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August 2, 1997

THE PRESIDENT HAS SEEN

8-4-97

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Welfare -- Budget Bill: The final welfare provisions of the budget bill prompted a front-page New York Times headline declaring "In Budget Bill, President Wins Welfare Battle." First, the bill guarantees Medicaid and SSI benefits to legal immigrants on the rolls in August 1996 and to legal immigrants residing in the U.S. on that date who have since become -- or in the future become -- disabled. Second, the bill includes a \$3 billion welfare-to-work program, which has all the critical components of our original proposal: it establishes DOL as the administering agency; routes formula money through Private Industry Councils, thereby giving mayors effective control over its distribution; contains a fairly sizable competitive grant fund; allows the funds to be spent on a wide range of programs; targets funds to the hardest-to-place welfare recipients; and contains strong anti-displacement provisions.

Third, the bill contains a good welfare-to-work tax credit, which gives companies that hire long-term recipients a credit for 35% of wages up to \$10,000 for the first year and 50% for the second year. Fourth, the bill continues Medicaid coverage for children who will lose SSI under the new definition of childhood disability contained in the welfare law. Fifth, the bill does not contain any provision to exempt workfare recipients from the FLSA and other worker protection laws (though we did agree, in exchange for making the child tax credit refundable, to a provision that benefits received by working welfare recipients would not qualify as wages for purposes of the EITC). Sixth, the bill also does not contain any provision allowing privatization of Medicaid and Food Stamp operations, in part because Governor Bush rejected a compromise that Texas run a substate demonstration covering up to 50% of recipients.

The best analysis of the welfare provisions comes from usually devoted supporters of the Republican Party. Robert Rector of the Heritage Foundation told the Washington Post that "the Republicans appear to have capitulated on almost every welfare issue." And Michael Tanner of the Cato Institute told the New York Times that "the President got everything he wanted and then some."

The Republicans have made clear that they intend to return to the issue of how worker protection laws apply to welfare recipients, perhaps on the Labor-HHS appropriations bill. In final budget discussions, we indicated some willingness to exempt workfare participants from FICA and FUTA, and we can offer that compromise again in a future fight on this issue. We also may not have

seen the last of the privatization issue; House Republicans are upset at Governor Bush for declining a substate demonstration project, and they may take another run at enabling some state (perhaps Wisconsin) to privatize part of its Medicaid and Food Stamp operations. While awaiting these battles, we will work closely with DOL on implementing the new welfare-to-work program.

2. Health -- Budget Bill: We are very pleased with the health provisions in the budget agreement, especially the children's health package. After your statement at the NGA about the importance of a strong benefits package, we were able to secure a provision requiring States to choose from one of four packages: (1) the FEHBP model; (2) the benefits package of the most popular state HMO; (3) the state employee plan; and (4) the actuarial equivalent of any of the above three packages, provided it offers the same or better benefits for vision, hearing, mental health, and prescription drugs. In the overwhelming majority of states, this provision will ensure that children receive a strong package of benefits, including these four drug services. During final negotiations, we also succeeded in inserting several provisions that give further assurance that states will use the new funds to cover uninsured children, rather than to supplant existing funding. In the days following the agreement, newspapers quoted the General Counsel of the Children's Defense Fund as saying that the initiative will do "extraordinary good for millions of children" and the President of the American Academy of Pediatrics as saying that the package represented an "extraordinary commitment" to children's health care. We are now working on an implementation strategy to encourage and assist states to use the new investment to cover as many uninsured children as possible.

3. Health -- Diabetes Announcement: You are scheduled to announce on Friday -- probably with Speaker Gingrich -- new investments in the budget relating to diabetes. These investments include: \$150 million over five years for Type I diabetes research (most common in children); \$150 million for diabetes prevention, treatment, and research in the Native American population (the diabetes rate among Native Americans is nearly 3 times the national rate); and a new Medicare benefit for diabetes prevention. The American Diabetes Association (ADA) has said that this new package of investments is the most significant development for diabetes since insulin was discovered in the 1920s. You are also scheduled to announce a new collaborative effort between HCFA, ADA, and the National Committee on Quality Assurance to develop new standards of care for diabetes. Diabetes experts believe that this collaborative effort will significantly improve care for diabetics.

4. Health -- Medicare Fraud: We are preparing to release next week several new initiatives responding to the recent finding that the Medicare program lost \$23 billion last year due to overpayments, fraud, and abuse. We hope to be able to announce that HCFA is immediately halting payments to providers identified in the report as committing fraud and that HCFA is undertaking comprehensive audits of providers identified as potentially defrauding the government. We also will announce a new quarterly report by HHS and DOJ on all fines, decertifications, and ongoing investigations of fraud and a new award for state and local governments and other organizations that have made outstanding efforts to eliminate fraud and abuse. Last, but most important, we suggest

that when you sign the budget bill into law, you highlight the significant anti-fraud provisions that it contains.

5. Education -- National Testing Initiative: Rep. Goodling intends to offer an amendment to the Labor-HHS appropriations bill in September that would prohibit the Education Department from spending any FY 1998 funds on the development or administration of national tests. We thought the vote would be held last week and worked hard to mobilize supporters of the testing initiative -- including the AFT, NEA, Business Roundtable, National Alliance of Businesses, Chief State School Officers, and Council of Great City Schools -- to contact members. But if the vote had occurred last week, we might well have lost. While Democratic support was generally strong (with the exception of the Hispanic Caucus, discussed below), we would have held very few Republican votes. Even Rep. Riggs and Rep. Livingston, who originally were inclined to oppose the Goodling amendment, shifted their position later in the week, in part because of strong pressure from right wing groups, home schoolers, Lynn Cheney, and others. We may be able to ameliorate Republican concerns over the next month by agreeing to have the National Assessment Governing Board oversee the tests.

WJG

The Hispanic Caucus has suggested that it might vote en bloc with Mr. Goodling. Members of the caucus object to our current intent to provide the 4th grade reading test only in English. They have asked the Department of Education to create a Spanish language version of the test that students with limited English proficiency could take instead. We are continuing to consult with members of the Caucus and are exploring ways of addressing their concerns, while maintaining our position that students should be expected to read in English.

NO

6. Tobacco: We have completed the public consultation phase of our review of the tobacco settlement, and we will be ready to present you with recommendations shortly. In one of our last meetings, we told Democratic members from tobacco states that they should let their constituents know that the Administration will insist that any settlement do right by tobacco farmers. We have asked Dan Glickman to go to tobacco markets in North Carolina and Virginia later this month to deliver the same message.

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