" programs use two individuals similar in all relevant characteristics except racial or ethnic background to check for discrimination. Paired testing is now used primarily in the housing area, and your budget includes \$7.5 million to expand HUD's current testing program. The Urban Institute report recommends extending the use of paired testing in other settings, such as the workplace. The EEOC conducted a pilot project two years ago on paired testing in the

employment context, but is still in the process of evaluating the data. When Republicans objected to the pilot project during last year's appropriations battles, the EEOC agreed not to do any testing this year -- which it was not planning to do anyway, given the unfinished evaluation -- in exchange for significantly increased funding for its general activities. We expect to face this issue again in this year's appropriations bill.

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THE WHITE HOUSE  
WASHINGTON

March 13, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

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**1. Education -- Ed-Flex/Class Size/Special Education:** Both the Senate and the House approved Ed-Flex legislation last week, the former by a 98-1 vote (with Senator Wellstone the lone dissenter) and the latter by a 330-90 vote. The House bill is clean, because the Rules Committee held all amendments on class size, special education, and other issues to be non-germane. The Senate bill, however, includes a provision to permit school districts to fund special education services out of the funds appropriated last year (and any future funds) to hire teachers and reduce class size. This provision, which attracted the votes of every Republican and six Democrats (all from rural states without class size problems), essentially trumped the Murray-Kennedy amendment to provide a six-year authorization for our class size program, which went down on a party-line vote. Because we saw the special education provision as a politically clever way to gut your class size initiative, we counseled the Democrats against entering into a time agreement that would allow it to come to a vote. Senator Kennedy, however, insisted on making a deal with the Republicans in order to get a vote on his amendment, and Senator Daschle went along for fear of appearing to obstruct the Ed-Flex legislation.

*Carper  
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After the Senate vote, we issued a statement from you reiterating your support for ed-flex, but sharply criticizing the Republican measure to undermine class size reduction. In addition, Secretary Riley urged Senators Jeffords, Frist, and Wyden to remove this provision from the bill lest it kill Ed-Flex legislation. (Bruce repeated this message to Governor Carper, although it is not clear how much influence the governors will have in the conference committee discussions.) Meanwhile, Senators Daschle, Kennedy, and Murray are trying to get at least 34 Senators to sign a letter calling for a veto if the conference fails to remove the Republican special ed/class size provision. We will talk with John and Larry again on Monday about whether and when to issue a veto statement on the Senate bill in its current form.

The debate in the Senate made clear that we and the Hill Democrats are vulnerable on the special education issue. With more and more local and state officials demanding that the federal government live up to its "commitment" to fund 40 percent of mandated special education services -- a commitment which is really no more than a statutory *cap* on federal funding -- we will face over and over again the argument that we should fully fund special education before beginning any new education initiatives, such as class size or school construction. We are exploring whether we can persuade members of Congress to set aside state tobacco settlement

funds for special education in exchange for waiving the federal claim to this money. (Of course, Governors would respond to this proposal by saying that we are using *their* money to make good on *our* promise to provide special education funding.) We are also discussing with OMB whether we have other ways to pay for more special education spending, but as you know our options with respect to any non-defense discretionary spending increases are unpleasant and limited.

**2. Education -- Charter School Conference:** The Education Department will hold its second national charter school conference next week. Secretary Riley will address the conference, and you will make remarks by videotape. The Department will release guidance at the conference regarding the eligibility of schools for federal start-up funds. The guidance notes that funds cannot go to for-profit organizations directly holding charters, but can go to non-profit charter school boards that contract out management services to for-profit firms. Similarly, the guidance states that although private schools converted directly into charter schools are not eligible for funds, private schools may become eligible if they shut down and then reopen as public charter schools open to all students, without any preference for those previously enrolled in the private school. Finally, the guidance states that to receive funding, any charter school that has more applicants than spaces must use a lottery, except that (1) the school can impose minimum eligibility requirements for the lottery so long as they are consistent with the federal charter school law and all civil rights laws and are "reasonably necessary" to achieve the educational mission of the school, and (2) the school can exempt from the lottery students attending the school at the time it became a charter (assuming the school was public, not private), siblings of students already attending the school, and a limited number of children of the charter school's founders. The Department is now working on additional guidance that will address issues relating to civil rights and religion; we will work closely with the department on this next round of guidance.

**3. Health Care -- Medicare Commission:** The Medicare Commission is expected to take a final vote Tuesday, although Senator Breau has not yet distributed paper so no one knows exactly what the members will be voting on. The report probably will include a general endorsement of a premium support policy, an increase in the eligibility age to 67 (without any policy to ensure that this step does not increase the number of uninsured), a limited prescription drug benefit, and vague language about the need for additional revenues for the Medicare program. Laura Tyson and Stuart Altman are still struggling over whether to support the report while commenting on the aspects they believe to be flawed. Laura sent a draft document to Breau on Thursday that she implied she could accept; the document essentially adopted the perspective of Breau and the Republicans, but framed their proposals in very broad terms and outlined her own and Altman's criticisms. Breau apparently liked this draft, but Congressman Thomas rejected it on the ground that it had too few specifics. The base Democrats remain opposed to a reform proposal along the lines the Commission is considering.

**4. Health Care -- Patients' Bill of Rights:** The Senate Labor Committee has scheduled a markup next week of the Republican Leadership version of the Patients' Bill of Rights. This bill is flawed in several respects: it includes no adequate mechanism to enforce the patient

protections; it fails to set out the standards and criteria that reviewers in the independent appeals process should use to judge the appropriateness of an HMO's medical decision; and it applies only to self-insured plans, thus relegating the 80 million Americans enrolled in insured plans to state law protections. We will meet with Senator Kennedy's staff on Monday to discuss an amendment strategy.

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**5. Health Care -- HCFA Proposal on Medicare Home Health Surveys:** The Washington Post reported last week on a proposal by HCFA to require home health providers to collect data from patients about their physical and mental health and other characteristics, such as their living arrangements. HCFA argues that this data is necessary to (1) develop performance reports for each provider in an effort to improve home health quality, and (2) make the risk adjustment calculations contemplated by the new prospective payment system for home health agencies. HCFA also states that they have numerous safeguards in place to prevent dissemination or use of this data for nonauthorized purposes. We are now reviewing the HCFA proposal to determine if it is consistent with our broader policy on the privacy of medical records.

**6. Health Care -- Amicus Brief in Disabilities Case:** The Department of Justice will file an amicus brief in the Supreme Court Monday that supports the position of disability advocates in a case involving the right to receive care in "integrated" (i.e., community-based) settings. Two mentally retarded Medicaid enrollees brought suit against the State of Georgia, arguing that their placement in an institution violated the ADA requirement to provide services in the "most integrated setting." The State argued that its placement decision was appropriate under a provision of the statute that allows states to disregard this requirement in cases where compliance would cause excessive expense or fundamentally alter the state program. The Justice Department's brief adopts a relatively narrow interpretation of this provision, although not so narrow as that urged by the disabilities community. We believe this filing puts us in approximately the right position. The number of states signing on to Georgia's brief has dropped from 20 to 12 in the last few weeks, as a result of growing pressure from the disabilities community.

**7. Health Care -- Address to Firefighters on Bioterrorism:** In an address to the International Association of Firefighters on Monday, you will announce actions to involve firefighters and other emergency response personnel in the Administration's plans to combat bioterrorism and chemical weapons attacks. These actions include: investing an additional \$11 million in FY99 to establish rapid medical response teams trained to respond to a biological or chemical weapons emergency; awarding \$21 million in grants to help communities train emergency personnel, including firefighters, to respond to bioterrorist attacks; and providing \$73.5 million in grants to communities to purchase communications and protective equipment for emergency response personnel handling biological and chemical attacks.

**8. Health Care -- Nursing Homes Announcement:** The Vice President is tentatively scheduled to meet on Tuesday with advocates for the elderly and representatives of the nursing

home industry to discuss the challenges of improving the quality of patient care. At this meeting, the Vice President will unveil new efforts to improve nursing home quality including: new authority for the Department of Justice to impose criminal penalties on nursing homes that have committed repeated and egregious violations of law; new civil monetary penalties of up to \$10,000 for other serious violations; and a new \$2.5 million educational campaign to prevent elder abuse and neglect in nursing homes. The Vice President also will highlight the proposals in your FY 2000 budget to implement and enforce standards for nursing homes, including a new investment of over \$100 million dollars dedicated to monitoring and improving nursing home quality. This event is designed to preempt the release of reports by the GAO and HHS Inspector General criticizing the Administration's enforcement record, which the Senate Aging Committee intends to release next week.

**9. Crime -- Directive on Firearms Enforcement:** We are preparing a directive for you to sign, possibly before your press conference on Friday, instructing Secretary Rubin and Attorney General Reno to develop a national strategy to strengthen the enforcement and prosecution of federal firearms laws. As you know, the NRA repeatedly has called for the extension of Richmond, Virginia's Project Exile, under which the U.S. Attorney prosecutes all firearms offenses in federal court. Senator Hatch may also propose a Project Exile-type initiative in his crime bill (see below). Your proposed directive will incorporate aspects of Project Exile, but will be broader in scope. It will provide for the timely prosecution of gun criminals at both the federal and the state level; increased efforts to trace crime guns, identify illegal gun markets, and target gun "hot spots"; and coordinated law enforcement efforts to ensure that gun dealers comply with applicable city, state, and federal laws. We could release this directive in conjunction with a new Justice Department report, *Promising Strategies to Reduce Gun Violence*, which details more than 50 examples of local strategies and partnerships that are reducing gun violence across the country. These include: comprehensive violence reduction programs that focus on guns; efforts to deter illegal gun possession through consensual searches and the aggressive seizure of firearms; targeted enforcement in gun "hot spots"; increased surveillance of probationers; school-based prevention programs; and special youth gun courts.

**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.

We need  
to discuss  
this

**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 we  
need to  
pick 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

March 20, 1999

Copied  
Reed  
Kagan  
Podesta

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.

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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.

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## THE WHITE HOUSE

WASHINGTON

February 20, 1999

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Podesta

## MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

**1. Education -- Ed-Flex Bill:** Senator Lott intends to bring the Ed-Flex bill to the floor within the next two weeks to secure a quick victory on education for the Republicans. (You will hear a lot about this bill from the governors when you meet with them on Monday; your briefing materials for the NGA roundtable include talking points on Ed-Flex, as well as on education accountability and tobacco recoupment.) Hill Democrats are generally unenthusiastic about Ed-Flex, although most -- especially in the Senate -- have resigned themselves to voting for it. Their -- and our -- goals for the Ed-Flex debate are (1) to strengthen the bill's accountability provisions, and (2) to put the Republicans to a tough vote on class size reduction. We are working with Senator Kennedy on an accountability provision that will require states to assess the impact of education waivers and to change or discontinue those that are not working; we hope to get bipartisan support, including from the bill's sponsors, for this provision. At the same time, we are working with Kennedy and other Senate Democrats on an amendment to authorize our class size reduction initiative for seven years. If we can attract enough Republican votes to pass this amendment, we can convert an intended Republican victory into a huge win for our own education agenda. And even if we fail in this objective, we can use the amendment to emphasize the difference between the two parties when it comes to supporting needed school improvements.

**2. Health -- Children's Health Insurance Outreach Event:** You and the First Lady are currently scheduled to participate in an event on Tuesday to highlight new initiatives designed to identify and enroll the over 5 million children who are eligible for but not yet enrolled in CHIP or Medicaid. You will unveil a new national toll-free number (1-877 KIDS NOW) for children's health outreach; a major media campaign, which includes the airing of PSA's on NBC, Univision, and Black Entertainment Television and radio advertisements in the 47 states with CHIP programs; a number of private sector commitments, such as Safeway's agreement to print the new 1-800 number on all its grocery bags; and the next generation of efforts by your Federal Interagency Task Force on Children's Health Outreach. Governors Carper and Leavitt, the chair and vice chair of the NGA, will join you at this event.

**3. Health -- Jeffords-Kennedy Bill:** The Jeffords-Kennedy-Roth-Moynihan Work Incentives Improvement Act continues to gain bipartisan support in the Senate, and the Labor

and Human Resources Committee plans to mark up the bill on March 4. The bill is also attracting bipartisan interest in the House, although it is still unclear who will emerge there as the lead sponsors. Given the broad support for this legislation, your advisors agree that you should urge prompt passage of the bill when you meet with the Congressional leadership this week.

**4. Health -- Stem Cell Research:** Secretary Shalala will testify next week about her Department's legal ruling that the ban on federal funding of human embryo research does not apply to stem cell research. The Secretary has received two harsh letters on this subject from pro-life members of Congress -- the first from 70 House members and the second from seven Senators (Ashcroft, Brownback, Enzi, Helms, Kyl, Nickles, and Smith). The House letter characterizes the HHS legal opinion as "a carefully worded effort to justify transgressing th[e] law" and charges that the definition of an "embryo" used by HHS (cells that can develop into a human being if implanted in the womb) is encouraging researchers to engineer lethal defects in embryos to avoid the congressional ban. The disease and patient advocacy community strongly supports our interpretation of the law. Senator Spector and Congressman Porter support the result -- federal funding of stem cell research -- but have doubts as to whether current law allows it. They have expressed interest in developing new legislation that would explicitly authorize federal funding of stem cell research subject to certain safeguards. Secretary Shalala will testify that no new legislation is necessary, but we are drafting appropriate statutory language in case we later need it.

**5. Health -- Medicare Commission:** Senator Breaux released on Thursday a preliminary CBO analysis of his proposal to adopt a premium support model for Medicare. Although the CBO admitted that it lacked "specifics on many aspects of [the] proposal," it praised Breaux's general approach, saying it would foster competition, increase choice, and reduce costs. Breaux will trumpet this analysis in the coming week, as the Democrats on the Commission meet on Tuesday and the full Commission meets on Wednesday. The other Democrats (except for Senator Kerrey) will continue to raise concerns about the Breaux proposal and to insist on a plan that uses surplus funds, guarantees a defined benefit package, and provides a good prescription drug benefit. As you know, the Commission is scheduled to report on March 1, but Senator Breaux raised the possibility last week of extending the deadline.

**6. Crime -- Gun Tracing Initiative:** The Treasury Department will release on Sunday its second report on the Youth Crime Gun Interdiction Initiative (YCGII) now underway in 27 cities, as well as announce the extension of this initiative to ten more cities. As you know, this initiative is designed to fight gun trafficking by collecting and analyzing information about guns used in crimes ("crime guns") and then recovered by law enforcement officers. (In addition to using this information for law enforcement purposes, some of the cities filing lawsuits against gun manufacturers and dealers have relied on ATF's gun tracing data.) The new report finds that: (1) about eight of ten crime guns recovered and submitted to ATF for tracing were handguns; (2) over 11 percent were recovered from juveniles, and almost a third (32.4 percent) were recovered from 18-24 year olds; and (3) between 25 and 36 percent of the firearms

recovered from juveniles and between 32 and 49 percent of the guns recovered from 18-24 year olds were bought legally less than three years before their recovery, indicating a significant and rapid diversion of legally purchased guns to an illegal market involving children and youth. Your new budget will enable Treasury to extend its gun tracing program to New Orleans, LA; Oakland, CA; San Francisco, CA; Dallas, TX; Tampa, FL; Charlotte-Mecklenberg, NC; Louisville, KY; Portland, OR; Omaha, NE; and Denver, CO.

**7. Welfare Reform -- Urban Caseload Trends:** A Brookings study released last week on welfare trends in the nation's 30 largest cities shows that caseloads are declining rapidly in these cities, although the rate of decline in some cities lags behind the overall rate of decline in their states. Welfare rolls in the 30 largest cities declined by 35 percent between 1994 and 1998, while caseloads declined by 44 percent in their respective states. As a result of these different rates of decline, the share of state caseloads attributable to these 30 cities grew from 45 to 53 percent. Not all the states involved in the study, however, experienced this greater concentration of welfare recipients: nearly one-third saw no change in concentration and one-quarter saw declining concentration. Cities with the fastest caseload decline (over 50 percent) included Milwaukee, Jacksonville, Denver, and Portland, while cities with the slowest caseload decline (between 18 and 26 percent) included Los Angeles, El Paso, Philadelphia, and New York. Not surprisingly, slower rates of caseload decline were closely correlated with higher levels of poverty. The Brookings report recommends additional welfare-to-work funding for the cities and highlights our Welfare-to-Work program as an important source of these funds.

*Chicago  
welfare  
to work  
on this*

**8. Children and Families -- Foster Care:** Congressman Cardin, the ranking Democrat on the House Ways and Means Subcommittee on Human Resources, introduced legislation last week to provide additional support to the nearly 20,000 young people each year who "age out" of the foster care system. As you know, your FY 2000 budget provides nearly \$300 million over five years in enhanced support for these young people. The Cardin legislation differs somewhat from our proposal and will likely cost more, but our goals are similar and we will work closely with Cardin over the coming months. The Chair of the Subcommittee, Nancy Johnson, shares an interest in this issue and plans to hold a hearing on March 9.

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**9. Consumer Protection -- Child Car Seats:** You are tentatively scheduled to use next week's radio address to announce a final rule on child safety seats in cars and light trucks. (You announced the proposed rule in February 1997.) The rule will ensure that by 2002, all new child safety seats will be equipped with three standard attachments -- one on top and two at the base -- and all new cars and light trucks will be equipped with standard anchors in the back seat linking to these attachments. The Department of Transportation estimates that this rule will prevent as many as fifty child deaths and 18,000 child injuries each year.

3-2-99

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THE WHITE HOUSE  
WASHINGTON

March 1, 1999

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## MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

*Gray*

**1. Health Care -- Prescription Drug Benefit:** Senator Breaux is talking with Laura Tyson and Stuart Altman about incorporating a prescription drug benefit into his Medicare proposal, but they remain far from reaching any agreement. Laura and Stuart are demanding that the benefit be available to all Medicare beneficiaries, whereas Senator Breaux is limiting the benefit to beneficiaries in private health plans plus (perhaps) low-income beneficiaries in the fee-for-service program. Laura and Stuart have pointed out that Breaux's approach would fail to provide millions of beneficiaries in rural and other areas that will not attract private health plans with any access to a drug benefit; the two also believe that effective price competition between the fee-for-service program and private plans can occur only if they offer the same benefits. In response to Breaux's request, Laura and Stuart are developing their own drug benefit proposal; we expect the plan to offer an optional benefit with a 50 percent subsidy of the premium (as compared to the normal 75 percent subsidy), a \$300-500 deductible, and a 25 percent copayment. You should be aware that your comments last week about prescription drug benefits made many Democrats fearful that you would endorse the Breaux approach to this issue. (You seemed to indicate that not all beneficiaries needed to have access to this benefit.) In response to questions, we construed your remarks as meaning only that the benefit should be optional, so that beneficiaries who already have good drug coverage could decline it.

**2. Crime -- Assault Weapons Report:** The Justice Department released on Monday a report from the National Institute of Justice on the impact of the 1994 assault weapons ban. The report's findings are limited because of a short study period, but are generally quite encouraging. The study estimates that murder rates declined by 6.7 to 10 percent in the year following the ban's enactment after controlling for other factors, such as pre-existing state assault weapons bans, juvenile handgun bans, California's three-strikes law, and New York's quality-of-life policing. The study also indicates that criminal use of assault weapons decreased by 20 percent in the first year after the ban (as compared with 11 percent for all guns), as reflected in declining law enforcement requests for ATF traces. Finally, the report notes that no police officers died as a result of assault weapons in the year after the ban, while such weapons were involved in 16 percent of all killings of police the year before. The report notes, however, that such police killings are extremely rare to begin with and that it is difficult to draw firm conclusions about this data.

*Prof* | **3. Crime – Diallo Shooting:** You asked last week about the recent shooting of Amadou Diallo. Four white officers of the New York City Police Department shot Diallo, an immigrant from Guinea, in front of his apartment building in Harlem. A total of 41 shots were fired, and Diallo died at the scene. The officers did not find a weapon on or near Diallo. The four officers were part of a specialized street crime unit reportedly searching for a serial rapist. The Department of Justice's Civil Rights and Criminal Divisions, the FBI, and the U.S. Attorney for the Southern District of New York are all working closely with the Bronx District Attorney's Office on the investigation; in addition, the Community Relations Service has conducted conciliation services in the neighborhood. The Department is also now considering whether to expand an ongoing investigation of whether the New York Police Department has engaged in a "pattern or practice" of police misconduct; the U.S. Attorney for the Eastern District of New York is leading this inquiry, and the City is cooperating with it. Finally, we are working with the Justice Department to develop a set of policy initiatives addressing this issue, mostly involving police recruiting and training, for inclusion in the crime bill we will unveil later this month. We are attaching an op-ed by Bill Bratton, which appeared in the New York Times this weekend, offering a similar set of proposals.

**4. Education – NAEP Reading Scores:** The National Center for Education Statistics will release on Thursday a report showing state-by-state reading scores on NAEP between 1994 and 1998. As you recall, the Vice President and Secretary Riley recently announced the national scores from this report, which showed small but statistically significant gains in reading among 4th, 8th, and 12th graders. The state-by-state data is still being compiled, but the Education Department expects that most states will show improvements during this four-year period. Secretary Riley will hold a press conference in Washington, D.C. to highlight the results, and the Vice President will highlight New York and Connecticut scores in an event in New York City.

**5. Education – Report on Title I:** The Department of Education released on Monday a Congressionally mandated report on the Title I program. The report found that academic achievement in high-poverty schools has improved, largely as a result of reforms made in the 1994 ESEA reauthorization: for example, math scores for fourth graders in the highest-poverty schools have improved by almost one grade level, and reading scores for those students have also improved significantly. The report found, however, that a substantial gap between high-poverty schools and other schools remains: the percentage of high-poverty 4th grade students who met the basic performance level was only about half the national rate on NAEP reading tests and two-thirds the national rate on NAEP math tests. We released a statement from you welcoming the positive results, but urging stepped-up efforts to improve these schools, in particular by passing your Education Accountability Act and class size initiative.

**6. Welfare – Working Families in Poverty:** The research group Child Trends issued a report on Thursday on working poor families. The report, based on 1996 census data, found that children of working parents were seven times less likely to be poor than children of non-working parents. Only 9 percent of children whose parents work were poor, compared to 63 percent of children with non-working parents. The report also found, however, that work does

not guarantee an escape from poverty: the study found that fully 35 percent of poor children have working parents. In making this calculation, the report used the official measure of poverty, which does not include as income the Earned Income Tax Credit or non-cash supports such as Food Stamps. Many analysts have pointed out how EITC and Food Stamps provide families with resources to move above the poverty line. The CEA has reported that the EITC lifted 4.3 million people out of poverty in 1997 and that over half the decline in child poverty between 1993 and 1997 resulted from changes in the EITC and other taxes. The Center on Budget and Policy Priorities has calculated that a family of four can reach the \$17,100 poverty line through a full-time minimum wage job (\$9,800), the EITC (\$3,700), and Food Stamps (\$3,600).

**7. Community Empowerment -- Yankee Stadium:** As you requested, we contacted Congressman Rangel about his interest in preserving Yankee Stadium and keeping the Yankees in the Bronx. Rangel appears to want help in identifying funds to improve transportation access (both highway and rail links) to the stadium and promote commercial development in the surrounding area. He is not asking for funds to help rehabilitate the stadium. We will discuss with OMB, NEC, and HUD how we can best address this request.

DPC weekly report  
'99 FEB 26 PM 7:36

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WITH TOP SECRET ATTACHMENT~~

THE WHITE HOUSE  
WASHINGTON

3-2-99

February 26, 1999

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MEMORANDUM FOR THE PRESIDENT

FROM: JOHN PODESTA

SUBJECT: DAILY ISSUES UPDATE

This memo provides updates on some of the issues White House offices are tracking today.

- **Headwaters.** As I mentioned on the phone, the Pacific Lumber Company's board rejected our Headwaters acquisition and Habitat Conservation Plan (HCP) package. We will continue to work on the issue and keep you apprised of new developments over the weekend.
- **Steel.** As you know, Rep. Peter Visclosky's (D-IN) steel quota bill is building momentum in the House. (It now has nearly 200 co-sponsors). After meeting with the House Democrats yesterday, including Visclosky, we are working this weekend to develop an alternative that Rep. Jack Murtha will try to move as a substitute to Visclosky's bill.

*might have  
to go to WTO  
statements*

We are reviewing several items for the alternative, including: an early warning system; additional funds to expedite trade cases; a slight liberalization of Section 201; and a tightening of the circumvention rules. Most of your advisors could support this approach. (Berger was with you and hasn't had a chance to weigh in yet; Rubin is still reviewing it, but was generally ok with the approach.) I've spoken with Rep. Gephardt about getting ahead of this problem, and will meet with him on Tuesday to discuss the issue further.

DOMESTIC POLICY COUNCIL

*Keep*

**Ed-Flex Bill and Class Size Amendment.** The Senate is expected to take up Ed-Flex on Tuesday. We are continuing our efforts to forge a bipartisan agreement to strengthen the bill's accountability provisions. If we fail, Democrats will offer their own accountability amendments. In addition, Senators Kennedy and Murray will offer an amendment to authorize our class size initiative for the next six years. The Vice President will join Murray in Washington State on Sunday to urge passage of this amendment, and we intend to release a letter from you to Senators Lott and Daschle on Monday to reiterate this message. (A draft of the letter is attached.) Daschle is trying hard to keep other Democratic amendments to a minimum, so that we can keep the focus on the class size issue.

- **Welfare to Work.** On Monday, the Vice President is scheduled to release the results of a new survey, conducted by Wirthlin Worldwide, indicating that businesses participating in the Welfare to Work Partnership have now hired 410,000 welfare recipients. (An overview prepared by Eli Segal is attached.) The survey shows that welfare recipients hired by these companies are generally doing well: most companies (65%) report that welfare hires stay on the job at the same rate or higher rates than other entry-level employees. The survey also shows that welfare hires have opportunities to advance: 60% of the companies report some promotion of former welfare recipients in the past year, which is generally consistent with the companies' promotion rates for other hires. Additionally, 77% of the companies hire individuals for promotion-track jobs, and 91% offer training that could lead to promotion. The survey found a positive correlation between formal mentoring programs and high promotion rates for former welfare recipients. Companies that have entered into partnerships with community-based organizations to do mentoring have the highest rate of promotion.
- **Tobacco.** The HHS Inspector General issued a report today calling for the Federal Trade Commission to require that cigars carry warning labels. The recommendation came in the context of a report focusing on the use of cigars among teenagers. The report, based on focus group evidence, found that more than a third of teenagers have smoked a cigar in the past 30 days and that 54% have smoked a cigar in their life. According to the report, most teens who smoke cigars also smoke cigarettes, and some teens create modified cigars called "blunts" by removing the cigar's core tobacco and replacing it with marijuana. As you may know, our budget imposes the same percentage tax increase on cigars as on cigarettes. The FDA rule, however, does not apply to cigars, principally because there is insufficient evidence of cigars' addictiveness to support the assertion of regulatory authority.

### COUNCIL OF ECONOMIC ADVISORS

- **Purchasing Managers' Index.** On Monday, at 10:00 a.m., the National Association of Purchasing Management will release its National Report showing that Purchasing Managers' Index rebounded to 52.4% in February. This is the first time the index has crossed the break-even line of 50% since last May. This information, along with initial claims for unemployment insurance, provide early indications that February was probably another month of solid growth. (CEA release attached.)

You should also know that Jeffrey Frankel wrote you, today, informing you of his plans to depart the CEA on March 2 to accept a chair at Harvard.

### INTERGOVERNMENTAL AFFAIRS

- **Utah Arrival.** Tomorrow you will be greeted at the Salt Lake City airport by several Utah elected officials, including: Gov. Michael Leavitt, his wife, Jacalyn, and four of their five children (Michael Jr., the governor's oldest son, celebrates his birthday Saturday); Sen. Scott Howell (D), the Utah Senate minority leader and Dave Jones (D), the Utah House minority leader; and an extended, bipartisan group of state legislators. David and Merilee Ibarra, Mickey Ibarra's brother and sister-in-law, will also greet you.

### NSC REPORT

- Please see attached report from Jim Steinberg.

# DRAFT

THE WHITE HOUSE  
WASHINGTON

Salt Lake City

February 28, 1999

The Honorable Trent Lott  
Majority Leader  
United States Senate  
Washington, D.C. 20510

Dear Mr. Leader:

This year, we have an important opportunity to work together, across party lines, to bring true progress to America's public schools. We should start right now to make the reforms and targeted investments we need to prepare our children for the 21st century.

I welcome the idea of greater flexibility in education for states and school districts, tied to greater accountability for results. For this reason, I urge the Senate to pass an Ed-Flex bill this week that provides both expanded flexibility and strengthened accountability in education.

But we must do more to give our children a world-class education. That is why I strongly support the amendment that Senators Kennedy and Murray will offer this week to build on our bipartisan efforts of last year to reduce class size in the early grades. As you recall, Congress voted across party lines to provide a down payment on my class size reduction initiative in the FY 1999 budget, by appropriating \$1.2 billion to help communities hire about 30,000 teachers. The Kennedy-Murray amendment would finish the job by authorizing \$1.4 billion more over six years to help communities hire 100,000 well-prepared teachers to bring class size in the early grades down to a national average of 18 students.

As parents and teachers across America understand, smaller classes can make a profound difference for our children. Studies show that teachers in smaller classes give more personal attention to students and spend less time on discipline; as a result, students in these classes learn more and get a stronger foundation in the basics. Across the country, students in smaller classes outperform their peers in larger classes. And reduced class size makes the greatest difference for minority and disadvantaged students.

It is important that we act now on a long-term commitment to reduce class size, because communities will soon begin to receive the funds we appropriated last year for this purpose. Communities will not be able to use these funds as effectively as possible unless they have confidence that Congress will provide continued support to reduce class size for years to come. Passage of the Kennedy-Murray amendment will ensure effective local planning as school districts move to put this new initiative into effect.

I am asking you to show continued and long-term support for this effort to reduce class size across the nation. There can be no better way to demonstrate a commitment to work together in this Congress to strengthen the quality of education.

Sincerely,

MEMORANDUM

TO: The President  
FROM: Eli J. Segal *ES*  
DATE: February 23, 1999  
RE: New Welfare to Work Partnership Survey Results

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You and I know about hyperbole around public policy, but the results of the recent Wirthlin Worldwide survey done for The Welfare to Work Partnership are so stunning I'm having a little difficulty with vocabulary.

As you may know, every six months we contract with Wirthlin to conduct a survey of our Business Partners to determine how successful they have been at hiring and retaining welfare recipients. We have just received the results from our third survey. Wirthlin surveyed a random sample of 500 businesses broken down by business size and industry to represent our makeup. The survey has a margin of error of +/- 4.4%. Below are highlights from the survey results:

410,000 Welfare Recipients Have Been Hired by Welfare to Work Partnership Businesses Since May 1997

- For the years 1997 and 1998, Partnership businesses hired a total of 410,000 welfare recipients. Success in hiring is consistent across all industries, all business sizes and in all states.
- Partnership companies expect to hire even more recipients in 1999, pledging to hire a mean of 70.2 employees per company from the welfare rolls in 1999.

Companies Still See A Labor Shortage And Are Hiring and Retaining Welfare Recipients At A Fast Pace

- 67% of the Partnership's businesses still believe we are facing a labor shortage in either their company or industry. These results remain consistent with polls taken in 2/98 and 8/98.
- Businesses are more likely now than in the previous two studies to report that their welfare to work hires end up being "good, productive employees"—76% in 2/98; 79% in 8/98 compared to 82% in 2/99.
- Not only are these hires recognized as significant contributors, they are also increasingly likely to stay on the job at the same or higher rates as standard entry-level employees not hired from the welfare rolls. This increased from 48% in 2/98 to 53% in 8/98 to 65% in 2/99.
- 72% of Partnership businesses are hiring welfare recipients into full-time jobs which is consistent with results from the earlier surveys.
- 73% of Partnership businesses offer former recipients full or substantial health care benefits, essentially identical with the other surveys.

### Former Welfare Recipients' Job Performance Is Yielding Salaries, Promotions and Career Building

- 27% of Partnership businesses are hiring welfare recipients into salaried positions— up from 19% in 8/98—at a mean salary of \$15,266.
- 70% of Partnership businesses are hiring welfare recipients into hourly wage jobs at a mean starting wage of \$6.86 per hour.
- Welfare hires receive promotions at the same rate as standard hires. 60% report some promotion of welfare hires in 1998, with a mean of 22.3 employees per company promoted last year.
- Some welfare hires are moving onto jobs with other organizations— 60% report such movement with a mean of 20.5 employees per company taking a job with another company. This is particularly gratifying, and has caused us to talk about mobility as much as retention.

### Mentoring and Community-Based/Government Partnerships Are Drivers Behind Former Recipients Being Promoted

- Formal mentoring with one-on-one interaction and partnerships with community-based organizations are the two greatest drivers of promotion among welfare recipients.
- More companies are turning to non-profit, community-based organizations to find candidates to hire— up from 25% in 1998 to 48% in 1999.

### Companies Say Welfare to Work Programs Cost No Extra Money and In Some Cases Save A Company Money

- 65% of businesses say they run successful welfare to work programs without increasing their costs. This is a new question we have added to deal with skeptics who feared that the program will mean higher costs.
- 16% of companies have actually saved money by creating a welfare to work program, with savings averaging \$5,803 per company.

I know that this is a lot to digest, but the basic conclusion is inescapable: welfare to work works. 410,000 people moved from lives of dependence to lives of independence in two years. Good jobs, high retention rates, mobility inside and outside companies. Obviously, we have a long way to go, but looking at those still trapped in our bankrupt welfare system as opportunities for the business community, rather than as "the hardest to place," should be a successful strategy in the future.

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2-1-99

THE WHITE HOUSE  
WASHINGTON

January 30, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

**1. Education -- Ed-Flex Legislation:** The Republicans on the Senate Health, Education, Labor and Pensions Committee reported out an Ed-Flex bill last week by an 10-0 vote; Democrats on the Committee declined to attend the mark-up because of the pendency of impeachment proceedings. The bill, which Senator Lott listed last week as one of his top priorities, would allow states to waive certain federal education requirements so long as they have academic standards and assessments, school report cards, and a mechanism for intervening in failing schools. You supported a very similar bill last year, as did Senators Kennedy, Dodd, Harkin, and Reed. Although the Committee Democrats (and we) would prefer to address Ed-Flex this year as part of ESEA reauthorization, most expect to vote for the bill when it comes to the floor. (One exception is Senator Wellstone, who will do everything he can to obstruct the bill.) First, however, they will offer a number of amendments designed to place Republicans in a difficult position. At a meeting yesterday, they agreed that these amendments should (1) add to the Ed-Flex bill each of the accountability measures you called for in the State of the Union, including those involving social promotion and unqualified teachers, and (2) authorize your class size reduction initiative for a full seven years. We believe this amendment strategy places us in the best possible position to advance our broad education goals even as the Republicans try to score a quick victory on the issue of local control.

**2. Health Care -- Medicare Commission:** Democrats on the Medicare Commission, with the exception of Senator Kerrey, remain angry about Senator Breaux's draft proposal and his lack of responsiveness to their criticisms. Other Democrats also have begun to weigh in against the Breaux plan. After last week's Commission meeting, Senator Kennedy delivered a scorching critique of Breaux's premium support approach, as well as his proposals to increase the eligibility age to 67 and require copayments for home health services. We are now working with HHS, OMB, and NEC to develop options for your consideration on Medicare reform.

**3. Crime -- National Instant Check System (NICS):** A federal district court judge in the District of Columbia last week denied the NRA's motion for a preliminary injunction to block the FBI from retaining records on gun purchasers as part of the NICS. As you know,

the FBI's policy of temporarily retaining certain records is intended to ensure the integrity and effectiveness of the NICS while protecting the privacy of gun purchasers.

**4. Crime -- Gun Show Directive:** In response to your November 6, 1998 directive, the Treasury and Justice Departments are ready to submit a joint report to you with their recommendations on gun shows. The report will be released as part of next week's radio address. The report finds that "felons -- and other prohibited persons who want to avoid background checks -- can buy firearms at gun shows and other public markets with ease, and later use the guns in drug crimes and crimes of violence, or pass them illegally to juveniles." This is because non-federally licensed firearms vendors (non-FFLs), who under current law are under no legal obligation to conduct a background check or keep records on their sales, sell between 25 and 50 percent of the guns sold at gun shows.

To close the gun show "loophole," Secretary Rubin and Attorney General Reno recommend: (1) broadly defining "gun shows" to cover not only traditional gun shows but also flea markets and other similar venues where firearms are sold; (2) requiring gun show promoters to register with ATF; (3) requiring the participation of a federally licensed firearms dealer (FFL) in all sales of firearms at gun shows, to ensure that all sales are accompanied by background checks; (4) requiring FFLs to report certain information (e.g., manufacturer, serial number) on firearms transferred at gun sales to the ATF's National Tracing Center and retain this information to assist in future firearms trace requests by law enforcement; (5) developing an educational campaign, in conjunction with the firearms industry, to encourage all firearms owners to ensure that firearms do not fall into the hands of prohibited persons such as criminals or juveniles.

The report also recommends committing more resources to combat illegal firearms sales at gun shows. During the radio address, you will announce that your FY 2000 budget includes \$24 million in new funds to hire over 120 additional ATF agents to bolster firearms enforcement. The new agents will be used to support investigations at gun shows and other firearms investigations, as well as to expand the Youth Crime Gun Interdiction Initiative from 27 to 37 cities. The budget also includes an additional \$5 million for U.S. Attorneys to increase firearms prosecutions.

**5. Welfare Reform/Community Empowerment -- Implementation of FY 1999 Initiatives:** To complement your announcement last week of welfare-to-work initiatives in the FY 2000 budget, three agencies simultaneously kicked off grant competitions for FY 1999 welfare-to-work funding. The Department of Labor announced the availability of \$240 million in FY 1999 Welfare-to-Work competitive grants, with priority for projects focusing on non-custodial parents or long-term welfare recipients with disabilities, substance abuse problems, limited English proficiency, or histories domestic violence. (This is the third round of competitive grants under the Welfare-to-Work program.) HUD announced the first competition for 50,000 new welfare-to-work housing vouchers, which are available to housing authorities that collaborate with their welfare and workforce partners to assist welfare

recipients to get or keep a job. And HHS announced the first grant competition under the Individual Development Account (IDA) demonstration program you signed into law in October. (At a microenterprise event currently scheduled for February 5th, you will announce that your new budget includes \$20 million for IDAs, which doubles the FY 99 funding level.)

**6. Welfare Reform -- New York City Food Stamp and Medicaid Case:** A federal district court judge in New York City issued an injunction last week directing Mayor Giuliani's administration to allow "all persons applying for food stamps, Medicaid and cash assistance . . . to apply for such benefits on the first day that they visit a Job Center" and to revise its training and other procedures to ensure appropriate enforcement of the injunction. The judge considered as part of the record underlying his decision the Department of Agriculture's finding (which we reported to you last week) that the City was violating federal food stamp law by not accepting applications on the first visit.

**7. Children and Families -- FY 2000 Budget Initiatives:** The Vice President and First Lady hosted a series of events last week to announce new budget initiatives relating to children and families. First, the Vice President announced that your FY 2000 budget will include a \$607 million increase in Head Start (the largest increase ever, if enacted) to serve 42,000 additional children. Second, the First Lady announced that your budget will include a new initiative costing \$300 million over five years to provide enhanced support to children who age out of foster care (at 18 years old) without an adoptive parent or other permanent relationship; the funds will provide, among other things, Medicaid coverage and vocational training. Third, the First Lady announced that your budget will include \$67 million in new FY 2000 dollars for childhood asthma research, surveillance, and management. Fourth, the First Lady announced that the budget will include \$40 million to help freestanding children's hospitals finance graduate medical education. Fifth, the Vice President and First Lady met with women's and pro-choice advocates to announce that your FY 2000 budget will include an historic \$25 million increase for Title X family planning services, as well as \$25 million dollars for the United Nations Population Fund (the UNFPA).

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THE WHITE HOUSE

WASHINGTON

January 16, 1999

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## MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

1. **Health Care -- Grijalva v. Shalala:** HHS and the Justice Department have decided to seek Supreme Court review of a Ninth Circuit decision holding that a Medicare HMO's decision to deny benefits is tantamount to government action and that beneficiaries challenging that decision are therefore entitled to constitutional due process. The departments are concerned about the Ninth Circuit's decision not because it gives Medicare beneficiaries strong appeal rights (as you know, we recently have strengthened these rights through regulation), but because its equation of a Medicare HMO's decision with government action has far wider implications -- perhaps even subjecting the government to the HMO's liability for malpractice. Our position in this case could create a public relations problem, with some in the media and elsewhere accusing us of retreating from our commitment to patients' rights. We believe, however, that we can cope with this problem as long as the brief focuses on the "state action" issue, rather than on the adequacy (or lack thereof) of the HMO's appeals process.

2. **Health Care -- Meeting with Congressman Dingell:** Congressman Dingell has requested a meeting with senior White House staff to discuss the Medicare Commission and the Patients' Bill of Rights. We expect him to express serious concern about the direction of the Commission -- particularly about Senator Breaux's advocacy of a premium support program modeled on the FEHBP. Dingell fears that the proposal will result in higher premiums and/or copayments for lower-income Medicare beneficiaries, and he will urge us not to provide cover for a flawed proposal. On the Patients' Bill of Rights, we expect Dingell to tell us that compromise on the bill's enforcement provisions will eventually be necessary, but that negotiations now would be premature. Dingell intends to reintroduce the Ganske/Dingell bill as soon as Congress returns, and he will ask us to do all we can to keep the pressure on Congress to pass strong legislation.

3. **Health Care/Crime -- Bioterrorism/Cyber-terrorism Initiative:** You are currently scheduled to announce on Friday a new budget initiative to combat two of the greatest threats to the nation's security -- bioterrorism and cyber-terrorism. The budget initiative, which we and the NSC developed in conjunction with HHS and the Justice Department, responds to two directives you issued in May instructing the Administration to develop and implement new counter-terrorism strategies. The initiative increases funding for

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these counterterrorism activities by \$1.2 billion. This funding increase will go toward: (1) new research and development of vaccines to protect against biological weapons; (2) a new public health surveillance system enabling doctors to recognize bioterrorist attacks as soon as possible; (3) new "computer intrusion detection networks," which will allow government computer systems to communicate with each other to contain and combat cyber attacks; and (4) a new Cyber Corps program, which will provide tuition assistance to college students studying computer science in return for a period of service safeguarding computers at agencies such as Social Security, FEMA, and FAA. These initiatives are strongly supported by virtually every national security expert in the country.

✓ **4. Crime – National Instant Check System (NICS):** The FBI released new data on Monday showing that in its first 41 days of operation, the NICS blocked 11,584 gun sales, most to convicted felons. Operation of the system also enabled the FBI to inform relevant state and federal law enforcement authorities of 1,541 prospective gun buyers with outstanding arrest warrants. The NICS conducted a total of over 1 million background checks for the 26 states and territories for which it does all gun checks and the 11 states for which it does long gun checks only. States performed an additional 462,298 checks, but the FBI has no information on how many of these sales were denied.

**5. Crime – Democratic Crime Bill:** Senator Leahy will introduce a Senate Democratic Leadership crime bill on Tuesday entitled "The Safe Schools, Safe Streets and Secure Borders Act of 1999." The bill extends and increases funding for many programs authorized in the 1994 Crime Act, including the COPS Program, VAWA, and drug courts. The legislation incorporates a scaled-back version of the Democratic juvenile crime bill including provisions on the federal prosecution of juveniles as adults; grants for states to incarcerate violent youths; prevention programs for at-risk youth; and various Administration-supported firearms measures, including "juvenile Brady." In addition, the bill contains provisions on money laundering, terrorism, and international crime.

**6. Abortion – Clinic Safety:** We are planning to leak sometime this week your new \$4.5 million initiative to improve security for women's health clinics that provide abortions. As you know, violence against women's health clinics has escalated in recent years. Under your proposal, the Department of Justice would identify clinics at high risk of violence, assess what kind of security equipment they need, and actually provide this equipment. Such equipment could include closed circuit camera systems, improved lighting, motion detectors, alarm systems, or bullet-resistant windows. We have worked closely with the women's community on this initiative, and they are delighted at the results.

**7. Welfare Reform – Wisconsin Study:** A major study of individuals leaving the welfare rolls in Wisconsin shows impressive employment results while also highlighting the challenges some people face as they leave welfare. The study is particularly important because it provides an early glimpse of how the least job-ready individuals are faring:

## THE PRESIDENT HAS SEEN

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Wisconsin's caseload had already declined by nearly 70 percent at the time the surveyed individuals left the rolls.

X/ A full 83 percent of those surveyed had worked for some period since leaving the rolls, and 62 percent were working at the time of the survey. Most were working full-time, with an average wage of \$7.42 per hour. The 38 percent who were not working at the time of the survey gave a variety of reasons including an inability to find a job that paid enough, individual or family health problems, child care problems, or work performance issues. Most of those who were not working received another kind of cash benefit (e.g., SSI or Unemployment Insurance) and/or non-cash benefits (e.g., housing subsidies, Medicaid, or Food Stamps), and nearly 20 percent of them lived with someone else who was working.

The study found that 87 percent of those surveyed had some kind of health insurance. The study also indicated, however, that Food Stamps may not be getting to everyone who is eligible. (As noted in our next item, USDA is taking steps to ensure that states provide Food Stamps to eligible individuals, even if they are no longer on welfare). These findings confirm that people are moving from welfare to work at unprecedented rates, but that there is a continued need to monitor their progress and to invest in the services that will help the least job-ready families make a successful transition. As you know, our budget proposes these investments, including a renewal of the Welfare-to-Work program, an expansive child care initiative, and significant increases in funds for transportation services and housing vouchers.

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X/ **9. Communities -- Better America Bonds:** Since the announcement of the Administration's livable communities agenda, Members of Congress from both sides of the aisle have expressed significant interest in our proposals, particularly Better America Bonds (BABs). Senator Daschle has indicated that he would like to introduce a Democratic Leadership bill on BABs, and Congressman Shuster, who chairs the House Transportation and Infrastructure Committee, announced support for the proposal. In addition, a number of Republicans and Democrats have formed a Senate working group on smart growth. Staff from DPC, NEC, OVP, Legislative Affairs, and Treasury are continuing to work on building bipartisan support for these proposals.

**10. Education -- Accountability Proposals:** We are submitting a separate memo to you this weekend on new accountability provisions we have developed at your request for inclusion in our ESEA reauthorization proposal.

THE WHITE HOUSE  
WASHINGTON

January 16, 1999

MEMORANDUM FOR THE PRESIDENT

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Elena Kagan

SUBJECT: DPC Weekly Report

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THE WHITE HOUSE  
WASHINGTON

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January 9, 1999

THE PRESIDENT HAS SEEN

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

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1. **Health Care -- Disability Package:** You are scheduled to participate in a bipartisan event on Wednesday to unveil the Administration's new work incentives initiative for individuals with disabilities. Your package, which costs \$1.7 billion over five years, includes funds for: (1) the Jeffords-Kennedy Work Incentives Improvement Act, which would allow working people with disabilities to buy into Medicaid (at the states' option) and Medicare; (2) a new tax credit for work-related expenses of disability, such as transportation and personal assistance services; and (3) a program to help fund the development and dissemination of new assistive technologies for people with disabilities. Your proposal will receive strong support from the disability community. The package also should attract strong bipartisan interest in Congress, giving us an excellent chance of enacting Jeffords-Kennedy and the other components of the initiative this year.

2. **Health Care -- Medicare Managed Care:** As required by the Balanced Budget Act, HCFA will announce by Friday a plan to implement a risk adjustment payment mechanism for Medicare managed care plans. This payment mechanism is meant to ensure accurate reimbursement by increasing compensation for plans serving disproportionately sick patients and lowering compensation for plans serving disproportionately healthy beneficiaries. Because current data indicate that HMOs are attracting fairly healthy patients, the implementation of this new system would reduce payment rates to most Medicare managed care plans, in many cases by as much as 15 percent in 2000. Managed care providers are now warning that the system would drive many participating plans out of the Medicare program, adding to the problems caused by last year's HMO withdrawals. In light of this danger, we have decided to use our administrative authority to phase in the risk adjustment payment mechanism over a five- to six-year period; we are also in the process of developing additional policies (in the nature of both carrots and sticks) to minimize the likelihood of plan withdrawals. The delay in full implementation of the risk adjustment system will save the industry hundreds of millions, if not billions, of dollars. We expect, however, that the industry will petition Congress for further redress, up to and including repeal of the system.

**3. Health Care -- Medicare Commission:** As the Medicare Commission nears its March 1 deadline, members are intensifying their efforts to come up with reform proposals and the press is paying greater attention to their progress. Most of the attention at last week's meeting focused on a "premium support" approach that Senator Breaux is pushing, but that most other Democrats on the Commission are now reluctant to embrace. "Premium support" is a term coined by Reischauer and Aaron to refer to models that have both a defined contribution and defined benefits. These models essentially guarantee a set of benefits, but limit government payment for those benefits in some way. The Commission's discussion of the premium support approach left many critical issues unresolved, and neither HCFA nor the CBO has yet scored these proposals. (HCFA hopes to complete its estimate within two weeks, while the CBO has declined to do any work for the Commission.) We took no position on the premium support ideas coming out of the meeting, noting that "the devil is in the details" and that we will be analyzing the ideas closely as the Commission gives them greater content. On a related issue, most Commission members now appear to agree that Medicare should include a prescription drug benefit, but have reached no consensus on its scope, design, management, or financing. (As you know, one critical question is whether all beneficiaries or only those in managed care should receive this benefit.) Finally, virtually all members now privately acknowledge (and Bruce Vladeck said publicly last week) that significant new revenues will be needed to extend the life of the Trust Fund.

**4. Education -- Education Week Report:** In its annual "Quality Counts" report, released last week, Education Week focused on how states are (or aren't) holding schools, educators, and students accountable for results -- and in so doing, provided strong support for our ESEA proposals. The report demonstrates that although states are beginning to adopt accountability measures, relatively few are using the full set of measures needed to ensure high-quality performance. According to the report, 36 states issue report cards for each school, but only 26 place them on the internet and only 13 send them directly to parents. Perhaps even worse, only 19 states publicly identify and provide assistance to low performing schools; of these, 18 have the ultimate power to take over, reconstitute, or close down failing public schools, but only three (New York, Oklahoma and Texas) actually have applied this sanction (to a total of 55 schools). Only 19 states provide rewards to successful schools, with only fourteen giving such schools additional money. And only five states have what the report considers a comprehensive system for holding schools accountable for results -- school report cards and ratings, monetary rewards for success, and graduated sanctions for failure, up to and including reconstitution or closure. Significantly, other studies have shown that two of these five states -- North Carolina and Texas -- can boast the largest overall gains in student achievement and the greatest success in closing the achievement gap between minority and majority students. As you know, our ESEA proposal essentially would require states to adopt and carry out this set of accountability measures, as well as a number of others focusing on ending social promotion and ensuring teacher quality.

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Co Billed / Al Waldman  
 might want to let some  
 of them -

✓ 5. **Crime -- 21st Century Policing Initiative:** You are scheduled to participate in an event on Thursday to unveil the 21st Century Policing Initiative contained in the FY 2000 budget. This \$1.275 initiative includes (1) \$600 million to continue to hire and redeploy police officers; (2) \$300 million for new crime-fighting technology, such as crime mapping systems; (3) \$200 million to hire community prosecutors; and (4) \$125 million for innovative community crime prevention programs. In addition, you can release new data from the National Crime Victimization Survey showing continued declines in crime in the first six months of 1998.

6. **Crime -- Victims Assistance:** The Vice President will announce next week the release of over \$300 million from the Crime Victims Fund to provide assistance for victims. These funds help to support nearly 3,000 victims' service agencies nationwide, including domestic violence shelters, child abuse and sexual assault programs, and programs to assist survivors of homicide. Money in the Crime Victims Fund comes exclusively from fines paid by criminal offenders, collected by U.S. Attorneys, federal courts, and the Bureau of Prisons. All 50 states will receive funding, including: \$43 million for California; \$17 million for New York; \$23 million for Texas; \$15 million for Florida, \$12 million for Illinois, and \$3 million for Arkansas.

7. **Crime -- Prisoners Report:** The Justice Department will release a report on Sunday indicating that prisoners, and particularly violent offenders, are serving out more of their sentences. The Bureau of Justice Statistics report, *Truth in Sentencing in State Prisons*, indicates that by the end of 1998, 27 states and the District of Columbia required violent offenders to serve at least 85 percent of their prison sentences -- up from five states in 1993. An additional 13 states have adopted truth-in-sentencing laws requiring violent offenders to serve some substantial portion of their sentences before becoming eligible for release. As you know, the 1994 Crime Act provides additional prison construction funds to states that adopt the 85 percent standard, and the Justice Department has awarded over \$1.3 billion to states through this incentive grants program. The average time served by released violent offenders (those convicted of murder, rape, robbery, or aggravated assault) increased from 43 months in 1993 to 49 months in 1997. In addition, the release rate among murderers was cut in half between 1990 and 1996 -- from 10 percent to five percent of all murderers.

8. **Welfare -- Work Participation Data:** We released two weeks ago the first work participation data under the welfare reform law, which was better than anyone had expected. All 36 states (plus the District of Columbia) subject to participation rates in FY 1997 met their target. The data showed that 28 percent of all adults on welfare participated in a direct work activity (employment, work experience, or community service) or another welfare-to-work activity (job search or vocational education). The data also showed that the percentage of welfare recipients in a direct work activity tripled since 1992.

DPC Weekly report

12-21-98

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THE WHITE HOUSE  
WASHINGTON

December 18, 1998

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Reed  
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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

**1. Welfare Reform -- IRS Notice on Workfare and Taxes:** The IRS this week issued a long-awaited notice clarifying that welfare recipients who participate in workfare programs do not need to pay income taxes or payroll (FICA) taxes. State and local governments welcomed this ruling because it allows them to run workfare programs without paying the employer's share of FICA taxes. (As you may recall, Governors Carper and Chiles were especially insistent that we issue this ruling.) At the same time, unions decided not to oppose the ruling vigorously, principally because it makes clear that it does not affect the application of the minimum wage or other worker protections to workfare participants.

**2. Welfare Reform -- GAO Report on Access to Jobs:** A GAO report issued last week on Access to Jobs -- the welfare-to-work transportation initiative you urged Congress to include in the highway bill -- applauds the Administration's early efforts to implement the program. GAO commends the Department of Transportation for coordinating Access to Jobs with other federal welfare-to-work initiatives. It also specifically praises joint guidance by the Secretaries of Labor, HHS, and Transportation, issued even before Congress approved the program, to help state and local officials use available funds to provide transportation for working welfare recipients. The same three departments are about to release an updated version of this guidance, reflecting Congress's enactment of the Access to Jobs program. In addition, we have worked with OMB to include a 100 percent increase in the program (from the \$75 million appropriated last year to the \$150 million authorized) in your FY 2000 budget request.

**3. Education -- Scholarships for Teachers:** In Thursday's budget meeting, you asked about our scholarship program for students who commit to teaching in high poverty areas. This program, authorized as part of the Higher Education Act last year, receives 10 percent of the appropriation for a broader Teacher Quality and Recruitment Program, which also includes grants to states to raise licensing standards and grants to partnerships between school districts and universities to improve teacher education. The appropriation for the entire program in FY 1999 was \$75 million, which gave us \$7.5 million for approximately 1,400 scholarships. We and OMB are currently exploring whether to propose an increase in the program for FY 2000, with a greater percentage (say, 50 percent) going to the scholarships.

*[Handwritten initials and marks]*

**4. Drugs -- Study on Youth Drug Use:** HHS released on Friday the 1998 Monitoring the Future study on drug use trends among 8th, 10th, and 12th grade students. The study found, for the second year in a row, a flattening of drug use rates generally, with significant decreases in some categories of use. In the good news department, the study shows: (1) declines among 8th graders in past-30-day use of inhalants (from 5.6 to 4.8 percent) and LSD (from 1.5 to 1.1 percent); (2) declines among 10th graders in past-year use of all illicit drugs (from 38.5 to 35 percent), marijuana (from 34.8 to 31.1 percent), and stimulants (from 12.1 to 10.7 percent), as well as in past-30-day use of marijuana (from 20.5 to 1.7 percent) and cigarettes (from 29.8 to 27.6 percent); (3) declines among 12th graders in daily use of LSD (from 0.2 to 0.1 percent) and cigarettes (from 24.6 to 22.4 percent); and (4) an end to the recent decline in perceived harmfulness of drugs in all grades and an increase in perceived harmfulness of marijuana and drinking among 8th graders. In the bad news department, the study shows: (1) that the use of drugs remains at unacceptably high levels, with for example 25.6 percent of 12th graders, 21.5 percent of 10th graders, and 12.1 percent of 8th graders using an illicit drug (typically marijuana) in the past 30 days; and (2) that cocaine use, while low overall, continues to rise slightly, with for example an increase in past-year use of crack among 8th graders from 1.7 to 2.1 percent.

**5. Crime -- Juvenile Brady:** You recently asked us how many states have passed laws prohibiting violent juveniles from owning firearms as adults. According to the most recent survey by the Justice Department, 22 states have passed some kind of prohibition on firearms possession by delinquents who have committed violent offenses. Of these states, four permanently prohibit the possession of firearms, six prohibit possession until a court or the Governor orders a restoration of rights, and the remainder prohibit possession for a set period of time (e.g., 10 years) following adjudication of the offense or release from a juvenile facility.

**6. Health Care/Tobacco -- Meeting with Senator Kennedy:** You are scheduled to meet with Senator Kennedy this week to discuss the FY2000 budget. Among other matters, he will raise the possibility of using tobacco receipts (either from an excise tax or from recoupment of state settlement funds) for a new Medicare prescription drug benefit. Such a benefit probably would cost between 5 and 15 billion dollars a year -- far too much for tobacco receipts to cover in the context of this year's budget. We do believe, however, that a prescription drug benefit is an essential component of any comprehensive reform of Medicare, and that you should indicate your desire to make progress on this issue during the coming year. We are currently considering a way for you to talk about the issue in the State of the Union (which we would like to discuss with you soon), but think it would be premature to raise the idea with Kennedy.

**7. Tobacco -- Attorneys' Fees:** An arbitration panel last week awarded \$8.2 billion in legal fees to the attorneys representing Florida, Texas, and Mississippi in tobacco litigation. The industry will pay the fees to the attorneys over the next 20 or so years, over and above what it will pay the states. (The industry's annual payments for arbitral judgments are capped at \$500 million per year.) The panel determined the fees by multiplying 10 percent of each

state's settlement by a figure (between 1.9 and 3.5) representing the risks taken and work done by the state's attorneys. The panel used the largest multiplier to calculate fees for Mississippi's attorneys, because they brought the very first tobacco suits. Minnesota's attorneys settled earlier this year for the relative pittance of seven percent of the state's award. Attorneys for the other 46 states have a choice between seeking fees from an arbitration panel and accepting an offer of "liquidated fees" from the industry. Fees for most of these attorneys will be much smaller, reflecting the fact that they did less work and took less risk in bringing their cases.

THE WHITE HOUSE

WASHINGTON

12-14-98

December 11, 1998

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

1. **Health Care -- CDC Guidelines for HIV Surveillance:** The Centers for Disease Control (CDC) released draft guidance on Thursday to assist states in designing and implementing new HIV surveillance and reporting systems. The guidance recommends that states track people with HIV by name (as states now track people with full-blown AIDS). At our insistence, however, the guidance also allows states to use so-called unique identifier codes, rather than names. The HIV/AIDS community is relieved that the guidance gives states the option of using identifier codes, but is disappointed that it expresses a preference for using names. The community believes that names-based reporting jeopardizes confidentiality and discourages testing; CDC disputes these contentions and argues that name-based reporting generally leads to more effective surveillance. Members of the AIDS Council may raise questions about this issue when they meet with you on December 18. You can respond by indicating strong support for states (like California) that are developing effective alternatives to name-based reporting.

2. **Health Care -- Presidential Task Force on Employment of Adults with Disabilities:** Your Task Force on the Employment of Adults with Disabilities will present the Vice President with its first report on Tuesday. The Task Force will recommend several new investments (e.g., the Jeffords-Kennedy Work Incentives Improvement Act), which we are considering in the context of the budget process; we are fairly confident that the budget will incorporate enough of these recommendations to elicit a positive response from the disabilities community. In addition, the Task Force will propose a number of administrative actions that we can implement immediately. For example, the Office of Personnel Management will develop a plan to increase the representation of adults with disabilities in the federal workforce, and the Small Business Administration will launch a new outreach campaign to improve opportunities for adults with disabilities. The Vice President, in accepting the report, will reiterate the Administration's commitment to passing a strong and enforceable patients' bill of rights to improve the quality of care for people with disabilities.

3. **Health Care -- Dean Ornish:** Nancy Ann Min DeParle is meeting with Dr. Ornish today to discuss his proposal for a demonstration project on the cost-effectiveness of programs like his "Life Style Intervention." Nancy Ann will express support for the idea, although she will not be able to formally approve it at this meeting. We will stay on top of this issue in the

*This is a good idea  
keep it as a priority  
let's get it done  
just for*

12-14-98

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next few weeks, as HCFA makes decisions about the scope and financing of the demonstration.

**4. Health Care -- New FDA Commissioner:** The Vice President will swear in Dr. Jane Henney as the new Commissioner of the Food and Drug Administration on Tuesday.

**5. Education -- ESEA Reauthorization:** We are working with the Education Department to include in our ESEA reauthorization proposal a set of accountability requirements that are significantly stronger than any in current law. Some of the proposals under consideration would require states and school districts that receive funding under the ESEA to (1) take immediate steps to identify and intervene in their lowest performing schools; (2) phase out the use of unqualified teachers, including those who are not fully certified or are teaching out of field; (3) phase out the use of instructional aides as primary instructors, especially in high-poverty schools; and (4) have effective policies in place (including appropriate supports for students) to prevent social promotion. Our aim is to design a proposal that demands a serious commitment by states and school districts receiving ESEA funds to establish and enforce high standards for schools, teachers, and students. When you return from the Middle East, we will give you information on school reform efforts now going on around the country, and present you with specific recommendations for the ESEA and State of the Union.

**6. Education -- National Education Goals Panel:** The National Education Goals Panel released its annual progress report on Thursday. The report highlighted improvements in school readiness, student achievement in math, and participation of women and minorities in math and science in higher education. The report, however, also pointed to apparent backsliding in teacher quality, student achievement in reading, and student drug use. More generally, the report noted that none of the Goals would be met by 2000. Members of the Panel and others are now discussing what should happen to the Goals (and the Panel itself) after that year. We will soon present you with options on this issue.

**7. Education -- GED Test:** You asked at yesterday's budget meeting about the GED test. We have learned that the American Council on Education (ACE) is responsible for developing and administering the GED. The ACE is now in the process of upgrading the test to keep up with rising academic standards, and hopes to unveil a new version of the test in 2001. We will work with the Education Department on possible ways to make use of a strengthened GED in our education proposals.

**8. Crime -- 1998 FBI Crime Statistics:** The FBI will release on Sunday crime figures for the first six months of 1998. These data show a five percent decline in overall crime compared to the half-year figures of 1997, with violent crime down seven percent and property crime down five percent. In the category of violent crime, murder decreased eight percent, robbery decreased 11 percent, and rape and aggravated assault decreased five percent. In the category of property crime, larceny dropped five percent, motor vehicle theft dropped

THE WHITE HOUSE  
WASHINGTON

November 24, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

**1. Education -- GAO Report on Goals 2000:** Pursuant to a request from Congressmen Goodling, Hoekstra, and Riggs, the GAO issued a report last week on the implementation of Goals 2000. The findings of the report were very positive. The GAO found that states and school districts use Goals 2000 funds for a wide range of reforms based on high standards -- for example, to develop academic standards, update curriculum frameworks, provide professional development, and support technology acquisition and training. The GAO also reported that most state and local officials believe that the funding design in Goals 2000 is sufficiently flexible, and that many fear that proposals to fold Goals 2000 into a block grant will lead to a reduction in overall federal support of education reform.

**2. Education -- Class Size Implementation:** After consulting with governors, mayors, state and local education officials, and members of Congress, the DPC and Department of Education have decided to issue guidance within the next month on the use of class size reduction funds. The guidance will give communities maximum flexibility in using the funds so that they can sensibly deal with local conditions, such as a scarcity of classroom facilities or qualified teachers. At the same time, the guidance will ensure that the states and school districts focus on our goal of reducing class size in the early grades and hire a critical mass of new teachers for the next school year. In issuing this guidance, we are rejecting the recommendation of Congressman Goodling to forego all federal guidance until Congress determines whether to extend the class size initiative beyond the next fiscal year. We have told Goodling that the guidance will spell out both the current funding commitment and our intent to seek its extension.

**3. Education -- Rand Study of State Education Reforms:** The National Education Goals Panel last week released a study it commissioned from the Rand Corporation on education reform strategies in North Carolina and Texas. The Panel selected these two states because of their strong records of improving student achievement: they had the largest average gains on NAEP reading and math assessments from 1992-1998, comparable gains on state achievement tests, and particular success among minority students. The study attributed success in these states to the kinds of education reform strategies that you have promoted. The study particularly noted the states' efforts to (1) set clear and demanding grade-by-grade academic standards for all students, (2) measure students against these standards each year,

(3) hold schools accountable for results by rewarding success and intervening in low-performing districts, (4) increase local flexibility, (5) and target resources to schools with disadvantaged students.

**4. Education -- ESEA Reauthorization:** We are working with the Education Department to develop an ESEA reauthorization proposal for transmission to Congress in the first few months of next year. We are trying to ensure that the proposal maintains a strong focus on helping students reach high standards and that it improves on current law by more effectively ensuring that program funds support best practices, providing stronger accountability for results, and more vigorously promoting public school choice. As part of this standards-based effort, the proposal will place greater emphasis than does current law on improving the quality of teaching, especially in high-poverty schools. We are also working to ensure that positions you previously have taken on strengthening bilingual education and the Safe and Drug Free Schools Program are fully incorporated into the reauthorization proposal. The Department is currently behind schedule in formulating its proposals, but we hope to make all major policy decisions by Christmas.

**5. Children and Families -- Adoption Registry:** You and the First Lady will take part in an event on Tuesday to celebrate National Adoption Month, at which you will release an executive directive to HHS to expand the use of the Internet as a tool to find adoptive homes for the 100,000 children waiting in foster care for adoption. Under the directive, Secretary Shalala will report back to you in 60 days with a plan to develop this national Internet registry. The White House event will also serve as the venue for D.C. Adoption Day, an annual event in which the D.C. Superior Court finalizes a number of adoptions. About 20 new adoptive families from D.C. will attend the event.

**6. Children and Families -- Violence Against Women:** The National Institute of Justice and the Centers for Disease Control released a report on Tuesday showing disturbing rates of violence against women. The report found that 52 percent of women surveyed had been physically assaulted in their lifetime, with physical assault defined to include behaviors ranging from slapping and hitting to the use of a gun. This finding suggests that about two million women are physically assaulted annually in the United States. In addition, 18 percent of women surveyed said that someone had raped or attempted to rape them; of these women, 54 percent were under 17 years old when the rape attack occurred. Finally, the survey found that violence against women is primarily partner violence: of women who were raped or physically assaulted after the age of 18, more than 75 percent suffered at the hands of a date, cohabiting partner, or current or former husband.

**7. Health -- Massachusetts HMOs:** After HHS allowed Massachusetts HMOs participating in the Medicare program to revise their benefit packages (in response to Senator Kennedy's request and in order to prevent withdrawals from the program), the plans all chose to provide limited prescription drug benefits, with maximum payout provisions of between \$300 and \$800. As you recall, all but one of the HMOs had announced that they would

provide comprehensive drug benefits if the remaining HMO -- the Harvard Community Health Plan -- agreed to go along; Harvard, however, refused this offer, and all plans then decided to offer only a limited drug benefit. Although the HMOs are taking a public relations beating, they probably will hold to this position. Perhaps surprisingly, no one is criticizing HHS's decision to allow the plans to modify their benefit packages; apparently, most people understand that without this action, plans would have withdrawn entirely from the Medicare program.

**8. Health -- Embryonic Stem Cell Research:** Your National Bioethics Advisory Commission (NBAC) responded on Friday to your request that it consider the ethical, medical, and legal concerns arising from the fusion of a human cell with a cow egg. The letter stated that any attempt to create a child through this technique would raise "profound ethical concerns" and should not be permitted. It also expressed ethical concerns about the technique if it results in a human embryo, even if there is no attempt to bring that embryo to term. The letter suggested, however, that if the technique does not produce a human embryo, ethical concerns are at a minimum. The letter said that there is insufficient scientific information currently available to determine whether this technique in fact produces a human embryo. We and Neil Lane are drafting a separate memo to you to explain more fully NBAC's opinion.

THE PRESIDENT HAS SEEN

12-7-98

DPC Weekly report

THE WHITE HOUSE

WASHINGTON

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December 5, 1998

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

*XH*  
**1. Health Care -- Medicare Commission:** The Medicare Commission met last week for its first serious discussion of policy options. Although the Commission continues to suffer from weak staffing, poor communication among members, and a general sense of disorganization, the staff did manage to produce an options memo that presented several proposals meriting further consideration. The memo listed a number of fee-for-service reforms, such as rationalizing the program's cost-sharing requirements. In addition, the memo presented a "premium support" program -- i.e., a program that both defines a set of benefits and sets the government's contribution. (Henry Aaron and Bob Reischauer have advocated a similar proposal.) Many of the Democrats believe that a premium support approach, if done correctly, could inject more market competition into the Medicare system while providing a vehicle for establishing a prescription drug benefit. In addition to discussing this options memo, the Commission members also considered a set of principles that Congressman Dingell devised (with our assistance) to guide future consideration of policy options. The Democrats on the Commission (including Senator Breaux) responded favorably to these principles, and they may serve their intended goal of ensuring that Breaux does not endorse an option wholly unacceptable to other Democrats.

*XH*  
All this generated positive momentum at the meeting, but the challenges facing the Commission remain enormous, especially if it hopes to reach its tentative goal of making final decisions next month. The Commission members are finally coming to recognize the scope of the Medicare financing problem, and to realize that more than program savings will be necessary to significantly extend the life of the program. The Commission probably will respond either by scaling back its ambitions (for example, aiming to keep the program solvent for only another 10 or 12 years) or by proposing to inject new funds into the program. We will continue to monitor the progress of the Commission, as well as respond to Democratic members' requests for assistance, as the Commission continues its efforts.

**2. Health Care -- Medicare Fraud and Abuse:** HHS Inspector General June Gibbs Brown released a report last week finding that the program managers that HCFA hires to reimburse Medicare providers are generally ineffective in detecting fraud and abuse. The report is only the latest in a series of reports the IG has issued criticizing HCFA's efforts to eliminate fraud and/or calling on Congress to give HCFA additional statutory authority in this

12-7-98

area. In an event now scheduled for Monday, you can counter these reports by unveiling a set of legislative proposals and administrative measures to make HCFA's anti-fraud efforts more effective. The legislative proposals are similar to those we introduced in Congress last year, and should result in savings of about \$2 billion. The new administrative measures include a plan to contract with a special set of fraud investigators, rather than use the normal program managers, to identify fraud in the program. Most of these initiatives respond directly to the IG's recommendations, and we expect her to give them strong validation. We also anticipate that aging advocates, such as AARP and the National Council of Senior Citizens, will receive the initiatives favorably.

**3. Health Care -- National Toxicology Board Recommendation:** The National Toxicology Board of Scientific Counselors recommended on Wednesday that the Secretary of HHS classify alcoholic beverages as a known human carcinogen. Although the scientists acknowledged that moderate consumption of alcohol may produce some health benefits, they concluded that cancers of the mouth, pharynx, larynx, and esophagus are sufficiently linked to alcohol consumption as to compel this classification. The Board's recommendation will come to Secretary Shalala for decision in the spring of 1999. As you know, she rarely overturns a recommendation made by a scientific body. A decision to classify alcohol as a carcinogen will not prompt any other regulatory action. The only effect of the decision will be to list alcohol in HHS's ninth Report on Carcinogens, a congressionally-mandated publication designed to inform the public and regulatory agencies about substances linked to increased rates of cancer. In the wine, beer, and liquor industry, however, even this action will provoke intense displeasure.

**4. Health Care -- Stem Cell Research:** The Senate Appropriations Subcommittee on Health held a hearing on Wednesday to explore the medical, ethical, and legal issues raised by recent developments in stem cell research. Participants in the hearing devoted considerable attention to the medical potential of this research, noting that it may reduce the need for transplantable donor organs and suggest new treatments for Parkinson's, Alzheimer's, spinal cord injury, stroke, burns, heart disease, diabetes, osteoarthritis, and rheumatoid arthritis. Participants in the hearing also discussed whether and how the current ban on federal funding of human embryo research applies to stem cell experiments. Senators on the panel appeared deeply divided on this question. The Administration took no position on the issue in its testimony; Harold Varmus simply testified that the HHS General Counsel's office had not yet completed its review of the question. We expect, however, that the General Counsel soon will conclude that federal funding for at least some (but probably not all) stem cell research techniques is legal. When we get a more complete sense of the scope of this legal ruling, we will work with OSTP and HHS to present you with appropriate options.

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Shapiro*

**5. Consumer Protection -- Toxic Toys:** The Consumer Product Safety Commission released on Tuesday the most comprehensive report to date on the potential health risks to children from teething rings, rattles, and toys containing chemicals called phthalates that are used to soften plastic. The report concludes on the basis of currently available data that children

12 - 7 - 98

using these products are not exposed to phthalates at levels that might be harmful; the report, however, also identifies several areas where additional scientific research is necessary. In keeping with these findings, the CPSC decided not to ban these products, but it did successfully encourage a large number of manufacturers and retailers to discontinue their sale. We are working with CEQ on ways to support the CPSC's continuing research on phthalates. We also have drafted a letter for your signature to about 20 Congressmen concerned about this issue; among other things, the letter assures the Congressmen that the Administration will not attempt to discourage other nations from banning these products.

*Christy*

**6. Political Reform -- Gore Commission:** The Gore Commission is now on schedule to release its report on December 18. As we have discussed, the report will fall short of what you had hoped for: it will content itself with announcing a voluntary commitment by broadcasters to provide five minutes of free TV for political discourse between 5:00 p.m. and 11:35 p.m. in each of the last thirty days of a campaign. Although Norm Ornstein agrees with you that the report does not go as far as it should, he believes that he has pushed the Commission members as far as possible. Ornstein also told Paul Weinstein of our staff that the press and even the reform movement will treat the broadcasters' voluntary commitment of free TV time as a major victory; he said, for example, that Paul Taylor is pleased with the agreement. We believe you should issue a statement when the report is released, encouraging the broadcasters to implement their commitment in a timely manner and suggesting that we will take all available steps to enforce it (or another free TV time proposal) if they do not. We expect Senator McCain to hold hearings on the report early in the next Congress and to send much the same message.

*\**

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disappointing*

**7. Abortion -- New CDC Report:** The Centers for Disease Control reported on Thursday that the number of legally induced abortions increased by 0.9 percent between 1995 through 1996, to a total of 1,221,585. This change in the number of abortions may have resulted simply from variations in reporting by state health departments. Alternatively, it may indicate that the number of legal abortions in the United States is stabilizing after a pronounced decline in the first half of this decade. As you may recall, between 1990 (the year in which the number of reported abortions was highest) and 1995, the number of legally induced abortions decreased by a full 15 percent. Even with the slight increase in the number of abortions in 1996, the national abortion rate did not change; at 20 per 1,000 women of reproductive age, it continues to be at its lowest point since 1975.

**8. Crime -- COPS Program:** The COPS Office will announce on Thursday about \$77 million in grants to over 30 local law enforcement agencies through the COPS MORE (Making Officer Redeployment Effective) program. As you know, COPS MORE helps law enforcement agencies purchase equipment and hire support staff so that existing officers can be reassigned to community policing duty. These grants will assist in the redeployment of over 3,800 officers.

DPC - weekly report  
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THE WHITE HOUSE  
WASHINGTON

November 24, 1998

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*Reed*  
*Kagan*  
*Podesta*

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

*good alignment  
for  
continuity  
to  
2000*

**1. Education -- GAO Report on Goals 2000:** Pursuant to a request from Congressmen Goodling, Hoekstra, and Riggs, the GAO issued a report last week on the implementation of Goals 2000. The findings of the report were very positive. The GAO found that states and school districts use Goals 2000 funds for a wide range of reforms based on high standards -- for example, to develop academic standards, update curriculum frameworks, provide professional development, and support technology acquisition and training. The GAO also reported that most state and local officials believe that the funding design in Goals 2000 is sufficiently flexible, and that many fear that proposals to fold Goals 2000 into a block grant will lead to a reduction in overall federal support of education reform.

*X*

**2. Education -- Class Size Implementation:** After consulting with governors, mayors, state and local education officials, and members of Congress, the DPC and Department of Education have decided to issue guidance within the next month on the use of class size reduction funds. The guidance will give communities maximum flexibility in using the funds so that they can sensibly deal with local conditions, such as a scarcity of classroom facilities or qualified teachers. At the same time, the guidance will ensure that the states and school districts focus on our goal of reducing class size in the early grades and hire a critical mass of new teachers for the next school year. In issuing this guidance, we are rejecting the recommendation of Congressman Goodling to forego all federal guidance until Congress determines whether to extend the class size initiative beyond the next fiscal year. We have told Goodling that the guidance will spell out both the current funding commitment and our intent to seek its extension.

**3. Education -- Rand Study of State Education Reforms:** The National Education Goals Panel last week released a study it commissioned from the Rand Corporation on education reform strategies in North Carolina and Texas. The Panel selected these two states because of their strong records of improving student achievement: they had the largest average gains on NAEP reading and math assessments from 1992-1998, comparable gains on state achievement tests, and particular success among minority students. The study attributed success in these states to the kinds of education reform strategies that you have promoted. The study particularly noted the states' efforts to (1) set clear and demanding grade-by-grade academic standards for all students, (2) measure students against these standards each year,

X (3) hold schools accountable for results by rewarding success and intervening in low-performing districts, (4) increase local flexibility, (5) and target resources to schools with disadvantaged students.

**4. Education -- ESEA Reauthorization:** We are working with the Education Department to develop an ESEA reauthorization proposal for transmission to Congress in the first few months of next year. We are trying to ensure that the proposal maintains a strong focus on helping students reach high standards and that it improves on current law by more effectively ensuring that program funds support best practices, providing stronger accountability for results, and more vigorously promoting public school choice. As part of this standards-based effort, the proposal will place greater emphasis than does current law on improving the quality of teaching, especially in high-poverty schools. We are also working to ensure that positions you previously have taken on strengthening bilingual education and the Safe and Drug Free Schools Program are fully incorporated into the reauthorization proposal. The Department is currently behind schedule in formulating its proposals, but we hope to make all major policy decisions by Christmas.

**5. Children and Families -- Adoption Registry:** You and the First Lady will take part in an event on Tuesday to celebrate National Adoption Month, at which you will release an executive directive to HHS to expand the use of the Internet as a tool to find adoptive homes for the 100,000 children waiting in foster care for adoption. Under the directive, Secretary Shalala will report back to you in 60 days with a plan to develop this national Internet registry. The White House event will also serve as the venue for D.C. Adoption Day, an annual event in which the D.C. Superior Court finalizes a number of adoptions. About 20 new adoptive families from D.C. will attend the event.

**6. Children and Families -- Violence Against Women:** The National Institute of Justice and the Centers for Disease Control released a report on Tuesday showing disturbing rates of violence against women. The report found that 52 percent of women surveyed had been physically assaulted in their lifetime, with physical assault defined to include behaviors ranging from slapping and hitting to the use of a gun. This finding suggests that about two million women are physically assaulted annually in the United States. In addition, 18 percent of women surveyed said that someone had raped or attempted to rape them; of these women, 54 percent were under 17 years old when the rape attack occurred. Finally, the survey found that violence against women is primarily partner violence: of women who were raped or physically assaulted after the age of 18, more than 75 percent suffered at the hands of a date, cohabiting partner, or current or former husband.

**7. Health -- Massachusetts HMOs:** After HHS allowed Massachusetts HMOs participating in the Medicare program to revise their benefit packages (in response to Senator Kennedy's request and in order to prevent withdrawals from the program), the plans all chose to provide limited prescription drug benefits, with maximum payout provisions of between \$300 and \$800. As you recall, all but one of the HMOs had announced that they would

provide comprehensive drug benefits if the remaining HMO -- the Harvard Community Health Plan -- agreed to go along; Harvard, however, refused this offer, and all plans then decided to offer only a limited drug benefit. Although the HMOs are taking a public relations beating, they probably will hold to this position. Perhaps surprisingly, no one is criticizing HHS's decision to allow the plans to modify their benefit packages; apparently, most people understand that without this action, plans would have withdrawn entirely from the Medicare program.

**8. Health -- Embryonic Stem Cell Research:** Your National Bioethics Advisory Commission (NBAC) responded on Friday to your request that it consider the ethical, medical, and legal concerns arising from the fusion of a human cell with a cow egg. The letter stated that any attempt to create a child through this technique would raise "profound ethical concerns" and should not be permitted. It also expressed ethical concerns about the technique if it results in a human embryo, even if there is no attempt to bring that embryo to term. The letter suggested, however, that if the technique does not produce a human embryo, ethical concerns are at a minimum. The letter said that there is insufficient scientific information currently available to determine whether this technique in fact produces a human embryo. We and Neil Lane are drafting a separate memo to you to explain more fully NBAC's opinion.

THE WHITE HOUSE  
WASHINGTON

October 23, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

RE: DPC Weekly Report

**1. Education -- Class Size Reduction:** To ensure that we capitalize on your victory on class size reduction, the Vice President and the Education Department released state-by-state figures showing the funding levels and estimated number of new teachers to be hired with the \$1.2 billion in the omnibus appropriations bill. The Education Department has provided members and the press county-level funding numbers as well. In addition, we have distributed widely the attached chart showing that the final class size reduction agreement comes very close to your original proposal.

**2. Education -- After School Programs:** We are working with the Education Department to determine if it will be possible to award a portion of the \$200 million in new after-school program grants to cities such as Boston and Chicago which didn't make the cut this past year. The remainder of the funds would be used to fund a new competition, with grants to be awarded in the spring. Making some awards now would give us an opportunity to take credit for our victory and would allow students to participate in after-school programs during this school year. However, in order to take this step, we must make certain that the awards will be made consistent with new report language in the appropriations bill directing the Education Department to target the funds to communities with high poverty levels, high juvenile crime and low academic achievement.

**3. Health Care -- Final Report on Federal Compliance with Patients' Bill of Rights:** Late next week, you are scheduled to release a report showing that while the Congress failed to pass a Patients' Bill of Rights, you have taken action to implement these protections for the 85 million Americans in Federal health plans. Last February you issued an Executive Memorandum directing the five Federal agencies with jurisdiction over health care to come into compliance with the Patients' Bill of Rights. This report details the steps those agencies have taken to come into compliance. You can also reiterate your strong commitment that passing a Patients' Bill of Rights that guarantees these protections for all Americans will be one of your top priorities in the next Congress.

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**5. Health Care -- Safeguarding Medicare Beneficiaries who Lose HMO Coverage:** On Friday, HCFA released a letter to state insurance commissioners outlining the rights of Medicare beneficiaries who have been involuntarily terminated from Medicare HMOs to access supplemental "Medigap" insurance. The letter made clear that insurers must provide such beneficiaries access to certain Medigap plans now offered regardless of health status, prior claims history, or medical condition. Although the letter will be well received by the aging groups (such as AARP), two issues will attract dissatisfaction from the disability community. First, because of concerns about adverse selection, the law does not give us the authority to mandate that Medigap plans with prescription drug coverage be guaranteed issued. Second, under current law we do not have the authority to require insurers not now offering Medigap plans to disabled Medicare beneficiaries to do so. As a consequence, in the 35 states that do not mandate offering Medigap to the disabled, disabled beneficiaries who were dropped from HMOs will not have guaranteed access to affordable Medigap plans. However, the HCFA letter does urge states to pass legislation to require a Medigap offering to the disabled. Moreover, you have been on record since last year as supporting bipartisan legislation in the Congress to require all insurers offering Medigap plans to seniors to also offer such an option to the disabled population.

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## CLINTON VICTORY ON SMALLER CLASSES WITH QUALITY TEACHERS

PRESIDENT CLINTON'S GOAL	ADMINISTRATION'S PROPOSAL	FINAL AGREEMENT IN OMNIBUS APPROPRIATIONS BILL	PRESIDENT'S GOAL MET
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<b>GETTING DOLLARS TO LOCAL SCHOOL DISTRICTS</b>	<ul style="list-style-type: none"> <li>• 99.4% of funds to local school districts</li> <li>• 0.0% for federal administration; 0.5% for costs to state of program administration and testing of new teachers; 0.1% for evaluation</li> </ul>	<ul style="list-style-type: none"> <li>• 100% to local school districts</li> <li>• 0.0% for federal administration; 0.0% for costs to state of program administration and testing of new teachers 0.0% for evaluation</li> </ul>	✓
<b>ENSURING TEACHER QUALITY</b>	<ul style="list-style-type: none"> <li>• Requires that local school districts spend at least 10% of funds on improving teacher quality</li> <li>• New teachers must meet state certification requirements</li> <li>• New teachers must pass state-selected competency test</li> </ul>	<ul style="list-style-type: none"> <li>• Establishes 15% cap for local school district expenditures on improving teacher quality</li> <li>• New teachers must meet state certification requirements</li> <li>• School districts may use funds for teacher competency tests</li> </ul>	✓
<b>ACCOUNTABILITY FOR RESULTS</b>	<ul style="list-style-type: none"> <li>• Must produce annual school report card to parents and the public on student achievement and class size</li> </ul>	<ul style="list-style-type: none"> <li>• Must produce annual school report card to parents and the public on student achievement and class size</li> </ul>	✓

# Preserve the Citizen Service Tradition

By STEPHEN E. AMBROSE

It is the nature of youth to want to explore. Youngsters yearn for challenge and new experiences and the sense of belonging to something larger than themselves. They are idealistic and want to advance their ideals through service.

It is one of the principle misfortunes of our time that we do not provide our 18- and 19-year-olds with enough opportunity to do these things, and it is one of the chief differences between America today and America a half-century ago. Then, service of some sort to the nation by the young was taken for granted, along with the notion that society would provide them with a place to serve.

In the Depression, it was the Civilian Conservation Corps, universally praised for the projects it undertook and completed and for the way it provided impoverished youngsters with a chance to serve, to travel, to get to know other young Americans from different backgrounds and parts of the country. In the Second World War and during much of the Cold War it was the armed forces, where millions of young Americans served. President John F. Kennedy tapped the same vein to create the Peace Corps. Today AmeriCorps is extending that tradition of citizen service, giving young people opportunity to serve their country here at home.

The generation of Americans now in retirement faced and overcame great challenges, starting with the Depression and including the Nazis, the Japanese militarists, and the Communists in Korea, Vietnam, and the Soviet Union. The challenges of today are not so clear, or terrifying, or dramatic. Nor are they as unifying: During World War II, a popular saying, used to respond to a complaint about this or that shortage, was "We are all in this together." Today's youth have never had that feeling. They have missed the experience of work-

ing together for a common goal as much as they have missed the chance to serve others.

It seems to me that one of the great things that came out of World War II, and to a lesser extent out of Korea and even Vietnam, was the way in which millions of young men learned to work together, to take responsibility, to become part of a team. They learned, too, to savor deferred



Michigan Historical Museum

CCC workers near Camp Au Sable, Mich.

gratification, and to take pride in contributing to their fellow man.

Today, too often, our youngsters hardly know one another. Middle class kids have little or no contact with inner-city kids. As we become a more diverse society, it is critical that we provide our youth with experiences that bring Hispanic-Americans and European-Americans, Jewish-Americans and Muslim Americans, Asian-Americans and African-Americans together, working, living, serving side-by-side. Lord knows there are plenty of challenges out there and much to be done, improving educa-

tion, fighting poverty, and protecting the environment.

In Europe, several nations require that, at 18, young people give a year of service to their country. In the U.S. it is not required, but AmeriCorps provides a voluntary opportunity to make a similar commitment. Instead of fighting enemies abroad these young Americans battle against the everyday enemies of illiteracy, poverty, and violence that plague our nation. In four years, AmeriCorps members have taught, tutored and mentored more than 2.2 million children, provided after-school programs to more than a million at-risk youth, removed close to 70,000 tons of trash from neighborhoods, and recruited more than 1.8 million volunteers to assist in these and other efforts.

AmeriCorps members, most of whom are between the ages of 18 and 24, receive a loan living allowance, and after a year of service a stipend of almost \$4,800 to help pay for college. This is similar to the 1944 GI Bill of Rights, which was the best piece of legislation Congress ever enacted. The GI bill sent hundreds of thousands of GIs to college—guys who never dreamed it would be possible for them to get a higher education—and after earning their degrees they went out and built modern America. They were part of the best educated, best disciplined, hardest working, most innovative generation of Americans ever. Today's young people, through AmeriCorps and other volunteer groups, can emulate them.

Our young people are our future. Our very soul as a nation is at stake. I cannot imagine a better investment than in youth who want to work for others and then go on with their education, taking a hand up rather than a hand out. Since 1994, more than 100,000 young men and women have pledged to "get things done" for America. This month, as AmeriCorps celebrates this milestone, let us congratulate them for their service to our country—and hope that future generations have the opportunity to follow in their footsteps.

*Mr. Ambrose is author, most recently, of "Citizen Soldiers" (Simon & Schuster, 1997).*

THE WALL STREET JOURNAL

FRIDAY, OCTOBER 23, 1998

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DPC weekly report

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THE WHITE HOUSE  
WASHINGTON

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October 30, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

✓ 1. **Crime -- National Instant Criminal Background Check System:** The Justice Department will publish this week its final regulation implementing the Brady National Instant Criminal Background Check System (NICS or Instacheck). Under the NICS, which will go into effect on November 30th, the FBI and/or state points of contact will conduct computerized background checks of all prospective gun purchasers (not just handgun purchasers). Implementation of the NICS is a very significant accomplishment, capping your efforts first to enact the Brady Law, then to secure sufficient funds to improve state criminal history records, and most recently to thwart Republican attempts to undermine the efficacy of the Instacheck System.

✓ 2. **Drugs -- Medical Marijuana:** General McCaffrey held a press conference last week stating the Administration's opposition to five ballot initiatives allowing the medical use of marijuana; he also released a letter from former Presidents Carter, Ford, and Bush taking the identical position. McCaffrey argued that these initiatives send the wrong message to children about marijuana and conflict with the federal drug approval process. Current polls indicate that such initiatives will pass in Alaska, Oregon, Washington, and the District of Columbia; the vote is too close to call in Nevada. In addition, voters in Arizona probably will vote down an initiative that would repeal a broad medical marijuana law passed two years ago.

✓ 3. **Health Care -- Patients' Bill of Rights Event:** You are scheduled to lead a roundtable discussion with health care workers and patients on Monday that focuses on the need for a patients' bill of rights. We will downlink this event to patients' rights rallies led by Democratic candidates in congressional districts across the country. At the event, you will receive a status report from the Vice President outlining how the five federal agencies with primary jurisdiction over health care responded to your executive order directing them to ensure that their health plans come into compliance with the patients' bill of rights. This report will underscore that while the Republican leadership allowed patients' rights legislation to die, you took every possible action to implement these protections for the 85 million Americans in federal health plans. You will respond to the report by again calling on Congress to enact legislation to extend these rights to all Americans.

✓ **4. Health Care -- Pediatric Labeling Initiative:** We are pushing HHS and FDA to publish within the next two weeks a final regulation requiring manufacturers to test certain drugs for use in children and provide information to pediatricians on correct dosage levels. You announced the proposed regulation at an event with the First Lady last year, and pediatricians and advocates warmly applauded the action. (The American Academy of Pediatrics called it "one of the most important advances for pediatric drug therapy in several decades" and noted its special importance for treating children with AIDS.) Subsequent to your announcement, Congress included a provision in FDA reform legislation that provides short-term patent extensions to companies conducting these new pediatric tests. Although the legislation is fully consistent with our regulation (effectively providing some compensation to companies that must meet our regulatory requirement, as well as to companies that conduct pediatric tests voluntarily), the industry is arguing that Congress intended to negate our proposed rule and rely exclusively on incentives to promote voluntary testing. Because of this controversy, we decided to delay publication of the final rule until the Senate confirmed Jane Henney as FDA Commissioner. Now that the Senate has approved Dr. Henney, we and the First Lady's office want to move forward with the final regulation as soon as possible, perhaps even before Henney is sworn-in to her new position.

✓ **5. Welfare Reform -- New Jersey Family Cap Study:** New Jersey will release on Monday its latest evaluation of the State's family cap policy, which denies additional per-child benefits to welfare recipients who give birth while on the rolls. We understand that this report, prepared by Rutgers University researchers, will show a decrease in births and a small increase in abortions among families on welfare. Secretary Shalala sent you a memo about the draft Rutgers study in June, pointing out that both New Jersey and HHS had serious concerns about its methodology. The Department is still reviewing the latest study, but its preliminary appraisal is that the Rutgers researchers have failed to address many of these methodological questions; in particular, HHS is concerned that the study does not control sufficiently for other factors that could affect the rate of abortions. A total of 23 states have chosen to adopt a family cap policy since the passage of the welfare reform law, up from 15 states that implemented this policy through welfare waivers.

THE PRESIDENT HAS SEEN  
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THE WHITE HOUSE  
WASHINGTON

October 23, 1998

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FROM: Bruce Reed  
Elena Kagan

RE: DPC Weekly Report

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<b>TARGETING NEEDIEST STUDENTS</b>	<ul style="list-style-type: none"> <li>• Targeted to high poverty communities using Title I formula</li> </ul>	<ul style="list-style-type: none"> <li>• Targeted to high poverty communities, with 80% of funds allocated by poverty and 20% by population count</li> </ul>	✓
<b>GETTING DOLLARS TO LOCAL SCHOOL DISTRICTS</b>	<ul style="list-style-type: none"> <li>• 99.4% of funds to local school districts</li> <li>• 0.0% for federal administration; 0.5% for costs to state of program administration and testing of new teachers; 0.1% for evaluation</li> </ul>	<ul style="list-style-type: none"> <li>• 100% to local school districts</li> <li>• 0.0% for federal administration; 0.0% for costs to state of program administration and testing of new teachers 0.0% for evaluation</li> </ul>	✓
<b>ENSURING TEACHER QUALITY</b>	<ul style="list-style-type: none"> <li>• Requires that local school districts spend at least 10% of funds on improving teacher quality</li> <li>• New teachers must meet state certification requirements</li> <li>• New teachers must pass state-selected competency test</li> </ul>	<ul style="list-style-type: none"> <li>• Establishes 15% cap for local school district expenditures on improving teacher quality</li> <li>• New teachers must meet state certification requirements</li> <li>• School districts may use funds for teacher competency tests</li> </ul>	✓
<b>ACCOUNTABILITY FOR RESULTS</b>	<ul style="list-style-type: none"> <li>• Must produce annual school report card to parents and the public on student achievement and class size</li> </ul>	<ul style="list-style-type: none"> <li>• Must produce annual school report card to parents and the public on student achievement and class size</li> </ul>	✓

# Preserve the Citizen Service Tradition

By STEPHEN E. AMBROSE

It is the nature of youth to want to explore. Youngsters yearn for challenge and new experiences and the sense of belonging to something larger than themselves. They are idealistic and want to advance their ideals through service.

It is one of the principle misfortunes of our time that we do not provide our 18- and 19-year-olds with enough opportunity to do these things, and it is one of the chief differences between America today and America a half-century ago. Then, service of some sort to the nation by the young was taken for granted, along with the notion that society would provide them with a place to serve.

In the Depression, it was the Civilian Conservation Corps, universally praised for the projects it undertook and completed and for the way it provided impoverished youngsters with a chance to serve, to travel, to get to know other young Americans from different backgrounds and parts of the country. In the Second World War and during much of the Cold War it was the armed forces, where millions of young Americans served. President John F. Kennedy tapped the same vein to create the Peace Corps. Today AmeriCorps is extending that tradition of citizen service, giving young people opportunity to serve their country here at home.

The generation of Americans now in retirement faced and overcame great challenges, starting with the Depression and including the Nazis, the Japanese militarists, and the Communists in Korea, Vietnam, and the Soviet Union. The challenges of today are not so clear, or terrifying, or dramatic. Nor are they as unifying: During World War II, a popular saying, used to respond to a complaint about this or that shortage, was "We are all in this together." Today's youth have never had that feeling. They have missed the experience of work-

ing together for a common goal as much as they have missed the chance to serve others.

It seems to me that one of the great things that came out of World War II, and to a lesser extent out of Korea and even Vietnam, was the way in which millions of young men learned to work together, to take responsibility, to become part of a team. They learned, too, to savor deferred



Michigan Historical Museum

CCC workers near Camp Au Sable, Mich.

gratification, and to take pride in contributing to their fellow man.

Today, too often, our youngsters hardly know one another. Middle class kids have little or no contact with inner-city kids. As we become a more diverse society, it is critical that we provide our youth with experiences that bring Hispanic-Americans and European-Americans, Jewish-Americans and Muslim Americans, Asian-Americans and African-Americans together, working, living, serving side-by-side. Lord knows there are plenty of challenges out there and much to be done, improving educa-

tion, fighting poverty, and protecting the environment.

In Europe, several nations require that, at 18, young people give a year of service to their country. In the U.S. it is not required, but AmeriCorps provides a voluntary opportunity to make a similar commitment. Instead of fighting enemies abroad these young Americans battle against the everyday enemies of illiteracy, poverty, and violence that plague our nation. In four years, AmeriCorps members have taught, tutored and mentored more than 2.2 million children, provided after-school programs to more than a million at-risk youth, removed close to 70,000 tons of trash from neighborhoods, and recruited more than 1.8 million volunteers to assist in these and other efforts.

AmeriCorps members, most of whom are between the ages of 18 and 24, receive a loan living allowance, and after a year of service a stipend of almost \$4,800 to help pay for college. This is similar to the 1944 GI Bill of Rights, which was the best piece of legislation Congress ever enacted. The GI bill sent hundreds of thousands of GIs to college—guys who never dreamed it would be possible for them to get a higher education—and after earning their degrees they went out and built modern America. They were part of the best educated, best disciplined, hardest working, most innovative generation of Americans ever. Today's young people, through AmeriCorps and other volunteer groups, can emulate them.

Our young people are our future. Our very soul as a nation is at stake. I cannot imagine a better investment than in youth who want to work for others and then go on with their education, taking a hand up rather than a hand out. Since 1994, more than 100,000 young men and women have pledged to "get things done" for America. This month, as AmeriCorps celebrates this milestone, let us congratulate them for their service to our country—and hope that future generations have the opportunity to follow in their footsteps.

*Mr. Ambrose is author, most recently, of "Citizen Soldiers" (Simon & Schuster, 1997).*

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