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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

September 13, 1981

FOR: EDWIN L. HARPER
FROM: MICHAEL M. UHLMANN
SUBJECT: Q's and A's on Legal Equity Task Force

Other than typos noted on the press release and the penultimate page of the Q's and A's, the text is technically accurate.

Now as before, my only substantive concern with this whole process is that we must be careful not to oversell it. With the obvious exception of large chestnuts like Social Security, we are for the most part dealing with decidedly non-big ticket items. To the extent we oversell the Task Force and its purposes, we run the risk of creating false expectations which can only lead to disappointment.

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 9/9/82 ACTION/CONCURRENCE/COMMENT DUE BY: 9/16/82SUBJECT: Q's and A's on the Task Force on Legal Equity
for Women

	ACTION	FYI		ACTION	FYI
HARPER	☐	☐	DRUG POLICY	☐	☐
PORTER	☐	☐	TURNER	☐	☐
BARR	☐	☐	D. LEONARD	☐	☐
BOGGS	☐	☐	OFFICE OF POLICY INFORMATION		
BRADLEY	☐	☐	HOPKINS	☐	☐
CARLESON	☐	☐	COBB	☐	☐
DENEND	☐	☐	PROPERTY REVIEW BOARD	☐	☐
FAIRBANKS	☐	☐	OTHER		
FERRARA	☐	☐	<u>Emily Rock</u>	☐	☐
GALEBACH	☐	☐		☐	☐
GARFINKEL	☐	☐		☐	☐
GUNN	☐	☐		☐	☐
B. LEONARD	☐	☐		☐	☐
LI	☐	☐		☐	☐
MONTOYA	☐	☐		☐	☐
SMITH	☐	☐		☐	☐
✓ UHLMANN	☐	☐		☐	☐
ADMINISTRATION	☐	☐		☐	☐

REMARKS:

Please comment and return to me.

Thanks.

- E. Rock

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

September 14, 1982

FOR: JAMES A. BAKER
FROM: MICHAEL M. DUHLMANN
SUBJECT: Senator Hatch

Following last week's report that Orrin Hatch had teed off on certain members of the staff re abortion, I asked Steve Galebach to summarize his activities. Since all of his recommendations were cleared through me before going forward, his account tracks precisely with my own knowledge of events. We made a particular point of not appearing to undercut Hatch's proposal. If you think Orrin needs further stroking, I'd be happy to talk to him.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

September 13, 1982

FOR: MICHAEL M. UHLMANN

FROM: STEPHEN H. GALEBACH *SH*

SUBJECT: Role of White House Staffers Concerning President's
Posture on Senator Hatch's Anti-Abortion Amendment

In a conversation on Wednesday with Jim Baker, Senator Hatch apparently said that he suspects staffers in the White House of attempting to sabotage his anti-abortion amendment in favor of Senator Helms' measure. He apparently named me among others as those that he suspects.

Morton Blackwell, a longtime backer of Senator Hatch and his amendment, cleared the record on Friday by calling Senator Hatch to explain the truth of the matter. But the record should be set straight in-house as well.

The facts are directly contrary to what Senator Hatch suspects. I have taken great care not to recommend any actions by the President that would impede Senate consideration of the Hatch Amendment. (However, since it is unclear when the Hatch Amendment will come up for a vote in the Senate, I have held off making any recommendations for concrete Presidential action on it.)

Since I joined the White House staff, my purpose has been to make recommendations consistent with the President's opposition to abortion in general, consistent with his announced sympathy equally for the Helms, Hatch, and Hatfield measures (as he stated to the National Right-to-Life Convention and the Knights of Columbus), and consistent with avoiding a Presidential choice among competing anti-abortion measures.

As a result, I have recommended that the President support both Helms and Hatch. In fact, I drafted and recommended the language about the President's continued support of the Hatch Amendment which was included in the President's letters to Senators. I also worked closely with Jack Burgess and others to ensure that the President's action would not be offensive to the United States Catholic Conference and other supporters of the Hatch Amendment. At one point, Hatch's own staffer on this issue, Steve Markman, told me that his boss supported cloture on the Helms measure and that such action was not inconsistent with supporting the Hatch Amendment.

In all of this, I have strived to serve the interest of the President, and not that of Senator Helms, Senator Hatch, or any other of the various factions of the pro-life movement.

To the best of my knowledge, Senator Hatch's suspicions are equally unfounded with regard to all others on the White House staff with whom I have worked. No one on the White House staff has at any time encouraged me to take actions or to make recommendations adverse to Senator Hatch's amendment.

Finally, as to my personal views, I am in wholehearted agreement with the President's approach of expressing support for all anti-abortion measures without choosing one over the others.

TALKING POINTS
Tuition Tax Credit Meeting

- o Your leadership over the past years has been instrumental in advancing the cause of tuition tax credit to the point it is at today.
- o Tuition tax credit is one of my highest priorities, and I would like to see it reported favorably out of the Finance Committee tomorrow and enacted by the Senate this session.
- o I know that Senator Bradley and others have raised concerns over the anti-discrimination provisions in the bill. During the Labor Day recess, we developed, in consultation with your staffs, new compromise language which accommodates all the valid concerns of Senator Bradley.
- o I am convinced that the new provisions are an excellent balance that will prevent racially discriminatory schools from reaping tax benefits, while protecting racially fair-minded schools from excessive government intrusions and burdens.
- o Our new compromise proposal has been well received in the Finance Committee, and I think everyone will agree that it reflects a reasonable good faith effort to solve a thorny problem. The whole spectrum of tuition tax credit supporters enthusiastically supports the compromise.
- o I would like you to support my compromise proposal.
- o I hope that Senator Bradley will not find it necessary to pursue his amendments, but if he does, I would like your support to defeat them. (Senator Bradley's amendments do not provide any protections for the legitimate interests of private schools. Tax credit supporters agree that adoption of his amendments would seriously unbalance the bill and make it unpassable. I cannot allow such amendments to be tacked onto the bill.)
- o Your support and leadership are essential for us to get the bill reported out with enough momentum and broad enough support to pass this year.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

September 14, 1982

FOR: JAMES A. BAKER
FROM: MICHAEL M. *M*UHLMANN
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MEMORANDUM

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SUBJECT: Role of White House Staffers Concerning President's
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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

September 15, 1982

MEMORANDUM FOR THE RECORD

FROM: WILLIAM P. BARR

SUBJECT: Bradley's Proposed Changes to Compromise Language on
the Tuition Tax Credit Bill

As I understand changes to the proposed compromise language being requested by Senator Bradley, they are (1) eliminating the double negative in the last phrase, and (2) inserting the words "or practices" after the word "policy", as indicated in the attached.

Eliminating the double negative in the last phrase is, I think, a change that benefits us, and one we should make regardless of Bradley's request.

The insertion of the word "practices" probably doesn't present a problem. It could be a sneaky effort to insinuate an "effects" test by differentiating between "policy" and "practices." Brad Reynolds doesn't think this is much of a threat. Even if that's Bradley's purpose, this bill is not destined to become law and we probably have nothing to worry about.

BRIEFING PAPER

TUITION TAX CREDIT MEETING

Mark-up is scheduled in Senate Finance Committee for tomorrow morning (9:30 or 10:00 a.m.).

It is still not clear whether Senator Bradley will continue to pursue his amendments to our anti-discrimination provisions. Bradley's amendments (Tab A) would create a right of private enforcement and unfettered IRS enforcement with no safeguards against abuses of the past.

Over the Labor Day recess, we developed a "compromise" in close consultation with the staffs of Senators Dole, Packwood, and Moynihan. The compromise sticks firmly to our basic DOJ enforcement approach and has been approved by the coalition of credit supporters. An outline of the compromise is attached as Tab B.

Last week we offered the compromise to Senators Packwood, Moynihan, and Bradley. Yesterday we started an intensive two-pronged legislative effort: (1) we visited the staff of every Finance Committee Senator who might conceivably support us; and (2) Brad Reynolds or Buck Chapoton are personally visiting each of the Senators.

This is the picture so far:

- o The compromise has been well received by everyone as a "reasonable, honest, good faith effort" by the Administration (even Senator Bradley's staff indicated this).
- o Senator Bradley has not indicated whether he intends to proceed with his amendments.
- o If it comes down to a vote between our compromise and Senator Bradley's amendments, we think we have 5 or 6 relatively firm votes: Dole, Armstrong, Symms, Grassley, Long, H. Byrd.
- o Another 5 are inclined to support us, but would be highly reluctant to do so unless Senators Packwood and Moynihan are on board: Roth, Danforth, Wallop, Durenburger, Boren.
- o Packwood has not yet indicated what he will do.
- o Moynihan has told the U.S. Catholic Conference that our compromise is "real fine" and that he will support it. We do not have an unequivocal commitment that he will resist Bradley's amendments.

We need 10 votes to win. If Packwood and Moynihan support us, Bradley will probably cave. If he does not, and Packwood and Moynihan vote with us, we would likely beat Bradley handily, with 14-15 votes.

If Packwood and Moynihan stay on the fence or side with Bradley, it will be quite difficult, though not impossible, to muster 10 votes. Even if we were to beat Bradley under these circumstances, however, the whole matter would be escalated to a highly visible and intense controversy, and we would face a tough floor fight.

Attached (Tab C) is a list of Senators on the Senate Finance Committee and an assessment on where they stand.

Substantive Issues

No one has made any specific criticism of our compromise. The disagreement appears more fundamental.

Senator Bradley does not trust DOJ enforcement and wants to add two back-up mechanisms: (1) private enforcement actions, and (2) IRS administrative enforcement.

The arguments against Bradley's position are set forth in the Fact Sheet attached as Tab D.

Privately, Packwood and Moynihan would probably agree with our criticisms of Bradley's amendments, but may nevertheless back Bradley for political reasons.

Proposed Changes to the Anti-Discrimination Provisions of the
Tuition Tax Credit Bill

1. New Eligibility Requirement (p. 4)

The new bill would contain a provision requiring schools to publish a statement of nondiscriminatory policy in their bylaws, brochures, admissions materials, and other publications.

2. Annual Statement Under Oath is Retained (p. 2)

The new bill would retain the original requirement that each school file with the Secretary of the Treasury and send to parents an annual statement under oath that the school has not discriminated on the basis of race during the calendar year.

3. Changes in the Triggering of the Declaratory Judgment
Procedure and Investigation by the Attorney General (pp. 5-6)

The original bill provided that to trigger an investigation by the Attorney General, a person who had been discriminated against by a school had to file a complaint.

The new provision would allow a petition to be filed by any person, provided that person alleges with particularity:

- (a) an act of discrimination, or
- (b) a communication expressing a discriminatory policy.

Under the original bill, the Attorney General was authorized to file a declaratory judgment action whenever he finds good cause, upon investigation, to believe that a school follows a racially discriminatory policy.

Under the new bill, the Attorney General would be authorized and directed to file suit under such circumstances.

Once the Attorney General files suit, he must show that the school is following a racially discriminatory policy, but under the new bill he is not bound or limited by the allegations contained in the petition that triggered the suit. The Attorney General must show actual evidence of racial discrimination, not failure to meet a quota or numerical standard.

The old bill contained a provision allowing the Attorney General to enter into a settlement agreement with schools against which complaints have been received. This provision would be retained.

If Senators so desire, the Administration would have no objection to a provision requiring regular reports by the Attorney General to Congress concerning the disposition of petitions and actions filed pursuant thereto.

4. Reinstatement of Credits (pp. 1-2, 6-7)

Under the original bill, a school adjudged to be discriminatory became automatically re-eligible for credits after a three-year penalty period.

The new bill would impose an indefinite penalty period, which continues until the school shows in court that it no longer discriminates.

The new bill would provide that the school may not move to reinstate its eligibility for credits until it has maintained a clean record for at least one year following the judgment against it.

The school must make a showing that it has ceased its discriminatory policy, communicated its change in policy to the community, and complied with various publication requirements.

5. Stay of Penalties Pending Exhaustion of Appeals (pp. 1-2)

The original bill stayed all penalties until all appeals have been exhausted. Under the new bill, penalties could go into effect immediately upon entry of judgment by the district court against a school.

6. Commencement of Penalty Period (pp. 1-2, 8-9)

The original bill provided that penalties would not be imposed until final appeal, but that when imposed they would be retroactive to the year in which the complaint was filed.

Under the new provisions, the penalties would go into effect at the time the district court judgment is entered, but the penalties are retroactive only to the beginning of the calendar year in which the judgment was entered. Tax returns filed for previous years will generally not, therefore, have to be reopened.

7. Enforcement Responsibility (p. 3)

The new bill would direct the Secretary of the Treasury to provide the Attorney General all information relevant to the Attorney General's investigations and actions under the bill.

8. Attorneys Fees (p. 8)

The new bill would add a provision for the award of attorneys fees for schools that are found not guilty of racial discrimination following an action under this section.

Senate Finance Committee

Line-Up on Tuition Tax Credits and Bradley Amendments

Dole	Will fully support us.
Packwood	Has not yet taken a position.
Roth	Strongly inclined to support us, but would feel exposed unless Packwood on board.
Danforth	Inclined to support us, but reluctant to do so unless Packwood on board.
Chafee	Strongly opposes tuition tax credits and would likely support Bradley.
Heinz	Wants to avoid the whole issue. Will not be at mark-up and will probably not leave proxy.
Wallop	Opposes tuition tax credits, but would be inclined to help us against Bradley to avoid embarrassment of Administration.
Durenberger	Inclined to support us, but reluctant to do so unless Packwood on board.
Armstrong	Will support us.
Symms	Likely to support us.
Grassley	Likely to support us, but would like Packwood on board.
Long	Likely to support us.
H. Byrd	Opposes tuition tax credits, but we think he will help us defeat Bradley.
Bentsen	Opposes tuition tax credits and will probably back Bradley.
Matsunaga	Will likely do whatever Packwood and Moynihan do.
Moynihan	A question mark.
Baucus	Will oppose us.
Boren	Opposes tuition tax credits, but we think he may help us against Bradley.
Bradley	
Mitchell	Will probably oppose us.

FACT SHEET: SENATOR BRADLEY'S AMENDMENTS TO THE
TUITION TAX CREDIT BILL

The Administration has proposed substantial revisions to the anti-discrimination section of its tuition tax credit bill. These revisions meet most of Senator Bradley's concerns.

Two of Senator Bradley's proposed changes have not been adopted by the Administration. These are:

- o the authorization of private enforcement actions that may be brought in federal court by any citizen against any private school; and
- o a mandate for IRS enforcement with no standards or limits on the intrusiveness or burden of such regulation.

The Administration believes both proposals are unwise and, if adopted, would make the bill politically unpassable. On this point, all groups in favor of tuition tax credits agree with the Administration.

Private Enforcement Action

Senator Bradley has proposed an amendment that would:

". . . authorize a private right of action to seek a declaratory judgment that a school has followed a racially discriminatory policy by persons alleging they are harmed by the school's participation in the tuition tax credit program."

- o This amendment would depart from the general rule that public law is enforced by government authorities, not private citizens, especially when the law involves the denial of benefits or the exaction of penalties. (This is to be distinguished from private rights of action that are meant to compensate the victim of wrongful discrimination.)
- o The dangers of departing from this general rule are especially great when the potential defendants are small schools with very limited financial resources, which could easily be destroyed by the costs of defending against frivolous, harassing law suits. Litigation costs will ultimately be borne by the parents. The costs of defending against a groundless lawsuit, even for a short time, would often completely offset the value of the credits.

- o The amendment would expose a school to potential liability every time it makes any decision regarding a minority student: including decisions concerning admissions, discipline, placement on athletic teams, or even the grading of exams and papers.
- o The amendment is so broadly worded that suits could even be brought by public school authorities or teachers unions that allege harm from a private school's participation in the tuition tax credit program.

Unrestricted IRS Enforcement

Senator Bradley's amendments would give the IRS carte blanche. They would establish this IRS enforcement role in addition to other enforcement mechanisms, would direct the IRS to establish procedures for auditing schools that are eligible for tuition tax credits, and would require that audit procedures be done "in a manner that maximizes compliance with the legislation's anti-discrimination provisions."

Senator Bradley's amendments thus contemplate four tiers of policing mechanisms:

- (1) private enforcement actions;
- (2) Attorney General enforcement;
- (3) enforcement of the tax-exempt requirement under 501(c)(3) (as ultimately determined by the Supreme Court or by Congress); and
- (4) IRS enforcement of the anti-discrimination provisions of the tuition tax credit bill.

No institution, especially a small private school, can function effectively under four tiers of federal regulation.

Senator Bradley's amendments suffer from other flaws as well:

- o These amendments contain no limits whatever on the ability of the IRS to impose unwarranted burdens on schools, to apply unfair quota-based standards to define discrimination, or to presume schools guilty and make them prove their innocence -- all issues which have stirred great controversy in the past.
- o IRS enforcement would by nature place the burden on each school to prove its innocence, since the IRS generally makes taxpayers prove eligibility for benefits.

- o The mandate for aggressive audit procedures, with no stated limits, openly invites the IRS to implement procedures similar to its 1978-79 proposed revenue procedures concerning private schools, which created a bitter controversy and a record number of letters and comments.
- o Because of past controversies over IRS enforcement, any attempt to define the enforcement role for IRS before the Supreme Court decides the Bob Jones case, will simply arouse passions on both sides of this controversy and make the tuition tax credit bill unpassable.

Conclusion

The Administration's compromise strikes a fair balance by, on the one hand, guaranteeing that credits will not be used to promote discrimination and, on the other hand, ensuring that the integrity of racially fair-minded private schools is not jeopardized.

Senator Bradley's amendments would shift this salutary balance by conferring on the IRS unfettered enforcement power, while showing no sensitivity to the legitimate needs of racially fair-minded schools.

Further, Senator Bradley's amendments would set a bad precedent. If the Supreme Court holds that a new statute is required to authorize denial of tax-exempt status to racially discriminatory schools, the Administration has made it clear that it will seek such a statute. No one would want Senator Bradley's approach -- with its private enforcement actions and unfettered IRS role -- to serve as a model. Senator Bradley's ideas, if carried over into the area of 501(c)(3) status generally, would expose a broad range of private institutions, going beyond private schools, to unwarranted burdens and to excessive risks of intrusions and harassment.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

September 16, 1982

FOR: EDWIN MEESE, III
FROM: WILLIAM P. BARR
SUBJECT: Proposed Compromise to Tuition Tax Credit

I believe we should not agree to the compromise unless we extract from Senators Packwood, Moynihan, and Bradley promises to oppose any further amendments to the anti-discrimination provisions of the bill on the floor. This should be done at the mark-up this morning.

Bob Baldwin and other representatives of the fundamentalist schools have made it clear to me that they would not support the compromise unless such assurances are received.

Moreover, if those Senators fail to give such assurances, we can once again pin the blame for killing the bill on them.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

September 16, 1982

FOR: ROBERT HILL
FROM: STEPHEN H. GALEBACH *Steve*
SUBJECT: Response to Attached Letters

The attached letters came across my desk without any explanation.

As you may know, Senator Hatch agreed yesterday not to have his Amendment brought up to the Senate floor until Spring of 1983. Senator Baker agreed to this course of action. Senator Baker had been trying to bring the Hatch Amendment to the floor for at least the past month.

Also, President Reagan has made clear his support of the Hatch Amendment along with other measures that will help toward the protection of unborn children.

If your shop needs any additional information for preparing a response, please let me know.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

September 17, 1982

MEMORANDUM FOR THE RECORD

FROM: WILLIAM P. BARR

SUBJECT: Tuition Tax Credit Bill -- Status Report

Overall

The tuition tax credit bill was favorably reported by the Senate Finance Committee yesterday. A number of bad amendments were added, but overall we are in fairly satisfactory shape.

One Politically Sensitive Matter

One amendment is particularly sensitive, and we must be aware of it in our public comments. Over our objections, the Committee inserted a requirement that, to be credited, tuition must be paid to schools, attendance at which satisfies State compulsory attendance laws. Some Fundamentalist groups strongly oppose this because they believe it will invite NEA and other opponents of their schools to use those State laws as weapons against them. (In two states, Ohio and Nebraska, they feel this is already occurring.) Certain Fundamentalist groups feel so strongly about this that they asked us to kill the bill in Committee after the amendment was adopted and are now considering opposing the bill.

These groups do not blame the Administration for the amendment and understand that we opposed it.

In expressing our general satisfaction with the bill, we should qualify our support by saying that the Committee adopted certain amendments which we opposed and which we are concerned about.

Catholic Reaction

The Catholic groups seem to be extremely pleased with the Administration's performance. For example, the Knights of Columbus are sending a letter out to their members crediting the President with pushing the bill through.

One amendment relating to handicapped rights was proposed that potentially threatened the Catholic schools, but we successfully gutted it, and it should pose no problem.

Other Amendments

The following Committee Amendments were adopted.

1. In lieu of Bradley's IRS civil rights enforcement amendments, the Committee adopted a compromise, postponing the effective date of credits until 501(c)(3) enforcement is resolved.

2. The cap was lowered from a \$50-75,000 phase-out to a \$40-50,000 phase out.

3. The maximim credit was reduced from \$500 to \$300, and the phase-in period was stretched out.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

September 17, 1982

FOR: THE HONORABLE LAWRENCE KORB
Assistant Secretary of Defense for Manpower &
Reserve Affairs, and Logistics

FROM: WILLIAM P. BARR
Deputy Assistant Director for Legal Policy *WPB*

SUBJECT: Background Information on Department of the Army's
Recent Decision to Bar Women from Certain Job
Categories

Ed Harper has asked me to obtain from Department of the Army some background material on the Army's recent decision to exclude women from 23 job categories. Last week, I informally asked Army's general counsel's office to provide me with this information. I understand that the material has been prepared and is pending in the office of the Assistant Secretary of the Army (Manpower & Reserve Affairs).

I would appreciate it if you could authorize its release as soon as possible.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

September 22, 1982

FOR: ROGER B. PORTER

FROM: MICHAEL M. UHLMANN
STEPHEN H. GALEBACH *[Signature]*

SUBJECT: Administration Position on H.R. 6086

The Administration has not taken a position on Congressman Smith's amendment to H.R. 6086, as far as we can tell. Smith's amendment is consistent with the principles the President recently espoused in supporting the Helms anti-abortion measure in the Senate. The activities that Smith seeks to prohibit for SBA would have been prohibited for the entire federal government by the Helms measure.

Therefore, we recommend the Administration support Smith's amendment.

However, the legislative situation does not appear ripe for Presidential action at this time. The House tacked Smith's amendment onto a Senate-passed bill, and the issue now needs to be resolved in Conference Committee. But the Senate appears likely to choose not to go to conference on the bill, since it is not a must-pass bill.

→ Steve Galbach

THE WHITE HOUSE

WASHINGTON

September 14, 1982

MEMORANDUM FOR MICHAEL M. UHLMANN

FROM: ROGER B. PORTER *RBP*

SUBJECT: Administration Position on H.R. 6086

The President recently received a letter from Representative Christopher H. Smith urging his support for Smith's amendment to H.R. 6086 which would deny Small Business Administration loans to any agency which "performs or promotes abortion, conducts research related to abortion, or trains any individual to perform abortions."

I would appreciate you determining if the Administration has taken a formal position on this amendment (I assume not), assessing its merits, and recommending what position you think we should take on it.

I would like to review this by close of business on Friday, September 17, 1982.

Thank you very much.

cc: Edwin L. Harper

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

September 22, 1982

FOR: EDWIN L. HARPER
FROM: MICHAEL M. UHLMANN
SUBJECT: Richard Cohen Article

Mr. Cohen has been reading too many press releases from Elly Smeal's shop. That there is a "gender gap" is not in dispute. Whether there is such a thing as a "women's vote" of the kind talked about by Sister Smeal & Co. is very doubtful. Polling data compel the conclusion that there's nothing to the gender gap that can't be cured by (a) a restored economy and (b) a steady hand in foreign affairs. They also suggest that no amount of futzing around with NOW's agenda items will make much of a difference.

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 9/17/82

ACTION/CONCURRENCE/COMMENT DUE BY: FYI

SUBJECT: GENDER GAP / Golden Opportunity

	ACTION	FYI		ACTION	FYI
HARPER	☐	☐	DRUG POLICY	☐	☐
PORTER	☐	☐	TURNER	☐	☐
BARR	☐	☐	D. LEONARD	☐	☐
BOGGS	☐	☐	OFFICE OF POLICY INFORMATION		
BRADLEY	☐	☐	HOPKINS	☐	☐
CARLESON	☐	☐	COBB	☐	☐
DENEND	☐	☒	PROPERTY REVIEW BOARD	☐	☐
FAIRBANKS	☐	☐	OTHER		
FERRARA	☐	☐	<u>Elizabeth Dale</u>	☐	☒
GALEBACH	☐	☐	<u>Margaret Tuttle</u>	☐	☒
GARFINKEL	☐	☐	<u>Deane</u>	☐	☐
GUNN	☐	☐	<u>Emily Rock</u>	☐	☒
B. LEONARD	☐	☐		☐	☐
LI	☐	☒		☐	☐
MONTOYA	☐	☒		☐	☐
SMITH	☐	☒		☐	☐
✓ UHLMANN	☐	☒		☐	☐
ADMINISTRATION	☐	☐		☐	☐

REMARKS:

1982 SEP 17 P 6:09

Golden Opportunity

The increasingly active women's political community views the November election as a golden opportunity to turn the political tide. At stake are a substantial increase in the number of female elected officials and stronger public support for issues that most concern women.

But as with many organizations reaching their maturity, the enthusiasm surrounding the expanding size and political sophistication of the women's groups is tempered by uncertainty over their own prowess and the commitment of would-be allies.

With the failure of the 10-year effort to ratify the Equal Rights Amendment (ERA) and the large cutbacks in federal assistance programs that primarily benefit women, this has hardly been a banner year for these groups. But public opinion polls and growing political consciousness by women across the country have led many political activists to conclude that they may extract their revenge on Election Day. Attention is focusing on several goals: increasing the number of women in the Senate and House, electing a few others to statewide offices and ousting state legislators in states such as Illinois and Florida who played important roles in the ERA defeat.

Democrats believe this interest could work strongly in their favor. They note, for example, that recent national surveys show men approve of the way President Reagan is handling his job by roughly 8 percentage points more than women do; that is about the same difference as recorded in voter surveys on Election Day 1980. So it might seem surprising that 10 of the 20 women serving in the House are Republicans, as are both female Senators, neither of whom is running for reelection this year. In addition, Rep. Millicent Fenwick of New Jersey is favored to become the Senate's third Republican woman. Democrats think they may gain one with Missouri's Harriett Woods, who is challenging Sen. John C. Danforth. And both parties have several strong female House candidates, some of whom are waging well-financed campaigns against male incumbents.

Regardless of how these candidates fare, leaders of women's groups hope that the election results will provide a boost to issues that have helped define the "gender gap." Although there is some dispute as to which issues are the most salient in dividing men from women, they include social issues such as the ERA and what some call "reproductive rights" and the war-and-peace issues of defense spending and the proposed nuclear weapons freeze.

As in the electorate at large, however, economic issues are the most highly charged for most women's groups. The groups point out that 85 per cent of the recipients of the social security minimum benefit, which Congress reduced last year, are women, and that increased military spending adversely affects women because a higher percentage of defense jobs go to men.

Several women's groups are providing a variety of services to take advantage of these opportunities. Although they trail their counterparts in labor, business, the conservative movement and other parts of the political community in both money and experience, they are building a base of professional expertise that could expand quickly in the coming years.

Most of the groups are bipartisan; they differ over such questions as size of membership, number of local units and willingness to back sympathetic male candidates. Because so many women are relative political novices, the groups' services are heavily laced with primers on campaigning for both candidates and supporters. The National Women's Education Fund, for example, provides books and slide shows for organizations across the nation to assist women in getting started in politics; it also provides more advanced training on campaign strategies and government management for elected and appointed officials. The League of Women Voters of the United States is also providing more training to help women cope with special problems such as fund raising.

Both the National Women's Political Caucus and the Women's Campaign Fund are more actively involved in recruiting and training candidates for congressional and local races. The caucus, which has many state chapters, contributes to some male candidates after it has supported the qualified women on its lists. The fund is primarily based in Washington and helps only women. Each expects to provide several hundred thousand dollars in cash and services to candidates this year.

The newest and potentially most significant player is the National Organization for Women (NOW), which has taken a greater interest in electoral politics since the ERA fight ended on June 30. Eleanor Smeal, who heads NOW, announced in August a \$3 million campaign for 1982. Although it may be too late for the organization's cash contributions to have a major impact on many races, a spokeswoman said it may make sizable independent expenditures against Illinois Republican Gov. James R. Thompson Jr., who is running for reelection. Thompson aroused the anger of many women by his handling of the ERA ratification fight and his endorsement of an ERA opponent selected by the GOP as his running mate. NOW is also planning an extensive get-out-the-vote operation in Illinois and perhaps other states. This could prove vital in an election in which many observers predict a low turnout.

Several woman activists caution, however, that expectations of big Democratic benefits may be exaggerated. For one thing, they emphasize that each political race depends on the skills of the candidates and on many local factors. Others point out that Democrats run the risk of continuing to take women for granted and note the eagerness of GOP professionals to recruit promising women such as House candidates Nancy Johnson in Connecticut and Barbara Vucanovich in Nevada, the only two non-incumbents who entered primary challenges with endorsements from the National Republican Congressional Committee. (That committee's executive director, Nancy Sinnott, is the highest ranking female staff aide in either party.)

One prominent female politico said, "It may be unfortunate that women's groups and women's candidates are being held to the fire with the 'gender gap' because it may be that the real results won't come until the 1984 presidential election." This fall's results may determine how quickly Reagan moves to reduce the potential damage. □

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

September 22, 1982

FOR: EDWIN L. HARPER
FROM: MICHAEL M. UHLMANN
SUBJECT: Comparable Worth

My memo to you of July 1 conveys my sense of where the Administration ought to come out on this.

It is true that the comparable worth debate is heating up, fueled by Democrats, union leaders trying to increase membership, and others who for political and ideological reasons believe that regulatory ukase is a desirable substitute for the marketplace. But I do not see how this Administration can afford to come down anywhere but in opposition.

The salient considerations are these:

- (1) The comparable worth theory is a watered-down application of the socialist labor theory of value. Whether one believes that nurses are "worth" more than pharmacists or ditch-diggers more than crane operators, or both more than nuclear physicists, the important point is that in a capitalist economy such a determination should be left to the marketplace. The argument is not that the marketplace is perfectly just in the way it sorts thing out. The argument, rather, is that derogation from market principles will inevitably lead to greater cost and injustice.
- (2) Even if there were no objection on the level of principle, the regulatory scheme necessary to enforce the comparable worth doctrine boggles the mind and is completely at odds with our whole program on regulatory reform.
- (3) Soon or late, the federal courts would become the final arbiters of what was or wasn't "comparably" worthy. Why one would want to vest that sort of power in the judiciary, or any other body not responsible to the public, I do not know.
- (4) Comparable worth would entail yet other massive social and economic costs. There are really only two ways such a scheme could work: either (a) wages would have to be transferred from certain job-holders (presumably men) to others (presumably women), or (b) the net level of wages for the "oppressed" class would have to be increased by

some other means. Since the former would never fly politically, the latter would result. In any event, labor costs would rise significantly (conservative estimates run as high as \$150 billion), American industry would lose yet more of its already dulled competitive edge, and -- most savage of all ironies -- women as a class would be priced out of the labor market. I am puzzled that so-called "progressive" thinkers should be applauded for proposing a scheme that, in addition to its other faults, would discourage employers from hiring women.

- (5) Finally, I see no political profit whatsoever to be gained from playing around with the issue in any other but a forthright way. Once again, we are allowing ourselves to be sucked into a debate the terms of which are being defined by the political and ideological opponents of this Administration. Anything short of a wholesale endorsement of the idea (which, I take it, is not in the cards) will inevitably allow the Democrats to outflank us with the very constituencies that (in theory) we would be trying to placate. Paying lip-service to the comparable worth doctrine is like being a little bit pregnant. It is not an idea that can be bitten off half-way.

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 9/17/82 ACTION/CONCURRENCE/COMMENT DUE BY: 9/30/82SUBJECT: Comparable Worth

	ACTION	FYI		ACTION	FYI
HARPER	☐	☐	DRUG POLICY	☐	☐
✓ PORTER	☐	☒	TURNER	☐	☐
BARR	☐	☐	D. LEONARD	☐	☐
BOGGS	☐	☐	OFFICE OF POLICY INFORMATION		
BRADLEY	☐	☐	HOPKINS	☐	☐
CARLESON	☐	☐	COBB	☐	☐
DENEND	☐	☐	PROPERTY REVIEW BOARD	☐	☐
FAIRBANKS	☐	☐	OTHER		
FERRARA	☐	☐		☐	☐
GALEBACH	☐	☐		☐	☐
GARFINKEL	☐	☐		☐	☐
GUNN	☐	☐		☐	☐
B. LEONARD	☐	☐		☐	☐
LI	☐	☐		☐	☐
✓ MONTOYA	☐	☒		☐	☐
SMITH	☐	☐		☐	☐
✓ UHLMANN	☒	☐		☐	☐
ADMINISTRATION	☒	☐		☐	☐

REMARKS:

Michael Uhlmann:

Could you respond to Red's concerns and send ELH a status report on the 30th. Thanks.

Edwin L. Harper
E. Rock

Edwin L. Harper
Assistant to the President
for Policy Development
(x6515)

Please return this tracking
sheet with your response