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Mar. 13, 98 - DPC Weekly Report

THE WHITE HOUSE
WASHINGTON

March 13, 1998

THE PRESIDENT HAS SEEN
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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

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

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

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

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

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

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

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

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

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

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

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

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

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

- Ten percent of schools experienced at least one serious violent crime during that year (i.e., murder, rape, other sexual battery, suicide, physical attack or fight with a weapon, or robbery).

- Overall incidents of crime and violence include: 190,000 physical attacks or fights without a weapon; 116,000 thefts or larceny; 98,000 incidents of vandalism; 11,000 physical attacks or fights in which a weapon was used; 7,000 robberies; and 4,000 rapes or other forms of sexual battery.

- Middle and high schools were more likely to experience an incident of crime and violence than elementary schools (74 and 77 percent, as opposed to 45 percent, for all violent incidents; 19 and 21 percent, as opposed to 4 percent, for serious violent crimes). Differences in robbery rates were not significant.

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

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

