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Sept. 26, 97 - DPC Weekly Report

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THE WHITE HOUSE  
WASHINGTON

THE PRESIDENT HAS SEEN  
9-29-97

September 26, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

**1. Food Safety -- Initiative on Imported Fruits and Vegetables:** We developed and leaked a food safety initiative last week to preempt expected criticism (including a major article by Jeff Gerth of the New York Times) that fast track legislation would endanger the nation's food supply by increasing imports of fruits and vegetables. The initiative: (1) calls for legislation authorizing the Food and Drug Administration (FDA) to halt imports of fruits, vegetables, or other food from any foreign country whose food safety systems and standards are not on par with those of the United States (the USDA currently has this authority over meat and poultry); (2) commits to seeking sufficient funds in Fiscal Year 1999 to enable the FDA to create a significant international inspection force; and (3) directs the FDA to issue guidance on good agricultural and manufacturing practices for fruits and vegetables, dealing with such matters as sanitation, worker health, and water use. We are still considering whether to add to this package a legislative proposal requiring "country of origin" labeling on produce, meat, and other food products. We like this proposal as a matter of policy, but do not yet know whether it would help or hurt the effort to enact fast track legislation.

**2. Education -- National Testing -- Test Development:** The group working on test specifications completed its work almost two weeks ago and included a controversial proposal to permit students to use calculators while taking the math test. Diane Ravitch, Checker Finn, Bill Bennett, and their Congressional allies reacted negatively both to the content of this proposal and to the continuation of any work on test development under the Department of Education's auspices. At our urging, Secretary Riley issued a statement opposing the calculator proposal, lauding the Senate-approved plan for placing NAGB in charge of the tests, and announcing that the test contractor would not develop any test items until NAGB approves the test specifications. This move reassured our Republican supporters that we will not proceed independently of NAGB. Bill Goodling, however, denounced Riley's statement, alleging that NAGB would become a "national school board" and vowing to continue his fight against the tests.

**3. Education -- National Testing -- Filibuster Threats:** On Thursday, Sen. Ashcroft released a letter signed by 27 Republican Senators expressing opposition to the tests, urging the conferees to support the Goodling amendment, and threatening to filibuster the Labor-HHS appropriations bill if the conference report includes support for the testing initiative. Fourteen of the signatories had voted in favor of the Senate-passed compromise testing plan, but switched

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✓ sides under pressure from the Eagle Forum and similar groups. We are working with Ravitch and Finn (and through them with Bennett) to shore up the remaining Republicans. In addition, we worked hard to round up 43 Democratic Senators to sign a letter, released by Sen. Bingaman the next day, vowing to filibuster the Labor-HHS bill if the conference report does not include the testing plan.

✓ 4. Education -- National Testing -- Goodling Letter: You received a letter from Bill Goodling on Friday afternoon concluding that "your stance on testing is making my job of authorizing an 'America Reads' program almost impossible." We are working with NEC to craft an appropriate response.

✓ 5. Education -- Single Sex Schools: We must determine how to proceed with respect to an experimental all-girls public middle school opened one year ago in New York City's East Harlem neighborhood. The New York Civil Liberties Union filed a complaint against the school with the Department of Education, charging that the school violates Title IX's prohibition against sex discrimination. Without informing the White House, the Department (through its Office of Civil Rights (OCR)) responded to the complaint last week by asking the New York City Board of Education either to admit boys to the school or to establish a separate all-boys school nearby. Chancellor Rudy Crew apparently will reject both of these proposals. If he does, OCR will face the choice of either dismissing the complaint or referring it to the Justice Department for legal action. The DPC is working with the Counsel's office to determine the best course to follow.

6. Education -- Vouchers: The Senate debated the DC appropriations bill on Thursday, with Democrats filibustering because of a voucher-provision similar to one you have vetoed previously. A cloture vote is expected Tuesday morning. Education groups count a solid 43 votes to sustain the filibuster. If the cloture motion fails, Senators Coats and Lieberman may withdraw the voucher provision. In the House, the Appropriations Committee is scheduled to mark-up its DC bill on Monday. Rep. Dixon is leading the effort against a "scholarship" (i.e., voucher) provision sponsored by Rep. Arme; Dixon has not decided whether he will seek to substitute another program or simply move to strike.

Meanwhile, the House version of the Coverdell K-12 IRA proposal, sponsored by the Speaker, is expected to be marked-up by Ways and Means on October 8. A floor vote probably will occur as part of a Republican "Education Week" from October 20 to 24, which also will include action on a reading/literacy bill, charter schools legislation, and FFEL/Direct Lending consolidation. Rep. Rangel is planning to offer as an alternative a proposal to provide tax credits for school construction. Senate Republicans have made no decision on when to bring up the Coverdell proposal, but many Democrats are already planning to offer the Daschle school construction bill as an alternative. As you may recall, you promised during negotiations for the Balanced Budget Agreement to meet with the Speaker and others (including a family) on the Coverdell proposal; we are trying to schedule this meeting to attract as little press attention as possible.

Handwritten notes in Arabic script on the left margin, including the word "مجلس" (Council) and "مجلس التعليم" (Education Council).



conservative enough for House Republicans. (As we told you last week, even that draft cut back on labor protections for workfare participants and weakened work requirements.) His new draft is a disaster. It deprives all workfare participants of the protections of the FLSA (including the minimum wage) and other labor laws (including workplace safety protections and anti-discrimination laws) by classifying these people as "trainees." It exempts not only workfare participants, but all working welfare recipients -- including those in subsidized private employment -- from FICA and FUTA. And it continues to weaken work requirements, again not only for workfare participants, but also for people in other kinds of subsidized work programs. We are telling Democratic Governors that we will not be able to support this bill, but remain amenable to narrow legislation exempting workfare participants from FICA and FUTA. We also ~~are actively pursuing a new idea to accomplish this exemption through administrative action.~~

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12. **Welfare -- Welfare-to-Work Transportation Proposal:** The Senate Banking and Urban Affairs Committee voted 11 to 7 on Thursday to add the Administration's welfare-to-work transportation proposal to the federal transit legislation. Sen. Moseley-Braun offered the amendment, which all Democratic committee members and Sens. D'Amato, Bennett, and Enzi supported. The Vice President sent a letter to the committee urging adoption of the amendment. The Senate version authorizes an \$100 million annual appropriation to help states and communities finance transportation projects to help welfare recipients get to work. In the House, Rep. Schuster had a \$42 million program in his budget-busting transportation proposal, but last week abandoned this proposal in favor of a six-month extension of current law.

Done

13. **Welfare -- Federal Welfare Hiring:** We expect the federal agencies to have hired more than 1,400 welfare recipients by October 1, six months after making the commitment to hire 10,000 in four years. The Vice President may highlight this achievement at a public appearance next week.

14. **Health -- FDA Reform:** The Senate passed the FDA reform bill this week by an overwhelming majority (98-2). As expected, the Senate bill did not sufficiently address our outstanding concerns -- particularly a provision that would preclude the FDA from reviewing new medical devices for uses other than the one the manufacturer says is intended. The House Commerce Committee is currently debating the legislation. We remain hopeful that we will be able to resolve all outstanding issues before the bill comes to you for signature -- probably in early November.

Done

15. **Health -- Genetic Screening/Medical Records Privacy:** Your SEIU speech calling on Congress to pass legislation on medical records privacy and genetic discrimination provoked a very positive reaction. The Senate Labor Committee asked us for help in drafting legislative language on medical records privacy, and plans to schedule another hearing on this issue in late October. The Committee also asked for a series of briefings on genetic discrimination by health insurers. The first of these meetings, which took place last week, went very well. We are also working with the Vice President and Department of Labor on issues relating to genetic discrimination in the workplace.

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**16. Health -- Consumer Bill of Rights:** Three leading health plans (Kaiser Permanente, Group Health Cooperative of Puget Sound, and HIP Health Insurance Plans) and two national consumer groups (AARP and Families USA) released joint principles for consumer protections this week. The principles included making health care services more accessible, providing consumers with a choice of plans, ensuring confidentiality, requiring full disclosure of benefits and other relevant processes, and guaranteeing coverage of emergency care. While the groups said that these protections should be national, they did not suggest a mechanism for enforcement. The principles received a great deal of media attention, thus enhancing Congressional interest in the consumer protection issue. We believe this announcement helps lay the groundwork for the Consumer Bill of Rights that you requested the Quality Commission to release this fall.