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OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 8/25/82 ACTION/CONCURRENCE/COMMENT DUE BY: 8/31/82

SUBJECT: Presidential Position on Abortion Issue in the Senate

	ACTION	FYI		ACTION	FYI
HARPER	<input type="checkbox"/>	<input type="checkbox"/>	DRUG POLICY	<input type="checkbox"/>	<input type="checkbox"/>
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BARR	<input type="checkbox"/>	<input type="checkbox"/>	D. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>
BAUER	<input type="checkbox"/>	<input type="checkbox"/>	OFFICE OF POLICY INFORMATION		
BOGGS	<input type="checkbox"/>	<input type="checkbox"/>	GRAY	<input type="checkbox"/>	<input type="checkbox"/>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	HOPKINS	<input type="checkbox"/>	<input type="checkbox"/>
CARLESON	<input type="checkbox"/>	<input type="checkbox"/>	PROPERTY REVIEW BOARD	<input type="checkbox"/>	<input type="checkbox"/>
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FERRARA	<input type="checkbox"/>	<input type="checkbox"/>	Edwin Meese III	<input type="checkbox"/>	<input checked="" type="checkbox"/>
GUNN	<input type="checkbox"/>	<input type="checkbox"/>	✓ Steve Galebach	<input checked="" type="checkbox"/>	<input type="checkbox"/>
B. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
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UHLMANN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
ADMINISTRATION	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

Please return this tracking sheet with your response.

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

THE WHITE HOUSE

WASHINGTON

August 24, 1982

MEMORANDUM FOR MICHAEL UHLMANN
STEVE GALEBACH

FROM: EDWIN L. HARPER 

SUBJECT: Presidential Position on Abortion Issue
in the Senate

Your excellent analysis of August 23rd outlining the Helms Bills and the legislative situation appears to leave one fundamental unresolved. From the beginning, the President has consistently indicated that he will not choose from among his friends. When all of the groups agree on a substantive measure, they can then expect his full support.

Will the anti-abortion groups be getting together?

cc: Edwin Meese III

Attachement

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 23, 1982

23 AUG 1982

FOR: EDWIN L. HARPER

FROM: MICHAEL M. UHLMANN *uu*
STEPHEN H. GALEBACH *SS*

SUBJECT: Presidential Action to Insure a Vote
on Abortion in this Congress

I. Overview

Our course on the abortion issue must be set within the next week and a half.

On September 9 at 2:00 p.m., there will be a vote on cloture on a statutory anti-abortion measure introduced by Senator Helms as an amendment to the debt ceiling bill.

Helms' amendment would effect an across-the-board permanent ban on federal government funding and support for abortion.

It would also encourage the Supreme Court to reconsider its Roe v. Wade abortion decision.

By deleting his controversial definition of unborn children as "persons" under the Fourteenth Amendment, Senator Helms has come up with a bill that can pass. Helms' measure is substantially identical to the Hatfield Bill, S.2372, but with strengthened Congressional findings. It is the strongest step toward protection of unborn children that can pass in this Congress.

Helms also has a good chance of gaining cloture, but will probably need some help from the President in order to break filibuster by pro-abortion Senators.

The Tax Bill has deeply disaffected many of our right-wing supporters. Presidential inaction on this anti-abortion initiative would greatly aggravate these wounds, particularly since everyone knows this is the only chance for action this session and perhaps for a while to come. Conversely, Presidential involvement would go far toward healing wounds with the social right. Having won our battles on the economic front, we can afford to be magnanimous in victory.

Furthermore, the new Helms measure attacks abortion at those points where we enjoy greatest public support: denial of federal funding and reversal of Roe v. Wade. The measure cannot be attacked for "making abortion murder" or even for making abortion a criminal offense.

II. Details of the Helms Amendment

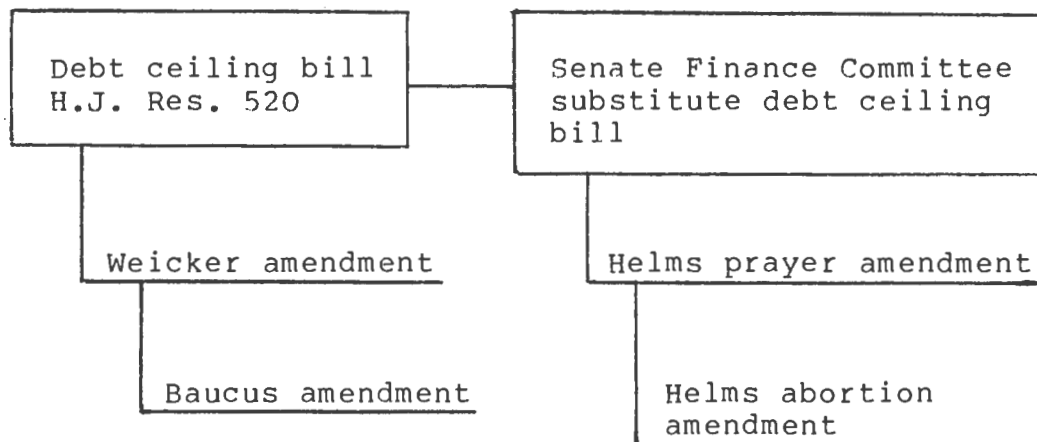
- A. The new Helms measure has three major parts:
1. Congressional findings recognizing that unborn children are human beings.
 2. Substantive provisions prohibiting all forms of federal funding and support for abortion, including:
 - a. Performance of abortions by federal agencies (except when life of mother would be endangered by carrying child to term);
 - b. Use of funds appropriated by Congress for abortions (except life of mother), or for abortion referrals and counselling;
 - c. Use of federal funds to pay for abortions for federal employees through insurance programs;
 - d. Discrimination by medical schools and hospitals receiving federal funds, against doctors, nurses, and medical students who oppose abortion;
 - e. Training in techniques of abortion and experimentation on aborted babies, by institutions receiving federal funds.
 3. Judicial review provision, stating that if any state passes an anti-abortion law based on this Congressional Act, and such state law is invalidated by a federal court, there shall be a right of direct appeal to the Supreme Court, as occurs now whenever an act of Congress is invalidated by a federal court.
- B. Comparison to other anti-abortion measures considered by this Congress:
1. Helms' new measure is a substantial revision of his earlier Human Life Bill, S.158, and his "Super-Helms Bill," S.2148, both of which defined the term "person" in the Constitution to include the unborn.
 - a. The personhood provision was criticized as unconstitutional by many legal scholars, including some in anti-abortion movement (leading to split between Helms and Hatch Amendment - USCC forces).

- b. The new Helms measure retains the factual finding of the humanity of the unborn but leaves the legal conclusion re personhood to the courts.
2. The judicial review provision in the new Helms measure will encourage - not compel - the Supreme Court to reexamine Roe v. Wade, in light of the findings on the humanity of the unborn.
- a. There is a chance of 5 votes on the Court to overturn Roe (especially if the President gets an additional appointment to the Court).
 - b. Supreme Court reversal of Roe is the simplest and easiest way to end a tragic episode of judicial overreaching. The new Helms measure provides an orderly way for the Supreme Court to set the law right by letting states outlaw abortion.
 - c. The judicial review provisions do not involve jurisdiction-stripping and are clearly constitutional.
3. The substantive prohibitions of the Helms measure would make the Hyde Amendment permanent law, thus avoiding annual fights over riders to appropriations bills.
- a. The Helms measure contains the same life-of-the-mother exception as the Hyde Amendment.
 - b. The Helms measure sweeps more broadly than the Hyde Amendment by applying to all aspects of federal involvement the principle that the government should not take innocent life or assist others to do so.

III. Parliamentary Situation in the Senate

- A. Senator Helms has made two amendments to the Finance Committee debt ceiling bill, the one on abortion and the other to deny federal courts jurisdiction over school prayer cases.
- B. Senators Weicker and Baucus, filibustering in support of Senator Packwood, have moved two anti-jurisdiction-stripping amendments to the original debt ceiling bill (H.J. Res. 520).

C. The "tree" of bills and amendments is as follows:



D. On Friday afternoon, August 20, Senator Baker filed a cloture petition on the Helms abortion amendment. By Senate rules, the vote must occur two working days later -- i.e., on the afternoon of Thursday, September 9.

1. If we win on cloture and on the merits of the Helms anti-abortion measure, we will then need cloture for and passage of the prayer measure.
2. If we win on the amendments, and the Committee substitute debt ceiling bill is then passed, the Weicker and Baucus amendments will be nugatory because they are attached to H.J. Res. 520, which is superseded by the Committee substitute.

IV. Pro-Life Movement Support

- A. The new Helms measure avoids the "personhood" provision over which the anti-abortion groups have been divided.
- B. All groups agree that there must be a vote on some anti-abortion measure in this Congress.
- C. The Helms measure appears to be the only anti-abortion measure likely to bring about a clear-cut up-or-down vote on the abortion issue.
 1. Although Senator Baker has promised to bring up the Hatch Amendment in early September, he has been unable to get a time agreement, and the cloture vote on Helms will definitely come before the Senate can take action on Hatch. (It remains unclear whether Senator Baker will bring up Hatch at all.)

2. The Helms measure has the important advantage that it has a real chance of passing both Senate and House.

V. Analysis

This is the only chance in this Congress -- and likely will be the only chance in the President's first term -- to achieve a major legislative victory toward protection of the unborn.

This is the most moderate of the various constitutional amendments and bills pushed by the pro-life movement during this Congress. Yet, it is the most that can probably win passage, and it is a major step toward the eventual legal protection for the unborn that the President has repeatedly called for.

The Helms measure is easy to support in the context of the President's expressed views on abortion:

- o It recognizes that the unborn children involved in abortions are human beings.
- o It gives the Supreme Court a way to reconsider its often-criticized Roe v. Wade opinion.
- o It makes the Hyde Amendment permanent law and extends the Hyde reasoning to get the federal government out of the abortion business completely.

(While polls show lesser support for outlawing abortion, they show majority support for denying government funding for abortions.)

Because the Helms measure relies conspicuously on findings about the humanity of the unborn, it is a good opportunity for Presidential leadership and education on the point he has made so effectively in the past: The unborn are human beings and human life deserves our respect.

Tactically, the President's support is most vital for cloture. Senator Helms appears to have 45-55 votes on the merits (53 Senators voted for the Hyde Amendment in 1981), but, of course, he needs 60 votes for cloture.

It is significant that Senator Baker introduced the cloture petition. If cloture is made a Republican party issue, by means of a Presidential letter to Senator Baker and phone calls to other Republican Senators, chances of quickly breaking a filibuster are very good. Some Republican Senators who voted against Hyde in 1981 have already indicated support for cloture, but more Senators are needed to go over the top.

The President could also have a decisive impact in gaining passage if he publicly supports the measure as an important affirmation of the humanity of the unborn. Also, several Senators would probably be susceptible to quiet, private persuasion by the President on the merits of the measure.

VI. Recommendations

- o President make phone calls in support of cloture to key Republican Senators (but not those such as Packwood, Weicker, who are militantly pro-abortion).
- o Endorse Helms measure in September 4 radio statement, or by other means, and call for Senate to have opportunity to vote on issue of federal funding and support for abortion-on-demand.
- o Presidential letter or phone call to Senator Baker saying that a vote on this measure is a high priority of the President.
- o Presidential statement could have especially dramatic favorable impact if issued while in California from site where 17,000 corpses of aborted babies were discovered in warehouse crate.
- o Staff monitor anti-abortion groups to determine their position on Helms measure.
- o Obtain Presidential decision on extent of desired involvement before Labor Day weekend to insure timely and effective action.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 25, 1982

FOR: EDWIN L. HARPER
FROM: MICHAEL M. UHLMANN
SUBJECT: New Crime Package
(Ref. 090690)

Attached are:

1. Draft Transmittal Letter
2. Proposed Bill
3. Section-by-Section Analysis
4. Statement of Major Purpose

The package has been signed-off on by DOJ and is ready to go to the Hill, except that the transmittal letter has to be put on proper stationary, etc.

The original plan was to have the President make a statement on crime in his August 28 radio broadcast, and arrangements were made to have the bill transmitted to and received on the Hill on that date. I understand the current plan is to have the President make the radio statement on crime on Saturday, September 4.

It is clear we should not send the bill up to the Hill before September 4; that would take some punch out of the President's statement. There are two options on transmittal: (1) we can try to send the bill up on September 4; or (2) we can send the bill up on the first day Congress is back (September 8). It is unclear whether we can arrange for receipt of the bill on the 4th, since Congress is in recess. Legislative Affairs does not think the timing of transmittal will affect the chances of passage. I will confirm this with Senator Thurmond's man when he returns from vacation next week. In the meantime, we should plan to go ahead with the President's statement on the 4th and send the bill up on the 8th.

You may wish to consider whether further coordination within the White House is necessary. If you decide to circulate for comment, this should be done on an expedited basis.

Speechwriting is sending a draft of the radio talk directly to Mr. Meese today. A copy is also going to Darman for circulation.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 25, 1982

FOR: EDWIN L. HARPER
FROM: MICHAEL M. UHLMANN

FYI, Rudy Giuliani called me in your absence the other day to indicate that Lowell Jensen (rather than Rudy himself) would be the preferred chairman for the working group on Urban crime.

The existence of the Group came as a surprise to me. Is it an off-shoot of CCHR?

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 25, 1982

FOR: EDWIN L. HARPER
FROM: MICHAEL M. UHLMANN
SUBJECT: Status Report on Military Pensions

In 1981 the Supreme Court held in McCarty v. McCarty that federal law established military pensions as the sole property of the serviceman and that state divorce courts were barred from apportioning pension payments to a serviceman's former spouse.

This rule was essentially overturned by a provision in the DOD Authorization Bill passed by Congress last week. That provision:

- o Subjects military retirement pay to State domestic relations law;
- o Limits amount that former spouse can receive to 50% of pension;
- o Does not create survivorship rights; payments stop on death of former spouse or death of serviceman;
- o Provides that a serviceman may elect to provide survivor benefits to former spouse but cannot be compelled to do so.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 25, 1982

FOR: WAYNE VALIS
FROM: MICHAEL M. UHLMANN

The issue of the Trowbridge letter and the Ignatius telegram became moot on August 12 when the Senate, by a vote of 59-38, defeated the provision of the War Risk Insurance bill that would have given extraordinary protection to airline employees in mergers and other major transactions. The vote was 59-38, on a procedural motion to declare the provision out of order (it had originally been added in conference committee).

The Administration's position was confused, with Stockman opposing the provision in a letter and Jim Baker responding to inquiries by saying we did not oppose it.

cc: Edwin L. Harper

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 25, 1982

FOR: EDWIN L. HARPER

FROM: MICHAEL M. UHLMANN

STEPHEN H. GALEBACH SG

SUBJECT: Presidential Position on Abortion Issue in the Senate

We have checked today on the position of the pro-life groups. It is clear that they have coalesced around the new Helms measure and support cloture in the vote coming up on September 9.

Morton Blackwell's memorandum of five days ago (attached) describes the situation accurately. The situation in the pro-life movement has changed. There is no opposition in the pro-life movement to gaining cloture on September 9.

The major groups that have supported earlier bills introduced by Helms, such as Ad Hoc Committee, Christian Action Council, American Life Lobby, and Life Amendment PAC, are going all out to lobby for cloture and for passage of the new Helms measure.

More significantly, groups which have preferred the Hatch Amendment in the past are now supporting the Helms measure as the only chance for a vote this year on abortion.

- o Peter Gemma, executive director of National Pro-Life PAC, a group that has favored the Hatch Amendment and criticized the earlier Helms bill, says "we are desperate for a recorded vote" and "we will do anything to help get cloture."
- o Paul Weyrich of Free Congress Foundation suggests the President send a letter to Senator Baker, urging that action on the abortion issue this Congress is crucial and that the Helms measure is the only thing pending for a vote.
- o Senator Hatch himself strongly supports the Helms measure. His staffer observes that Helms has removed the provision that caused division between them before.
- o Moral Majority, ambivalent toward the earlier Helms bill, is sending out legislative alerts asking their people to lobby their Senators for cloture.

- o National Right-to-Life Committee, whose national staff has preferred the Hatch Amendment in the past, is now working hard to get votes for cloture. NRLC had many state directors in town last week working for the Helms measure.
- o Christian Broadcasting Network has, in a broadcast, urged viewers to write their Senators in support of the new Helms measure.
- o Even the liberal bureaucracy at USCC -- which tried to torpedo an earlier Helms bill by leaking an opinion of their general counsel questioning its constitutionality -- has said nothing against the new Helms measure (which has been drafted to avoid USCC's earlier criticism).

In short, the situation in the pro-life movement has changed radically from two weeks ago. Until early last week, each group was trying to get its own favorite measure up for a vote. Now it has become clear that only the new Helms measure can produce an up-or-down record vote -- and have a good chance of passing.

If there is one thing all the groups agree on, it is that there must be a record vote before November. Hence, the newfound unity.

As an indication of growing concern about what the White House might do, attached is the latest issue of Lifeletter, which flaks certain members of the White House staff.

THE WHITE HOUSE

WASHINGTON

August 20, 1982

MEMORANDUM FOR ELIZABETH H. DOLE

THRU: DIANA LOZANO
FROM: MORTON C. BLACKWELL *mcb/cs*
SUBJECT: Presidential Support for Cloture on Helms Amendment

Until now the President has avoided personally urging specific actions on the matter of abortion. He has been outspokenly opposed to abortion, but he has not urged legislators to vote for or against any particular measure.

This policy has caused a great deal of concern among grassroots right-to-life activists, but the leaders of almost all the pro-life groups were urging that the President not endorse any abortion remedy at the expense of other such efforts.

Now the situation has changed. It is no longer true that there is a significant division in the pro-life community with respect to the legislative situation. Right now all the major pro-life organizations have united in support of the current Helms initiative in the Senate. This includes all of the former Helms partisans who disliked the Hatch Amendment. It also includes organizations such as the very large National Right-to-Life Committee, the National Pro-Life Political Action Committee, and Paul Weyrich's Coalitions for America.

Thus we are at a critical moment in the relationship between the President and the pro-life activists. This situation affords the only significant opportunity in the first two years of the Reagan Administration to put all Members of Congress on record in a high visibility fight over abortion. If the President fails to take specific steps to obtain cloture in the Senate on Senator Packwood's filibuster, that failure will be read as a betrayal.

Politically the President has benefited greatly by the efforts of the pro-life activists. Reluctantly they have accepted kind words but few actions from this Administration because they were divided as to abortion remedy priorities. Now that they are united, their attention is riveted on the White House to see if the President's actions speak as loudly as his words.

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 8/25/82 ACTION/CONCURRENCE/COMMENT DUE BY: 8/31/82

SUBJECT: Presidential Position on Abortion Issue in the Senate

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Remarks:

Please return this tracking sheet with your response.

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

THE WHITE HOUSE

WASHINGTON

August 24, 1982

MEMORANDUM FOR MICHAEL UHLMANN
STEVE GALEBACH

FROM: EDWIN L. HARPER 

SUBJECT: Presidential Position on Abortion Issue
in the Senate

Your excellent analysis of August 23rd outlining the Helms Bills and the legislative situation appears to leave one fundamental unresolved. From the beginning, the President has consistently indicated that he will not choose from among his friends. When all of the groups agree on a substantive measure, they can then expect his full support.

Will the anti-abortion groups be getting together?

cc: Edwin Meese III


Attachement

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 26, 1982

FOR: MICHAEL E. BAROODY
FROM: MICHAEL M. UHLMANN 
SUBJECT: The Republican Platform Exercise

With regard to Items 40 and 41 on the attached sheets, we are aware of nothing that has been done by the Administration. Regarding Item 49, obviously the Administration has introduced tuition tax credit legislation. On Item 42, the President has publicly stated support for the three major anti-abortion measures. At this writing, it remains to be seen what action will be taken on the September 9 cloture vote. With regard to Item 65, the Administration has not yet supported the Family Protection Act (S.1378) in its entirety, although we have testified in favor of specific portions of the proposed legislation. (If you need further detail on this last point, Gary Bauer can provide it.)

THE WHITE HOUSE

WASHINGTON

August 5, 1982

MEMORANDUM FOR MICHAEL UHLMANN

FROM

MIKE BAROODY *MB*
Director of Public Affairs

The Senate Republican Policy Committee has asked me to assist them in a research project involving the 1980 Republican Platform. The Committee is interested in learning the record to date of the Administration and the Congress in fulfilling the Platform promises and commitments.

Attached are the Platform promises pertaining to your office.

Would you examine these promises and determine whether or not they have been kept and how? For those promises not yet kept, please explain why and note any progress.

For each of the promises or commitments listed, I would appreciate a concise write up -- no more than a few paragraphs -- of the efforts of your department since January 1981 to meet them.

I would like your report back by Wednesday, August 11th.

If you have any questions, please call me at 456-7170.

Thank you.

August 5, 1982

Platform Promises--Legal Policy

40. We pledge to support the enactment of the necessary legislation to allow the people of Puerto Rico to exercise their right to apply for admission into the Union.
41. We continue to favor whatever action may be necessary to permit American citizens resident in the United States territories of the Virgin Islands and Guam to vote for President and Vice President in national elections.
49. Next year, a Republican White House will assist, not sabotage, Congressional efforts to enact tuition tax relief into law. ✓

8/4/82

Office of Policy Development

42. We affirm our support of a constitutional amendment to restore protection of the right to life for unborn children. We also support the Congressional efforts to restrict use of taxpayers' dollars for abortion. ✓

8/4/82

White House Support for the Family

65. We express our support for legislation protecting and defending the traditional American family against the ongoing erosion of its base in our society. [Explain Administration position on S. 1378.]

THE WHITE HOUSE

WASHINGTON

August 26, 1982

FOR: EDWIN L. HARPER

FROM: MICHAEL M. UHLMANN
STEPHEN H. GALEBACH SG

SUBJECT: "Effort in Senate to End Filibuster on Abortion Fails"

Senator Helms would undoubtedly love to have a free-standing debate on abortion, if he could be assured there would be a debate and a vote in both the Senate and the House. The problem is that the Democratic leadership in the House will never allow a free-standing abortion bill to come to a vote. Only by a discharge petition could we force a vote, and the deadline for filing discharge petitions in this Congress has already passed.

There are two subtle but serious inaccuracies in the Peterson article. First, Packwood and other pro-abortion Senators were willing to have a free-standing abortion vote last week, but only on measures they knew they could beat: S.2148 (Helms bill defining legal personhood) and the Hatch Amendment. Packwood refused to agree to a time-limited debate on the Hatfield Bill or the variation of it that Helms introduced, precisely because he's not sure he can win.

Second, it is misleading to say that the Weicker-Baucus amendments would "gut Helms' proposals" -- plural -- by reaffirming the authority of federal courts. It is only the school prayer amendment that strips jurisdiction; the anti-abortion amendment merely provides an expedited review procedure that is commonly employed and not vulnerable to constitutional attack.

Senator Weicker has tried to portray the anti-abortion amendment as a court-stripping measure, and it is predictable that the Post will make wilder distortions than this one before this episode is finished.

Let's sit down, the three of us, and talk over this whole situation before the week is out.

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 8/25/82 ACTION/CONCURRENCE/COMMENT DUE BY: 9/4/82SUBJECT: "Effort in Senate to End Filibuster on Abortion Fails"

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Remarks:

Will Helms ever go for a free standing vote on abortion?

Please return this tracking sheet with your response.

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

Effort in Senate To End Filibuster On Abortion Fails

By Bill Peterson
Washington Post Staff Writer

An effort to end a four-day Senate filibuster against anti-abortion legislation fell apart yesterday when liberals refused an offer by Sen. Jesse Helms (R-N.C.) to put the proposition to a quick vote.

Senate sources said that meant the Senate would adjourn for its Labor Day recess without disposing of proposals by Helms on abortion and school prayer, and debate would continue in September.

Senate Majority Leader Howard H. Baker Jr. (R-Tenn.) intends to file a cloture petition today in an attempt to end the filibuster, according to aides. The procedure, which would require the approval of 60 senators, won't be considered until after the recess.

Helms aide James P. Lucier said opponents refused Helms' offer because they lacked the votes to defeat his proposals to restrict access to abortion and keep the Supreme Court from reviewing state laws permitting prayer in public schools.

"They want to kill them without voting," he said. "You don't filibuster if you have the votes."

Helms and Sen. Bob Packwood (R-Ore.), leader of the filibuster, have been under pressure all week to end the abortion-prayer impasse. Helms yesterday said he was ready to vote on anti-abortion and school prayer amendments he has attached to a debt ceiling bill as well as two amendments from liberals designed to gut his proposals.

Packwood, after meeting with allies, refused Helms' offer. He said he offered a counterproposal under which liberals would agree to a "free-standing abortion vote" if it didn't include school prayer and if it weren't attached to the debt ceiling bill. Helms rejected this offer.

"We'd like to focus on abortion," Packwood said. "With school prayer you muddle the issue."

Yesterday's debate was conducted almost entirely by Helms' opponents. They denounced his proposals as unconstitutional efforts to restrict the authority of the Supreme Court.

During the day, liberals gained one conservative ally, Sen. Barry Goldwater (R-Ariz.), who voted for two Helms-sponsored school prayer measures that passed the Senate in 1979. He said he opposes Helms' school prayer amendment "much as I'd like my grandson to pray in school" because it would have school officials write the prayers.

Sen. Lowell P. Weicker Jr. (R-Conn.) later addressed the same issue, saying: "What is a prayer to be? Is it to be a Protestant prayer, a Catholic prayer, a Jewish prayer, a Buddhist prayer . . . or is it to be a mishmash of every religion known to the world and therefore meaningless?"

Helms' two amendments are to a debt ceiling bill that must be passed by Sept. 30 for the government to continue operation. The first would prohibit the Supreme Court from ruling on state laws relating to voluntary



Associated Press

Sen. Helms, sponsor of anti-abortion measure, faces reporters.

prayer in public schools. The high court outlawed public school prayer in 1962.

The second amendment would impose a host of restrictions on abortions, and includes the finding that "scientific evidence demonstrates the life of each human being begins at conception." It declares the Supreme Court "erred" in its 1973 decision guaranteeing women access to abortion in the earlier months of pregnancy, and provides for a direct appeal to the high court on state law restricting abortion.

The Helms proposals would permanently prohibit the use of federal funds and federally funded insurance policies to pay for abortions. Helms' aides said the measure has the support of from 45 to 55 senators, but conceded the vote would be close.

Weicker and Sen. Max Baucus (D-Mont.) have introduced amendments to gut Helms' proposals by reaffirming the authority of federal courts to rule on all constitutional issues.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 27, 1982

FOR: EDWIN MEESE III :
FROM: MICHAEL M. UHLMANN
SUBJECT: Bankruptcy Reform Legislation

Attached is a draft memo prepared by Justice which sets forth the options. Because the Attorney General does not return until Monday, he has not yet had a chance to review it, but no major changes are anticipated.

Fred Fielding and I met with Jon Rose yesterday, and we concluded that the call at this point was essentially a tactical one on which your guidance is needed. I would therefore suggest sitting down immediately upon your return to discuss the specific options, particularly as they relate to getting more Article III judges.

If in the meantime you need further information, please let me know.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 30, 1982

FOR: EDWIN L. HARPER
FROM: MICHAEL M. UHLMANN
SUBJECT: Status of Tuition Tax Credit Legislation

During the latest round of negotiations with members of the Senate Finance Committee, it was agreed that we would work with them to produce mutually acceptable language. The changes are essentially cosmetic, designed to provide a figleaf for those who popped off without knowing what they were talking about. Bill Bradley has been the major sticking point -- it being widely supposed that he is merely a stalking horse for Moynihan. Moynihan is sore because we have "stolen" his issue and would like to delay a vote until after the election, lest he get caught between Al Shanker and supporters of the legislation.

It is doubtful, however, whether Bradley can succeed in delaying much longer. He has been told by diverse members of the coalition supporting the bill that his efforts to invest IRS with enforcement authority threaten the bill, and the betting is that he will cool his efforts after returning from recess. Further negotiations with Finance Committee staff will take place later this week.

On a related front, the Post ran a particularly vicious editorial against the bill last Friday, which has aroused the ire of our supporters. More on that in a follow-up memo.

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 8/25/82 ACTION/CONCURRENCE/COMMENT DUE BY: 9/2/82

SUBJECT: "Opponents Charge Tuition Tax Credit Would Give Private Pupils an Edge"

	ACTION	FYI		ACTION	FYI
HARPER	<input type="checkbox"/>	<input type="checkbox"/>	DRUG POLICY	<input type="checkbox"/>	<input type="checkbox"/>
✓ PORTER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	TURNER	<input type="checkbox"/>	<input type="checkbox"/>
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✓ UHLMANN	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
ADMINISTRATION	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

Where do we stand now on Tuition Tax Credits?

Please return this tracking sheet with your response.

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

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 30, 1982

FOR: EDWIN L. HARPER

FROM: MICHAEL M. UHLMANN

SUBJECT: Post Editorial (8/27) on Tuition Tax Credits

Last Friday, the Post weighed in with a Jeremiad against our tuition tax credit bill, suggesting among other things that those who support it are racists. Even by Post standards, it is clearly beyond the pale, and our supporters are mightily annoyed. Various groups in our coalition have written or will write strong rebuttals.

I attach for your consideration a draft reply to the Post suitable for submission by the Administration. As a possible signatory, I would suggest Ed Meese or Ted Bell. As a way of "showing the flag" to the troops, one could even make a case for the President's signing a modified version of the draft. When was the last time a sitting President sent a letter to the editor? The drama of the event would ensure, I think, maximum attention. What do you think?

High Tech in Charlottesville

IN VERY HIGH technologies there's an established pattern of industrial development, and you can see it at work in Charlottesville. Several big companies in electronics and communications have been there for some time. But over the past year, General Electric has greatly expanded its plant there, turning it into the base from which it is going into robots and computer-controlled manufacturing equipment. One very big operation like that attracts, in turn, a host of smaller ones—contractors, suppliers and competitors.

It's the kind of development for which every city yearns. The GE plant alone will employ some 2,000 people. Why Charlottesville? In the electronics industry, plant location begins with a climate and physical surroundings capable of attracting research scientists and technicians. Charlottesville, at the edge of the

Blue Ridge, qualifies handsomely. But there's another indispensable requirement: a strong university. Despite the fine view, it's unlikely that GE would have brought its industrial electronics group to Charlottesville if the University of Virginia were not there.

People sometimes ask why, in times of great budgetary constriction, a state should spend all that money on the quality of a university—particularly since, as those same people usually argue, the monetary value of a college degree is declining. But as the newcomers to Charlottesville demonstrate, even in purely economic terms the contributions of the university are not necessarily measured by the beginning salaries of its most recent graduates. Industrial development is not the best reason for building a fine university, as Thomas Jefferson would have reminded you. But neither is it the worst reason.

8/27/82

Tuition Tax Credits in Trouble

THE REAGAN administration's tuition tax credit bill is in trouble. The problem is this: the administration has sent up a bill that provides tuition tax credits of up to \$500 for parents who send their children to private schools. (Yes, that's a tax credit, not a deduction—an extremely generous way to encourage private schools and one which, in the case of religious schools, we think clearly violates the First Amendment ban on government support of religion.) But the administration bill does not provide for enforcement by the Internal Revenue Service, the government agency directly involved, of the ban on credits for tuition to schools that discriminate on the basis of race.

That has troubled some senators who strongly back tuition tax credits, such as Sens. Bill Bradley (D-N.J.) and Daniel Patrick Moynihan (D-N.Y.). Sen. Bradley has proposed an amendment, which seems to have majority support on the Finance Committee, to give the IRS enforcement authority. But Bob Baldwin, a lobbyist representing several groups on the religious right, opposes this as a "killer amendment" and says Christian school groups are not going to give the IRS or any other government bureaucracy an iron boot that allows them to tramp over schools and parents.

The "iron boot" he is talking about is the authority the IRS had by virtue of congressional legislation and a regulation passed in the Nixon administration denying tax exemptions for Jim Crow schools. That was settled policy, widely accepted across the nation, until Jan. 8 of this year, when President Reagan, acting at the behest of support-

ers of institutions such as Bob Jones University, rescinded the regulation. After the furor (which almost anyone but the administration officials responsible might have predicted) did in fact break out, the president publicly regretted his action and asked Congress to overturn it.

There is, of course, no good reason why the government, through tax exemptions or tax credits, should subsidize segregated schools. If some groups on the religious right prefer no tuition tax credits at all to a tuition tax credit proposal that does not aid segregated schools, that tells us just about everything we need to know about their priorities: they care more about promoting segregation than about helping private schools generally. Such motives stand in vivid contrast to those, for example, of many members of the Catholic hierarchy, who have worked hard to make sure that their schools do not serve as all-white havens for parents who wish to avoid school integration.

The Reagan administration now has to choose which it wants more: a tuition tax credit bill or an endorsement of segregated private schools. A bill without an IRS enforcement provision is certain to be defeated in Congress; a bill with such a provision has some chance of passage. Does the administration genuinely support the tuition tax credit idea? Or has it just embraced this proposal to win political points with two disparate groups—Catholics and others who run integrated private schools and those who want to promote racial segregation—whose interests are suddenly in conflict? We shall see when the administration responds to Sen. Bradley's amendment.

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Reply to Washington Post editorial on tuition tax credits,

8/27/82

The Post editorial against President Reagan's tuition tax credit bill grossly distorts the facts. Because the bill "does not provide for enforcement by the IRS," the Post concludes, the bill constitutes "an endorsement of segregated private schools."

What the editorial never mentions is that the President's bill does provide for enforcement by the Justice Department. The bill gives the Attorney General every tool he needs to bring suit against a racially discriminatory school so that it cannot benefit from the credits.

The editorial also never mentions the IRS enforcement role that is contained in the President's bill. Only if children attend tax-exempt private schools can parents benefit from tuition tax credits.

President Reagan has clearly stated his policy that no racially discriminatory school shall receive tax-exempt status.

The Post may dislike the President's view that this policy should be implemented by Congressional statute rather than by IRS fiat, but that is a separate issue now pending before the Supreme Court in the Bob Jones case.

If the Supreme Court decides against Bob Jones University,

that will mean the IRS has full authority under existing law to deny tax-exempt status to discriminatory schools. If the Supreme Court decides in favor of Bob Jones University, the President will press Congress to enact appropriate legislation to ensure continuing enforcement.

The simple fact, in any event, is that racially discriminatory schools will reap no benefits from the President's bill. That is why longtime opponents of racial discrimination such as the United States Catholic Conference have firmly endorsed President Reagan's bill.

The Post's distortion of President Reagan's bill should not be allowed to distract from the pressing issue of educational justice today for both whites and minorities -- whether parents who lack great wealth will enjoy any measure of choice over the schools their children attend. Tuition tax credits will give many parents a real choice for the first time. A dose of competition will harm neither our public schools nor our Constitution. Let's not have this important debate derailed by overblown editorials that ignore basic facts.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 30, 1982

FOR: EDWIN L. HARPER
FROM: MICHAEL M. *M*UHLMANN
SUBJECT: Thoughts on LEAA
(Ref. 085234)

I think there may be some unnecessary confusion arising from the use of LEAA nomenclature. No one in the Administration favors reviving LEAA. What Bill really meant in referring to "the desirable functions of LEAA" was not LEAA as such, but the general question of how the feds can best deploy research, statistics, training, and (a limited amount) demonstration grant money. There is a federal role for these functions, and it can be performed without recreating LEAA. Because of Congressional band-aiding over the years, however, the bureaucratic infrastructure at DOJ for dealing with these matters is an unholy mess (e.g., five presidential appointees, earmarked funds, lack of AG control). There are a number of schemes floating around to cure the problem, and I should think we can have an options paper ready for consideration by early Fall.

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 8/10/82 ACTION/CONCURRENCE/COMMENT DUE BY: 8/20/82

SUBJECT: New Crime Package

	ACTION	FYI		ACTION	FYI
HARPER	<input type="checkbox"/>	<input type="checkbox"/>	DRUG POLICY	<input type="checkbox"/>	<input type="checkbox"/>
✓ PORTER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	TURNER	<input type="checkbox"/>	<input type="checkbox"/>
✓ BARR	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	D. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>
BAUER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OFFICE OF POLICY INFORMATION		
BOGGS	<input type="checkbox"/>	<input type="checkbox"/>	GRAY	<input type="checkbox"/>	<input type="checkbox"/>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	HOPKINS	<input type="checkbox"/>	<input type="checkbox"/>
CARLESON	<input type="checkbox"/>	<input type="checkbox"/>	PROPERTY REVIEW BOARD	<input type="checkbox"/>	<input type="checkbox"/>
DENEND	<input type="checkbox"/>	<input type="checkbox"/>	OTHER	<input type="checkbox"/>	<input type="checkbox"/>
FAIRBANKS	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
FERRARA	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
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B. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
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Remarks:

I'd like a paper with you thoughts on desirable functions of LEAA, before you proceed. I have yet to be sold on resurrecting LEAA.

Please return this tracking sheet with your response.

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

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 9, 1982

AUG 09 1982

FOR: EDWIN L. HARPER

FROM: WILLIAM P. BARR *WPB*

SUBJECT: ~~New Crime Package~~
(Ref. #085234)

If we want a new crime package next session, Mike and I think it should encompass at least three things:

1. ~~Whatever we don't get in our crime package this year (e.g., exclusionary rule, death penalty).~~
2. ~~A scheme for carrying on the desirable functions of LEAA.~~
3. ~~Corrections system reforms.~~

Mike, Steve Galebach and I will be thinking about this in the weeks ahead. We will suggest to Jonathan Rose that he also get working on it.

I'd like a paper with your thoughts on this before you proceed. I have yet to be sold on resurrecting LEAA.

W.P.B.

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 7/17/82 ACTION/CONCURRENCE/COMMENT DUE BY: 7/23/82

SUBJECT: Specter Bill - S. 1688

	ACTION	FYI		ACTION	FYI
HARPER	<input type="checkbox"/>	<input type="checkbox"/>	DRUG POLICY	<input type="checkbox"/>	<input type="checkbox"/>
PORTER	<input type="checkbox"/>	<input type="checkbox"/>	TURNER	<input type="checkbox"/>	<input type="checkbox"/>
BARR	<input type="checkbox"/>	<input type="checkbox"/>	D. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>
BAUER	<input type="checkbox"/>	<input type="checkbox"/>	OFFICE OF POLICY INFORMATION		
BOGGS	<input type="checkbox"/>	<input type="checkbox"/>	GRAY	<input type="checkbox"/>	<input type="checkbox"/>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	HOPKINS	<input type="checkbox"/>	<input type="checkbox"/>
CARLESON	<input type="checkbox"/>	<input type="checkbox"/>	PROPERTY REVIEW BOARD	<input type="checkbox"/>	<input type="checkbox"/>
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FAIRBANKS	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
FERRARA	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
GUNN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
B. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MALOLEY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MONTOYA	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
SMITH	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
✓ UHLMANN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
ADMINISTRATION	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

See attached comments.

Please return this tracking sheet with your response.

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

THE WHITE HOUSE
WASHINGTON

OFFICE OF
POLICY DEVELOPMENT

1982 JUL 15 A 12: 57

July 16, 1982

FOR: EDWIN L. HARPER
FROM: MICHAEL M. UHLMANN
SUBJECT: Specter Bill - S. 1688
Reference Number 085234

- 1. Instructions on the attached are confusing. Am I or am I not to draft a response?
- 2. I never said S. 1688 was dead -- only (a) that it would not likely move out of Senate Judiciary without a big push from us and (b) that unless Meese, OMB, and DOJ change their minds, everyone down here seems to think that's the way we should leave it.
- 3. I gather that our "yet-to-be revealed crime package" is so secret that even we don't know about it yet. When I read the story, I assumed it was a mis-translation of something you said.

Why? The request to prepare a draft was crossed out.

EM3

→ This is something you should be thinking about. What should be in such a package?

Ed