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DPC Weekly Report - April 17, 1999

THE PRESIDENT HAS SEEN  
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THE WHITE HOUSE  
WASHINGTON

April 17, 1999

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*Reed*  
*Kagan*  
*Podesta*

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

*Reed*  
✓  
1. **Education -- Ed-Flex:** In response to your veto threat, House and Senate conferees agreed Thursday to drop the Senate amendment that would have gutted the class size program, and will report out an Ed-Flex bill that you can happily sign. The conferees also agreed to strong accountability provisions to help make sure states that make use of this new flexibility get results. On Monday, Secretary Riley had sent conferees a letter threatening a veto over the Senate Republican provisions to weaken class size. Thirty-six Senate Democrats signed a letter in support of the veto. The final bill should reach your desk in the next few weeks.

2. **Education -- ESEA:** On Monday, we will meet with civil rights leaders and Sen. Kennedy's staff in our continuing effort to reach agreement on the social promotion provisions of ESEA. Bill Taylor is reviewing our language and drafting a counterproposal for the civil rights community. Once we see it, we will send you a separate memo on whether we can get the community -- or at least Sen. Kennedy -- to accept a compromise consistent with what you said in the State of the Union.

✓  
3. **Education -- National Teacher of the Year:** On Monday, you are scheduled to announce the National Teacher of the Year in a ceremony in Presidential Hall. Your remarks will focus on the importance of high-quality teachers and challenging young Americans to become teachers. After your remarks, you will present Andrew Baumgartner with the 1999 National Teacher of the Year award. Baumgartner, an ex-Marine, has taught for 22 years and is currently teaching kindergarten in Augusta, Georgia.

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4. **Education -- Class-Size Study:** On April 29, Senator Patty Murray plans to announce the most recent findings of Project STAR -- the Tennessee study that has tracked the performance of students who were in smaller classes in grades K-3 in the mid-1980's. So far, the findings show that: students who were in smaller classes go on to take college entrance exams slightly more frequently than their peers in larger classes, and the gap in college entrance test-taking between poor and minority children and other children was substantially reduced. Researchers found no difference in ACT and SAT scores for students in smaller classes, although that could be due to the fact that a greater percentage of them were taking the tests. Senator Murray has suggested a White House event to release of the study, but we are waiting to see if stronger

additional data becomes available from the researchers comparing the performance of students in smaller vs. larger classes on high school graduation rates, completion rates of advanced placement and other challenging courses, and grade-point averages.

*For* **5. Children and Families -- Child Care:** The final budget resolution passed by Congress this week includes \$6 billion for child care -- \$3 billion over 10 years in new subsidy funding and \$3 billion over 10 years in enhanced child care tax relief. Although half the original amount sought by Senators Dodd and Jeffords, this action provides a real opening to achieve important pieces of your child care initiative this year. The Senate voted 66-33 in support of a Dodd-Jeffords motion to instruct conferees to include the funding increase. We will now turn our attention to working with the Senate Finance Committee, which has jurisdiction over child care subsidy and tax issues; four Republicans on the Committee voted for the Dodd-Jeffords measure (Jeffords, Hatch, Chafee, and Grassley).

**6. Crime -- Prison Drug Treatment:** As you know, as a result of the Administration's efforts, the FY 99 omnibus spending bill contained a provision to allow states to use up to 10 percent of their prison construction funds for drug testing, intervention, and treatment for prisoners and parolees. We were recently informed that half of the states have requested to use the full 10 percent of their construction grants to fund such activities. The Justice Department plans to issue a report on this soon.

**7. Health Care -- Medicare Update:** Starting next week, the Senate Finance Committee will hold a series of Medicare hearings. Senator Breaux and Rep. Thomas want you to unveil your legislative proposal first before they produce their own bill. In our meetings with Congressional offices over the last week, we are hearing (1) growing discomfort with the Breaux-Thomas recommendations; (2) the desire to develop a meaningful prescription drug benefit; (3) a great interest in the status of your Medicare reform package; and (4) increasing concerns about the imposition of additional provider payment reductions as we implement the 1997 BBA. Base Democrats are very concerned about the type of structural changes and programmatic savings we are developing for your consideration. While most are quite interested in a drug benefit, they are concerned about our possible approaches to modernize the program, make it more competitive, and achieve savings to help offset the cost of the drug benefit. In the wake of the good news by the Medicare Trustees about the new 2015 trust fund exhaustion date, members of Congress are more receptive than ever to provider concerns about reimbursement rates. To the extent that providers are successful in convincing the Congress to moderate these savings, it will become more difficult to find significant offsets that credibly go very far towards defraying the cost of the drug benefit.

**8. Health Care -- Shortcomings of HCFA Oversight of HMOs:** You recently asked our response to a recent GAO report that criticized HCFA for not assuring that HMOs are distributing accurate information about benefits, cost sharing, and appeals rights to Medicare beneficiaries. The report suggested that the lack of such information made it impossible for beneficiaries to challenge HMOs that have not provided contractually obligated benefits. In

4-19-99

3

response to this report and our inquiries, HCFA has acknowledged shortcomings in this area. At our urging, HCFA has agreed to ensure that HMOs participating in the next Medicare open enrollment period will be required to provide information about their benefits and cost sharing requirements in a standardized format. This will ensure that HCFA can quickly and accurately evaluate the content of brochures and other marketing material. In addition, Medicare HMOs will be required to provide information about appeal rights and disenrollment in a standardized format in order to ensure that Medicare beneficiaries are informed about their right to appeal decisions denying care or payment for services. We have informed HHS (along with OPM and other affected agencies) that implementation of the Patients Bill of Rights must be carried out as smoothly and aggressively as possible and serve as a model for the private sector. The New York Times editorial criticizing HCFA on this matter did acknowledge that, even with its implementation problems, Medicare provides much greater protections to beneficiaries than the private sector.

*gord* ✓ **9. Health Care -- Jeffords-Kennedy Update:** Senator Helms added his name as a cosponsor to the Jeffords-Kennedy-Roth-Moynihan Work Incentives Improvement Act this week. This leaves Senator Nickles as the primary barrier to bringing this measure to the full Senate for a vote. Although Senator Nickles is pressuring Senator Lott not to bring this bill to the floor, there is a bipartisan movement in the Senate to permit a vote in the upcoming weeks. There is similar momentum on the House side as the Commerce Committee is hoping to finalize a full committee markup later this month or early in May. This legislation represents the highest legislative priority of the disability community and they hope to help us deliver you a bill for signature by June.

*Ferry* **10. Health Care -- Patients Bill of Rights Update:** In the wake of your event promoting the Patients Bill of Rights last Friday and the positive New York Times editorial that the event inspired, moderate Republicans such as Senator Chafee have indicated interest ~~in developing a strategy to pass a compromise proposal.~~ These Republicans want to see this issue resolved prior to the 2000 elections. Unfortunately, the Senate Leadership, particularly Senator Nickles, have been able to seriously delay any progress on this issue within the Senate Finance Committee. In the House, Republicans such as Reps. Ganske and Norwood are reaching out to Rep. Dingell to determine if they can agree on a compromise measure that can attract well over 218 votes. Because these members are concerned about the lack of progress in the House on this issue, they may well be open to pursuing a discharge petition strategy in order to bypass a prolonged and unproductive committee process.

✓ **11. Health Care -- CHIP Update:** This week, the Washington Post reported that the CHIP program had enrolled 850,000 children to date, which they portrayed as a disappointing start to the program. On Tuesday, the First Lady will announce that in the first full year of program operation, the CHIP program has actually enrolled one million children. Your recent launching of the national toll-free number and a major public awareness campaign should help accelerate enrollment.

**12. Tobacco -- Billboards:** As part of the state tobacco settlement, tobacco companies agreed to remove their outdoor and transit advertising by next Friday -- although the settlement does not prohibit smaller signs that are placed inside or outside retail establishments or billboards at adult-only events. The companies also agreed to keep paying for the space after taking down their billboards until their leases expire so that states and tobacco-prevention groups can display anti-tobacco ads. Preliminary estimates from HHS conclude that the value of this anti-tobacco advertising could be as high as \$100 million. To support efforts to replace tobacco industry billboards with tobacco-prevention messages, CDC, FDA, and the National Cancer Institute (NCI) have been working together to provide technical assistance and the bulk printing of a select set of billboards. Thirty-nine states are expected to put up tobacco-prevention billboards, with 26 using the CDC/FDA selected ads and the remaining 13 states choosing to do their own. April 23rd coincides with the NATO summit, which may prohibit White House involvement, but we are hoping Secretary Shalala can do an event, perhaps in Boston.

**13. Welfare -- Illegitimacy Bonus Rule:** This week HHS published a final regulation defining how it will distribute \$100 million a year in bonuses to states that reduce the percentage of children born out of wedlock. Up to five states and three territories may qualify for bonuses of up to \$25 million each. This bonus was included in the 1996 welfare reform law. The statute makes clear that bonuses will go only to states that simultaneously reduce both out of wedlock births and abortions. Nationwide trends are moving in the right direction -- preliminary 1997 data show that the out-of-wedlock birth rate has declined for three years in a row after rising for 20 years, although the percentage of births to unmarried women, on which the bonus will be based, has remained at just over 32 percent in recent years after decades of increases.

**14. Welfare -- Legal Immigrants Benefits:** This week, Sen. Moynihan and Rep. Levin introduced a bill to restore health, disability and nutrition benefits to certain legal immigrants. The bill includes our \$1.3 billion proposal to restore SSI and Medicaid to immigrants arriving after 1996 who become disabled, furnish food stamps to those in the U.S. by 1996 once they become elderly, and provide states the option to provide Medicaid or CHIP to children and pregnant women who arrive after 1996. The Moynihan-Levin bill's food stamp and SSI restorations are more expansive than ours (the bill does not contain any offsets), but its Medicaid/CHIP proposals are identical. We are currently completing the legislative language for our proposal and will begin seeking bipartisan sponsors shortly.