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June 4, 1998 - DPC Weekly Report

THE PRESIDENT HAS SEEN

6-8-98

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THE WHITE HOUSE

WASHINGTON

June 4, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

*Send all
this to Kagan
from your files*

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1. Tobacco -- Senate Update: The Senate passed two amendments to the McCain bill this week. The first, sponsored by Senator McCain and approved by voice vote, provides \$3 billion over five years to the Veterans' Administration to assist veterans with smoking-related illnesses. The second, approved by a 66-29 vote, greatly increases the surcharges imposed on individual companies that fail to meet youth smoking targets. This amendment, supported by most Democrats as well as by those Republicans who want to kill tobacco legislation (on the theory that a lack of balance will bring the bill down), would impose penalties equaling or exceeding anticipated industry profits on a company that has a significant youth market and misses its youth reduction targets by 20 percent.

Next week, the Senate is scheduled to consider a proposal by Senator Gramm to use tobacco revenues for a tax cut to all married couples earning less than \$50,000 per year (whether or not they now pay a marriage penalty). A prior version of this proposal would have decimated just about all other spending immediately, but Gramm reportedly is phasing in his amendment to avoid this result. The latest version would cost \$13 billion over the first four years (28 percent of total receipts), an additional \$30 billion in the next five years (42 percent of total receipts), and \$225 billion in the remaining years of the bill (78 percent of total receipts). Even this "scaled back" version of the amendment, of course, is incompatible with our and the Democratic Caucus's spending priorities. For this reason, Senator Daschle has prepared an alternative tax amendment, which would provide relief for those married couples earning less than \$60,000 per year who now pay a marriage penalty, as well as accelerating the deductibility of health insurance costs for the self-employed. This alternative proposal would cost \$11 billion over the first four years and would continue to consume between 20 and 25 percent of total revenues throughout the lifetime of the bill. It is conceivable that McCain and Senator Kerry will strike a deal with Gramm next week that splits the difference between these two proposals. Such a compromise certainly would grease Senate passage of the tobacco bill, but at some cost to our public health and research priorities.

*This is a
policy*

The Senate also is expected to vote next week on an amendment offered by Senators Craig and Coverdell, which would allocate about \$2 billion each year to anti-drug efforts, again cutting into the funding available in the bill for public health and research. The Craig-Coverdell amendment also includes a permanent prohibition on the use of federal monies for

needle exchange and a program to allow education vouchers to students who have been the victims of school violence. We are working to draft a modified version of the Craig-Coverdell amendment that spends less money on anti-drug efforts and eliminates the amendment's poison pills. We hope that we will be able to convince a bipartisan group of Senators, including McCain and Kerry to support this modified anti-drug amendment.

Cloture votes are scheduled for Tuesday and Wednesday, but because Senator Lott strenuously opposes cutting off debate at this time, no one expects these motions to pass. We are hopeful that by the end of the week, the Senate will have dealt with the tax and drug issues, as well as the two Republican substitute bills and the farmers provisions, and that it then will be ready to vote for final passage.

Good!
try to get this done!

2. Health -- Patients' Bill of Rights: Congressman Norwood called Chris Jennings on Thursday to express interest in organizing a discharge petition that would send patients' bill of rights legislation immediately to the House floor for a vote. As you know, Norwood is the author of a patients' bill of rights bill with over 200 co-sponsors. Norwood told Chris that he might be interested in entering into negotiations with Congressman Dingell to merge their bills and bring the resulting legislation to the floor. Norwood said, however, that he would wait until the end of this month before firmly committing himself to this course of action, in order to give the House Republican Task Force a final chance to offer a proposal that he believes can pass the Congress. Chris is meeting with Dingell this week to discuss Norwood's proposal.

*Good!
Review album?*

3. Health -- Prostate Cancer: We will announce on or around Father's Day the release of over \$25 million in new Department of Defense grants for prostate cancer research. This announcement will allow us to highlight significant actions the Administration has taken or can take in the future to prevent prostate and colorectal cancer. In response to new scientific developments, the National Cancer Institute (NCI) is increasing funding for research in this area, and these new research efforts will proceed even more quickly if Congress passes your proposed 67 percent increase in cancer research. In addition, the NCI is beginning new clinical trials on prostate cancer, which will have the greatest chance of success if Congress enacts your proposal, now included in the McCain tobacco bill, to provide Medicare coverage of cancer clinical trials. Finally, the new Medicare preventive benefit for prostate and colorectal screening will go into effect in the year 2000, by which time further developments in testing and treatment should ensure that this benefit will lead to lower mortality rates.

4. Health -- Assisted Suicide: The Justice Department issued an opinion letter on Friday stating that the Controlled Substance Act (CSA) does not give the Drug Enforcement Agency the authority to take adverse action against physicians who assist their patients to commit suicide. As you will recall, Senator Hatch and Congressman Hyde requested this opinion in the hope that the CSA would preempt Oregon's new assisted suicide law. As you directed, the Justice Department's letter notes your "longstanding position against assisted suicide" and indicates that you "remain open to working with . . . members of Congress on this

complex but extremely important issue." We expect Hyde and Hatch, and perhaps Senator Nickles as well, to introduce legislation soon that would make physician-assisted suicide a federal offense enforceable by the DEA or some other federal agency.

5. **Health -- Medicare Coverage of Abortion:** We are currently considering issues relating to Medicare coverage of abortions, which have been raised by Senator Nickles and the Catholic Health Association (CHA). The issues arise because some women of child-bearing age receive Medicare benefits as a result of their eligibility for Social Security Disability Insurance. The CHA is concerned that Catholic institutions will have to provide abortion services if they wish to become Provider Sponsored Organizations eligible for Medicare payments, as allowed under the Balanced Budget Act. CHA and Nickles have asked the Administration whether the Hyde Amendment applies to the Medicare program and/or whether Catholic institutions can refuse to provide abortion services for religious reasons under the Medicare program. We are working with HHS, OMB, DOJ, and the Counsel's office to determine current Medicare coverage practices as well as to develop options on how to respond to these inquiries. We are very concerned that Senator Nickles will soon highlight this issue, adding it to the growing list of abortion proposals Congress will take up this year. We will send you an options memo this week.

Let's try to do this w/ no legislation

6. **Health -- Medicaid Coverage of Viagra:** HHS is expected to announce this week that the Medicaid statute requires coverage of Viagra as long as it is prescribed for a medically necessary reason. To prevent abuses, states can impose a prior authorization requirement (which requires physicians to provide an explicit medical rationale for the dispensing of this medication) and limit the number of pills an individual can receive. Even with these protections, states will oppose the HHS ruling vigorously; they fear that it will open the door for required coverage of numerous other "designer drugs." In issuing its ruling, the Department will stress that the Secretary has authority to reverse the ruling and exclude the drug if experience shows that the drug is being inappropriately or excessively prescribed. HHS will work closely with state Medicaid directors to collect data on Viagra prescriptions, so that it can determine in the future whether such an exclusion is warranted.

7. **Health -- Private Plans' Coverage of Viagra and Birth Control:** Although most private plans have decided to cover Viagra (with various kinds of limitations), many still do not cover birth control pills. Some women's groups charge that these coverage rules demonstrate a kind of double standard; these groups support a bill, introduced this year by Senator Snowe, that would require private plans to cover birth control. (Medicaid does require coverage of birth control pills, so there is no federal disparity on this issue.) Since the debate on the Health Security Act, we have generally hesitated to endorse benefit mandates in private insurance. We can expect, however, to face increasing pressure on this issue from the women's community during the next Congress.

Pres. Snowe's bill

8. **Health -- Genetic Discrimination Legislation:** Labor and Human Resources Committee Chairman Jeffords has asked us to participate in a workgroup to develop a bill

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Goal

prohibiting genetic discrimination by health insurance plans. This legislation responds to your call to build on the anti-genetic discrimination provisions in the Kennedy-Kassebaum law by passing new protections (1) to ensure that genetic information is not used to deny access to health insurance or to raise premium rates and (2) to prevent insurance companies from disclosing genetic information to other parties. Jeffords intends to put forward a freestanding bill containing these protections because he believes that the Senate may not pass any broader health initiative this year. We are somewhat concerned that Jeffords will produce a watered-down bill in order to increase its chance of passage, but we will participate in his workgroup in the hope that we can prevent this outcome.

9. Health -- Ricka Powers Case: The Vice President spoke on Wednesday to the AARP Conference in Minneapolis, where he called on Congress to pass a patients' bill of rights and highlighted the experience of Minneapolis resident Ricka Powers to show the need for such legislation. Following the event, the HMO that Ms. Powers accused of mishandling her case (Health Partners) vehemently denied her accusations. Because Minnesota law prohibits the plan from releasing specific information about a case without the patient's permission -- which Ms. Powers declined to give -- we cannot determine the full truth of the matter. We therefore recommend that you and the Vice President avoid referring to this case in the future.

OK

10. Welfare Reform -- HHS Study: HHS just announced that it will make funds available to eight to ten states to track people leaving the welfare rolls. The studies also will attempt to collect information on families that are not coming onto the welfare rolls because of diversion programs, new eligibility rules, or other factors. Results of the study probably will not be available for several years.

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11. Drugs -- Drug Courts: The National Center on Addiction and Substance Abuse (CASA) released last week the first major study on the effectiveness of drug courts. The study found that drug courts provide more comprehensive supervision, monitoring, testing, and treatment than other forms of community supervision of drug offenders. According to the report, 55 percent of drug courts require at least two drug tests per week, 35 percent require weekly tests, and 10 percent require tests every other week. By comparison, among jurisdictions using simple probation supervision, none require drug tests more than once each week, eight percent require weekly tests, 52 percent require monthly drug testing, and 33 percent test on a less frequent or random basis. In addition, CASA found that drug use and criminal behavior are substantially reduced while offenders are under drug court supervision, as well as after they leave the program. Drug courts have flourished in the past few years, largely because of the 1994 Crime Act which authorized the first-ever federal funding for drug courts. Between 1995 and 1997, the Justice Department provided \$56 million to drug courts, and as of last month, drug courts existed in 275 jurisdictions.

*Rehm
we need
to do an
update
NTL
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major
complaints*

12. Children and Families -- Child Support Bill: You will soon receive for signature the legislation you called for in 1996 making it a federal felony for parents to cross

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Emanuel
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12. Children and Families -- Child Support Bill:

You will soon receive for
signature the legislation you called for in 1996 making it a federal felony for parents to cross

goal Do signing ceremony?

THE PRESIDENT HAS SEEN
6-8-98

state lines to evade child support. The Senate approved the bill by voice vote yesterday, while the House passed it by a vote of 402-16 last month.

13. Women's Issues -- Equal Pay Act Event: You, the Vice President, and the First Lady are currently scheduled to participate in an event on Wednesday to commemorate the 35th anniversary of President Kennedy's signing of the Equal Pay Act. Dr. Dorothy Height, who attended the signing in 1963, is also expected to participate. You will urge Congress to pass Senator Daschle's and Congresswoman DeLauro's equal pay bills, which would strengthen enforcement of the Equal Pay Act -- primarily by providing for compensatory and punitive damages, rather than mere liquidated damages and backpay. (The Vice President previously announced the Administration's support for this legislation.) You also will release a report by the Council of Economic Advisors on the wage gap, which shows that although the gap between women's and men's wages has narrowed substantially, women still make just over 75 percent of what men do.

LG

14. Education -- Class Size Reduction: Senator Murray is preparing to introduce your class size proposal within the next week to ten days. She has lined up 10 to 12 cosponsors, and believes she can more than double that number before the bill is introduced if she can identify a credible offset to replace the tobacco funding we proposed in our budget. We and OMB have been working with Murray's office to identify potential offsets, and will suggest several to her this week. We are also working closely with Murray, as well as with Senator Daschle, the teachers' unions, and other education groups, to design and carry out a coordinated legislative, communications, and grass roots strategy on this issue.

W. Rubin
good
Big Deal
maybe should be part of authorization of stimulus
get 20
CO-SP.
+ offset

15. Education -- Bilingual Programs: The House Education and Workforce Committee passed, on a party line vote, Congressman Riggs' proposal to replace the existing bilingual and immigrant education programs with a block grant to states that requires all students to be placed in regular English-language classes within 2 years. The Education Department is nearing completion of an Administration alternative to this bill, which will be ready for transmission by the end of next week, should you wish to put an alternative forward now rather than waiting for the reauthorization of the bilingual program next year. The Hispanic Caucus is strongly opposed to the introduction of any alternative at this time, but other Democrats may want the cover that an alternative bill would provide in order to vote against the Riggs bill. We will send you a memo on this issue this week.

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