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THE WHITE HOUSE
WASHINGTON

April 4, 1998

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Tobacco -- Next Steps: Following the Senate Commerce Committee's 19-1 vote in favor of tobacco legislation, Senators Lott and McCain indicated that the bill probably will go to the floor during the week of May 18, just prior to the Memorial Day recess. We understand that they want to have some kind of leadership agreement in place before bringing the bill to the floor, and we think such an agreement is in our interest as well. We are inclined to propose a budget-like process involving Lott, Daschle, McCain, and Hollings. In the meantime, we will meet with Daschle's staff to discuss our priorities for strengthening the legislation; work with McCain's staff to incorporate technical changes in a manager's amendment; and try to persuade a bipartisan coalition to introduce the McCain bill in the House in order to generate momentum there.

2. Tobacco -- Study on Teen Tobacco Use: On April 2, in conjunction with Kick Butts Day, the CDC released a new study ("Tobacco Use Among High School Students -- United States 1997") which found that cigarette smoking rates among high school students rose by nearly a third between 1991 and 1997, from 27.5 percent to 36.4 percent. Cigarette smoking was highest among white students, rising by slightly more than a quarter, from 31 percent in 1991 to 40 percent last year. The level of cigarette smoking among African-American students was lower than for whites, but increased by a full 80 percent, from 12.6 percent to 22.7 percent. In the first-ever measure of teen use of all tobacco products, the study found that 43 percent of high school students -- nearly half of male students and more than a third of female students -- used cigarettes, cigars, or smokeless tobacco during the previous month. The 1997 data was derived from a survey of over 16,000 students in grades 9-12.

3. Tobacco -- Farmers Legislation: You are currently scheduled to travel to tobacco country (probably Kentucky) on Thursday to discuss the need to protect tobacco farmers and their communities as part of comprehensive tobacco legislation. (Secretary Glickman went to Kentucky yesterday and got a good reception.) This trip will give you an opportunity to express strong support for the plan to protect tobacco farmers that is in Senator McCain's tobacco legislation. This plan, sponsored by Senators Ford and Hollings, attempts to address the needs of both burley and flue-cured tobacco farmers. It maintains a production control system for all tobacco farmers, with provisions for payment to the farmers if and to the extent that the national production level falls. For burley tobacco, the plan offers current quota holders a one-time

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opportunity to sell their quotas at a price of \$8 per pound; for flue-cured tobacco, the plan requires all current quota holders to sell at this price, but then issues "permits," which serve much the same function as quotas but are inalienable, to those who actually grow tobacco. The bill also provides assistance to tobacco-producing communities. The entire package would cost \$2.1 billion per year in the first ten years and \$500 million in years 11-25 for a total of \$28.5 billion. For the most part, tobacco farmers are pleased with the proposal included in the McCain legislation, far preferring it to Senator Lugar's alternative plan to buy out all quota holders at \$8 per pound and discontinue any further tobacco supports.

4. Health -- Patients' Bill of Rights: The Democratic Leadership introduced its version of the patients' bill of rights last Tuesday in a ceremony attended by Secretary Herman. Your letter to the Leadership, which indicated strong support for the bill without outright endorsing it, was well received. The bill includes all the patient protections recommended by your Quality Commission. It also contains a strong enforcement provision, which would allow states to pass laws enabling individuals to bring damage suits in state courts for violations of these rights. (In the absence of this provision, the Employment Retirement Insurance Security Act (ERISA) would limit individuals to an action in federal court to compel provision of the health benefit at issue.) As you know, the business and insurer communities strongly oppose this enforcement provision on the ground that additional litigation against health plans will result in significantly increased costs. The business community also fears that this provision would set a precedent for allowing states to add to the remedies provided in ERISA in areas other than health care (e.g., pensions). The legislation also includes a compromise "whistleblower protection" provision that is acceptable to the labor community while not raising serious objections from the hospital community: We helped Congressman Dingell and Senator Kennedy draft this compromise provision.

✓ **5. Health -- Children's Health Insurance:** Last Wednesday marked the sixth-month anniversary of the new Children's Health Insurance Program (CHIP). To mark the occasion, Secretary Shalala, in an event with Bruce and Gene, announced the approval of the New York and Illinois children's health plans. With these two approvals, eight states have now entered CHIP, providing health care coverage for more than one million children. At the event, we also released a DPC/NEC report on the rapid implementation of the new program. The report shows that an additional 15 states have submitted proposals to HHS to expand health care coverage and that virtually every other state has a process underway to submit a proposal. We anticipate approving Michigan's children's health program next week, possibly in conjunction with a children's health outreach event in which the First Lady is scheduled to participate.

Jed ✓ **6. Health -- Provider Tax Legislation:** HHS sent legislation to the Hill on Thursday to give Secretary Shalala additional authority to limit the liability of states with illegal Medicaid provider taxes, as long as they agree to comply with the law in the future. As you recall, the issue of provider taxes came to the fore last fall after you line-item vetoed a provision of the Balanced Budget Act approving New York's use of provider taxes. At that time, we agreed to postpone bringing suit against non-complying states (including New York) until August, while

we sought this legislation. Our efforts so far have not borne fruit, because (1) Members from states without provider taxes believe the Administration should seek reimbursement from non-complying states, and (2) Members from States with provider taxes (including New York, which just succeeded in getting your line item veto reversed) doubt that we will enforce provider tax rules in any event. We hope that sending up our own legislation will prompt Congress finally to address this issue, or at least demonstrate our own preference for less drastic remedies when we begin in August to initiate enforcement actions.

7. Crime -- Assault Weapons: In response to the directive you issued in November, the Treasury Department has decided to recommend halting the importation of five basic kinds of modified assault rifles (including AK-47s and Uzis), affecting over 50 specific models. The Department will say that these models do not comply with the "sporting purposes test" of the Gun Control Act of 1968 and thus cannot lawfully be imported. The Treasury recommendation recommends banning all the models you told the Department to study. We will leak the Treasury report to all major papers for Monday morning, and you will formally accept the recommendations that day at an event in the Rose Garden.

8. Safety -- .08 Law: The House Rules Committee decided last Tuesday not to allow a vote on the Lowey amendment to ISTEA legislation. As you know, this amendment would ensure that states adopt .08 blood alcohol content (BAC) as the standard for impaired driving. We held two press events at the White House with Administration officials and Rep. Lowey to continue our push for .08 legislation. In addition, your radio address this week includes a strong attack on the House action. Because the Senate adopted an identical .08 amendment by a 62-32 vote, we believe we stand a decent shot of ultimately prevailing on this issue.

9. Welfare Reform -- Federal Hiring Initiative: The Vice President will participate in an event on Thursday to mark the one-year anniversary of the Cabinet meeting in which you asked federal agencies to develop plans to hire welfare recipients. The initiative is proceeding well. Agencies have hired nearly 3,700 welfare recipients, putting them on track to meet the government-wide goal of 10,000 by the year 2000. The Vice President will announce these numbers, release an annual report (containing a brief message from you) that highlights agency accomplishments, and encourage companies that do business with the federal government to participate in the welfare-to-work effort. We have prepared letters to Cabinet members for your signature thanking them for their leadership on this issue and encouraging them to strengthen their efforts.

10. Welfare Reform -- APWA Resolution: The American Public Welfare Association passed a resolution last week urging Congress to enact the two welfare-related initiatives in your FY99 budget: the \$100 million-per-year Access to Jobs welfare-to-work transportation initiative and the \$283 million-per-year proposal to provide 50,000 welfare-to-work housing vouchers. The Access to Jobs initiative is now authorized at \$150 million in both the House and the Senate ISTEA reauthorization bills, so prospects for this initiative look promising. Our housing voucher proposal is in more trouble. Although many in Congress

support using housing vouchers to enhance welfare-to-work efforts, unrelated concerns about the Section 8 program will make getting funding for these vouchers an uphill fight. We are working with HUD, DOT, HHS, and DOL on a joint secretarial event to rally support for both initiatives in the appropriations process.

11. Welfare Reform -- Food Stamps for Legal Immigrants: Senator Lott has put a hold on an agricultural research bill reported out of conference last week because of provisions in the bill to restore food stamps to some legal immigrants. The Conference Committee agreed to use \$818 million of a \$1.9 billion reduction in the food stamp program's administrative costs to extend eligibility for food stamps to certain refugees, asylees, Hmong immigrants, disabled, elderly, and children. The package is less generous than your \$2.5 billion food stamp proposal, most notably because it would cover only children in the United States on the date of enactment, whereas your proposal would cover both children and their parents, and regardless whether they are in the United States now or come in the future. But even this limited conference committee proposal (which the Administration fought hard for) outraged some Senate conservatives, who accused it of overriding the welfare law. And others, including Senator Lott, objected to the conference agreement because they want to use the entire \$1.9 billion offset to fund transportation projects. We will work with OMB, Legislative Affairs, and Public Liaison to mount an effective opposition to Lott's decision.

12. Welfare Reform -- High Performance Bonus: Rep. Shaw has taken issue with our proposed formula for distributing high performance bonuses under TANF because it relies exclusively on measures relating to work (promoting job entry, job retention, and earnings gain), and does not include measures relating to family composition (e.g., increasing two-parent families and reducing out-of-wedlock births). We adopted this approach in light of (1) the difficulty of developing family formation criteria that fairly measure state performance, and (2) the existence of a separate bonus focused on illegitimacy. Shaw contends, however, that our proposal is odds with the purpose of the high performance bonus under the statute. We and HHS will meet with his staff and attempt to resolve this issue in an amicable manner.

13. Child Support -- Penalties Legislation: The Senate voted unanimously on Thursday for a bill to set realistic penalties for states' failure to put in place statewide computer systems to track parents who owe child support. The bill, which the House previously passed by a vote of 414-1, will soon come to you for signature. As you may recall, the legislation, which we helped to develop, sets penalties at four percent of federal child support funds in the first year of noncompliance, going up to a high of 20 percent in the fifth year and thereafter. The legislation further provides for a state to get a rebate of a portion of the penalties once HHS certifies its computer system.

14. Children and Families -- After-School Event: In response to a recent DPC memo on your education agenda, you indicated an interest in doing an after-school event. We are planning an event in May to: (1) announce the first grants of the Department of Education's new 21st Century Learning Centers Program; (2) release a joint report by the Departments of Justice

and Education on the extent to which after-school programs reduce crime and improve school performance; and (3) name the pilot cities for the Administration's effort (announced as part of your child care initiative) to coordinate federal funding and oversight of after-school programs. This event could take place at a high quality after-school program (like the one at Temple University you suggested), or a program that will receive one of the new 21st Century Learning Centers grants. By showing how after-school programs can keep children safe and improve their school performance, the event should help to build support in the appropriations process for our proposed expansion of the 21st Century Program. The Department of Education and DPC are working closely with Senator Jeffords to ensure his strong advocacy of this proposal.

15. Education -- National Board for Professional Teaching Standards: We are working closely with Governor Hunt and the National Board to reverse the action of the House Education and Economic Opportunities Committee to eliminate the Board's federal funding. The Senate Labor and Human Resources Committee is scheduled to mark up the Higher Education Act this week, and we think we will be able to prevent the Committee from including a similar provision. Once the mark-up is complete, we believe that a high-profile veto threat would be an effective way to influence further Congressional action on this issue. Your scheduled event with the National Teacher of the Year on April 24, right after Congress reconvenes, would be a good time to issue this veto threat.

16. Political Reform -- Free Television Time: Chairman Kennard and key members of Congress agreed last week that the Federal Communications Commission (FCC) would put off issuing a Notice of Rulemaking to establish a system of free broadcasting time, and instead issue a simple Notice of Inquiry (NOI) to review the issue. This agreement, which was supported by all the major political reform groups, will forestall Congressional efforts to prevent the FCC from addressing the issue of free TV at all. The agreement also establishes a sensible timetable for implementing a free TV rule. Your Advisory Committee on Public Interest Obligations of Digital Television Broadcasters should finish its work this coming Fall; after that, the FCC can go forward with its rulemaking proceeding. If the Advisory Committee proposes a workable compromise between the broadcasters and the reformers, the prospects for a successful FCC rulemaking will increase significantly.