TO: Monica Mullens
FROM: Jennifer Klein
RE: Letter to The Gap
DATE: 2/16/94

The Gap

I would use the following paragraphs in response to The Gap's concerns.

1. Payroll Tax Option

As I noted in my letter dated . . . , we appreciate the special concerns of businesses who employ large numbers of part-time and seasonal workers. As you know, the Health Security Act is now being considered by Congress. The Administration will support an amendment allowing employers to pay a percentage of payroll for part-time or seasonal workers.

2. Federal Uniformity and State Preemption

We agree that multi-state employers must not be forced to contend with multiple and often inconsistent state requirements. As a result, under the proposed Health Security Act, ERISA preemption will continue to apply to corporate alliance plans. The only exception is in states that form a single payer system, where employers eligible to form corporate alliances may be required to join the single payer system.

The tone of this letter should be conciliatory. You can mention that the President appreciates the ongoing and productive communication with The Gap over the past few months. I also would emphasize that he looks forward to continuing to work with them on these and other issues.

Other Issues

We are still developing language on abortion coverage. I will send it to you as soon as it has been cleared.

M E M O R A N D U M

Date: 2/15/94

To: Jennifer Klein

From: MONICA MULLENS PHONE: 456-2276
PRESIDENTIAL LETTERS FAX: 456-2806
OFFICE OF CORRESPONDENCE
ROOM 93

Re: Drafts

I have another letter from the President of The Gap that I need a draft for. I also need a copy of that incoming letter from last month if you can find it because we must attach the incoming to compare it to the draft and so the President can read it. Please call me if you have any questions. Thank you for your help.

Monica

Also, I am still waiting for language on abortion coverage in the health plan. Can you send me the letters you all have been using?

- Health

052813

DONALD G. FISHER
CHAIRMAN AND
CHIEF EXECUTIVE OFFICER

GAP

VIA FEDERAL EXPRESS

February 3, 1994

William Jefferson Clinton
The White House
Washington, D.C. 20500

Re: Follow-Up to Our December 7 Meeting on Health Care Reform

THE GAP, INC.
ONE HARRISON
SAN FRANCISCO
CA 94105
TELEPHONE
415 952 4400

Dear Mr. President:

This will follow up on a few issues we discussed at your December 7 luncheon regarding health care reform and the Health Security Act ("Act").

I am particularly interested in the changes we talked about and which Ira Magaziner said would be made to the Act's financing provisions for part-time and seasonal workers. I understood from our meeting that the Administration intends to amend the Act to allow employers to make contributions for their part-time and seasonal workers on the basis of percentage of payroll. We also discussed The Gap's and other multi-state companies' extreme concern over whether state pre-emption and federal uniformity will be preserved. You stated that the Administration would be looking further into these issues as well.

I. Payroll Tax Option.

As you may recall, Ira Magaziner confirmed during our meeting that the Administration was in the process of modifying the Act so that employers would have the option to simply pay a percentage of a part-time or seasonal worker's payroll **instead of** being forced to calculate the proportional premium amounts due for each such employee each and every pay period. Both Ken Macke of Dayton-Hudson and Stuart Turley of Eckerd Drug agreed with my position that if an employer mandate is imposed with respect to these workforces, a payroll tax option would be the only viable way for employers to calculate and make contributions. **Unfortunately, I have not yet heard whether these critical modifications to the Act have been or will ever be made.**

After an exhaustive analysis of this issue some time ago, The Gap determined that any kind of premium-based mandate would be virtually impossible for large employers to administer with respect to their fluid and constantly-changing part-time and seasonal workforces. To give you an idea of the transitory nature of The Gap's workforce, for example, consider that of the individuals who were hired by our Company within the last 90 days, 27,900 have already voluntarily terminated their employment and moved on.

B. Federal Uniformity and State Pre-Emption.

Regardless of our views on other related issues, multi-state employers unanimously and wholeheartedly agree that state pre-emption and federal uniformity are absolutely critical and must be fully preserved by the federal government if health care reform is to be successful. The Act's provisions which would allow states and regions to opt out of the federal system to create their own plans is simply unworkable and would no doubt divert much-needed funds from providing real health care to needless administration and paperwork. While "state flexibility" may sound like a politically correct alternative, it would greatly **increase and compound** the inefficiencies and costs which permeate our current system and is not an appropriate solution.

Without state preemption and federal uniformity, multi-state companies such as The Gap, Dayton-Hudson and Eckerd Drug would be forced to comply with a myriad of inconsistent financing and reporting requirements throughout the states. Consequently, we would no longer be able to focus on providing service, quality and reasonably-priced coverage as we do today. I have carefully studied this issue at my own Company (we operate in 45 states) and am convinced that any health care system which does not provide for consistency and uniformity amongst the states would be a disaster for this country. Again, I strongly urge you to reconsider your position on this very important matter.

Once you have had an opportunity to consider these issues, I would very much appreciate a response from you regarding (1) whether you still plan to modify the Act to allow employers the option to contribute to the coverage of their part-time and seasonal workers on the basis of a percentage of an individual's payroll; and (2) whether you will support federal uniformity and ensure that the Act is amended to preserve and maintain state pre-emption.

Again, thank you for your consideration of these matters. I look forward to hearing from you soon.

Very truly yours,

Donald G. Fisher
Chairman and CEO

cc: Ira Magaziner

Donald G. Fisher
Chairman and Chief Executive Officer
The Gap, Inc.
One Harrison
San Francisco, CA 94105

Dear Mr. Fisher:

Thank you for writing to share your views about my Administration's proposal for comprehensive health care reform. Ira Magaziner has told me about the constructive dialogue that he has had with you, Lauri Shanahan, and others from The Gap over the past few months. Your letter raises a number of thoughtful points, and I look forward to working through these challenging issues with you as Congress and the nation focus on health reform in the coming months.

The Employer Mandate

We share your concerns about the increasing burden on employers of providing health insurance coverage for workers. As you know, one of our primary goals in health care reform is to contain health care costs. In the last eight years, per worker health care costs for American businesses have almost doubled. But most American corporations -- like the Gap -- consider health coverage a benefit of employment, and have continued to provide coverage for workers and their families, at ever-rising costs. High health care costs are eroding competitiveness in the global marketplace and siphoning dollars away from new capital investments.

Limiting the rate of growth of health care costs will reduce costs to all employers of insuring their workers. Under the Health Security Act, employer premium payments will rise $27 billion less than they would have without reform between 1994 and 2000. Firms with more than 5000 employees that currently offer insurance will save $551 per worker in the year 2000 alone and will spend only 7.0 percent of total payroll on employees' health insurance premiums.

Part-time and Seasonal Workers

We appreciate the special concerns of businesses who employ large numbers of part-time and seasonal workers. As introduced, our proposal requires employers to pay only a pro-rated portion of the premium payment for part-time workers. The payment is based on the ratio of the hours worked to 120 hours per month. No employer payment is required for employees who work less than 40 hours per month or for employees who are covered as a dependent child under a parent's policy. While these provisions provide sufficient protection for most employers, we would support providing an option to employers to pay simply a

percentage of payroll to provide greater simplicity for large employers. We are currently estimating the cost of that option.

Market-Based Reform

The Health Security Act should control health care costs through market-based reform. Consumers are given a meaningful choice of health plans providing the same package of benefits and make informed, cost-conscious decisions. Consumers choose among health plans based on cost -- they pay more if they choose a more expensive health plan -- and quality -- they are provided with information about health care quality and consumer satisfaction. Competition among health plans is backed up by a safety net of caps on the rate of increase in insurance premiums.

Regional alliances promote competition between health plans by increasing the purchasing power of those individuals previously forced to purchase only small group and individual insurance and by offering a choice of health plans. Alliances also give consumers a choice of health plans, preventing plans from selecting only healthier applicants or varying premiums based on health status and instead forcing health plans to compete for consumers by providing high quality health care at a reasonable cost.

ERISA Preemption

Corporations, like The Gap, with more than 5,000 full-time employees may continue innovative and efficient approaches to providing coverage for their workers by forming corporate alliances. ERISA preemption will continue to apply to corporate alliance plans; therefore, multi-state employers will not have to comply with a patchwork of state laws.

Simplification of the Health Care System

The Health Security Act will simplify health insurance coverage for regional and corporate alliance employers and employees. The Health Security Act builds on the employer-based system where 9 out of 10 workers get their coverage today. However, it simplifies that system by standardizing the dizzying array of paper work and electronic data and by providing one, comprehensive benefit package.

We understand that corporations with large numbers of part-time and seasonal workers face administrative challenges in an employer-based system. We have attempted to minimize that burden. Employers will be required to track only the residence, family status, wages, and hours worked of their employees. We are open to proposals to further simplify the role of employers. We would also like to explore further simplification of the rules for corporate alliances by, for example, allowing corporations to move between regional and corporate alliances more easily.

Thank you for sharing your concerns. I welcome any additional comments and look forward to working with you in the coming months.

DONALD G. FISHER
CHAIRMAN AND
CHIEF EXECUTIVE OFFICER

GAP

December 7, 1993

The President
The White House
Washington, D.C. 20500

Re: Health Care Reform and the "Health Security Act"

THE GAP, INC.
ONE HARRISON
SAN FRANCISCO
CA 94105
TELEPHONE
415 952 4400
FAX
415 495 2922

Dear Mr. President:

Thank you for your interest in The Gap's views and concerns regarding The Administration's proposal for comprehensive health care reform.

We strongly support your efforts to restore efficiency and integrity to our current health care system. However, we have become increasingly concerned that the Health Security Act, in its current form, would impose excessive and unbearable financial and administrative burdens on labor-intensive employers such as The Gap.

In this regard, I urge you to personally review and consider the enclosed copy of The Gap's recent testimony before the Committee on Ways and Means. This written statement provides a detailed outline of our primary concerns over the Administration's Health Security Act ("Act").

Generally speaking, we are most troubled by the following aspects of the Act:

1. **The Employer Mandate.** Aside from the obvious financial impacts associated with a requirement that employers contribute to the coverage of their employees, we have serious concerns over the **extent** and **type** of mandate chosen, particularly as it applies to our **part-time and seasonal workforces**. In fact, imposition of the premium-based mandate as proposed in the Act would have increased The Gap's total health care costs for 1992 from **$14.2 million** to at least **$34 million**. Moreover, The Gap would have been required to contribute as much as **40% of each part-time employee's total wages** for their coverage.

2. **Part-time and Seasonal Employment.** While the Administration appropriately determined that part-time and seasonal workers should obtain their coverage through the regional alliances, the Act does not relieve - but substantially increases - employers' responsibilities for administering and financing their plans. Because part-time and seasonal employees often change jobs frequently, flow in and out of the workforce, and work hours which vary considerably from pay period to pay period, the imposition of a premium-based mandate on their employers would be extremely difficult and costly to administer and finance. The Gap employs on average 30,000 part-time and seasonal workers, yet the Company processed **over 100,000 W-2 forms** last year alone. In fact, of the individuals who were hired by The Gap within the last 90 days, almost 28,000 have already voluntarily terminated their employment and moved on.

3. **ERISA Pre-emption.** We are very disappointed that the Act provides for the piecemeal disintegration of ERISA. Multi-state companies such as The Gap rely almost entirely upon the protections afforded under ERISA to efficiently deliver uniform and affordable health care coverage to their employees. Our experience with Hawaii and with Canada's system, in which the financing mechanisms and administrative requirements vary from province to province, indicates to us the likelihood of disaster if every state were given flexibility in the U.S. to implement their own systems.

4. **Market-Based Reform vs. Increased Government Bureacracy.** In its current form, we believe the Act would create numerous and unnecessary levels of bureacracy instead of encouraging market-based reform. Given the anticipated size and power of the regional alliances and the penalties imposed on large employers, labor-intensive companies such as The Gap would never have a realistic opportunity to maintain their own plans and operate as corporate alliances. In the end, this would mean reduced employer control over quality, service and cost, reduced incentives and innovation, less responsiveness to consumers, and ultimately less competition and choice.

Whatever its form, the final plan must be financially and administratively feasible for everyone, **including employers,** so that any associated negative impacts such as job-loss can be minimized as much as possible.

Again, thank you for taking the time to meet with me to discuss these very important issues. We are very encouraged by your willingness to listen to the concerns of businesses such as The Gap and look forward to working with you, the Administration and Congress in the future.

Very truly yours,

TESTIMONY ON HEALTH CARE REFORM AND RELATED FINANCING ISSUES

by Lauri M. Shanahan
Associate General Counsel

THE GAP, INC.
San Francisco, California

Presented to
The Committee on Ways and Means
United States House of Representatives

November 18, 1993

TESTIMONY ON HEALTH CARE REFORM

by Lauri M. Shanahan
Associate General Counsel

THE GAP, INC.
San Francisco, California

November 18, 1993

I. BACKGROUND OF COMPANY

The Gap, Inc. ("Gap") is a specialty retailer which operates stores selling casual and activewear under several brand names including Gap, GapKids, babyGap and Banana Republic. The company was founded in 1969 by Donald G. Fisher, presently Chairman and CEO of the company, and his wife, Doris Fisher. Corporate social responsibility is and has always been a guiding principle of Gap since its first store opened in San Francisco over 24 years ago.

At the end of fiscal 1992, Gap operated a total of 1,221 stores in the U.S. which are located in 45 states and Puerto Rico. No stores are franchised or owned by others. Net sales of Gap for 1992 were almost $3 billion.

Given the seasonal nature of the retail industry, the total number of individuals employed by Gap can vary greatly over the course of a year. On average, Gap employs around 40,000 employees: 10,000 full-time individuals (those working 30 or more hours per week) and 30,000 part-time and seasonal employees. However, almost 100,000 individuals are employed by and necessarily receive W-2 forms from Gap each year.

At least 70% of Gap's total workforce at any given time are part-time and seasonal workers. Gap's large part-time and seasonal workforce is comprised of individuals who need and desire flexible employment opportunities. Many cannot commit to full-time employment or to inflexible, "normal" hours due to other commitments (e.g. school, children). Others are simply between jobs and desire only temporary employment. Many are already employed in a "primary" profession but find themselves in need of extra funds to cope with income fluctuations or unanticipated expenses. **All of these individuals rely and depend on our company to provide them with alternative working arrangements and flexible hours.** Until now, Gap has been able to accommodate this workforce to the benefit of everyone involved.

Gap currently offers health insurance to all of its full-time employees and their dependents and contributes approximately 81% of the cost for each who elects coverage through the plans we offer. Of those who elect coverage, over 85% choose Gap's self-insured plan, which includes a fee-for-service and preferred provider option. We are also able to offer HMOs in a few areas (e.g. corporate headquarters and distribution centers) where Gap has sufficient leverage to negotiate competitive rates and ensure quality care and service.

Due to unstable employment patterns common in the retail industry (and other service-related businesses) it has not been administratively or financially feasible in the past for Gap to offer and/or to voluntarily contribute to health insurance for part-time and seasonal workers through our own plan.

II. SUMMARY OF GAP'S TESTIMONY

Gap strongly supports the Administration's and Congress' efforts to restore efficiency and integrity to our current health care system. We wholeheartedly agree that substantial reforms must be undertaken to ensure that all Americans have access to affordable health care. Gap is willing to contribute additional resources if necessary to achieve these important goals.

We are encouraged by many of the elements contained in the Administration's Health Security Act (the "Act"). However, we have become increasingly concerned that the Act would impose excessive and unbearable financial burdens on labor-intensive employers such as Gap. Gap is also very concerned over whether large, multi-state employers could realistically continue to administer their own plans and function as corporate alliances under the Act. Given the significant financial and administrative burdens associated with increased "state flexibility," corporate assessments, complex rules for computing, paying and collecting contributions, and numerous other "penalties" and requirements imposed on corporate alliances, the Act effectively ensures that Gap (and we believe most other similarly situated employers) will never have the option to remain outside of the regional alliances.

Gap is also extremely concerned because the Act imposes tremendous new administrative burdens on employers which would apply regardless of whether a company opts entirely into the regional alliances or chooses to operate under a corporate alliance. This issue is particularly critical for labor-intensive companies.

In this statement, Gap will address several of its concerns regarding the additional financial burdens and administrative complexities contained the Act:

(1) **The Act would impose severe financial burdens on labor-intensive employers like Gap. Under the Act, employers would be required to make a proportional, premium-based contribution for the coverage of their part-time and seasonal employees in the regional alliances.** The imposition of such a mandate on employers for their part-time and seasonal workers' health insurance would be financially unfeasible for labor-intensive companies. **Such a mandate would have increased Gap's total health care costs for 1992 from $14.2 million to at least $34 million, an increase of 139%. In addition, Gap would have been required to contribute as much as 35% of a part-time employee's payroll for his/her coverage under the Act.** These payments would not be limited by any caps on payroll if Gap were to operate under the umbrella of a corporate alliance.

(2) **The premium-based mandate approach would impose undue administrative burdens on labor-intensive companies such as Gap.** Given that the hours of part-time and seasonal workers fluctuate from pay period to pay period, the proportional premium amounts due from the employer and employee will change constantly. The number of variables increases exponentially under the Act given the total number of regional alliances, the multitude of health plans offered in each of regional alliances, and the fact that the weighted-average premium will vary from alliance to alliance. In the end, employers would be required to collect and maintain a myriad of new information, perform countless and burdensome calculations on a region-by-region basis, and apportion and reconcile contributions amongst the alliances (regional as well as other corporate alliances) each and every pay period.

(3) **The Act would significantly erode the protections currently afforded to multi-state companies under ERISA.** Among other things, the Act would allow states to opt out of the federal system for a single-payor system and to also impose new and potentially unlimited taxes on employers. ERISA pre-emption currently makes it possible for large companies like Gap to operate nationally without being subjected to a myriad of inconsistent state mandates. The Act's piecemeal disintegration of ERISA would not only force large companies to abandon their own plans but would potentially require them to comply with fifty or more different state and regional systems.

(4) The Act would impose a number of additional penalties, requirements and burdens on corporate alliances:

a. **The corporate alliance assessment of 1% would be excessive if applied to a company's total, uncapped payroll,** including the payroll of those employees already covered through the regional alliances.

b. **The overall cap on employer contributions of 7.9% of payroll would not apply to contributions made by corporate alliances** at any time, and further, it would not apply to large companies who opted entirely into the regional alliances for a period of eight years.

c. **The Act would allow a regional alliance to impose unlimited assessments on corporate alliance employers to compensate the regional alliance for the uncollectible debts of its members.**

d. **States and regions could opt out of the federal system and require corporate alliance employers to operate under and comply with their individual single-payor systems.**

e. **The Act would also impose new financial and administrative burdens on corporate alliance employers with respect to their full-time workforces.** Gap would be required to collect information regarding the employment status and employer of **every spouse.** For every married employee whose spouse was also employed, Gap would be forced to either collect premium contributions from other corporate alliances or regional alliances or to reimburse other alliances one by one each pay period.

f. **The Act would require corporate alliance employers to offer at least three plans in every region where they operate,** which would be extremely difficult given the anticipated inability of these employers to compete with the powerful regional alliances.

(5) **The Act would create numerous levels of bureaucracy instead of encouraging market-based reform.** This would ultimately mean reduced employer control over quality, service and cost, reduced incentives and innovation, less responsiveness to consumers and less competition and choice.

Due to these serious problems, Gap has concluded that implementation of the Act in its current form would prove to be administratively and financially unbearable for labor-intensive employers and particularly for those which employ large numbers of part-time and seasonal workers.

III. ANALYSIS OF GAP'S PRIMARY CONCERNS

A. A PREMIUM-BASED APPROACH MUST NOT BE APPLIED TO CALCULATE EMPLOYER CONTRIBUTIONS FOR PART-TIME AND SEASONAL EMPLOYEES IN THE REGIONAL ALLIANCE

While the Administration appropriately determined that part-time workers should obtain coverage through the regional alliances, the Act does not relieve - but substantially increases - employers' responsibilities for administering and financing their plans. While we do not disagree that a premium-based approach may be administratively workable for full-time employees in the corporate alliances (if an employer mandate is deemed necessary), **it is simply not a feasible solution for part-time and seasonal workers.** If a premium-based mandate were applied to individuals in the regional alliances, Gap would be forced to provide substantial administrative support necessary to (1) implement extensive and costly systems changes, (2) obtain, track and report employee, spousal and dependent information, (3) calculate, collect and disburse employee and employer contributions, and (4) perform constant and complicated reconciliations.

1. A Pro-rata Premium Approach Would Not Be Financially Feasible for Employers of Part-time Employees Who Obtain Coverage Through the Regional Alliances.

Aside from the exorbitant administrative costs which employers would be forced to incur with a premium-based mandate on part-time and seasonal workers, the imposition of such a mandate would have a tremendous financial impact as well. Gap believes that it would be extremely difficult for even the healthiest of labor-intensive companies to survive a mandate which requires them to pay a percentage of each individual's premium.

During fiscal 1992, Gap spent **$14.2 million** on health care costs. Based upon the conservative premium estimates given to us by the Administration for the regional alliances (which Gap believes are underestimated considerably), **Gap estimates it would have spent the following in 1992 under the Act:**

a. **$34 million,*** if Gap had maintained a **corporate alliance** for its full-time workers and made contributions for its part-time and seasonal workers in the regional alliances through a proportional weighted-average premium approach. This option alone would have increased Gap's health care costs by 139% and would have accounted for 16% of Gap's total net earnings for 1992, as opposed to an actual 6.7% incurred in 1992.

b. **$30 million,*** if Gap had opted entirely into the **regional alliances.** This option would have over doubled Gap's health care expenditures and would have accounted for 14% of Gap's total net earnings for 1992.

* While these amounts are necessarily estimates given the complexity of the calculations involved, we believe our figures are **extremely conservative.** Gap is convinced that the actual amounts which would be expended if the Act were implemented would be much greater. In addition, it is important to note that the above figures do not account for any of the additional administrative costs which Gap would necessarily incur under the Act as described in subsection 2 below.

Moreover, the financial impact of a premium-based mandate would be exacerbated under the Act given that the "proportional" contribution required of employers is based on a full-time work week of only thirty hours instead of the standard forty hours. Thus, for an employee who works an average of 15 hours per week, Gap would be responsible for 80% of half of the weighted-average premium. This component clearly discourages part-time employment by making it disproportionately expensive to employ these workers. In fact, for many part-time employees, Gap would end up paying as much as 35% of their payroll to comply with its contribution requirements under a proportional premium model which uses 30 hours as its baseline.

These figures readily demonstrate that the proportional premium approach would have an extreme, severe impact on Gap as well as other retailers and employers in the service-related industries. Just like many small businesses, retailers (whether large or small) are generally labor-intensive employers which operate on very low profit margins. As such, we simply cannot afford the imposition of a proportional premium mandate applicable to the total number of part-time and seasonal workers employed, particularly during these difficult economic times. To the extent possible, Congress must ensure that "Health Care Reform" does not translate into unemployment for many of these individuals and their families.

2. A Pro-rated Premium Mandate Would Not Be Administratively Feasible for Employers of Part-time Employees Who Obtain Coverage Through the Regional Alliances.

Gap has long provided coverage to its full-time workers and their dependents, and wishes to continue to provide this coverage, through our self-insured plan. On the other hand, we have not been able to provide insurance through our own plan to part-time and seasonal workers, who often change jobs frequently, flow in and out of the workforce, and work hours which vary considerably from pay period to pay period.

The regional alliances could provide, for the first time, a practical mechanism for the administration and delivery of health care coverage to part-time and seasonal workers. Unlike our own plan, the regional alliances could provide consistency and continuity of service to these individuals and others regardless of their job status at any given time. Moreover, the regional alliances would make it feasible for employers to voluntarily contribute to this coverage for the first time as well.

Gap does not intend to enter the debate over whether the Government should force employers to contribute toward all of their employees' health care coverage. Clearly, any such mandate would directly impact the number of jobs employers could offer in the future, the wages of their employees, and the extent to which companies like Gap could continue to offer flexible employment opportunities. Our overwhelming concern here is that the final plan must be administratively workable and feasible for everyone, including employers, so that the job-loss impact can be minimized as much as possible. If employers are to incur substantial additional costs to achieve the goals of any health care reform plan, it is imperative that the funds raised are utilized appropriately and efficiently.

With these considerations in mind, Gap has concluded that a proportional, premium-based mandate would be an unworkable and inappropriate financing mechanism for part-time and seasonal workers who obtain coverage through the regional alliances. Given the unique nature of the part-time and seasonal workforces, their employers would be required to track a virtually limitless number of variables, perform countless and burdensome calculations, and apportion contributions amongst numerous alliances each and every pay period.

Gap's current payroll system is able to take deductions from employees either in the form of a payroll tax (a percentage of payroll, e.g. FICA) or in the form of a set amount, such as the current deduction for medical coverage for our full-time employees. **This system would have to be completely abandoned if a proportional premium method was implemented to calculate and distribute contributions for part-time and seasonal workers:**

a. **Gap would need to collect substantial new information from each part-time and seasonal employee, including choice of plan, place of residence, family status, and names and social security numbers of spouses and dependents.** Gap would also need to maintain and constantly update all of this information, since each piece of data would directly impact the employer's calculations each pay period and the appropriate allocation of the contributions. Gap currently must maintain only the name of the employee and the store location where he/she works.

b. Because part-time and seasonal workers' hours vary considerably from pay period to pay period (which is every two weeks at Gap), **the proportional amount of both the employer's and employee's premium contribution would also change each pay period.**

c. **The weighted-average premium baseline would be different in every regional alliance,** further complicating the bi-weekly calculations of the employer's and employee's contributions.

d. **Separate and independent calculations would need to be performed** for the employer portion of the premium (which is based on an average premium that differs by regional alliance) and for the employee's portion (which is based on the plan chosen from the specific menu offered in the regional alliance where the employee resides).

e. **A premium-based mandate would require employers to obtain a positive election form from each employee as to the plan chosen.** Often, the employee would have left the company before an election was made. Since many of our employees are entering the workforce for the first time, it would be unreasonable to make them elect a plan on their first day of employment. In any case, the employer would have to reconcile and collect the amount owed from previous pay periods once a plan was finally chosen by the employee.

f. **A premium-based mandate and a menu of health care plans which would each vary by region would make it extremely difficult for an employee to change job locations within a company.** Over 2,000 Gap employees transferred from one state to another in 1992. Under the Act, it would be extremely difficult for us to effect these types of employee transfers.

These are just a few examples of the problems associated with a premium-based approach as applied to part-time and seasonal workers. The variables increase dramatically when one considers the potential number of regional alliances, the total number of plans available through the different regional alliances, employees' changes to plan elections, rate changes and changes to family structure. Most changes would be communicated to Gap after they have occurred, which would require Gap to perform frequent adjustments and reconciliations. Most calculations would have to be made manually. All payments would then have to be apportioned amongst the regional alliances. Each regional alliance would have its own set of reporting requirements. Clearly, the constant maintenance and manipulation of information required to correctly pay premiums each pay period and to apportion them between the numerous alliances would be cost prohibitive and involve huge additions to staff.

Regardless of the determinations made over how to finance coverage, Congress must ensure that the final plan is carefully structured and does not force labor intensive employers to incur unnecessary and wasteful administrative costs which could be better spent on health care.

B. ANY HEALTH CARE REFORM PLAN MUST ENSURE THAT MULTI-STATE EMPLOYERS ARE AFFORDED PROTECTION UNDER ERISA SO THAT THEY CAN CONTINUE TO PROVIDE QUALITY AND COST-EFFECTIVE HEALTH COVERAGE TO THEIR REGIONALLY DIVERSE EMPLOYEE POPULATION

Gap is strongly opposed to any plan or provision in the Act which would effectively limit or eliminate the protections currently afforded to multi-state employers under ERISA. We are strongly opposed to the Act's provisions which allow states and regions to readily opt out of the federal system to create their own, single-payor systems. We are also opposed to the provisions which would enable states to impose assessments and surcharges on multi-state employers.

These provisions would not only substantially increase employers' costs but would severely jeopardize and disrupt our ability to continue to deliver our current plans to our diverse employee base. Multi-state companies such as Gap rely almost entirely upon the protections afforded under ERISA to efficiently deliver **uniform and affordable** health care coverage to their employees.

Unlike the consistency and continuity of coverage which has been achieved by employers through ERISA, requirements to adhere to the laws of multiple jurisdictions would be an unwarranted and unbearable waste of resources for multi-state companies. **Unlike the federal government, individual states have no real incentive to ensure that their own plans, taxes or requirements fit into a coordinated federal scheme.**

For example, our experience with Hawaii's system (which is currently exempted from ERISA) has not been positive in terms of the additional administrative burdens we have been forced to assume just to comply with its requirements. While Hawaii's system is often touted as a success, the figures do not reveal the administrative and financial expenses incurred by employers which operate in that state. In fact, it takes this company almost three times as long to administer our plan for one employee in the State of Hawaii than it does for any other employee located in the continental U.S.

Canada also presents a difficult situation where employers must operate under separate, independent provincial plans. Even though the country is based entirely on a "single-payor" system, each province has been given "flexibility" to set up its own financing mechanisms and administrative requirements which every employer must follow. Gap employs over 1,400 individuals in Canada and has 57 stores in six provinces. The constantly changing requirements of each province are not coordinated in any way, which makes administration for multi-province employers extremely difficult and time-consuming.

Based upon our experiences with Canada and Hawaii, we would anticipate that any state pre-emption from the federal system would eventually make it impossible for Gap to offer its own plan.

Yet Gap's self-insured program currently provides quality and cost-effective coverage to most of its full-time employees and their dependents. Through innovative health education, prevention programs and economies of scale, Gap and its employees have worked together to control health care expenditures while promoting quality of care and good health. Gap has been able to tailor its plan and offer a variety of special benefits based upon the particular demographics of our workforce.

Gap believes that large employers which can efficiently provide this kind of coverage to their full-time employees and dependents should not only be permitted to do so under any reform initiative but should be encouraged to do so. ERISA pre-emption allows large, national companies to achieve valuable economies of scale and to operate efficiently by

avoiding fragmentation of administration on a region-by-region basis. For most companies like Gap, the astronomical administrative costs necessitated by regional decentralization would far exceed any anticipated or realized benefits. The eventual elimination of self-insurance which would occur under the Act would defeat current incentives for employers and employees to directly impact their own health care costs through proactive cost-containment measures. Moreover, employers would still be subjected to the potentially limitless number of state and regional mandates even after they were forced into the regional alliances.

This Government can no longer afford to impose unnecessary and undue burdens on employers which would no doubt divert much-needed funds from real health care to needless administration and paperwork. The piecemeal disintegration of ERISA would have a devastating and irreversible impact on the ability of multi-state employers to function without facing a myriad of inconsistent and conflicting state regulations which pay little or no regard to any overall, federal design.

C. THE ACT WOULD IMPOSE NUMEROUS OTHER PENALTIES, REQUIREMENTS AND BURDENS ON CORPORATE ALLIANCES WHICH WOULD ULTIMATELY FORCE ALL EMPLOYERS INTO THE REGIONAL ALLIANCES

In the end, the Act would effectively deny most companies the option to create their own corporate alliances. Not only would the Act impose a 1% surcharge on a large company's total payroll, it would subject corporate alliance employers to a host of other burdensome requirements and expenses. Under the Act, the 7.9% cap on employer contributions does not apply to corporate alliance employers. Even with respect to a company's full-time workforce, the plan would impose new, substantial administrative and financial burdens involving the calculations and apportionment of premium contributions which would differ depending on the employment status of an employee's spouse. A corporate alliance would also be required to offer at least three plans in each region. Finally, regional alliances would have the freedom to impose additional, uncapped taxes on all employers to reimburse the regional alliances for the uncollectible, bad debts of the regional alliance members.

1. The Proposed Corporate Assessment of 1% on a Company's Total, Uncapped Payroll Would Force Gap (and Other Labor-Intensive Employers) to Opt Entirely Into the Regional Alliances.

Under the Act, a 1% surcharge would be imposed on a company's **total, uncapped payroll**. Gap believes that an assessment of 1% would be far too excessive if applied to a company's total payroll, which is defined to include all fringe benefits and non-cash compensation (e.g. group-term life insurance, relocation expenses, stock options, car allowances and taxable stock transactions). Assuming the Administration's figures are correct and a 1% surcharge were applied to Gap's total uncapped payroll, we would spend millions of dollars more each year if we functioned under a corporate alliance as opposed to opting entirely into the regional alliances.

While we understand the need to assess a surcharge on companies with self-insured plans to obtain necessary financing for the regional alliances and/or for medical research and education, we believe that **a reasonable cap on income must be applied in defining total "payroll" subject to the tax. Moreover, the one-percent tax should apply only to the payroll of the employees which are covered under the corporate alliance and should exclude the income of employees which are already covered through the regional alliances.**

If the assessment applied is too onerous on large employers, the obvious effect would be to eliminate any realistic employer choice and to effectively force employers to opt entirely into the regional alliances. **Of course, this move would directly impact the Administration's ability to collect a large portion of the assessments it is counting on to fund the system.**

Thus, in order to ensure that the Government is able to collect sufficient revenues while at the same time allowing large companies to remain self-insured under a corporate alliance, Gap proposes that any assessment be based on a capped percentage of payroll applicable only to the employees which are insured through the corporate alliance. The cap could be the same as the current Social Security wage base cap of $57,600.

2. **The overall cap on employer contributions of 7.9% of payroll would not apply to contributions made by corporate alliances.**

Under the Act, a corporate alliance employer's risks are virtually unlimited. **While the Act generally provides for a cap on employer contributions of 7.9% of payroll, corporate alliance employers are clearly excluded from any savings this cap could provide.** Not only would large employers be denied the benefits of this cap with respect to their full-time workforce covered through the corporate alliance, **the cap does not even apply to contributions for their part-time and seasonal employees covered through the regional alliances.** In fact, even if a large corporation opts entirely into the regional alliance, it would not fully benefit from this cap for eight years. Collectively, these provisions **inappropriately penalize large companies based on their size alone,** thereby failing to account for the fact that, just like small employers, many large companies operate on very low profit margins and simply would not be able to afford these severe and unfair penalties.

3. **The Act Would Allow the Regional Alliances and States to Impose Additional Burdens on Corporate Alliance Employers.**

First of all, regional alliances would have the ability to impose unlimited payroll taxes on all employers to compensate the regional alliances for the uncollectible debts of its members. In addition, states and regions could opt out of the federal system and thereafter require corporate alliance employers to operate under their own individual state or regional single-payor systems. Obviously, this would make it impossible for multi-state employers to operate efficiently on a national level and offer a uniform and affordable health plan to all of its employees.

4. **The Act Would Impose New Financial and Administrative Burdens on Corporate Alliance Employers With Respect to Their Full-Time Workforces.**

Gap would need to collect and maintain a substantial amount of new information with respect to its full-time workforce even though these employees would be covered through our own plans. For example, Gap would need to collect information regarding the employment status of **every employee's spouse,** and if employed, whether the spouses worked for corporate alliance employers. For every married couple employed by two different corporate alliance employers, Gap would be forced to either collect premium contributions from all of the other corporate alliances or to reimburse the other alliances one by one each pay period. Payments would also have to be made to and collected from the regional alliances for other employees.

5. **The Act Would Require a Corporate Alliance Employer to Offer at Least Three Plans in Every Region Where it Operates.**

Even in regions where Gap employs a large number of workers, its bargaining power and ability to compete would be seriously undermined given the anticipated size and power of the regional alliances. Consequently, it would be highly unlikely that Gap could offer three affordable and quality health plans even in its most populated areas. While the Act would allow Gap to opt into the regional alliances on a case-by-case basis in areas where our employee population is small, there is no flexibility to self-insure at a later date if our employee base grows in that region. **Under the Act, Gap would simply not be able to compete with the regional alliances given their control over the market and the requirements imposed on corporate alliances.**

D. TAX CAPS ON EMPLOYER AND EMPLOYEE DEDUCTIONS ARE A NECESSARY COMPONENT TO ACHIEVE MARKET-BASED COST CONTAINMENT AND TO DISCOURAGE EXCESS SPENDING AND UTILIZATION OF HEALTH CARE

Given the urgent state of our health care crisis, our Government can no longer afford to retain components of a system which effectively **encourage** the excess expenditure of limited funds on nonessential health care. Any plan which permits tax deductibility beyond a standardized level of benefits would be an inherent contradiction to any market-based approach to reform.

Gap agrees that the "tax cap" should be imposed on both employers and employees. Such a cap would directly distribute the costs of excess benefits to those who specifically choose to use excess benefits. Without this tax cap, employers which insist on offering richer plans will defeat the reform measures implemented while shifting their excess costs of health care to others. Likewise, employees who elect and receive richer benefits should pay for the excess costs with after-tax dollars, just as they currently do for other benefits such as life insurance.

Thus, Gap strongly supports the immediate elimination of favorable tax treatment for those who spend excessive amounts on health care. Even though this would mean substantial additional costs to Gap, we understand that removal of this inappropriate incentive is imperative to achieving market-based cost containment and efficiency.

IV. CONCLUSION

Regardless of which plan is ultimately passed by this Congress, Gap believes that the following considerations must be fully analyzed and taken into account in the development of a comprehensive reform plan:

A. The plan must be **administratively feasible** for all employers, including multi-state, labor-intensive companies which employ large numbers of part-time and seasonal workers. Any proposal which imposes needless and excessive administrative burdens on employers should be rejected or revised.

B. The plan must be **financially feasible** for employers so that job loss can be kept to a minimum. Clearly, employer-based health coverage means little to those who lose their jobs as a result of "reform." We must acknowledge that employer mandates, if related to the number of workers employed, will fall disproportionately on labor-intensive employers and impact the availability of jobs. The plan must minimize the unfair burden placed on these employers and employees. Extreme caution must be exercised to ensure that the path for reform will be manageable for both large and small employers. If the magnitude of change unexpectedly produces too severe an impact on business, all efforts to improve the system may be thwarted.

C. **The plan must, in every respect, preserve the protections currently provided to multi-state companies under ERISA.** Individual states and regions should not be allowed to create their own single-payor systems. Provisions which allow states or regional alliances to impose taxes or other requirements on multi-state employers should be rejected. Multi-state companies must be afforded continued protection under ERISA in every state so as not to be subjected to a myriad of inconsistent and uncoordinated state mandates and regulations throughout the country.

D. **The plan must allow larger companies to function effectively outside of the regional alliances.** Employers should be encouraged to continue providing coverage through their own innovative and successful programs, which have been successfully designed to increase quality of care while effectively containing costs. For self-insurance to remain a viable option for employers, providers of this type of coverage must not be effectively forced out of the market.

E. The plan **must not create additional, unwanted levels of bureaucracy,** but must encourage the market to perform efficiently and fairly within specified parameters. Any plan based on regulatory, as opposed to competitive, forces would likely mean less innovation, less responsiveness to consumers, less efficient resource allocation, higher taxes and a rigid externally imposed cost structure that could threaten a company's ability to adjust to business conditions.

F. The plan should **ensure access to continuous health care coverage to all Americans.** We agree that individual and small group insurance reforms are badly needed and that pre-existing conditions should not prevent anyone from obtaining coverage.

G. The plan should effectively **eliminate cost shifting** from government-provided programs such as Medicare and Medicaid to the private sector.

The Gap, Inc. looks forward to participating in the development of national health care reform plan which is not simply palatable to the many different interest groups but which is feasible and equitable for all employers and individuals. We welcome the opportunity to discuss our concerns and ideas with you and your staffs as the debate continues.

United States Senate

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Important to also note is that all restaurants will see the same cost increase - not placing any one store at a competitive disadvantage. People would probably eat out more often if they didn't have to pay so much for health care.
Also included a couple of pages on Hawaii.

Call if you have any questions —

Anthony

SUMMARY OF MINIMUM WAGE STUDIES
EFFECTS ON THE FAST FOOD INDUSTRY

Author/Scope	Min. Wage Increase	Employment Effects
David Card October 1992 Various States	$.45	"No evidence that the rise in the minimum wage lowered teenage employment."
Card and Krueger March 1993 New Jersey and Pennsylvania	$.80	"No evidence that the rise in New Jersey's minimum wage reduced employment at fast food restaurants in the state...and (there were) no adverse effects on the formulation of new restaurants."
Katz and Krueger October 1992 Texas	$.90	"Employment increased in firms most affected by the minimum wage increase, and price changes appear to be unrelated to changes resulting from the minimum wage increase."
Cost of Health Reform	**$.04-$.51**	

THE COST OF UNIVERSAL COVERAGE FOR EMPLOYERS

# WORKERS	MAXIMUM PAYMENT	EFFECTIVE INCREASE IN MINIMUM WAGE ($/HR)	INCREASE IN PRICE OF LARGE ($11) PIZZA
LESS THAN 5	1 %	$0.04	$0.03
6 – 10	2 %	$0.09	$0.07
11 – 15	4.2 % – 12 %	$0.18 – $0.51	$0.14 – $0.40
16 – 24	5.5 % – 12 %	$0.23 – $0.51	$0.18 – $0.40
25 – 49	6.8 % – 12 %	$0.29 – $0.51	$0.22 – $0.40
50 – 75	8.1 % – 12 %	$0.34 – $0.51	$0.27 – $0.40
MORE THAN 75	12 %	$0.51	$0.40

Note: Increase in the price of a pizza based on testimony of David Scherb of PepsiCo (Ways and Means, 12/15/93) that labor amounts to 30 percent of total costs at Pizza Hut. Therefore, if the cost of labor increases by 12 percent, the price of a pizza would increase by 12 percent of 30 percent of the price to maintain the same profits. In reality, this calculation probably overstates the increase in price, because it does not take into account any employees (ie, management) who currently have coverage.

SHARED RESPONSIBILITY AND RESTAURANTS

An important fact that often gets overlooked in the lobbying efforts and advertising campaigns of the National Restaurant Association and other groups, is that the health reform bill approved by the Senate Labor and Human Resources Committee specifically addresses the valid concerns of the nation's restauranteurs.

Three key provisions will assure that restaurants do not pay more than their fare share.

TIPS ARE NOT INCLUDED IN THE CALCULATION OF WAGES

Most restaurants pay a sub-minimum wage to their waiters and waitresses, which is supplemented by tips from customers. The Health Security Act reported by the Labor Committee requires employer payments, but limits them to a sliding scale percentage of wages -- not including tips.

Therefore, restaurants would not have to pay 4.2 to 12 percent of $5 or $6 per hour, but rather $2 or $2.50 per hour. Therefore, the cost of guaranteed private health insurance would be as little as 2 to 5 cents an hour per employee for restaurants with less than ten full-time equivalent employees, and 8 to 30 cents an hour for larger outlets.

DEPENDENT CHILDREN UP TO AGE 25 COVERED ON POLICY OF PARENTS

Most restaurants employ a relatively large number of young people -- especially college students. Under the bill reported by the Labor Committee, employers would not be required to contribute toward the premiums for dependent children up to the age of 25. Instead, these individuals would be covered by the policy of their parents.

PREMIUMS FOR PART-TIME WORKERS ARE REDUCED

Employers are not required to make full payments for their part-time employees. Instead, premiums are reduced proportionately to reflect the number of hours worked per month as a fraction of full-time employment. Since restaurants depend so heavily on part-time workers, this pro-rating of premiums will be of tremendous benefit to the industry.

HAWAII SURVEY

- A major survey of small business in Hawaii was recently conducted to understand their experience with an employer mandate. Some of the findings include:

  -- A majority of small businesses in Hawaii (55%) say they would support the mandate if it was proposed today.

  -- Whereas 16% of American small business owners believe the nation's healthcare system to be in good shape, twice as many small business owners in Hawaii believe that their health care system is working well.

  -- Most small employers in Hawaii believe that the mandate requires an appropriate level of services or would prefer to see more benefits required under the mandate.

- The fact is that Hawaii is a success story with regard to health care. It commends a similar approach on the national level to universal coverage.

  -- Hawaii enacted an employer mandate in 1974. Since then, Hawaii's employment situation has actually improved. Hawaii now boasts one of the lowest unemployment rates of any state in the nation. (Senate Labor and Human Resources Committee, testimony of Dr. Jack Lewin, 10/19/93)

  -- Contrary to fears that the mandate would put many small enterprises out of business, small businesses continue to thrive in Hawaii. Ninety-seven percent of Hawaii's businesses employ less than 100 employees; 94% employ 50 or less. (Governor John Waihee, "Hawaii's Role in National Health Care Reform," 1/14/92)

  -- Hawaii also enjoys one of the highest small businesses creation rates in the country. One survey of small businesses growth between 1989 and 1992 conducted by noted small business expert John Birch identified Hawaii as the number one "entrepreneurial hotspot" in the nation because of the large number of small firm start-ups there. Moreover, Hawaii's small business failure rate is only half the national average. (Senate Labor and Human Resources Committee, testimony of Dr. Jack Lewin, 10/19/93)

-- Evidence that the mandate has not placed an undue burden on Hawaiian businesses is also demonstrated by the fact that the state's hardship fund -- a fund established to subsidize businesses that have trouble paying employees' health premiums -- has been tapped only 5 times in the last 18 years for a total of $85,000, or 2% of the available funds. (Dr. John Lewin, Hawaii's Director of Health, "The Implementation of National Health Care Reforms: Lessons from Hawaii," 6/12/92)