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Nov. 8, 1997 - DPC Weekly Report

THE WHITE HOUSE
WASHINGTON

THE PROPOSAL HAS BEEN
11-9-97

November 8, 1997

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MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. **Immigration -- Central Americans/Haitians:** House and Senate Republicans have concluded their negotiations over the legislative package intended to provide relief to certain Central Americans. The final package (to be incorporated in the D.C. appropriations bill) provides amnesty to Nicaraguans and Cubans, while ensuring application of the old immigration law's standards to Guatemalans, Salvadorans, and nationals of former Soviet bloc countries. Notwithstanding our best efforts, the bill provides no relief to Haitians. The bill also cuts in half unskilled worker visas (from 10,000 to 5,000 annually), and reduces diversity visas by 5,000 as well (from 50,000 to 45,000 annually).

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Because this package provides no relief to Haitians, Senator Moseley-Braun yesterday threatened to put a hold on the D.C. appropriations bill unless the Administration agrees to suspend the deportation of certain Haitians pending Congress's reconsideration of this issue next year. We quickly convened meetings involving the Departments of State and Justice, NSC, the Office of Legislative Affairs, the Office of Public Liaison, and others to discuss our options. We decided to ask Sen. Moseley-Braun and Rep. Conyers to seek commitments from the House and Senate leadership to consider Haitian legislation by a date certain. (In the Senate, Sens. Mack and Abraham appear to be on board this proposal.) With such commitments in place, the Attorney General could and would announce a decision to exercise prosecutorial discretion to suspend the deportations of individuals covered by the bill until Congress has had an opportunity to pass it.

If we cannot get commitments (or, at a minimum, informal assurances) from the Republican leadership to consider the Haitian issue next session, the Attorney General probably would not be able to exercise her prosecutorial discretion in this manner. In that event, you could decide to issue a Deferred Enforced Departure (DED) order to grant temporary relief to Haitians, as you said you would do to protect Central Americans in the absence of legislative action. The NSC might well recommend such an action on the basis of foreign policy considerations, though the Justice Department currently has some concerns about it. Everyone agrees, however, that we should not take this step without careful consideration and preparation -- i.e., we should not take it within 24 hours of a Senator's threat to hold an appropriations bill. Thus, if the AG cannot invoke her discretionary authority, we will attempt to convince Sen. Moseley-Braun that we share her objectives, that we are carefully considering ways of providing administrative relief to Haitians, and that she should drop her hold of the D.C. appropriations bill and allow this consideration to proceed.

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THE PRESIDENT HAS BEEN
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2. Immigration -- INS Reorganization: The House Judiciary Subcommittee on Immigration held a hearing yesterday on the Commission on Immigration Reform's proposal to disband the INS and reallocate its functions among the Departments of Justice, State, and Labor. The subcommittee did not invite witnesses from the Administration, but Bruce sent a letter to the Chair and Ranking Member (Rep. Lamar Smith and Rep. Watt) informing them of the Administration's intent to review the Commission's recommendations and work with the subcommittee to improve the management and administration of the nation's immigration system.

3. Education -- National Testing: The House passed on Friday the Labor-HHS Appropriations Bill, which included a compromise on national testing that we worked out with Rep. Goodling. The compromise language allows test development to proceed under NAGB's control with the \$16 million we asked for in our FY 1998 budget, but delays pilot testing until October 1998. The final legislation also directs the National Academy of Science to study (1) the feasibility of linking existing state and commercially available tests to each other and NAEP; (2) the technical quality of the national test items now under development; and (3) a set of issues, of concern to the Black and Hispanic Caucuses, regarding the use and misuse of test results. We were able to ward off any requirement for future congressional authorization to proceed with implementation of the national tests. We will have a repeat of this battle a month before the 1998 elections. Assuming we prevail, pilot testing will begin in the fall of 1998, field testing will commence in the spring of 1999, and the tests will be ready for full implementation in the spring of 2000. The attached chart shows how the final compromise solution compares to both our original plan and the House-passed Goodling Amendment.

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4. Education -- Charter Schools: The House also passed on Friday charter schools legislation that you previously had endorsed. The bill provides incentives to states to issue more charters, to give charter schools greater autonomy while ensuring that performance goals are met, and to allocate to charter schools their fair share of state funding. Earlier in the week, the Department of Education sponsored a national charter schools conference that drew over 800 participants, including charter schools operators and teachers. The conference gave participants the opportunity to become familiar with Education Department resources, to share lessons and strategies with each other, and to provide advice to the Education Department on the implementation of the charter schools program.

5. Education -- Vouchers/Coverdell: The House defeated a bill last week to permit local school districts to use Chapter 2 block grant funds for vouchers for low income students. The vote was 228 to 191, with 35 Republicans voting against the bill. In the Senate, proponents of the Coverdell proposal to permit tax-fee IRA's for K-12 education again failed to end a filibuster. The vote was 56-44.

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6. Health -- Quality Commission Update: We have tentatively scheduled an event on November 20 in which you will accept the Quality Commission's Consumer Bill of Rights and announce support for federal legislation (though not necessarily an Administration bill) to enforce certain consumer protections. We are also working with HHS on executive actions to apply the

Commission's recommendations to federal government programs. As you know, the consumer protection issue has received much attention recently because of statements from Republican leaders (Lott, Nickles, Arme) urging the business and insurance communities to oppose Federal legislation in this area. Sen. Lott supposedly has told businesses to "get off your butts and get out your wallets" and Rep. Arme has labeled any effort in this area "Clinton II." These statements are not playing well with the press or public. (Indeed, the 85 Republicans who have joined legislation by Rep Norwood (R-GA) going far beyond what the Quality Commission will recommend may have their doubts about these statements.) But the concern of the business community about premium increases is growing, and we will have to position ourselves carefully on this issue.

Handwritten notes in the left margin, including the word "Support" and other illegible scribbles.

7. Health -- Children's Health Outreach Initiative: As you know, three million children are now eligible for but not enrolled in Medicaid. Many more children will be eligible for but not enrolled in the new children's health insurance program (CHIP). We have been meeting with HHS, NEC, and the First Lady's office to develop ideas for a major children's health outreach initiative. Policy options could include: simplifying Medicaid eligibility rules; distributing a model single application form for both programs; taking off restrictions on certain funds so that states can use them for outreach; and making it easier to enroll children in these programs at schools and child care referral centers. We are also considering other private sector outreach initiatives, such as having businesses that market health plans to parents promote enrollment. Finally, we hope to form a public/private steering committee that would continue to develop and encourage innovative outreach efforts. This committee could include representatives from HHS, NGA, Americorps, America's Promise, prominent non-profit foundations, provider groups, and children's advocacy groups. If you and/or the First Lady are interested, we could design an event to announce this initiative.

8. Crime -- Brady Bill: The Department of Justice expects to sign a memorandum of understanding (MOU) next week between the Attorney General, the Ohio Attorney General, and the Franklin County Sheriff (OH) to ensure that all handgun purchasers in Ohio are subject to background checks. Since the Supreme Court's decision in Prinze, the Ohio Bureau of Criminal Identification and Investigation (BCI&I) has conducted background checks only on consenting purchasers. Under the proposed MOU, the Franklin County Sheriff will conduct background checks on any non-consenting purchasers. Arkansas is now the only state in the country not conducting background checks on all purchasers.

9. Crime -- Stalking Report: The Attorney General may release a report next week showing that an estimated 1.4 million women are the victims of stalkers each year, and that as many as 1 out of 12 women will be stalked during the course of their lives. The Justice Department simultaneously will release a manual of "best practices" for prosecutors to address the stalking problem.

10. Race -- Equal Employment Opportunity Commission Reforms: You recently asked about how to improve the performance of the EEOC and obtain additional resources for it. As you know, the EEOC has come under attack from all sides for inefficiency and delay in resolving cases. At the same time, Congress has denied the Administration's requests for additional funding to cope

with expanded case filings (from 62,135 in FY 1990 to a projected 80,000 in FY 1997), choosing to provide marginal or no increases in resources.

For the last several months the DPC has led a review (also involving OMB, PIR, NEC, OPL, and the Counsel's office) of the primary federal offices involved in civil rights enforcement. Our goal is to propose a coordinated package of reforms for the EEOC and the civil rights offices at DOJ HUD, HHS, Education, and DOL. With respect to the EEOC in particular, our review has suggested several ways to improve the performance of the agency. The most important, favored by employers and civil rights advocates alike, is a swift expansion of the EEOC's mediation program. Along with other changes at the Commission, including the improved use of technology and additional staffing, this reform could substantially increase the average speed of resolving complaints and reduce the EEOC's current backlog. We are working closely with OMB to determine the most appropriate level of resources to devote to this effort.

→ This is
crucial
Part 4!

KEY ELEMENTS OF THE PRESIDENT'S PLAN FOR NATIONAL TESTS

CLINTON PLAN	HOUSE BILL	FINAL AGREEMENT
Authorizes development of first-ever voluntary national tests in 4th-grade reading and 8th-grade math	NO -- total ban on development of national tests	YES -- authorizes immediate development of national tests
Puts independent, bipartisan NAGB in charge of tests	NO	YES
Provides \$16 million in FY98 for test development	NO -- no money for national tests	YES -- \$16 million for tests in FY98
Can proceed with pilot testing, field testing, and test administration without further authorization from Congress	NO -- would have required Congressional authorization before proceeding	YES -- does not impose requirement for future authorization from Congress
Begin pilot testing in 1998 (scheduled for March)	NO -- prohibits pilot testing	YES -- begin pilot testing in October 1998 instead of March