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THE WHITE HOUSE
WASHINGTON

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July 10, 1998

MEMORANDUM FOR THE PRESIDENT

THE PRESIDENT HAS SEEN

7-13-98

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FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

1. Tobacco -- State Attorneys General: Next week, the state attorneys general will meet to consider a possible new agreement between the states and the tobacco industry. The industry is interested in a new "state-only" deal that would give the states the \$200 billion over 25 years they negotiated last year in return for settling the state cases. No federal or state legislation would be required. The deal would produce a price increase of 30-35 cents per pack, but would not say anything about FDA authority, farmers, lookback surcharges, or federal investments in research, counteradvertising, cessation and so on (although states would have substantial funds to invest in counteradvertising, tobacco education and prevention, etc.). The industry would agree to the advertising restrictions from the Minnesota settlement (no billboards, no promotional products, no film placements). Apart from settling the state cases, the industry would receive none of the liability protections of the June 20th agreement.

If such a deal materializes, we believe we should 1) embrace it, and try to bring the attorneys general to the White House to announce it; and 2) challenge Congress to finish the job by passing a streamlined bill that includes a smaller (e.g. 50-cent) tax increase to pay for targeted tax cuts (marriage penalty, long-term care), along with FDA authority, counteradvertising, and lookback surcharges. We'll still need to figure out what to do about farmers (paid for by the industry) and whether we can persuade the states to use a portion of their settlement for tobacco control, children's health, and/or child care. The state-only deal may take some pressure off Hill Republicans on tobacco (although it's not clear they were feeling much pressure anyway). But they remain under intense pressure to find revenue for a tax cut, and they can hardly sustain the argument that it's better to use Social Security and the surplus than tax tobacco.

2. Tobacco -- House and Senate Legislative Activity: When the House returns from recess, we can expect Rep. Pryce to unveil the Republican Leadership's tobacco legislation. Although we have not yet seen the legislative language, we are preparing to say that it will not save lives because it lacks a significant price increase and contains weak advertising restrictions (OMB and Treasury are preparing draft estimates based on likely scenarios). In addition, Representative Waxman is planning an event to highlight that members of the Republican House Leadership have taken hundreds of rides in recent years on tobacco industry corporate jets, paying only commercial fares for trips worth tens of thousands of dollars.

7-13-98

In the Senate, Senators Conrad and Kerry are approaching Domenici and Gorton about a streamlined bill that would settle the state cases in return for a 75-cent price increase (with another 50-cent increase in five years if teen smoking is not cut in half), FDA authority, warning labels, and other public health provisions, but no new federal programs. Three-quarters of the money would go to the states, which would have to spend one-third on tobacco control and one-third on our menu, with one-third unrestricted. The rest of the money would go for a marriage penalty tax cut. The industry would be required to pay for Ford's tobacco farmer program over the next ten years. Domenici does not seem very interested in a comprehensive bill, even at 75 cents, and Gorton raised concerns about the FDA authority and the proposal's lack of attorneys' fees limitation (a state-only settlement would diminish Gorton's interest as well)

3. **Tobacco -- Executive Memoranda on Industry Documents:** On Friday, July 17, in your remarks to Girls Nation, you will announce two directives to make tobacco industry documents far more accessible to the public. The first directive will require HHS to develop a plan for a user-friendly database and/or index of the documents and make them widely available. The second directive will instruct DOJ to file a brief to support the State of Minnesota's effort to make public an industry-created index to their documents. The release of this index would provide the public with a critical roadmap to industry documents and may identify documents that have not yet been produced.

4. **Tobacco -- Study on African Americans and Nicotine:** On Tuesday, the Journal of the American Medical Association published a study revealing that African American smokers have higher levels of metabolized nicotine than whites or Mexican Americans. This is true even though African Americans smoke fewer cigarettes per day than white smokers. This finding may help explain why African-American smokers have more difficulty in quitting smoking, and are at higher risk of developing and dying from lung cancer than whites, and will prompt more research in this area.

5. **Education -- Charter Schools:** The Education Department is completing its second year evaluation of charter schools, as well as a guide to help chartering agencies (e.g., state and local school boards) do a better job selecting charter schools and holding them accountable. We will package these reports together for you to release, perhaps at an AFT/NEA event on July 29. The Senate Labor and Human Resources is expected to mark up a charter schools bill on July 22. The bill strengthens incentives for states to promote charter schools, and provides greater flexibility for charter schools while demanding increased accountability. There is growing resistance from the education community to passing a charter schools bill this session, and growing pressure on Democrats to drag their feet on the bill. We continue to support the committee in its efforts, and believe the bill will ultimately be reported out of committee.

7-13-98

6. **Education -- Bilingual Ed:** The Education Department has completed work on its bill to overhaul bilingual education, and it is ready for transmittal if and when needed. Next week, we will begin consultations with House Democrats, seeking their views on whether an alternative to Riggs is needed, and sharing with them the approach in our bill. In addition, we are working closely with the Education Department and other agencies to make sure we have a robust package of steps you can take or propose, in addition to changes in the bilingual education program, that will actually make it possible for students to succeed in learning English. These steps include strengthening Head Start to better prepare LEP students for school, forming partnerships to help school districts recruit and train qualified teachers, and using technology to train teachers of LEP students and help students acquire English skills. We anticipate completing work on the entire package within the next 2 weeks.

7. **Health Care -- Patients' Bill of Rights Update:** Next week, we are planning two events to increase your visibility on the patients' bill of rights legislation. The first is a roundtable with physicians and patients who have had bad experiences with managed care plans, such as being denied access to a specialists, that would have benefited from a patients' bill of rights. We are currently working with the American Medical Association to see if they would be willing to host this event. The second event could be with the Democrats on the Hill. It may also be possible to highlight Congressional Budget Office estimates of the Dingell-Kennedy-Ganske legislation, which we expect will project premiums to increase by about 4 percent for the average employee, which amounts to about \$7 a month (a cost that will be split between employers and employees). We are also looking to see if we could unveil a new Families USA report that highlights what states are doing in this area. On the Hill, the Senate Republicans are working on their patients' rights bill. We expect that their legislation will contain many, but not all of the patients' protections, including some type of modest enforcement provision.

8. **Health Care -- 25th State Approved for Children's Health Insurance Program (CHIP):** Next week, HHS is planning to approve Utah and Maryland, which will represent the 24th and 25th states for CHIP. Taken together, these 25 state proposals will provide health care coverage for more than 2 million uninsured children. We should highlight this, possibly through a public event with these Governors, both of whom have expressed interest in participating. If you are not available, we may want to consider having the Vice President do this event.

9. **Children and Families -- Well-Being Report:** Next Wednesday, the Federal Interagency Forum on Children and Family Statistics will release its second annual report, *America's Children: Key Indicators of Well-Being*, which you called for in 1997 by Executive Order. The report compiles regularly measured and representative Federal Government statistics on children. This year's report will show positive trends in the overall condition of the nation's children, including decreases in childhood mortality (with infant mortality at an historic low); increases in childhood immunization; dramatic decreases in the number of children with high blood lead levels; lower teen birth rates; and higher college graduation rates. The report will also point to high levels of cigarette smoking, alcohol consumption, and drug use among children; high numbers of children without health insurance (10.6 million in 1996, up from 9.8 million in

7-13-98

1995); an increase in low-birth-weight babies; and no significant change in the number of children in poverty (about 20 percent). We will try to time the CHIP approvals to coincide with this data, and the First Lady will highlight the findings in her weekly column the following week.

10. Welfare Reform -- Child Support Penalties Bill Coming to You for Signature:

With our strong support, the House and Senate have passed legislation that makes a number of positive changes to child support law. The bill creates more sensible penalties for states that fail to meet the 1988 Family Support Act's requirement to establish state-wide child support computer systems. Instead of the current draconian penalty of withholding all federal child support funds -- a penalty unlikely ever to be imposed -- it puts in place smaller, automatic, and escalating penalties, ranging from 4% of funds for the first year to 30% for the fifth year that a state fails to implement such a system. A dozen states may face penalties. The largest is California, which is still years away from having a functioning system. Los Angeles County unsuccessfully sought an exemption from its portion of California's penalty on the grounds that its system has performed well even if the state has not, but Republicans opposed it.

The bill provides a new formula, proposed by an Administration-led working group, for distributing child support incentive funds based on states' performance on a number of key child support goals, such as paternities, child support orders, and collections, rather than simply cost effectiveness as under current law. It will also make it easier for states to establish medical support orders in cases where the non-custodial parent has private health insurance, by putting in place a process to create a medical support order form that all companies will recognize.

While the bill is a good one, we have not pushed for an event in connection with the signing because it could serve to emphasize how long it has taken some states to comply with the 1988 law requiring state-wide computer systems, and because the press may choose to stress the fact that the bill significantly reduces penalties for those states that have not yet put them into place.