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MEMORANDUM FOR THE PRESIDENT

From: Jacob J. Lew
Larry Stein

Subject: ISTEA Reauthorization

THE PRESIDENT HAS SEEN
5/16/98

This memo seeks guidance on whether you are inclined to veto the latest Congressional offer on ISTEA reauthorization.

As you know, the House and Senate bills would have provided roughly $220 billion in budget resources during 1999-2003, with outlays roughly $34 billion more than your Budget. The latest Conference document would provide $197-200 billion in budget resources during 1999-2003, with outlays roughly $21-23 billion above your Budget. The attachment describes $23.5 billion in outlay offsets that the Leadership have identified to pay for the bill. About $3-5 billion of these offsets were in your Budget, and the Administration is relying on having access to those offsets later in the '99 appropriations process to pay for some of your key budget priorities. Another $4 billion or so of the offsets seem politically unachievable; if we agreed to the spending levels that those offsets support, and the offsets later were dropped, the Republicans might seek to retain the spending and pay for it with objectionable offsets, by lowering the discretionary caps, or by not fully financing the increased spending levels.

We are not sure if the principle goal of the Republican leadership is to pay for a transportation bill or instead to use up all of the offsets that the Administration needs to pursue our own objectives in the appropriations process. If the former, we believe that a deal is possible. In particular, we should be able to craft a package that includes most, and perhaps all, of the spending in the Congressional offer. By modestly changing the time path and composition of that spending, and by having Congress direct CBO to adopt OMB scoring on certain items (as they already appear ready to do on the VA tobacco offset) we should be able to pay for the bill solely through the VA tobacco offset in our offer. We have asked for a meeting with the leadership to discuss resolving the funding dispute. To date, however, the leadership has shown little eagerness to meet.

We believe that the leadership is unlikely to engage us in serious negotiations unless we make a credible threat that you will veto a bill that contains unacceptable offsets, that spends the surplus, or that skews transportation priorities. Earlier this week, we issued a letter to the conferees with a senior advisors veto threat on these grounds. At the moment, Gephardt and Oberstar appear ready to support a veto, but Oberstar's support seems tentative. There will be no reliable way to assess in advance our chances to sustain a veto. In the Senate, support for the bill is overwhelming, and Senator Daschle is unlikely to support a veto.

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Although we do not yet know how the Congressional offer addresses some of our core policy objectives (.08 BAC, environmental provisions, etc), your economic team is inclined to recommend that you veto the bill if it is paid for with the offsets noted at Tab A. John Podesta doubts the wisdom of a veto if it could not be sustained, and the Legislative Affairs staff has concerns about the long-term consequences of an override.

Tab A

Congressional Leadership Proposed Offsets

<u>Offset</u>	<u>Savings over 1999-2003</u>

- *VA tobacco* — $16 billion

  CBO would be directed to use OMB scoring of roughly $16 billion over five years. Congress appears ready to adopt the Administration's request that some funds be reserved for expanded veteran's benefits.

- *Social Services Block Grant* — $3.1 billion

  Your budget used this offset to fund increases in other social services programs. Using this offset for highways would make it difficult to fund any program increases in the Labor/H appropriations bill or to pay for even a modest child care proposal.

- *Increase in GNMA fees* — $0.9 billion

  This proposal would triple the fee increase proposed in your budget. Although not objectionable from a policy standpoint, an increase of this size could be difficult to achieve. Your budget uses this offset to pay for new housing initiatives.

- *FHA policy reforms* — $1.0 billion

  Your budget proposed increasing the limit on FHA-insured loans to pay for a second round of Empowerment Zones. The offset noted above abandons that loan limit increase in favor of unspecified 'reforms.' It is unclear whether such reforms could be either identified or passed by Congress.

- *Fees on Fannie Mae and Freddie Mac* — $4.5 billion

  This offset has been proposed and quickly shot down many times over the last ten years. No one believes this has a credible chance of passage.

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THE WHITE HOUSE
WASHINGTON

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May 15, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: JOHN D. PODESTA JDP

SUBJECT: Issues Update

This memo provides updates on some of the issues White House offices are tracking today.

TOBACCO REPORT

- Erskine had a very productive meeting today with the ENACT Coalition, the largest coalition of public health groups on tobacco. They were very pleased with the Administration's improvements on the McCain Bill and will work to firm up bipartisan support for it.

- On Thursday, May 14, the Senate Finance Committee approved a revenue-related title which will be offered as an amendment to the McCain bill. The Committee adopted the following:

  - The Conrad amendment, which raises the excise tax from $1.10 to $1.50 per pack of cigarettes; with Democratic Senators Breaux, Kerrey (NE), and Moseley-Braun voting in opposition; and Republican Senators Chafee, D'Amato, Grassley, and Jeffords voting in favor.

  - The Breaux amendment, which removes all earmarks for the revenue that the measure will generate and left to the Senate the opportunity to decide how to spend the generated revenue.

  - Senator D'Amato's measure, S. 249, which requires health insurers to pay for a minimum hospital stay and reconstructive surgery for patients who undergo mastectomies. The action prompted Senator Kennedy to state that he will attempt to add his broader bill (S. 1890) to place federal regulations on managed-care health plans and establish patients' rights to specialty care and a coverage decision appeals process to the McCain bill.

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ISTEA NEGOTIATIONS REPORT

- Since last night, Larry Stein and Jack Lew met with the combined House and Senate leadership and committee staff. They laid out an alternative approach that would not require any unacceptable offsets. They also expressed clearly our concern about the use of the proposed offsets. The discussion is now aimed at closing a gap of roughly $7 billion over 6 years.

  It appears that the combination of our senior advisors veto threat, and bringing constructive alternatives to the table is having a positive impact. We have received signals from Gingrich's staff this afternoon that they may be willing to work with us to find acceptable offsets. Technical staff discussions will continue over the weekend. The bill is expected to come to the floor of the House towards the end of next week.

LEGISLATIVE REPORT

The House

On Friday, May 15, the House did not meet for legislative business. Next week, beginning on Tuesday, May 19, the House may consider the following:

- **New Wildlife Refuge Authorization Act (H.R. 512):** The bill would prohibit the use of funding from the Land and Water Conservation Fund to establish new refuges unless Congress passes a specific law authorizing the action. Congress currently approves, through annual appropriations, all acquisitions financed by the Fund. A manager's amendment may be offered to address many of the Administration's objections.

- **National Defense Authorization Act for Fiscal Year 1999 (H.R. 3616):** On Tuesday, May 19, the House is expected to consider H.R. 3616, the bill authorizing funds for national defense programs in FY99. While the Administration supports passage of the bill, there are still concerns regarding the gender segregated training provisions.

- **Bankruptcy Reform Act of 1998 (H.R. 3150):** The bill would limit access to Chapter 7 bankruptcy protection based on a debtor's income, and makes many other changes to consumer bankruptcy laws. The Department of Justice has expressed opposition to a strict "means test" approach, but has signaled the Administration's willingness to work with the Congress to develop an acceptable bill, particularly once it is assured that alimony and child support payments are in no way prejudiced vis a vis other debts.

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- **Campaign Integrity Act of 1997 (H.R. 2183):** Sponsored by Reps. Hutchinson (R-AR) and Allen (D-ME), this bill, which was drafted by a bipartisan task force of House freshmen, contains some moderate reform proposals, however it falls far short of the broader reforms in the Shays-Meehan bill (i.e., it bans national parties and federal candidates from raising soft money and requires greater disclosure of third party spending but it does not ban state and local soft money spending on federal elections nor does restrict issue advertising). The measure also contains certain provisions, such as removing the limits on the amount of hard money a party can spend in a Congressional race, that many House Democrats fear will give Republicans a greater electoral advantage.

- **Education Savings Act Conference Report (H.R. 2646):** The bill, known as the Coverdell bill in the Senate, is opposed by the Administration because it creates a tax break for private school K-12 education. While conferees have been appointed, they have yet to meet. Thus, it is questionable that the conference report will actually make it to the floor before the Memorial Day recess.

<u>The Senate</u>

On Friday, May 15, the Senate passed the following Administration-supported measures by voice vote:

- **Care for Police Survivors Act of 1998 (H.R. 3565):** The bill amends the Omnibus Crime Control and Safe Streets Act to authorize the Director to use no less than $150,000 to fund national programs for families of public safety officers who have died in the line of duty to maintain and enhance national peer support and counseling programs. It also authorizes the Bureau of Justice Assistance to use appropriated funds to conduct appeals of public safety officers' death and disability claims.

- **Bulletproof Vest Partnership Act of 1998 (S. 1605):** The bill authorizes the Director of the Bureau of Justice Assistance to (1) make grants to States, local governments, and Indian tribes to purchase armor vests for use by law enforcement officers and (2) gives preferential consideration to applications from jurisdictions that have a violent crime rate at or above the national average and that have not been providing each law enforcement officer assigned to patrol or other hazardous duties with body armor.

- **Public Safety Officers Educational Assistance Act of 1998 (S. 1525):** The legislation amends the Omnibus Crime Control and Safe Streets Act to provide financial assistance for higher education to the dependents of Federal, State, and local public safety officers who are killed or permanently and totally disabled as the result of a traumatic injury sustained in the line of duty. Currently, only the dependents of Federal public safety officers are eligible under the act.

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- **Mid-Atlantic Open Space and Farmland Preservation Act (H.R. 3566):** The bill authorizes the Secretary of the Interior to make grants to mid-Atlantic States (Delaware, Maryland, New Jersey, Pennsylvania) for open space and farmland preservation.

Senate Outlook

Next week the Senate is scheduled to consider the following:

- **American Competitiveness Act (S. 1723):** On Monday, May 18, the Senate will begin debate on S. 1723, the, H-1B visa waivers, sponsored by Spencer Abraham (R-MI). The Senate is expected to vote on final passage on S. 1723 the same day. This measure is designed to respond to a shortage of skilled labor in the information technology industry by increasing the annual cap on the number of temporary visas for foreign "specialty" workers under this program. The Secretary of Labor has recommended that you veto this bill because it emphasizes providing opportunities for foreign workers rather than providing opportunities for and protecting U.S. workers. In addition, the bill does not help ensure that U.S. workers do not lose their jobs to temporary foreign workers, nor does it ensure that employers have made bona fide efforts to recruit U.S. workers.

***NOTE: Following the debate on S. 1723, the Senate is scheduled to proceed to consideration of S. 1415, the McCain Tobacco Settlement bill.

MEXICAN AND SOUTH AMERICAN FIRES

- About 10,000 fires have burned over 600,000 acres in Mexico and Central America. These fires have created large plumes of smoke which are flowing north and east over the Texas coast from Brownsville to the Louisiana border. This smoke and haze from the fires have significantly restricted visibility over the last several days across southern and southeast Texas (including Houston).

The USAID Office of Foreign Disaster Assistance is sending an interagency team to Central America to determine their needs there. On the domestic front, EPA, FEMA, HHS and DOC are coordinating mitigation efforts in Texas (air quality issues). The National Weather Service is forecasting the wind trajectory over Mexico and into the US. The EPA's Region 6 office is installing five new fine particulate air monitors which will begin collecting samples tomorrow, May 16. Additional EPA staff will have been deployed to provide technical assistance and analyze this data. The personnel and analytical costs of this work will total approximately $140,000.

Are we doing [illegible] Should we do anything on

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NSC REPORT

- Please see attached report from General Kerrick.

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