

4-21-98

THE WHITE HOUSE
WASHINGTON

April 13, 1998

MR. PRESIDENT:

The attached memo from Secretary Riley and Bruce Reed seeks a decision from you on the Administration's stance on the California bilingual education initiative on the June 2 ballot.

The memo, which I recommend you read, was written primarily by Mike Cohen and is the product of weeks of extensive discussions among your senior staff. Your advisors recommend that you oppose the initiative, but couple such opposition with a clear statement on strengthening and reforming bilingual education that would include a set of principles to guide local educators -- "reform not revoke" in a phrase coined by Rahm. In reaching this recommendation, your staff engaged in an extensive series of outreach meetings with the Hill, California officials and education activists.

All of your advisors, including the *Vice President, Secretary Riley, Bruce Reed, Rahm, Sylvia, Maria, Mickey Ibarra and Janet Murguia*, agree that this is the best strategy. If you approve, Secretary Riley would make the initial announcement in the next week or so. You would publicly express opposition during your trip to California in early May.

Secretary Riley has asked that you act upon this before you depart for Chile.

Phil Caplan
Phil

Copied to
Sec. Riley
Reed
COS
Mike Cohen

THE WHITE HOUSE
WASHINGTON

4-21-98

April 8, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: SECRETARY RILEY
BRUCE REED

SUBJECT: California Proposition 227 (Unz Initiative) to End Bilingual Education

On June 2, California voters will consider Proposition 227, otherwise known as the Unz Initiative, which proposes to eliminate virtually all bilingual education. This is California's third potentially divisive race-related initiative in four years, following on the heels of Proposition 187, which barred public benefits for illegal immigrants, and Proposition 209, which ended affirmative action.

Polls show that the initiative is popular and is likely to pass, although a strong opposition campaign could make the election close. Many Latino voters currently favor the initiative, but the polls show that Latino support has declined considerably as voters become more familiar with the details of the proposal. Latino activists are strongly opposed to Unz, and are looking to the White House to support their efforts to defeat it.

Over the past several months DPC and Education Department staff worked with Maria Echaveste, Mickey Ibarra, Karen Skelton, and Janet Murguia to study the Unz Initiative, consulting widely with both opponents and supporters in California, in Congress, and in the advocacy community. Although concerned about the effectiveness of some bilingual education programs, your advisors strongly believe that the Unz initiative is bad education policy and will harm students who need help the most.

We therefore recommend a strategy that Rahm has termed "reform, not revoke." Under this strategy, you would oppose the Unz Initiative because it deprives local educators of the ability to make educationally sound choices about how to meet the needs of Limited English Proficient (LEP) children. At the same time, you would articulate the principles you support for reforming and strengthening programs to help LEP students become proficient in English.

I. The Unz Initiative and Bilingual Education in California

A. Overview of the Unz Initiative

This initiative, authored and backed by Silicon Valley millionaire Ron Unz, is designed to end all bilingual education programs in California. More specifically, it would:

- Require that all public school instruction be conducted in English.
- Permit this requirement to be waived only if parents or guardians can show that the child already knows English, has special needs, or would learn English faster through an alternative instructional technique.
- Provide initial placement for LEP students in "sheltered English immersion" programs for a period normally not to exceed one year. Instruction in these programs would be conducted in English, with some accommodations in the curriculum to take into account the limited English language skills of the students.
- Appropriate \$50 million per year over 10 years to fund adult education programs designed to teach English to LEP adults who in turn pledge to provide English language tutoring to LEP students.
- Make teachers, administrators, and school board members subject to suits and personally liable for failure to implement the provisions of the initiative.

Unz and other backers of this initiative regard the existing system of bilingual education as a complete failure. They argue that because bilingual education relies so heavily on use of the students' native language and only slowly introduces English, the approach delays or prevents, rather than promotes, the acquisition of English. Further, they point out that although California's bilingual education law expired a decade ago, the legislature has been unable to enact legislation to reform a broken program. This initiative, they argue, will break the legislative impasse and dramatically improve educational opportunities for LEP students..

B. Bilingual Education in California

good argument for necessity of English capacity

Demographics. There are approximately 1.3 million LEP students in California, approximately one quarter of California's K-12 students. This number has nearly doubled in less than a decade, and represents some 43% of the national total. Seventy nine percent of California's LEP students are native Spanish speakers. As you know, Hispanics have a 50% dropout rate, and by most indicators their academic performance lags behind most other population groups in the state.

Educational Services. LEP students receive a wide variety of services intended to help them learn English and academic subjects. In 1997, only about 30% received what is conventionally considered bilingual education -- programs that make significant use of the student's primary language to teach academics while phasing in ever greater amounts of English language instruction. More than half participate in specially designed instructional programs that

help students learn English, while teaching other subjects in a way designed to be accessible to LEP students. (The Unz Initiative would eliminate these programs as well as conventional bilingual programs.) Approximately 16% of all LEP students are not receiving any language instruction services at all.

California Legal Framework. The legal framework for providing services to LEP students in California is murky. California's Bilingual Education Act expired in 1987, but the State Board of Education regulations implementing the act have remained in effect. Under this framework, school districts are required to help students become fluent in English and competent in other academic subjects, and are given a significant amount of flexibility in determining how to achieve these goals. Neither bilingual education nor any other specific approach to teaching LEP students is required.

There have been a number of unsuccessful attempts in the past decade to enact new legislation, but bilingual education reformers and advocates have been unable to agree on an approach. A fresh attempt to craft legislation has arisen in the past month, partly to take the steam out of Unz and to give Unz opponents something to support. This effort, however, is likely to end in failure.

Early in March the State Board of Education decided to eliminate the state bilingual education regulations. This process should be completed shortly before the vote on Unz. The effect of this action will be to eliminate any state requirement for the provision of specific services to LEP students, and to give local school districts even greater flexibility.

II. Political Context

The Unz initiative is currently the most serious threat to bilingual education, but it is not likely to be the last. Earlier this year Speaker Gingrich proposed eliminating bilingual education, and some conservative education experts (e.g., Diane Ravitch) have also called for its end. Last week, Rep. DeLay introduced a bill that would eliminate the federal bilingual education program, and House Republicans have included a \$75 million rescission of FY98 funding for bilingual education in the emergency supplemental bill. Especially if Unz passes, we are likely to see energized opposition to the federal program, and increased opposition to bilingual education in other states and localities.

The Unz initiative presents a political dilemma in California. If we oppose it, we risk alienating a majority of California Anglo voters. If we fail to oppose it, we risk alienating a vocal and increasingly influential group of Latino leaders, and possibly Latino voters.

Current polls show that a large majority of California Anglo voters support Unz. For Anglos, bilingual education may become a hot button issue similar to immigrant services and affirmative action. In contrast, Latino voters are split on the issue. While many continue to support Unz largely out of frustration at the public schools' failure to help their children, polls

show that Latino support is eroding as voters become more aware of the particulars of the initiative. It is likely that current polls overestimate Latino support for Unz, just as polls overestimated Latino support for Propositions 187 and 209.

Latino activists and elected officials oppose Unz. To some of the Latino leaders, Unz is a litmus issue, like Propositions 187 and 209. Latino leaders are looking to the White House to become actively involved in the opposition to Unz, and are fearful that we will choose to sit on the sidelines.

More organizations and elected officials are taking positions on Unz. The California education community -- including the California Teachers Association and the California School Boards Association -- is strongly opposed to Unz. Key Democratic officeholders (including Sen. Boxer, Rep. Becerra and most Democrats in the California delegation, State Superintendent Delaine Eastin, and Speaker Villaraigosa) have also announced their opposition to the Unz initiative. All three Democratic gubernatorial candidates have come out against Unz. Sen. Feinstein has not taken a public stance yet, though she appears likely to support Unz. A list of organizations, elected officials, and other leaders that have taken positions on Unz is attached.

The Republican state party has supported Unz, though many Republican officials, including Gov. Wilson, have not yet taken a position. Dan Lungren has not taken a position yet, but has recently said that the recent action by the State Board of Education has eliminated the need for Unz. There is always a chance that White House opposition to Unz could polarize the situation and push Gov. Wilson and other Republicans to support Unz, but at least some Republican leaders are afraid to support another initiative viewed as anti-Hispanic.

The political dilemma can be resolved with a "Reform, not Revoke" response. We believe the best approach to this issue is to strike a middle ground by admitting that bilingual education needs reforming, but asserting that Unz is not the way to do it. More specifically, we can:

- Start by reiterating the overriding importance of helping every child become proficient in English;
- Oppose Unz on the merits because it is too extreme;
- Remind voters what we are for, including both our overall approach to strengthening public education and our Hispanic initiative;
- Articulate the fundamental principles that you believe should be used by local communities to reform and strengthen their efforts to educate LEP students. These principles include setting a goal for school districts to help LEP students learn English within three years, holding schools accountable for results, providing local flexibility, and emphasizing quality in any approach used.

III. Specific Recommendations

I. Oppose Unz Initiative on educational and legal grounds.

Educational. There is little doubt that current programs for LEP students leave much room for improvement. While some promising efforts have emerged, the services now provided are not effective on a large-scale basis. Even when programs themselves are good, shortages of qualified teachers and poor implementation often limit the ineffectiveness

We believe, however, that the Unz Initiative would only make matters worse. A one-size-fits-all State prescription for how to educate LEP children -- and a demand that all special services cease in one year will retard progress toward the goal of helping LEP students learn English, reach high standards, and participate effectively in classrooms. Experience and research indicate that no one approach is the answer for all limited English proficient children. By limiting the discretion of schools and teachers to determine what works best for their LEP students, the Unz Initiative prevents teachers and parents from exercising common sense and professional judgment regarding how to serve individual children.

And even assuming we should pick a single method of educating LEP students, there is little to recommend the Unz "sink or swim" model. While a structured English immersion approach may be effective for some limited English proficient children, it is likely to be ineffective for many others. One year of special instruction -- whether in Bilingual Education or an English immersion approach -- rarely is sufficient to enable a child who starts the program with almost no proficiency in English to become proficient enough to participate in regular English-language classes.

Legal. Based on the educational problems described above, the Unz Initiative will raise serious issues under federal civil rights laws. In the seminal 1974 case of Lau v. Nichols, the Supreme Court interpreted Title VI of the Civil Rights Act to require school districts to take steps to ensure that national origin minority students with limited English proficiency can effectively participate in the regular educational program. Similarly, the Equal Educational Opportunity Act, enacted in 1974, requires public educational agencies to take appropriate action to overcome language barriers that impede student participation in instructional programs. Neither Lau nor subsequent cases addressing Title VI or the Equal Educational Opportunity Act mandate a particular approach to meeting these needs, but they require that sound educational approaches be implemented and evaluated.

Assuming (as we probably should) that some educational experts will vouch for the soundness of the sheltered English immersion approach mandated by the Unz Initiative, Department of Education lawyers believe that a legal challenge asserting that the Unz Initiative on its face violates Title VI or the Equal Educational Opportunity Act probably would not succeed. But they believe that the Unz Initiative will cause widespread violations of Title VI and the Equal Educational Opportunity Act once it is applied to cut off services to students

who need them. The only way that such violations will be avoided is if the State or local educational agencies use loopholes in the Proposition to extend services to LEP students beyond the year specified in the initiative. The Unz Initiative thus will create legal confrontations between California agencies and the Departments of Education and Justice over violations of civil rights laws, and will divert resources and attention that should be focused on educating children to conducting investigations and litigation.

Recommendation: For these reasons, we recommend that the Administration publicly oppose the Unz Initiative. Taking a position soon will allow us to help frame the debate and set a constructive tone, rather than get drawn into an already inflammatory debate. A prompt announcement will also allay concerns in the advocacy community that we may sit this battle out until it is too late to have an impact on the outcome. We think that Secretary Riley should make the initial announcement of the Administration's position within the next week to ten days.

We also believe that you should express opposition to the Unz Initiative during your visit to California in early May. We will also work with the Vice President's office to create an appropriate opportunity for him to state his opposition to Unz.

☒ Agree ☐ Disagree ☒ Discuss Further

2. Couple opposition to Unz with a clear statement of how local school districts can strengthen education for LEP students.

We believe that you should couple your opposition to Unz with a strong statement about the importance of helping LEP students learn English and the need for reforming and strengthening bilingual education. This statement would articulate principles to guide local educators in providing services to LEP students.

We seriously considered but rejected the idea of underscoring your commitment to improve bilingual education by also proposing statutory changes to the federal Bilingual Education Program. After consultation with members of the California Congressional delegation, the Hispanic Caucus and others, we concluded that this step would be premature since Congress is unlikely to pass or even consider your proposals until next year, when the bilingual education is scheduled for reauthorization. An Administration proposal now also would fuel other, potentially dangerous Congressional proposals to alter or eliminate bilingual education. Further, proposing changes to the federal program now would place members of the California Congressional delegation in a difficult position, because they would be forced to take a position on both the Unz Initiative and your legislative proposal.

We recommend a statement articulating the following principles:

Set a goal for school districts to help LEP students learn English within 3 years. All participants in this debate -- and especially parents of Hispanic and other LEP students -- want children to learn English as rapidly as possible. Bilingual education programs that prolong rather than speed the process of learning English, and are open-ended rather than transitional, do harm to students. But currently, few school districts establish clear time lines or goals for LEP students to learn English.

Challenging school districts to set and meet a clear goal of helping LEP students become proficient in English within 3 years will ensure that your opposition to Unz is not -- and is not taken as -- as an endorsement of the status quo. Setting a clear goal is the first step toward reducing the length of time it takes for students to master English. It will send a clear message to teachers and administrators to adopt educational strategies that will help students acquire English proficiency as rapidly as possible. In this context, you should also urge school districts to set the same academic standards and expectations for LEP students as for all others; notify parents of every LEP student of these goals when the student is first enrolled; assess student progress in English and other academic subjects annually and; identify early, and provide extra help, to students who are not making progress.

This proposal will be very unpopular with the Hispanic Caucus and the bilingual advocacy community. They will argue that there is no clear research base to establish a 3-year time frame, that individuals vary in how long they need to master English, and that pushing students to learn English early will slow down their ability to master other academic subjects. They will also argue that advocating a 3-year time frame -- or any other time limit -- plays into the hands of Unz and his supporters by weakening the ability of Unz opponents to make the case against the 1-year cut-off of services in his proposal. Further, they and many educators will argue that if it is necessary to set time lines for learning English, local educators and communities ought to take responsibility for determining the appropriate length of time.

We believe that you can mitigate these concerns by making clear that you are calling for a goal rather than a strict time limit, by emphasizing that accountability for meeting the goal rests primarily on local schools, and by not proposing to end language services to students who have not yet mastered English within 3 years. These responses may not fully satisfy the bilingual community, but the three-year goal is important enough, from both an educational and a political perspective, to take this risk of disagreement.

Local school districts must be accountable for performance and results. School districts must be held accountable for helping students become proficient in English as rapidly as possible. They should report publicly how well they are doing to meet the timelines they have established. They should test students periodically for English proficiency (as well as achievement in other subjects) to determine if they are making adequate progress, and they

should provide additional services or take other corrective actions as appropriate when students are not making adequate progress. School districts should evaluate their bilingual education programs regularly as well. If a program is not helping its students progress rapidly enough, the school district should strengthen it, or use another approach that research shows will work.

There must be local flexibility. As discussed above, no one-size-fits-all prescription for how to educate limited English proficient children will work. Local schools must have the flexibility to design programs that meet their particular needs, mix of students, and resources. So long as the goal is clear -- that students learn English as rapidly as possible -- and there is accountability for results, parents and educators should be free to work together to fashion programs that work for them.

The focus must be on strengthening quality, regardless of approach. The research on instruction for LEP students does not identify any particular approach (e.g. bilingual education, English immersion, English as a Second Language, or dual-language immersion) as more effective than others. Rather, it suggests that effective programs have well-prepared teachers who know how to teach reading and who are knowledgeable about second-language acquisition; provide students with a challenging curriculum and high academic standards; and regularly assess student progress and make adjustments in the instructional program accordingly. In short, if LEP students are to learn English and succeed in school, they must be in schools that work for all students--schools with high standards, good teachers, smaller classes, challenging curriculum and accountability for results. Because of this, any discussion of the steps required to strengthen local quality provides an opportunity to discuss your overall agenda for strengthening public schools

☒ Agree ☐ Disagree ☒ Discuss Further

Elected Officials, Associations, Activists are Taking positions on Unz:

Oppose Unz:

Senator Barbara Boxer
 Lt. Gov. Grey Davis
 Congressman Xavier Becerra
 Congressman Cal Dooley
 Congressman Bob Filner
 Congressman Lucile Roybal-Allard
 Congresswoman Zoe Lofgren
 Congresswoman Ellen Tauscher
 Congressman Vic Fazio
 Congressman Marty Martinez
 Delaine Eastin, Superintendent of Public Instruction
 Assemblyman Cruz Bustamante (former Speaker)
 Speaker Antonio Villaraigosa
 Senator President John Burton
 Supervisor Gloria Molina
 CTA
 MALDEF
 Republican Assemblyman Bill Leonard
 Republican Assemblyman Rod Pacheco (only R Latino Assemblyman)
 CABA

Support Unz:

Ron Unz
 Gloria Matta Tuchman
 Jaime Escalante
 Fernando Vega
 Mayor Richard Riordan
 Darrell Issa, Republican Senate Candidate opposing Barbara Boxer

THE WHITE HOUSE
WASHINGTON

THE PRESIDENT HAS SEEN
11-19-97

November 14, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

Copied
Reed
Kagan
Emanuel (p.5)

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1. **Family -- Adoption Legislation:** You are scheduled to sign new adoption legislation on Wednesday, in an event giving a prominent role to the First Lady. The legislation is a huge step forward in promoting adoption and improving our nation's child welfare system. The final bill largely incorporates the Administration's proposals in this area. In particular, the bill (1) makes clear that children's health and safety are the paramount concerns of the public child welfare system; (2) clarifies the "reasonable efforts" standard; (3) speeds up court hearings for children in foster care and generally requires states to initiate proceedings to terminate parental rights after a child has been in foster care for 15 of the previous 22 months; (4) provides states with financial incentives to increase the number of children who are adopted; (5) reauthorizes the Family Preservation Program (staving off an expected battle next year) and increases its funding; (6) ensures health coverage for adopted children with special needs by requiring states to provide coverage through Medicaid or the new child health program; (7) expands HHS's authority to issue waivers to states for child welfare and foster care demonstration projects; and (8) breaks down barriers to adoptions across state lines by prohibiting states from denying a suitable out-of-state adoption when no in-state adoption is available.

2. **Health -- FDA Reform Legislation:** You are scheduled to sign FDA reform legislation on Friday. This legislation reauthorizes the very successful user fee program that has enabled the FDA to speed the approval of new drugs. The bill also codifies the REGO reforms, emphasizing agency performance and accountability, that the Vice President successfully implemented at the FDA in 1995 and 1996. In the course of considering the legislation, Congress deleted or amended the provisions (involving, for example, off-label uses of drugs and devices) to which consumer advocates most strongly objected. We worked closely with Senator Kennedy in the effort to ensure consumer protections, and he happily cast the 100th vote in the Senate's unanimous passage of this legislation.

3. **Health -- Quality Commission:** You are scheduled to accept the Quality Commission's Bill of Rights on Thursday. We plan to submit a memo to you early this week summarizing the Bill of Rights and recommending an appropriate response. We are also reviewing possible executive actions to improve the quality of health care in the federal government. We will discuss these proposals in the memo as well. As a lead-up to your announcement on Thursday, we have

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asked the board of the Journal of the American Medical Association (JAMA) to brief the Vice President, Secretary Shalala, and Secretary Herman on its upcoming issue, which is dedicated entirely to concerns about health care quality. JAMA representatives are previewing this issue at the National Press Club on Tuesday, and an event with the Vice President on the same day should take advantage of media interest and provide a good basis for your announcement later that week.

4. **Health -- Satcher Nomination:** The Senate adjourned before acting on the nomination of Dr. David Satcher, notwithstanding a 12-5 committee vote in favor of confirmation. Senator Ashcroft placed a hold on the vote on the ground that Dr. Satcher supports the Administration's position on late term abortion. Some have suggested that the Senator took this action solely to position himself for a 2000 Presidential run. Dr. Satcher has never played a prominent role in the abortion debate and has disavowed any intent to use the Office of the Surgeon General to forward any "abortion rights agenda." Dr. Satcher continues to enjoy the strong support of a number of Republican Senators (Frist, Nickles, Jeffords) and of virtually every credible health care group in the nation, including the AMA. Although we are optimistic that the Senate will vote to confirm Dr. Satcher soon after returning in January, we will work hard throughout the recess to ensure that this nomination does not become a referendum on partial birth abortion.

5. **Health -- HHS Study on Take-Up Rates for Health Insurance:** You recently asked about an HHS study showing a decline in take-up rates for health insurance. The study reported on 10-year trends in access to and participation in employer-sponsored health insurance. It found that between 1987 and 1996, the proportion of workers with access to employer-based insurance remained constant at about 82 percent. The proportion of workers accepting that coverage, however, declined from 93 to 89 percent. The decline was most pronounced for young and low-income people; only about 75 percent of the individuals in each of these groups with access to insurance decided to purchase it. The study noted that the decline in take-up rates occurred during a period when premiums increased three times as much as wages. These findings confirm what the Administration has long recognized -- that affordability of insurance is as important as access to insurance. We hope that we will have an opportunity to build next year upon our efforts in granting Medicaid waivers and enacting the Children's Health Insurance Program to provide premium assistance for uninsured Americans.

6. **Tobacco/Health -- Florida Tobacco Settlement and Children's Coverage:** You asked last week whether we could agree to Florida's proposal to keep all the money it will gain from settling with the tobacco industry on condition that it use that money to expand children's health coverage. Current law gives us little room to enter into this kind of arrangement. The statute explicitly requires us to collect a specified share of any Medicaid dollars that states have recaptured. If we do not, private plaintiffs are likely to bring *qui tam* suits on behalf of U.S. taxpayers against Florida and other settling states; recovery in such suits would be split between the federal treasury (70-85 percent) and the private plaintiffs (15-30 percent). Of course, the federal government would have no right to recover (and any *qui tam* suits would fail) if the monies gained from the settlement were not Medicaid-related. But the Department of Justice believes that the damages Florida claimed -- and the amount it received in the settlement -- derive

2. *Can be creative in
defining what has been "recaptured"*

from costs to the Medicaid program. Given these circumstances, we think it most fruitful to pursue a legislative solution to the problem of allocating tobacco funds between the federal and state governments -- preferably through a comprehensive national settlement, but if necessary (in the event no comprehensive settlement is reached) through legislation authorizing states to retain all Medicaid funds recaptured in tobacco litigation provided they use these funds for agreed-upon purposes.

*Good
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legislation*

7. Tobacco -- Proposed Legislation: A number of Senators introduced tobacco legislation in the last two weeks. Sen. McCain introduced a bill precisely incorporating the terms of the settlement, except for the addition of provisions to protect tobacco farmers. Sen. Hatch introduced legislation increasing the cost of the settlement from \$368 billion to \$397.5 billion, raising (but not eliminating) the cap on penalties for failing to reduce youth smoking, and amending the FDA provisions, though not in a way that the public health groups will view as much of an improvement. Sen. Kennedy introduced a bill raising the cost of the settlement to more than \$600 billion, primarily by increasing the tobacco excise tax by \$1.50 over three years; the Kennedy bill does not provide tobacco producers with any relief from litigation. Sen. Lautenberg introduced a similar bill, costing \$494 billion.

No one has introduced comprehensive legislation in the House, and last week the Speaker indicated interest in breaking the settlement into a number of separate bills and acting on each as a consensus emerges. Also last week, Rep. Bliley said that he would not move legislation until the tobacco companies release 864 documents currently at issue in Minnesota's lawsuit. (The trial court found that these documents fall within the crime/fraud exception to the attorney-client privilege, but the tobacco companies have appealed this ruling.) Gingrich's and Bliley's statements may suggest a strategy of delay, but could as well have some altogether different meaning.

We are continuing to seek a bipartisan process for enacting comprehensive tobacco legislation. Both the Speaker and Sen. Lott, however, are proceeding slowly -- in part because they have had to attend to more immediately pressing matters, in part because they have not yet settled on an overall tobacco strategy, and in part because so many Members wish to play a role in developing tobacco legislation. We and John Hilley are keeping in close touch with Congressional leadership so that we can take advantage of whatever opportunities emerge in the next few months.

8. Welfare -- Cessna Event: At an event in Wichita on Monday, you will dedicate a new state-of-the-art welfare-to-work facility at Cessna Aircraft Company, which is one of the founding members of Eli Segal's Welfare to Work Partnership. You will announce (1) that in six months 2,500 companies from all 50 states have joined the Welfare to Work Partnership -- far exceeding the goal of 1,000 set at the launch of the Partnership; (2) that the U.S. Chamber of Commerce has committed to enlist every local chamber of commerce in persuading their members to join the Welfare to Work Partnership; (3) that welfare caseloads fell 236,000 in July 1997, 1.9 million in the 11 months since you signed the welfare law, and 3.8 million since you took office; and (4) that the Departments of Labor and Health and Human Services are issuing new work-focused welfare regulations (see below).

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✓ 9. **Welfare -- New Regulations:** The Administration will announce two sets of new regulations on Monday: (1) proposed regulations from HHS to states operating the TANF program (essentially, the regulations for the entire welfare law), and (2) interim final regulations from the Department of Labor to states and localities receiving grants from the \$3 billion Welfare to Work fund you won in the balanced budget agreement. The welfare to work regulation should arouse little comment. The TANF regulation, by contrast, may provoke extensive reaction from both Governors and advocates. As we told you in a prior weekly report, we worked extensively with HHS on this regulation. In the end, we were able to resolve all issues in a way that we think reinforces the importance of the law's work requirements while giving states flexibility to design welfare reform programs and a fair opportunity to correct any failures.

Under the TANF regulations, states that fail the work rates will be levied a penalty based on performance -- how close they came to meeting the rates. States will have the opportunity to correct or eliminate violations through a corrective compliance plan, and states that make substantial progress during their corrective compliance period will be eligible for a reduced or eliminated penalty. To protect states from unreasonable risk, the penalty for failing to meet the two-parent participation rate will be proportional to the size of the two-parent caseload in the state.

The regulation creates a system of disincentives to prevent states from gaming the work requirements, either by placing hard-to-employ individuals in state maintenance-of-effort programs (where the work rates do not apply) or by reclassifying the benefits received by these individuals as child-only (so that the individuals do not figure in the state's calculation of work rates). If the Secretary finds that a state has diverted recipients into a state program or reclassified benefits as child-only to evade the work requirements, she will refuse to reduce or limit the size of any penalties levied for failing to meet the work rates or time limits. The same disincentives apply when a state places individuals receiving child support payments in its state maintenance-of-effort program so as to prevent the federal government from gaining a share of these payments.

OK ✓ The regulation, like the law, allows states to reduce the required work participation rate by the percent the caseload has declined since 1995, so long as the lower caseloads are not due to new eligibility restrictions. HHS initially proposed that states should not get a credit for caseload reductions attributable to enforcement measures like fingerprinting, but ultimately agreed to change this position.

✓ The regulation also addresses Sen. Murray's concerns about victims of domestic violence without threatening the integrity of the work rules. Under the regulation, a state will not be penalized for failing to meet work rates or time limits if its failure to do so is attributable to granting waivers to victims of domestic violence -- provided that the waivers are temporary and that they are accompanied by services to help the individual prepare for work and self-sufficiency. Sen. Murray may think that the regulation does not go far enough, but we think it represents the best accommodation of the full range of interests.

10. **Immigration -- Central Americans/Haitians:** The D.C. appropriations bill, as finally enacted, includes provisions to (1) give amnesty to certain Nicaraguans and Cubans, (2) ensure application of the old immigration law's standards to certain Guatemalans, Salvadorans, and East Europeans, and (3) reduce the number of unskilled worker visas and diversity visas. Although the bill provides no relief to Haitians, we were able to secure commitments from the Republican leadership to consider legislation on this issue early next session. These commitments allowed the Attorney General to announce that the Department of Justice would suspend the deportation of any Haitians covered by the proposed legislation for approximately six months.

11. **Crime -- Crime Statistics:** The Justice Department released new crime data on Saturday from the annual National Crime Victimization Survey (NCVS). The highlights of the survey were included in this week's radio address. Crime victimization rates are today at their lowest level since the inception of the NCVS in 1973. The murder and violent crime rates fell 10 percent and property crime rates fell 8 percent in 1996. The decreases are even more significant when viewed over time: since 1993, violent and property crime rates dropped 16 percent and 17 percent respectively, and murder rates dropped a stunning 22 percent. Equally notable, these reductions were felt by all Americans -- by men and women alike, and by individuals from every racial group and income level.

12. **Crime -- Juvenile Crime:** The final Commerce/Justice/State appropriations bill contains significant new funding for our key juvenile crime priorities. The bill authorizes and funds a new \$250 million Juvenile Accountability Incentive Block Grant, 45 percent (\$113 million) of which must be spent on prosecutors, probation officers, and juvenile gun and drug court programs. Our budget contained \$150 million in direct funding for the same purposes. In addition, the Labor-HHS appropriations bill provides substantial new funding (\$40 million) for afterschool programs through the 21st Century Schools Program at the Department of Education. We proposed \$63 million for afterschool programs in our budget.

13. **Race/Education -- Urban Education Initiatives:** DPC staff met this week with senior representatives of several national organizations interested in urban education, including the Council of Great City Schools, the U.S. Conference of Mayors, the National Urban League, the Rainbow Coalition, the AFT and NEA, and MALDEF. Our staff provided a broad overview of education proposals under consideration for FY 1999, including (1) the College-School Partnership initiative to increase college enrollment among low income and minority students by providing mentoring and other support services and (2) the Education Opportunity Zone initiative to provide increased educational assistance to high-poverty districts that agree to adopt a standards-based reform agenda involving the end of social promotions, the removal of bad teachers, and the reconstitution of failing schools. The groups generally liked these proposals, but expressed a wide range of views about student accountability provisions. The AFT felt strongly that even the mentoring initiative should include a requirement that students meet certain academic standards, while the civil rights groups expressed opposition to any performance requirements.

14. **Race/Education -- California Bilingual Education Ballot Initiative:** Opponents of bilingual education in California have collected enough signatures to place an initiative on the June

11-19-97

1998 ballot to require that Limited English Proficient (LEP) children be taught in English (specifically, in "sheltered English immersion" classes for one year and then in ordinary English-language classes) unless a parent requests bilingual instruction. A recent Los Angeles Times poll found that over 80 percent of Californians supported such an initiative, including 84 percent of Latino voters. Most Hispanic groups have come out against the initiative, as has the California Teachers Association and Sen. Boxer. Other education groups and most public officials (Gov. Wilson, Lt. Gov. Davis, Attorney General Lungren, and Sen. Feinstein) have not yet taken positions on the initiative. The DPC has convened a working group with representation from the Department of Education and other White House offices to review the educational, legal, and political issues this initiative raises and provide you with appropriate analysis and advice. At this early stage, everyone in the group agrees that you should refrain from taking a formal position on the initiative. *ag*

X 15. **Race -- Service Initiatives:** We are working with the Corporation for National Service and the PIR on several race-related service initiatives that you might want to take a part in announcing. The actions are designed to lead up to Martin Luther King Day, which Congress officially designated in 1994 as a day of service -- "a day on, not a day off" -- in recognition of Dr. King's belief in service activities. The CNS will award \$225,000 in mini-grants to 70 communities to organize local days of service in observance of Martin Luther King Day. In addition, Harris Wofford wants to promote something called the "Kindness and Justice Curriculum," which is the brainchild of a youth service group involving Dexter King. The group is encouraging schools and students to do acts of "kindness and justice" in the two weeks leading up to Martin Luther King Day, to discuss them in class, and to post them on the Web. Finally, we are exploring ways to encourage interracial dialogue in the Corporation's service-learning programs, where children serve together and then reflect on that experience in school. These efforts can build on successful AmeriCorps service projects, like the CityYear program, that focus on diversity issues as part of the service experience.

*yes - I should do service
that day in intensive
efforts. Hopefully w/
AmeriCorps*

June 20, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed

SUBJECT: Bilingual Education

The House Education and the Workforce Committee recently passed the English Fluency Act, introduced by Rep. Frank Riggs, on a straight party-line vote. The purpose of this memo is to update you on both the status of the Riggs proposal and the development of an Administration alternative, and to present you with options for how to proceed.

I. Overview of Riggs Bill and Administration Alternative

The Riggs bill would eliminate the existing Bilingual Education and Emergency Immigrant Education programs and replace it with a block grant program that would require participating school districts to have a strategy for placing Limited English Proficient (LEP) students in regular English-language classes within two years and that would deny funding to districts for any children who remain in bilingual classes after three years. The bill would eliminate professional development programs designed to prepare qualified ESL and bilingual education teachers. It also would curtail the enforcement powers of the Education Department's Office of Civil Rights (OCR) by voiding existing voluntary compliance agreements between OCR and local school districts on educating LEP students and by requiring Congress to ratify any new guidelines and compliance standards on this subject.

We are finalizing an alternative bill based on the principles you and Secretary Riley articulated in opposing the Unz Initiative. (We are also working long-term on possible changes to Title I to help LEP students, but these changes will not be ready this year.) Our alternative bill would amend (rather than replace entirely) the existing bilingual education program. Specifically, it would require participating school districts to (1) establish a goal of preparing LEP students to enter regular English classrooms within three years; (2) conduct annual assessments of students' English proficiency; (3) provide additional help for students not on track to English proficiency; and (4) develop a corrective action plan, to be approved by the Secretary, if a significant percentage of students do not meet the three-year goal.

To ensure accountability for results, districts that fail to make adequate progress after implementing a corrective action plan would not receive continued funding. Districts that make outstanding progress toward the three-year goal would receive additional funding. In addition, the bill would guarantee local flexibility by removing the existing cap on funding for programs that do not use students' native languages and by removing the competitive priority currently

given to programs designed to maintain native language while helping students learn English.

We also have been working on other measures to help LEP students, which we could announce either together with or independently of our bilingual reform bill. Though we still have work to do on this package, and some parts of it will cost money, we expect it to include: (1) proposals to strengthen the recruitment, preparation, and continued training of bilingual and ESL teachers, including additional incentives to attract teachers to the field and mentoring programs for new teachers; (2) an initiative to promote community-based efforts to provide extra help for LEP students to learn English through, for example, after-school tutoring and Saturday programs; (3) a directive to the Secretary of Education to report on best practices, both in the U.S. and in other countries, to assist students to become proficient in the national language as quickly as possible; (4) a research program in how best to strengthen education for LEP students, including studies on the uses of technology; and (5) a proposal to help English-speaking students learn foreign languages, including new incentives and support for schools to offer foreign language classes in early grades.

II. Congressional Dynamic

The Riggs bill probably will proceed in the House on two parallel tracks: as a rider to the Labor-HHS-Education Appropriations bill and as a free-standing bill. There is no analogue to the bill in the Senate and no hint of activity on this issue.

The House Labor-HHS-Education Appropriations Subcommittee will mark up a bill this week and probably include Riggs in it. Subcommittee Democrats view the appropriations bill as so fundamentally flawed that they do not plan to offer any amendments. (The bill will provide about \$2 billion less than you requested for education spending; make significant cuts in Administration priorities such as Goals 2000; and contain a number of unacceptable riders including a prohibition on national testing and the creation of block grants out of existing programs.) House Democrats have not yet finalized a strategy for dealing with this bill in the full committee and when it comes to the floor. It appears likely that any amendments offered will be designed to promote a unified Democratic message rather than to improve the bill in material ways. We do not expect the Hispanic Caucus to make an effort to strip Riggs from the bill.

In addition, the Riggs bill probably will come to the floor as a free-standing measure shortly after the recess. Few Members have focused on this prospect yet, and we do not know whether they will want the cover of an alternative bill to reform bilingual education. Committee Democrats (including moderate Reps. Roemer and Kind) felt no need for an alternative bill during markup. Rep. Roemer, however, believes that Democrats will need an alternative on the floor. So far, members of the Hispanic Caucus, including Reps. Becerra and Hinojosa, have opposed a floor alternative (as do bilingual advocates), although they acknowledge that the Democratic Caucus as a whole might eventually want one.

III. Legislative Options

We must determine when and under what conditions to transmit legislation to reform

bilingual education. There are two basic options: to defer to Congressional Democrats, or to send a bill to Congress this summer, even if we have not obtained the agreement of House Democrats.

Option 1. Defer to the Congressional Democrats

One approach is essentially to leave this decision to House Democrats. We would consult with members of the Hispanic Caucus and other Democrats on our bill, incorporating their suggestions to the extent we could, but insisting that our three-year goal and strengthened accountability measures remain part of the legislation. If the Democrats decide that they want an alternative bill as Riggs proceeds -- and if they can live with the Administration's version -- we would introduce the bill. Alternatively, if they do not want an alternative -- or do not want our alternative (i.e., a bill with a three-year goal and strong accountability provisions) -- we would continue to articulate our principles on bilingual education, and announce other initiatives to help LEP students, but postpone transmittal of actual legislation until the Bilingual Act comes up for reauthorization next year.

The principal advantage of this approach is that it stands the best chance of keeping Democrats united -- on bilingual education in particular, but also on our overall education strategy. The approach will enable us to take as strong and united a base as possible into our many fights with Republicans on education programs. It also will enable us to draw as clear a line as possible between Republican and Democratic approaches to education issues.

The downside of this approach is that it places control over your bilingual reform proposal in the hands of Members who may not share your views -- and thereby minimizes your ability to take a leadership role on this issue. The chances are high that the Democratic Caucus either will not want an alternative bill, or will not want the kind of bill that we support. Accordingly, deferring to the Caucus probably means deferring transmittal of a bill until next year. In this event, you would have to make the case against Riggs without a specific proposal of your own.

Option 2. Transmit An Administration Bill This Summer

The alternative approach is to send up a bill this summer, even if it cannot get the support of the entire Democratic Caucus. We of course would consult with the Hispanic Caucus and other Democrats in an effort to get their backing, but if these discussions proved fruitless, we would send up a bill regardless. We then would define our opposition to Riggs on this basis.

This approach would demonstrate your clear commitment to reforming bilingual education and would position you in the reasonable center of the emerging national debate between those who are defending the status quo and those who are proposing extreme and punitive approaches. The approach would strengthen your ability to oppose Riggs (because you too would have a reform proposal). It also would give you the best chance of framing the bilingual reform issue and ensuring that yours is a preeminent voice in the debate as it goes forward.

The approach, however, has significant legislative downsides. If you send up a bill against the wishes of the Hispanic Caucus, not only they but probably the Black Caucus and liberal Democrats as well would oppose the measure. In the worst case scenario, the proposal would not find a Democratic sponsor, leaving you appearing wholly isolated on this issue. Even if the bill were introduced, it probably would not command much support; the same coalition could form against it as formed against our national testing initiative. Opposition by the Hispanic and Black Caucuses also could spill over into other legislative battles (although the prospects of support from the two caucuses on the testing issue is in any event very slim).

In assessing these pros and cons, you also should note an outside chance that Riggs will respond to your bill by offering a compromise. Riggs has indicated privately that he does not see large differences between his approach and the principles you articulated when opposing Unz. He also has hinted that he is prepared to drop the civil rights enforcement provisions in his bill. If Riggs were to modify his bill in order to look more like ours, we might be able to pass good bilingual reform legislation, but we would infuriate many House Democrats in our effort to do so.

Recommendation: Your advisors are split on this issue. I favor Option 2 as the best way to make progress on this issue, but recognize that your final determination may depend more upon political than upon policy calculations. Secretary Riley favors Option 1 because he wants more time to develop a bill and because he does not want to introduce a bill in the face of resistance from the Hispanic Caucus. Larry Stein, Maria Echeveste, Janet Murguia, Mickey Ibarra also recommend Option 1, principally on the latter ground.

_____ Option 1

_____ Option 2

_____ Discuss

DRAFT

June 18, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
LARRY STEIN (DO YOU WANT TO INCLUDE HIM ON THIS MEMO AS REQUESTED BY JANET?)

SUBJECT: Bilingual Education

On June 4, the House Education and Workforce Committee reported H.R. 3982, the English Fluency Act, introduced by Rep. Frank Riggs. This bill raises many of the same programmatic issues and political dynamics as the Unz Initiative in California. The purpose of this memo is to update you on this proposal and the development of an Administration alternative, and to present you with options for how to proceed.

I. Overview of Riggs Bill

The bill would eliminate the existing Bilingual Education and Emergency Immigrant Education programs and would (1) distribute funds through a block grant that is not targeted toward school districts with the highest quality programs and greatest funding need; (2) require states to withdraw funding from local programs in cases where students do not master English within two years and set a 3-year limit for serving any individual student, though it would not provide any extra help for students or corrective action for programs that need it; (3) not require States to maintain their own efforts; and (4) eliminate professional development programs designed to prepare qualified ESL and bilingual education teachers. The bill also seeks to sharply curtail the enforcement powers of the Education Department's Office of Civil Rights by voiding existing voluntary compliance agreements between OCR and local school districts with regard to educating LEP students and by requiring OCR to publish -- and the Congress to ratify -- new guidelines and compliance standards for Title VI enforcement. These provisions would weaken enforcement of Title VI of the Civil Rights Act of 1964 and result in increased litigation.

II. Development of Administration Alternative

We are on track to have an alternative bill based on the principles you approved and Secretary Riley articulated in his statement of opposition to the Unz Initiative completed and ready for transmittal to Congress by the end of this week. This bill would amend (rather than replace entirely) the existing bilingual education program. Specifically, it would require participating school districts to (1) establish a goal of preparing LEP students to enter successfully regular English classrooms in

not more than three years, (2) conduct annual assessments of student's English proficiency; (3) provide additional help for students not on track to English proficiency; (4) develop a corrective action plan, to be approved by the Secretary, if a significant percentage of students do not meet the 3-year goal. If student performance does not improve after a year, no additional funding would be provided. The bill would also provide incentives for districts that make outstanding progress toward the three year goal, by providing them with an additional 2-4 years of funding. In addition, the bill would guarantee local flexibility by removing the existing cap on funding for programs that do not use the students native language, and would remove the competitive priority currently given to programs designed to maintain native language while helping students learn English.

This bill would be a solid first step to reform federal programs to help students become proficient in English. The Education Department is working on a more thorough approach as part of its planning for the reauthorization of ESEA. This approach would include a more thorough overall of the bilingual education program, as well as an effort to make Title 1 a more effective tool for helping LEP students learn English.

III. Congressional Dynamic

H.R. 3892 was reported out of committee on a straight party line vote (22-17). While the bill will certainly move in the House, there is no hint of movement on the Riggs bill in the Senate. Barring unforeseen developments, we do not expect either the Senate authorizing or appropriations committees to take up this issue.

The Republicans will include the Riggs bill as a rider to the Labor-HHS-Education Appropriations bill when it is marked up in subcommittee on June 2x. Subcommittee Democrats view this bill as so fundamentally flawed that they do not plan on offering any amendments to try and improve it. The bill will provide approximately \$2 [CK] billion less than you have requested for overall education spending; it will make significant cuts in Administration priorities such as Goals 2000, and will contain a number of unacceptable riders including a prohibition on national testing and the creation of one or more block grants out of existing programs.

House Democrats have not yet finalized a strategy for this bill at the full committee and when it comes to the floor. They presume that you will issue a veto threat as the bill moves forward. It appears likely that any amendments offered will be designed to promote a unified Democratic message rather than to materially improve a bill will be still be fundamentally flawed. We do not expect the Hispanic Caucus to mount an effort to strip Riggs from the bill. Consequently, it is entirely possible that there will not be a vote or significant debate on bilingual education on the House floor.

It seems unlikely that the Republicans will completely pass up the opportunity to push a debate on this popular issue, and we cannot rule out the possibility that Riggs will come to the floor as a free-standing measure. Notwithstanding the success of the Unz Initiative, Committee Democrats did not feel compelled to offer an alternative to Riggs's bill during committee markup.

Moderate Committee Democrats (e.g., Reps. Roemer and Kind) as well as the four Members of the Hispanic Caucus on the Committee (Reps. Martinez, Romero-Barcelo, Hinojosa and Sanchez) decided to vote against the Riggs bill even without a Democratic alternative.

However, it is quite possible that House Democrats will feel compelled to offer an alternative if and when the bill hits the floor so that they can vote for reform of bilingual education. Leaders of the Hispanic Caucus, including Caucus Chairman Becerra and Education Committee Member Hinojosa, have quietly acknowledged that, for the greater good of the Democratic Caucus, such a floor alternative might become necessary. However, up until now they have been adamantly opposed to a floor alternative, and remain to be convinced that one is necessary for a successful floor strategy. In addition to their own apprehensions, Hispanic Caucus members are under substantial political pressure from bilingual advocates to steer clear of an alternative. While moderate Democrats themselves were not clear at the time of committee mark-up if they would need an alternative, there are now growing signs of interest in one among moderates, and ongoing discussions about this with the Hispanic Caucus members.

IV. Options for Leadership

Regardless of how the Riggs bill moves forward over the coming weeks and months, the national debate over bilingual education will continue. We believe that you must be an active player in that debate, in order to shape Congressional action on the federal program, as well as the broader debate that will affect state and local actions throughout the nation.

We see three options for how you can proceed. Any of these options could be carried out shortly after you return from China.

Option 1. Transmit An Administration Bill

Sending up a bill in the near future would demonstrate your clear commitment to reforming bilingual education, and would position you in the reasonable center of the emerging national debate, between those such as Unz and Riggs who are proposing extreme and punitive approaches on the one hand, and those who are defending the status quo that was rejected by a large margin of the public, at least in California. From this point of view, it will be important to transmit the bill as soon as possible in the event that the Riggs bill captures press attention as it moves forward. It will provide House Democrats with a ready-made alternative to Riggs if they feel the need for one. Even if this bill is not introduced or does not garner much support among Democrats, by staking out a clear and independent Administration position now, you can have a significant impact on next year's debate, when legislation to reform bilingual education is more likely to reach your desk.

There are significant legislative downsides to introducing an Administration bill now, if House Democrats have otherwise concluded that they neither want nor need an alternative bill. In particular, introducing an alternative at this time would be perceived by the Hispanic Caucus as jumping the gun strategically, and preempting meaningful consultation regarding the substance of

an alternative. It would generate a hostile reaction from the Caucus, and is likely to recreate the same divisions among House Democrats we saw last year on national testing. The prospects that the Black Caucus would ally itself with the Hispanic Caucus and Republicans in opposition to your bill are high. Under these circumstances, there is a good chance that your proposal would not find a Democratic sponsor, or if introduced and allowed to come up on the floor as an alternative to Riggs, would be defeated by a large, bipartisan margin. Opposition by the Hispanic and Black Caucus would almost certainly spill over into renewed opposition to continued funding for the national test (though the prospects of support from the two caucuses is slim at best in any event), and perhaps to other legislative battles as well.

Further, there is the outside chance that sending up an Administration alternative that lacks support from Democrats could push Riggs to seek to narrow the differences between his approach and yours. He has indicated privately that he does not see large differences between his approach and the principles outlined in the Administration's opposition to Unz, and that he is ultimately prepared to drop the civil rights enforcement provisions in his bill. If Riggs were to modify his bill in order to more closely reflect the principles in ours, we would have a difficult time opposing his bill and would risk infuriating Democrats if we cut a deal with him.

Option 2. Defer to the Congressional Democrats on the Timing of Transmittal

An alternative course of action would be to proceed immediately to consult with members of the Hispanic Caucus and other Democrats on the shape of an alternative bill, using the Administration bill as the starting point, and making our 3-year goal and strengthened accountability as nonnegotiable principles which must be incorporated into any legislation we would support. While there is no guarantee that Democrats in general and the Members of the Hispanic Caucus in particular will endorse our approach, we can gain leverage in these negotiations by making clear that a veto threat to Riggs remains dependent upon the introduction of an alternative consistent with our principles. We can also make clear that we will transmit a reauthorization bill next year that is fully consistent with these principles.

If we determine together with House Democrats that an alternative is strategically necessary when the bill comes to the floor or is taken up by the appropriations committee, we could then introduce a bill consistent with our principles that would unite, rather than divide Democrats. Alternatively, if House Democrats either do not want an alternative when the Riggs bill or the Appropriations bill reaches the floor, or will not support an approach based on our principles, we can reassess our position at that time and either send up our own alternative or choose to wait until next year's reauthorization.

This approach is more likely to unite the Democrats over a potentially divisive issue, keep them united for the larger education and other battles over the coming months, and enable those of us in the Administration to focus our time and energy on fights with Republicans rather than on infighting within the Democratic Caucus.

There are clear downsides to this approach as well. It places a large measure of control over the timing and, to some extent the content, of your own proposal in the hands of Members who do not share your views about the need or way to reform bilingual education. Consequently, the chances are high that you would not transmit legislation at all this year, and you would therefore be unable to position yourself or to effectively define the debate.

Option 3. Announce a Comprehensive Plan to Help Students Learn English, with Legislation to be Sent up Next Year

A third alternative would be to announce a package of steps, designed to advance a comprehensive approach to helping LEP students receive a world-class education and become proficient in English. The idea is to broaden the debate beyond the design of the bilingual education program, and focus instead on a range of steps that would support the goal of helping students learn English within three years. This package is still under development and may not be ready until several weeks after you return from China. It would include:

- **A Proposal to Overhaul the Federal Bilingual Education Program and Related Programs.** You would announce that next year you will send Congress legislation that would complete overhaul federal efforts to help LEP kids learn English. The overhaul would set a 3 year goal for students to become proficient in English, hold schools accountable for results, provide communities with the flexibility to determine how best to meet the goal, and give parents greater choice. Legislation sent to Congress next year would be more sweeping than the package of amendments available at present. It would also address how the Title 1 program--which serves far more students than the bilingual education program--will also be redesigned to help LEP students become proficient in English, according to the same principles outlined above.
- **A Directive to Identify National and International Models of Best Practice.** You would direct the Secretary of Education to produce a report by next Fall that would identify places in the U.S. and in other countries with sizeable immigrant populations (e.g., Canada and Israel) that help students become proficient in English (or another 2nd language as appropriate) within 3 years. The purpose of the directive would be to inform the development of our legislative proposal and to focus the attention of the public and educators on effective ways to help students more rapidly become proficient in English.
- **An Initiative to Strengthen Teaching for LEP Students.** The existing bilingual education program provides strong support for the recruitment, preparation and continued training of bilingual and ESL teachers. We are exploring ways to better highlight and strengthen this component. In addition to further expanding our investments in this area, options under discussion include creating mentoring programs to help beginning teachers, providing additional incentives to recruit well prepared teachers, and strengthening the provisions in Title 1.

- **An Initiative to Promote School/College Partnerships, Tutoring, and Other Community-Based Support for Helping Students Learn English.** We are exploring how best to use existing programs, including America Reads, the 21st Century Learning Program, and High Hopes as the foundation for promoting grass roots efforts to mobilize extra help for LEP students to learn English through after-school tutoring, Saturday programs, and other mechanisms to recruit adults, particularly bilingual adults, to help students learn English.
- **An R&D and Technology Initiative.** We can strengthen efforts to help students learn English with an R&D initiative targeted to areas that have the potential for high impact. These might include continued studies and demonstrations of best practices, the development of technology-based assessments of language proficiency, and the development of programming to promote English language acquisition, for use as digital TV comes into widespread use. It might also include demonstration programs focused on the best ways of helping young adult (18-24) recent immigrants, who have not completed high school in their country of origin, do not enroll in high school in the U.S., learn English.
- **A Proposal to Help English Speaking Students Learn Foreign Languages.** This package provides an important opportunity to broaden the debate about bilingual education by recognizing the value of bilingualism in a global economy. In particular, we could propose an initiative to expand the existing \$5 million program that promotes foreign language instruction, and focus it on encouraging more schools to provide foreign language instruction in the early grades, when students are best equipped to learn a second language.

This more comprehensive approach would give you a strong basis for leading the national debate about bilingual education, while providing the time to fully develop a comprehensive Administration package as part of the FY 2000 budget process. By not transmitting legislation now, it avoids the prospect of creating a rift with and among Congressional Democrats. However, if there was agreement among Congressional Democrats that an alternative to Riggs was necessary in the short run, the package of amendments we have already drafted could be used.

The primary downside to this approach is that it could be seen by the press as an effort to delay changing the bilingual education program, because legislation would not be sent until next year, while Riggs is in play right now.

Recommendation: *Elena—we'd need to circulate this, though I suspect that most of those involved in the deliberations to date would favor option 3.*

_____ Option 1	_____ Option 2	_____ Option 3	_____ Discuss
Send Now	Defer to House Democrats on Timing	Announce a Comprehensive Plan	

Hispanic and Black Caucus would almost certainly spill over into renewed opposition to continued funding for the national test (though the prospects of support from the two caucuses is slim at best in any event), and perhaps to other legislative battles as well.

Further, there is the outside chance that sending up an Administration alternative that lacks support from Democrats could push Riggs to seek to narrow the differences between his approach and yours. He has indicated privately that he does not see large differences between his approach and the principles outlined in the Administration's opposition to Unz, and that he is ultimately prepared to drop the civil rights enforcement provisions in his bill. If Riggs were to modify his bill in order to more closely reflect the principles in ours, we would have a difficult time opposing his bill and would risk infuriating Democrats if we cut a deal with him.

Option 2. Defer to the Congressional Democrats on the Timing of Transmittal

An alternative course of action would be to proceed immediately to consult with members of the Hispanic Caucus and other Democrats on the shape of an alternative bill, using the Administration bill as the starting point, and making our 3-year goal and strengthened accountability as nonnegotiable principles which must be incorporated into any legislation we would support. While there is no guarantee that Democrats in general and the Members of the Hispanic Caucus in particular will endorse our approach, we can gain leverage in these negotiations by making clear that a veto threat remains dependent upon the introduction of an alternative consistent with our principles. Since no bilingual education bill is likely to pass this year, we can also make clear that we will transmit a reauthorization bill next year that is fully consistent with these principles.

If we determine together with House Democrats that an alternative is strategically necessary when the bill comes to the floor or is taken up by the appropriations committee, we could then introduce a bill consistent with our principles that would unite, rather than divide Democrats. Alternatively, if House Democrats either do not want an alternative when the Riggs bill or the Appropriations bill reaches the floor, or will not support an approach based on our principles, we can reassess our position at that time and either send up our own alternative or choose to wait until next year's reauthorization.

This approach is more likely to unite the Democrats over a potentially divisive issue, keep them united for the larger education and other battles over the coming months, and enable those of us in the Administration to focus our time and energy on fights with Republicans rather than on infighting within the Democratic Caucus.

There are clear downsides to this approach as well. It places a large measure of control over the timing and, to some extent the content, of your own proposal in the hands of Members who do not share your views about the need or way to reform bilingual education. Consequently, the chances are high that you would not transmit legislation at all this year, and you would therefore be unable to position yourself or to effectively define the debate.

Option 3. Announce a Comprehensive Plan to Help Students Learn English, with Legislation to be Sent up Next Year

A third alternative would be to announce a package of steps, designed to advance a comprehensive approach to helping LEP students receive a world-class education and become proficient in English. The idea is to broaden the debate beyond the design of the bilingual education program, and focus instead on a range of steps that would support the goal of helping students learn English within three years. This package is still under development and may not be ready until several weeks after you return from China. It would include:

- **A Proposal to Overhaul the Federal Bilingual Education Program and Related Programs.** You would announce that next year you will send Congress legislation that would complete overhaul federal efforts to help LEP kids learn English. The overhaul would set a 3 year goal for students to become proficient in English, hold schools accountable for results, provide communities with the flexibility to determine how best to meet the goal, and give parents greater choice. Legislation sent to Congress next year would be more sweeping than the package of amendments available at present. It would also address how the Title 1 program--which serves far more students than the bilingual education program--will also be redesigned to help LEP students become proficient in English, according to the same principles outlined above.
- **A Directive to Identify National and International Models of Best Practice.** You would direct the Secretary of Education to produce a report by next Fall that would identify places in the U.S. and in other countries with sizeable immigrant populations (e.g., Canada and Israel) that help students become proficient in English (or another 2nd language as appropriate) within 3 years. The purpose of the directive would be to inform the development of our legislative proposal and to focus the attention of the public and educators on effective ways to help students more rapidly become proficient in English.
- **An Initiative to Strengthen Teaching for LEP Students.** The existing bilingual education program provides strong support for the recruitment, preparation and continued training of bilingual and ESL teachers. We are exploring ways to better highlight and strengthen this component. In addition to further expanding our investments in this area, options under discussion include creating mentoring programs to help beginning teachers, providing additional incentives to recruit well prepared teachers, and strengthening the provisions in Title 1.
- **An Initiative to Promote School/College Partnerships, Tutoring, and Other Community-Based Support for Helping Students Learn English.** We are exploring how best to use existing programs, including America Reads, the 21st Century Learning Program, and High Hopes as the foundation for promoting grass roots efforts to mobilize extra help for LEP students to learn English through after-school tutoring, Saturday programs, and other mechanisms to recruit adults, particularly bilingual adults, to help students learn English.

- **An R&D and Technology Initiative.** We can strengthen efforts to help students learn English with an R&D initiative targeted to areas that have the potential for high impact. These might include continued studies and demonstrations of best practices, the development of technology-based assessments of language proficiency, and the development of programming to promote English language acquisition, for use as digital TV comes into widespread use. It might also include demonstration programs focused on the best ways of helping young adult (18-24) recent immigrants, who have not completed high school in their country of origin, do not enroll in high school in the U.S., learn English. This population accounts for a significant part of the large Hispanic dropout rate; helping them learn English would improve their own chances and increase the ability of their children to learn English.
- **A Proposal to Help English Speaking Students Learn Foreign Languages.** This package provides an important opportunity to broaden the debate about bilingual education by recognizing the value of bilingualism in a global economy. In particular, we could propose an initiative to expand the existing \$5 million program that promotes foreign language instruction, and focus it on encouraging more schools to provide foreign language instruction in the early grades, when students are best equipped to learn a second language.

This more comprehensive approach would give you a strong basis for leading the national debate about bilingual education, while providing the time to fully develop a comprehensive Administration package as part of the FY 2000 budget process. By not transmitting legislation now, it avoids the prospect of creating a rift with and among Congressional Democrats. However, if there was agreement among Congressional Democrats that an alternative to Riggs was necessary in the short run, the package of amendments we have already drafted could be used.

The primary downside to this approach is that it could be seen by the press as an effort to delay changing the bilingual education program, because legislation would not be sent until next year, while Riggs is in play right now.

Recommendation: *Elena—we'd need to circulate this, though I suspect that most of those involved in the deliberations to date would favor option 3.*

_____ Option 1	_____ Option 2	_____ Option 3	_____ Discuss
Send Now	Defer to House Democrats on Timing	Announce a Comprehensive Plan	

DRAFT

June 5, 1998

MEMORANDUM FOR THE PRESIDENT

FROM:

SUBJECT: Bilingual Education

On June 4, the House Education and Workforce Committee reported H.R. 3982, the English Fluency Act, introduced by Rep. Frank Riggs. This bill raises many of the same programmatic issues and political dynamics as the Unz Initiative in California. The purpose of this memo is to update you on our strategy for addressing this bill.

I. Overview of Riggs Bill

The bill would eliminate the existing Bilingual Education and Emergency Immigrant Education programs and would (1) distribute funds through a block grant that is not targeted toward school districts with the highest quality programs and greatest funding need; (2) require states to withdraw funding from local programs in cases where students do not master English within two years and set a 3-year limit for serving any individual student, though it would not provide any extra help for students or corrective action for programs that need it; (3) not require States to maintain their own efforts; and (4) eliminate professional development programs designed to prepare qualified ESL and bilingual education teachers. The bill also seeks to sharply curtail the enforcement powers of the Education Department's Office of Civil Rights by voiding existing voluntary compliance agreements between OCR and local school districts with regard to educating LEP students and by requiring OCR to publish -- and the Congress to ratify -- new guidelines and compliance standards for Title VI enforcement. These provisions would weaken enforcement of Title VI of the Civil Rights Act of 1964 and result in increased litigation.

II. Development of Administration Alternative

We are on track to have an alternative bill based on the principles you approved and Secretary Riley articulated in his statement of opposition to the Unz Initiative completed and ready for transmittal to Congress by the end of this week. This bill would amend (rather than replace entirely) the existing bilingual education program. Specifically, it would require (1) school districts to establish a goal of preparing LEP students to enter successfully regular English classrooms in not more than three years, (2) annual assessments of student's English proficiency; (3) additional help for students not on track to English proficiency; (4) a corrective action plan, to be approved by the

Secretary, from programs in which a significant percentage of students do not meet the 3-year goal. The bill would also guarantee local flexibility by removing the existing cap on programs that do not use the students native language.

III. Congressional Dynamic

H.R. 3892 was reported out of committee on a straight party line vote (22-17). Notwithstanding the success of the Unz Initiative, Committee Democrats did not feel compelled to offer an alternative to Riggs's bill during committee markup. Moderate Committee Democrats (e.g., Reps. Romer and Kind) as well as the four Members of the Hispanic Caucus on the Committee (reps. Martinez, Romero-Barcelo, Hinojosa and Sanchez) decided to vote against the Riggs bill even without a Democratic alternative.

It is not clear when the bill will be scheduled for House floor consideration, although it could well be scheduled before the end of June. There is no hint of movement in the Senate. It is quite possible that House Democrats will feel compelled to offer an alternative when the bill hits the floor so that they can vote for reform of bilingual education. Leaders of the Hispanic Caucus, including Caucus Chairman Becerra and Education Committee Member Hinojosa, have quietly acknowledged that, for the greater good of the Democratic Caucus, such a floor alternative might become necessary. However, up until now they have been adamantly opposed to a floor alternative, and remain to be convinced that one is necessary for a successful floor strategy. Moderate Democrats themselves are not yet clear if one is needed. In addition to their own apprehensions, Hispanic Caucus members are under substantial political pressure from bilingual advocates to steer clear of an alternative.

We could be ready to transmit an Administration alternative to Riggs in concert with the Portland State commencement address or any time thereafter. While announcing your own legislation in this short time frame would clearly demonstrate your commitment to reforming bilingual education, we believe such an approach would have very serious drawbacks in the Congressional arena.

In particular, introducing an alternative within the next week or so would be perceived by the Hispanic Caucus as jumping the gun strategically, and preempting meaningful consultation regarding the substance of an alternative. It would generate a hostile reaction from the Caucus, and is likely to recreate the same divisions among House Democrats we saw last year on national testing. The prospects that the Black Caucus would ally itself with the Hispanic Caucus and Republicans in opposition to your bill are high

The alternative course of action, which we recommend, would be to proceed immediately to consult with members of the Hispanic Caucus and other Democrats on the shape of an alternative bill, using the Administration bill as the starting point, and making our 3-year goal and strengthened accountability as nonnegotiable principles which must be incorporated into any legislation we would support. While there is no guarantee that Democrats in general and the Members of the Hispanic

Caucus in particular will endorse our approach, we can gain leverage in these negotiations by making clear that a veto threat remains dependent upon the introduction of an alternative consistent with our principles. Since no bilingual education bill is likely to pass this year, we can also make clear that we will transmit a reauthorization bill next year that is fully consistent with these principles.

If we determine together with House Democrats that an alternative is strategically necessary when the bill comes to the floor, we could then introduce a bill consistent with our principles that would unite, rather than divide Democrats. If, as the bill comes to the floor, House Democrats either do not want an alternative, or will not support an approach based on our principles, we can reassess our position at that time and either send up our own alternative or choose to wait until next year's reauthorization.

WHAT IS THE ADMINISTRATION'S POSITION ON BILINGUAL EDUCATION?

- President Clinton and I have made education our number one domestic priority in order to prepare all of America's children—native-born and immigrant—for the 21st century.
- Nearly 20 percent of all children in our nation's schools are immigrants or children of immigrants. These children are a source of great strength to America -- if we help them learn English and get a high-quality education.
- Today, there are growing questions about how to best help these young people get the education they need. I support a wide array of local efforts, including bilingual education, when they truly help children 1) learn English, and 2) succeed in the core academic subjects. Any local effort should be designed to accomplish two goals.
- For bilingual education, that should mean setting goals for children to get mainstreamed into regular classes within three years, improving teacher training, and providing greater flexibility and accountability for local schools to help their children succeed.

WHY DOES THE ADMINISTRATION OPPOSE THE "UNZ" INITIATIVE THAT IS LIKELY TO BE APPROVED BY CALIFORNIA VOTERS TODAY?

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- Today, there are growing questions about how to best help these young people how to accomplish these objectives, and I know that there are many well-intentioned and concerned citizens in California have differing views on the "Unz" initiative.
- But let me be clear: the administration supports local efforts that can 1) help children learn English well and 2) succeed in the core academics. We think "Unz" will do neither. The one year time limit and one-size-fits-all approach in "Unz" limits the ability of local communities and schools to tailor approaches that meet the needs of their children.
- That's why we oppose "Unz" and instead favor supporting a wide array of community efforts to help children succeed. For bilingual education, that should mean setting goals for children to get mainstreamed into regular classes within three years, improving teacher training, and providing greater flexibility and accountability for local schools to help their children succeed.

What is your position on legislation in Congress along the lines of the “Unz” initiative?

- The President and I will work with anyone trying to find ways to help children learn English well and make progress in the core academics. But like “Unz”, legislation under consideration in Congress would not accomplish these objectives.

WHAT LEGAL STEPS WILL THE ADMINISTRATION TAKE IF “UNZ” IS APPROVED TODAY? WILL THE ADMINISTRATION JOIN LAWSUITS CHALLENGING “UNZ”?

- It would not be appropriate for me to comment on a hypothetical question about a decision still facing the California voters today.