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NEWS FROM: U.S. SENATOR FOR KANSAS
SENATE MAJORITY LEADER

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AFFIRMATIVE ACTION

DOLE TO INTRODUCE LEGISLATION TO REMOVE PREFERENCES FROM FEDERAL LAW AND TO PROMOTE COLOR-BLIND IDEAL

To his credit, President Clinton has initiated a long-overdue "review" of all federal affirmative action laws.

After nearly thirty years of government-sanctioned quotas, timetables, set-asides, and other racial preferences, the American people sense all too clearly that the race-counting game has gone too far. The President is responding to these pressures, and his review could not have come at a more propitious time.

Administration Must Review Own Misguided Policies

But first things first. As the President conducts his review, he should also revisit some of the misguided "affirmative action" policies of his own administration.

For starters, he should take a few moments to read the Justice Department's brief in the Piscataway Board of Education case, which is now pending before the Third Circuit Court of Appeals.

In Piscataway, the Justice Department has taken the position that, when an employer is laying off employees, an individual American can legally be fired from her job because of her race. That's right: our nation's top law enforcement agency says that it's perfectly legal, as a way to achieve workforce diversity, to tell a person that she can no longer keep her job because she happens to have the wrong skin color.

This is an insidious position...one that goes beyond current law...and one that the President should emphatically reject.

The bottom line is that the President's affirmative action review cannot have credibility if the "affirmative action" policies of his own administration are fundamentally flawed. Correcting these policies, not reviewing old ones, should be the president's first priority.

Fight Illegal Discrimination, Don't Abandon Color-Blind Ideal

With that said, let's remember that to raise questions about affirmative action is not to challenge our anti-discrimination laws. Discrimination is illegal. Those who discriminate ought to be punished. And those who are individual victims of illegal discrimination have every right to receive the remedial relief they deserve.

Unfortunately, America is not the color-blind society we would all like it to be. Discrimination continues to be an undeniable part of American life.

But fighting discrimination should never become an excuse for abandoning the color-blind ideal. Expanding opportunity should never be used to justify dividing Americans by race, by gender, by ethnic background.

Race-preferential policies, no matter how well-intentioned, demean individual accomplishment. They ignore individual character. And they are absolutely poisonous to race relations in our great country.

You cannot cure the evil of discrimination with more discrimination.

Last December, I asked the Congressional Research Service to provide me with a list of every federal law and regulation that grants a preference to individuals on the basis of race, sex, national origin, or ethnic background. Frankly, I was surprised to learn that such a list had never been compiled before...which, I suppose, speaks volumes about how delicate this issue can be.

Earlier this year, the C.R.S. responded to my request with a list of more than 160 preference laws, ranging from federal procurement regulations, to the R.T.C.'S bank-ownership policies, to the Department of Transportation's contracting rules. Even N.A.S.A. has gotten into the act, earmarking eight percent of the

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total value of its contracts each year to minority-owned and female-owned firms on the theory that these firms are "presumptively" disadvantaged.

Repeal Section 8 (a) Program, Unless Hearings Prove Otherwise

As a follow-up to the C.R.S. report, I have written to my colleagues, Senators Bond and Kassebaum, requesting hearings on the most prominent programs identified in the report--the Small Business Administration's section 8(a) program and Executive Order 11246, which has been interpreted to require federal contractors to adopt "timetables" and "goals" in minority- and female-hiring.

These hearings, I expect, will demonstrate that there are other, more equitable ways to expand opportunity, without resorting to policies that grant preferences to individuals simply because they happen to be members of certain groups.

And unless the hearings produce some powerful evidence to the contrary, it is my judgment that the section 8(a) program should be repealed outright.

The hearings also provide us with the opportunity to rediscover the original purpose of Executive Order 11246. As signed by President Johnson, the Executive Order required government contractors to agree "not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin...[And] to take affirmative action to ensure that applicants are employed...without regard to their race, creed, color, or national origin."

In other words, Executive Order 11246 defined affirmative action to mean "non-discrimination." There was no mention of timetables or goals. No mention of racial preferences. These concepts were later grafted onto the Executive Order not by Congress, but by regulation, the work of federal bureaucrats.

At a minimum, we should restore the original purpose of Executive Order 11246: to ensure that federal contractors do not discriminate. However, if the Executive Order continues to be used, and misused, as a hammer to force contractors to adopt race-based hiring practices, then it, too, should be repealed.

Legislation to Achieve Color-Blind Ideal

In fact, I intend to introduce legislation later this year that will force the federal government to live up to the color-blind ideal by prohibiting it from granting preferential treatment to any person, simply because of his or her membership in a certain favored group.

Of course, the government should fight discrimination where it exists...but, at the same time, it should be color-blind, race-neutral, both in theory and in practice.

Debate: What Kind of Country Do We Want America To Be?

I am hopeful about America. And I am optimistic, as we head into the 21st century, that the American experiment will continue to be a model of self-government and a source of hope for millions the world over.

But leadership also requires a sense of common purpose. We cannot continue to lead the world, if we are divided here at home.

Yes, we should celebrate our own differences. Yes, we should take pride in our own rich ethnic heritage. It is a source of great strength.

But, at the same time, we should not devalue the common bonds that define us as Americans. Too often, we speak in terms of a hyphenated identity: it's Italian-Americans, German-Americans, African-Americans, Irish-Americans, and not just "Americans."

Historian Arthur Schlesinger, Jr. probably put it best when he warned, and I quote: "Instead of a nation composed of individuals making their own unhampered choices, America increasingly sees itself as composed of groups more or less ineradicable in their ethnic character. The multiethnic dogma abandons historic purposes, replacing assimilation by fragmentation, integration by separatism. It belittles unum and glorifies pluribus."

So, the coming debate over affirmative action will be much more than just a debate over "reverse discrimination." It will be a debate that forces us to answer a fundamental question: What kind of country do we want America to be?

Do we work toward a color-blind society? A society that judges people by their talents, their sense of honor, their hopes and dreams...as individuals? Or do we continue down the path of group rights, group entitlements...judging people not by their character or intellect, but by something irrelevant: the color of their skin?

America has always been a melting pot. But it should never become a place where race and ethnicity exclusively define who we are, how we think, and what we are supposed to believe.

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