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THE PRESIDENT HAS SEEN
5-6-98

THE WHITE HOUSE
WASHINGTON

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May 1, 1998

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Reed
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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

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

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

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

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

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

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

Should cover under budget - effort to lower it

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

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

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

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

6. Education -- This Week's Events: You are currently scheduled to meet with approximately 40 mayors on Thursday to discuss urban education. We expect your remarks to focus on your Education Opportunity Zones initiative, including its emphasis on eliminating social promotions. The remarks will note the increasing number of cities, including Washington, D.C. and New York, that have adopted no-social-promotions policies since you began to highlight this issue. You will speak to the Delaware State Legislature the next day regarding your education agenda, this time with an emphasis on your class size initiative. Delaware has made a strong effort to reduce class size, and you can call on Congress to provide it and other states with assistance.

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

Good - we need to work this harder on substance

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

Great Howard Hester on Delaware Speech

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

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

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

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

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

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reliable
revenue - then
cheyfortain*

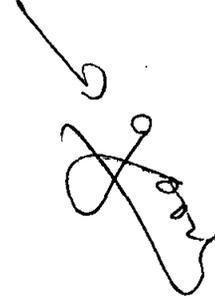
12. Immigration -- H1B Visas: The House Immigration Subcommittee approved by voice vote on Thursday a bill, authored by Rep. Lamar Smith, increasing the cap on H1B visas while making substantial reforms to the program. The bill is surprisingly in line with Administration objectives: although it raises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

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

A handwritten signature in black ink, appearing to be "Sally", with a small arrow pointing downwards and to the left from the top of the signature.

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