

DEPARTMENT OF LABOR

CONFIRMATION BRIEFING BOOK

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DEPARTMENT OF LABOR TRANSITION BRIEFING

This briefing book is an internal, confidential communication designed to assist the Secretary-designate in assuming her responsibilities in the Department of Labor. It contains materials that would not otherwise be disclosed to the public under the Freedom of Information and Privacy Acts. Release of these materials could significantly impede the transition process in the Department. Consequently, the contents of this book are labeled "~~Confidential~~" and no additional copies should be made except those needed to assist the incoming Secretary.

Per your discussion earlier today with Cynthia Metzler, we have provided you with a working Department of Labor Confirmation briefing book which as of today contain member profiles as well as issue briefings for ETA and PWBA. The remainder of the issue briefings will follow on Monday, January 6th.

Employer Stock and Employer Real Property Contributions to 401(k) Plans

Background:

The issue relates to whether ERISA should be amended to establish limits on the investment of employee and employer contributions to 401(k) plans in employer securities and real property (i.e., real property owned by the plan and leased to the employer). Unlike traditional defined benefit pension plans, generally, there are no specific limits on the amount of employer securities and real property that a 401(k) plan may invest in. Typically, employers match a certain percentage of employee elective contributions to 401(k) plans. These employer contributions are often made in company stock. There have been instances where employees' retirement savings have been adversely affected by their employer's decision to invest substantial portions of the 401(k) plan in employer securities or real property. For example, Color Tile Corporation's 401(k) plan invested over 80% of its assets in Color Tile stores before the company went into Chapter 11 bankruptcy. The Department has an ongoing investigation into Color Tile's plan to ensure that the employees' interests are protected and to determine if there were any violations of ERISA. In another example, Carter, Hawley, Hale's 401(k) plan was nearly 100% invested in company stock, which was rendered worthless when the company went into bankruptcy.

The Color Tile and Carter, Hawley, Hale situations have been the subject of several press articles and Senator Boxer has introduced legislation to establish limits on the investment of 401(k) plan assets in employer securities and real property. On September 12, 1996, Secretary Reich sent a letter to Senator Boxer expressing the Administration's support for legislation that would impose the same ten percent limit on plan investments in employer securities and real property currently applicable to traditional defined benefit pension plans to employee elective contributions to 401(k) plans over which the employees do not exercise control. The General Accounting Office has initiated a study of the issue in response to a request from Congressman Archer. In response to requests from the Hill, Department staff have provided technical assistance and guidance to Congressional staff in developing a framework for the ten percent limit. This framework has been incorporated into an omnibus pension bill that will be introduced by Senator Daschle on behalf of the Senate Democratic leadership as one of the first ten Senate bills in the 105th Congress.

Current Status:

Senator Daschle will introduce legislation shortly after Congress reconvenes in January. (See issue paper No. 8.)

Key Constituents:

401(k) plan sponsors and their representatives may object to having any limit on the investment of employer contributions in employer related investments. There may be less opposition, however, to a limit on such investments of employee contributions. 401(k) plan participants are likely to be generally supportive of this legislation.

Per your discussion earlier today with Cynthia Metzler, we have provided you with a working Department of Labor Confirmation briefing book which as of today contain member profiles as well as issue briefings for ETA and PWBA. The remainder of the issue briefings will follow on Monday, January 6th.

DEPARTMENT OF LABOR TRANSITION BRIEFING

This briefing book is an internal, confidential communication designed to assist the Secretary-designate in assuming her responsibilities in the Department of Labor. It contains materials that would not otherwise be disclosed to the public under the Freedom of Information and Privacy Acts. Release of these materials could significantly impede the transition process in the Department. Consequently, the contents of this book are labeled "Confidential" and no additional copies should be made except those needed to assist the incoming Secretary.

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Divider Title: **Introductory Memorandum**

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Divider Title: **Member Profiles**

MEMBER PROFILES OUTLINE

DRAFT

SENATE LABOR AND HUMAN RESOURCES COMMITTEE

JIM JEFFORDS (VT)
DAN COATS (IN)
JUDD GREGG (NH)
BILL FRIST(TN)
MIKE DEWINE (OH)
MIKE ENZI (WY)*
TIM HUTCHINSON (AR)*
SUE COLLINS (ME)*
JOHN WARNER (VA)*
MITCH MCCONNELL (KY)*

TED KENNEDY (MA)
CHRIS DODD (CT)
TOM HARKIN (IA)
BARBARA MIKULSKI (MD)
JEFF BINGAMAN (NM)*
PAUL WELLSTONE (MN)
PATTY MURRAY (WA)*
JACK REED (RI)*

*new committee member

Note: Included are Labor and Human Resources Committee profiles. This is a rolling document which will be updated to reflect additional staff and Member input over the next few weeks. We will also be developing similar profiles for the Senate leadership.

Where possible, interest group ratings are included for each Member. The ratings are provided by Americans for Democratic Action (ADA) founded in 1947 by liberal Democrats; the AFL-CIO; the Chamber of Commerce (CCUS); and the American Conservative Union (ACU). Except as otherwise noted, the ratings listed are for 1994 -- the last year available.

KEY VOTE INDEX :

o Welfare Reform - final passage of Welfare Reform. Administration supported the bill on final passage.

o Bond Amendment - Senate amendment to the minimum wage bill which would have denied a minimum wage increase to 10.5 million workers in smaller businesses and create a permanent 180 subminimum wage for workers starting a new job regardless of age. Administration opposed the amendment.

o Goodling Amendment - House amendment to the minimum wage bill which would have exempted businesses under \$500,000 annual gross, approximately 10.5 million workers, from the Fair Labor Standards Act. Administration opposed the amendment.

o Job Corps - An amendment to maintain a national Job Corps program. Administration supported the amendment.

o TAA (Trade Adjustment Assistance) - An amendment to maintain trade adjustment assistance as a national program, as opposed to block granting the program as favored by Kassebaum. Administration supported the amendment.

o Right to Work - A bill to repeal those provisions of federal law that require employees to pay union dues or fees as a condition of employment. Administration opposed the bill.

o TEAM Act - A bill to amend the National Relations Labor Act relative to cooperative efforts and labor/management relations. Administration opposed the bill.

o Compensatory Time - A bill to amend the Fair labor Standards Act to provide compensatory time for all employees. Administration opposed the bill.

o Portal to Portal - A bill to amend compensatory time provisions relating to the payment of wages to employees who use employer owned vehicles. Administration opposed the bill.

o CAREERS - A bill to provide consolidated workforce development and literacy programs, and for other purposes. Administration supported the bill.

o ETI - A bill to place restrictions on the promotion by the Department of Labor and other federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans. Administration opposed the bill.

MAJORITY MEMBERS



JIM JEFFORDS (VT) (CHAIRMAN-FULL COMMITTEE)

513 Hart Senate Office Building
Washington, D.C. 20510

Committees: Labor & Human Resources(Chairman); Finance; Veterans
Affairs; Aging
PH: 224-5141
FAX: 228-0338

Biographical Information:

Born: 5/11/34, Rutland, Vermont
Home: Shrewsbury, Vermont
Education: Yale, B.S.I.A. 1956; Harvard LLB. 1962
Profession: Attorney
Political Career: VT Senate 1967-1969; VT Attorney General 1969-1973; U.S. House of Representatives 1975-1989.
Religion: Congregationalist
Marital Status: Married(Elizabeth Daley); two children.
First Elected: 1988
Reelection Year: 2000

Senator Jeffords has championed education issues both on the authorizing committee, and as a member of the Appropriations Committee. He will leave the Appropriations Committee in the 105th Congress to become a member of the Finance Committee. Senator Jeffords will not assume a subcommittee chairmanship in L&HR, but will hold education and health care reform issues at the full committee level. Jeffords served as the ranking member on the Labor Committee in the House.

Key Points:

- o Supported the President's position on minimum wage.
- o Only Republican member to cosponsor the Clinton health care bill.
- o Likely to examine health care quality issues relating to HMO's early in new Congress; disinclined to support continuing incremental reforms in health care quality such as 48 hour drive by baby bill in favor of more comp time action.

- o Interested in exploring Cong. Fawell's proposal to federalize MEWA's which was opposed by DOL in the last Congress.
- o Supported Kassebaum OSHA reform bill in 104th Congress opposed by DOL.
- o While in the House helped create the Job Training Partnership Act (JTPA).
- o Has expressed his intention to take a more bipartisan approach to job training consolidation legislation
- o Cosponsored Administration's pension audit bill in 104th Congress.
- o Supports the creation of an independent commission to examine pension issues.
- o Strong supporter of One-Stop and School To Work(STW) (Vermont has now received a grant from DOL to implement both programs throughout the state).
- o Compensatory time and TEAM Act are likely to receive attention early in the 105th
- o Supported major increases in education spending as Member of Appropriations Committee; however did not include training programs in his definition of education.
- o Finance Committee Chairman Roth(R-DE) is likely to provide Senator Jeffords with a question to ask the new Secretary on the issue of the CPI revision.
- o Maintains good working relationships with Vermont Governor Howard Dean(D), Chair of the Democratic Governors Association, and Governor Roy Romer (D) of Colorado with whom Jeffords serves on GOALS 2000 Board.
- o The Secretary spoke with Senator Jeffords in the past year regarding the minimum wage(which Jeffords voted to raise), pension audit bill, PWBA pension education campaign, and regulatory reform legislation.

Key Votes:

Welfare Reform - Y
 Bond - N
 TEAM Act - Y

TAA - N
 Job Corps -N
 Right to Work - N

Interest Group Ratings:

ADA
 85

AFL-CIO
 50

CCUS
 55

ACU
 12



DAN COATS (IN)

404 Russell Senate Office Building
Washington, D.C. 20510

Committees: Labor & Human Resources; Armed Services
PH: 224-5623
FAX: 228-4137

Biographical Information:

Born: 5/16/43; Jackson, Michigan
Home: Fort Wayne, Indiana
Education: Wheaton College, B.A. 1965; Indiana Univ. J.D. 1971
Profession: Attorney
Political Career: U.S. House of Representatives 1981-1988
Religion: Presbyterian
Marital Status: Married(Marcia Anne Crawford); three children.
First Elected: 1990 (Appointed to Senate January, 1989)
Reelection Year: 1998

Senator Coats, who will continue to chair the Children and Families Subcommittee, has announced his retirement after the 105th Congress. He has advocated a families agenda based on tax cuts and vouchers. Coats is likely to follow party line on regulatory issues, particularly relating to OSHA.

- o Long history if interest in work and family issues.
- o Served as the ranking minority member on the House Select Committee on Children, Youth and Families.
- o Supported FMLA..
- o Conducted hearing in 104th Congress to review effectiveness of impact of FMLA; likely to continue to conduct oversight on the implementation of the law.
- o Strongly supported Senator Kassebaum in her efforts to block grant job training consolidation legislation, despite theoretical support for vouchers.
- o Communicated with the Secretary regarding constituent issues which included prevailing wage, FLSA and comp time related issues

Key Votes:

Welfare Reform - Y
Bond - Y
TEAM Act - Y

TAA - N
Job Corps - N
Right to Work - Y

Interest Group Ratings:

ADA
5

AFL-CIO
0

CCUS
82

ACU
92



JUDD GREGG (NH)

393 Russell Senate Office Building
Washington, D.C. 20510

Committees: Labor & Human Resources; Appropriations(Labor,HHS,
Education Subcommittee)

PH: 224-3324

FAX: 224-4952

Biographical Information:

Born: 2/14/47; Nashua, New Hampshire
Home: Greenfield, New Hampshire
Education: Columbia Univ., B.A. 1969; Boston Univ. J.D. 1972, L.L.M. 1975
Profession: Attorney
Political Career: U.S. House of Representatives 1981-1989; Governor of New Hampshire 1989-1993
Religion: Congregationalist
Marital Status: Married(Kathleen MacLellan); three children.
First Elected: 1993
Reelection Year: 1998

Senator Gregg will chair the Aging Subcommittee. He has aggressively sought to reshape the Community Service Employment Program, during reauthorization of the Older Americans Act, by devolving national grants to the states. Gregg is very critical of the current program and the nine national grantees which receive the bulk of the funding. He is likely to again seek changes to the program in the 105th. The Administration is seeking to move administration of the Community Service Employment Program to HHS. Gregg is also a member of the L/HHS Appropriations Subcommittee and has argued against funding for several DOL programs.

- o Actively opposed STW, FMLA and Goals 2000.
- o Strongly supported the majority's regulatory reform bills in 104th Congress.
- o He was the primary sponsor of Republican bills to curb OSHA and to expand the application of the Beck decision regarding mandatory union dues and political activity.
- o During L/HHS Appropriations hearings he was often an aggressive questioner of the Secretary on budgetary issues.

- o Strongly supported Senator Kassebaum's Workforce Development Act.
- o Sponsored the FY '96 appropriations rider to nullify the Administration's Executive Order on striker replacement.

Key Votes:

Welfare Reform - Y
Bond - Y
TEAM Act - Y

TAA - N
Job Corps - N
Right to Work - Y

Interest Group Ratings:

ADA
15

AFL-CIO
0

CCUS
82

ACU
79



BILL FRIST (TN)

825 Hart Senate Office Building
Washington, D.C. 20510

Committees: Labor & Human Resources; Budget; Commerce,
Science and Transportation; Foreign Relations
PH: 224-3344
FAX: 228-1264

Biographical Information:

Born: 2/22/52; Nashville, Tennessee
Home: Nashville, Tennessee
Education: Princeton Univ., B.A. 1974; Harvard Medical School, M.D. 1978
Profession: Surgeon
Career: Practicing Surgeon 1978-1984; Director, Vanderbilt Medical Center
Heart-Lung Transplant Program 1986-1993
Religion: Presbyterian
Marital Status: Married(Karyn)
First Elected: 1994
Reelection Year: 2000

(Frist is a former surgeon who will chair the newly created Public Health and Safety Subcommittee)

- o Not active on employment and training issues.
- o Supported Chairman Kassebaum on regulatory issues in 104th Congress, including OSHA reform legislation.
- o Jurisdiction for OSHA in the committee, which previously resided in the Labor Subcommittee, has been moved to the Health and Safety Subcommittee which Frist will chair.
- o Prime sponsor of organ donor bill enacted in 104th congress.
- o Cosponsored Administration backed Drive by Baby bill with Senator Bradley in 104th Congress which was enacted into law.
- o Supported Kennedy-Kassebaum health care bill.

Key Votes:

Welfare Reform - Y
Bond - Y
TEAM Act - Y

TAA - N
Job Corps - N
Right to Work - Y

Frist supported Hank Foster
nomination



MIKE DEWINE (OH)

140 Russell Senate Office Building
Washington, D.C. 20510

Committees: Labor & Human Resources; Judiciary; Intelligence
PH: 224-2315
FAX: 224-6519

Biographical Information:

Born: 1/5/47; Springfield, Ohio
Home: Cedarville, Ohio
Education: Miami(Ohio) Univ., B.A. 1969; Ohio Northern Univ. J.D. 1972
Profession: Attorney
Political Career: Greene County Prosecutor 1977-1981; Ohio Senate 1981-1983;
U.S. House of Representatives 1983-1991; Lt. Gov. 1991-1995
Religion: Catholic
Marital Status: Married(Frances Struewing); eight children(one deceased)
First Elected: 1994
Reelection Year: 2000

DeWine, who will chair the newly created Labor and Training Subcommittee, is a former House member and Lt. Governor. Very active in employment and training and immigration issues in the 104th Congress. Has signaled a desire to work on a bipartisan basis to develop job training consolidation legislation.

- o Focused on increased funding for youth programs
- o Has visited all of the Job Corps Centers in Ohio and took an active role in development of zero tolerance policy for drugs and violence in Job Corps.
- o Maintains strong relationships with Ohio Governor George Voinovich (R), co-chair of the National Governors Association and Columbus, Ohio Mayor Greg Lashutka (R), the immediate past chair of the National League of Cities and a leader in workforce development issues.
- o Supported Kassebaum OSHA reform bill.
- o Met with the Secretary in March 1995 and discussed Job Corps, job training legislation, summer youth employment, JTPA, and Davis-Bacon.

Key Votes:

Welfare Reform - Y
Bond- Y
TEAM Act - Y

TAA - N
Job Corps - N
Right to Work - N

**Interest Group Ratings:*

ADA
17

AFL-CIO
17

CCUS
54

ACU
83

* These ratings are from 1990 when Sen. DeWine served in the House.



MIKE ENZI (WY)

116 Hart Senate Office Building
Washington, DC 20510

Committees: Labor and Human Resources; Banking, Housing and
Urban Affairs; Aging
PH: 224-4748(temporary)
FAX:

Biographical Information:

Born: 2/1/44; Bremerton, Washington
Home: Gillette, Wyoming
Education: M.B.A. Univ. of Denver
Profession: Businessman(shoe store chain owner); Oil service accounting manager
Political Career: Mayor of Gillette 1975-1985; Wyoming House 1986-1991; Wyoming
Senate 1991-1996
Religion: Presbyterian
Marital Status: Married(Diane); three children
First Elected: 1996
Reelection Year: 2002

New to the Congress, Senator-elect Enzi was a low key state politician. Did not seek the Labor Committee assignment. Favors tax incentives for small business. Was a safety trainer for company in Wyoming.

- o He could develop an interest in MSHA since Wyoming is the nation's largest coal producing state.
- o Will seek to revise OSHA rules to reduce the burden on business regarding safety and responsibility.



TIM HUTCHINSON (AK)

Senate Office Building
Washington, D.C. 20510

Committees: Labor & Human Resources; Environment and Public
Works; Veterans' Affairs
PH: 224-2353
FAX:

Biographical Information:

Born: 8/11/49; Bentonville, Arkansas
Home: Bentonville, Arkansas
Education: Bob Jones Univ., B.A. 1979; Univ. of Arkansas, M.A. 1990
Profession: Minister, Businessman, Professor
Political Career: Arkansas House of Representatives 1984-1992; U.S. House of
Representatives 1993-1995
Religion: Baptist
Marital Status: Married (Donna Jean King); three children
First Elected: 1996
Reelection Year: 2002

New to the Senate, Hutchinson is a former Baptist minister who served on the EEO Committee in the House. Conservative with a strong dislike of the Department's regulatory agenda. Voted no on School To Work, FMLA, Goals 2000 and GATT, but yes on NAFTA. He spoke in opposition to the minimum wage on the House floor (although he voted in favor of the minimum wage conference report which included the small business tax cuts). Authored a tougher welfare reform bill than his Republican colleagues were willing to support -- the focus of his efforts was to impose stiffer work requirements on welfare recipients. In the 105th Congress, sponsored House legislation that would have exempted employees who work as substitute parents to needy children from minimum wage and overtime requirements. (DOL did not support his legislation.) He successfully pushed the bill through Committee but it was never considered on the floor. It is likely that he will attempt once again to move this legislation.

- o Strong supporter of veterans programs.
- o Opposed motor voter and FMLA.
- o Strong ties to the conservative religious community.

- o Along with Congressman Hoekstra, took personal interest in Oklahome problems with Davis-Bacon survey process. Supports repeal of Davis-Bacon.
- o Took personal interest in merger of DOL with Department of Education when House hearings were held in 104th Congress exploring such a merger.
- o Opposes affirmative action programs.

Key Votes:

Welfare Reform - Y
 Goodling -Y
 Compensatory Time - Y
 TEAM Act - Y

ETI - Y
 CAREERS - Y
 Portal to Portal - Y

Interest Group Ratings:

ADA
 5

AFL-CIO
 22

CCUS
 100 (1993)

ACU
 95

SUE COLLINS (ME)

Senate Office Building
Washington, DC 20510

Committees: Labor and Human Resources;
PH:
FAX:

Biographical Information:

Born: 12/7/52; Caribou, Maine
Home: Bangor, Maine
Education: St. Lawrence Univ.
Profession: Business Center Director
Political Career: Former Congressional staffer to Senator William Cohen; former New England Regional Administrator of the Small Business Administration; former Commissioner of the Maine Department of Professional and Financial Regulation; Gubernatorial candidate, 1994
Religion: Catholic
Marital Status: Single
First Elected: 1996
Reelection Year: 2002

Senator-elect Collins served as a long-time senior adviser to Senator Cohen on business issues and describes small-business protection and job creation as her top priorities. Self-described moderate campaign. State has a large dislocated worker population. Senators Cohen and Snowe worked hard to ensure the opening of a new Job Corps Center which will open in the state at the former Loring Air Force Base in January/February.

- o Opposed cuts to federal job training programs, but supports elimination of Education Department.
- o Former New England regional administrator of Small Business Administration.
- o Supports a 7 year sunset on regulations.



JOHN WARNER (VA)

225 Russell Senate Office Building
Washington, D.C. 20510

Committees: Labor & Human Resources; Armed Services;
Environment and Public Works; Rules and Administration(Chairman);
Small Business
PH: 224-2023
FAX: 224-6295

Biographical Information:

Born: 2/18/27; Washington, DC
Home: Middleburg, Virginia
Education: Washington and Lee Univ., B.S. 1949; Univ of Virginia, L.L.B. 1953
Profession: Attorney, farmer
Political Career: Assistant U.S. Attorney, 1956-1960; Undersecretary of the Navy, 1969-1972; Secretary of the Navy 1972-1974
Religion: Episcopalian
Marital Status: Divorced; three children.
First Elected: 1978
Reelection Year: 2002

Moderated his position on labor issues during the last Congress, possibly in anticipation of tough campaign. Has not been a leader on labor issues in the Senate, but FDA and tobacco related issues are why he wanted to be appointed to the Committee. The primary focus of Senator Warner's long career has been armed services issues.

- o May involve himself in MSHA related issues and OSHA's indoor air quality proposal because of Virginia's tobacco industry.
- o Actively supported TEAM Act and participated in committee hearings as a non-member.
- o Governor Allen has been an active proponent of UI devolution and may ask Senator Warner to ask questions on that issue.
- o Likely to support enactment of generic regulatory reform legislation being advocated by the Virginia business community.

Key Votes:

Welfare Reform - Y
Bond - Y
TEAM Act - Y

TAA - N
Job Corps - Y
Right to Work - Y

Interest Group Ratings:

ADA
20

AFL-CIO
25

CCUS
91

ACU
80



MITCH MCCONNELL (KY)

361A Russell Senate Office Building
Washington, D.C. 20510

Committees: Labor & Human Resources; Appropriations;
Agriculture, Nutrition & Forestry; Rules and Administration;
Ethics(Chair)
PH: 224-2541
FAX: 224-2499

Biographical Information:

Born: 2/20/42; Sheffield, Alabama
Home: Louisville, Kentucky
Education: Univ. of Louisville, B.A. 1964; Univ of Kentucky, J.D. 1967
Profession: Attorney
Political Career: Deputy Assistant Attorney General 1974-1975; Jefferson County Judge
Exec. 1977-1984
Religion: Baptist
Marital Status: Married(Elaine Chao); three children.
First Elected: 1984
Reelection Year: 2002

Will focus on health related issues because of state's tobacco interests. Senator McConnell has focused much of his Senate career on election-related issues, including campaign finance reform -- issues that are likely to consume again much of his efforts in the 105th.

- o Likely to be concerned about OSHA's indoor air quality proposal because of Kentucky's tobacco industry.
- o He is a strong supporter of expanding the application of the Beck decision and curbing the role of labor unions in political campaigns.

Key Votes:

Welfare Reform - Y
Bond - Y
TEAM Act - Y

TAA - N
Job Corps - N
Right to Work - N

Interest Group Ratings:

ADA
5

AFL-CIO
0

CCUS
91

ACU
92

MINORITY MEMBERS



TED KENNEDY (MA)

315 Russell Senate Office Building
Washington, D.C. 20510

Committees: Labor & Human Resources(Ranking); Judiciary; Armed Services; Joint Economic

PH: 224-4543

FAX: 224-2417

Biographical Information:

Born: 2/22/32, Boston, Massachusetts
Home: Boston, Massachusetts
Education: Harvard, B.A..1956; The Hague Intl. Law School, 1958; Univ. of Virginia, L.L.B. 1959
Profession: Attorney
Political Career: Suffolk County Assistant District Attorney 1961-1962; United States Senate 1962-
Religion: Catholic
Marital Status: Married(Victoria Reggie); three children and two stepchildren.
First Elected: 1962
Reelection Year: 2000

Kennedy is the full committee ranking member (the Minority have not announced their ranking members on the subcommittees) who championed many of the Department's key issues in the 104th Congress. Kennedy has a good relationship with Jeffords.

Likely to again focus on:

- o Job training consolidation.
- o Reform of employment-based immigration programs.
- o Health care for children and the unemployed.
- o Opposed efforts to repeal Davis-Bacon Act and Service Contract Act. Led fight against the TEAM Act, Right to Work Act, and Republican OSHA reform legislation.
- o Strong supporter of OSHA.

- o Interested in pension reform legislation to stimulate retirement savings for low-income workers and to shift larger portion of federal pension tax subsidies to lower income individuals.
- o Strongly opposed to regulatory reform proposals discussed in 104th Congress.
- o Communicated with the Secretary on pensions, TAA, alien labor certification and Section 13(c).
- o During the past year, the Secretary met or spoke with Senator Kennedy periodically to discuss the overall Labor Department agenda, in particular - budget/appropriations, CAREERS/Workforce Development legislation, pension audit bill, minimum wage, health care portability, and worker protection issues in the immigration bill and Summer Youth funding and welfare reform.

Key Votes:

Welfare Reform - N
 Bond - N
 TEAM Act - N

TAA - Y
 Job Corps - Y
 Right to Work - N

Interest Group Ratings:

ADA
 90

AFL-CIO
 88

CCUS
 27

ACU
 0



CHRIS DODD (CT)

444 Russell Senate Office Building
Washington, D.C. 20510

Committees: Labor & Human Resources; Budget; Banking, Housing
and Urban Affairs; Foreign Relations; Rules and Administration
PH: 224-2823
FAX: 224-1083

Biographical Information:

Born:	5/27/44, Willimantic, CT
Home:	East Haddam, CT
Education:	Providence College, B.A..1966; Univ. of Louisville, J.D. 1972
Profession:	Attorney
Political Career:	U.S. House of Representatives 1975-1981
Religion:	Catholic
Marital Status:	Divorced
First Elected:	1980
Reelection Year:	1998

Dodd is likely to continue as ranking member on Children and Families Subcommittee. He was Chairman of the Commission on Family and Medical Leave, which was created in the Family and Medical Leave Act (FMLA), and was charged with studying family and medical leave policies. The report showed that the law has been beneficial and not a burden on business. Strong supporter of organized labor.

- o Will seek expansion of FMLA (he was the original Senate sponsor).
- o Advocate for health insurance industry, which has a large presence in state.
- o Strong interest in dislocated worker issues. Led the fight to retain the Secretary's discretionary fund for Title III of JTPA. While CT has a low unemployment rate, there is significant worker dislocation in the defense industry.
- o Champion of health care expansion for kids.
- o Advocate for expansion of child care services in the transition from welfare to work.
- o Pushed "Harris Trust" legislation (DOL-supported ERISA changes to benefit insurance industry) through Senate.

Key Votes:

Welfare Reform - N
Bond - N
TEAM Act - N

TAA - Y
Job Corps - Y
Right to Work - N

Interest Group Ratings:

ADA
80

AFL-CIO
75

CCUS
44

ACU
0



TOM HARKIN (IA)

531 Hart Senate Office Building
Washington, D.C. 20510

Committees: Labor & Human Resources; Appropriations (Ranking, Labor, HHS, Education Subcommittee); Agriculture, Nutrition and Forestry; Small Business

PH: 224-3254

FAX: 224-7431

Biographical Information:

Born: 11/19/39, Cumming, Iowa
Home: Cumming, Iowa
Education: Iowa State Univ., B.S. 1962; Catholic Univ., J.D. 1972
Profession: Attorney
Political Career: U.S. House of Representatives, 1975-1985
Religion: Catholic
Marital Status: Married (Ruth); two children
First Elected: 1984
Reelection Year: 2002

Ranking member of the Labor-HHS Appropriations Subcommittee. Senator Harkin spoke at the Department's Garment summit which was held in August of 1996, and has proposed the use of an international label as a means for identifying companies which are committed to labor standards---similar to the rugmark label. His staff has had a continuing interest in the progress of the garment industry working group's activities. Over the years, he has had a significant interest in international child labor. He has introduced legislation that would ban the import of goods made with exploited child labor. Also, via various appropriations bills, he required ILAB to produce several studies on international child labor.

- o Strong interest in disability and international child labor issues.
- o Has worked to include training programs in the various Democratic leadership "message" amendments that have been offered over the last 2 years. His relationship with Chairman Specter helped to ensure training and worker protection add-backs were included in the final FY '97 budget deals.
- o Strong supporter of worker protection programs, particularly Davis-Bacon and OSHA. He is an outspoken opponent of regulatory changes to increase the use of low paid "helpers" on construction projects covered by Davis-Bacon.

- o Strong supporter of dislocated worker programs and Job Corps.
- o Introduced the Fair Pay Act last year promoting equal employment opportunity for women and minorities.
- o Champion of President's striker replacement order.
- o Senator Harkin spoke with the Secretary in April 1996 to discuss his concern about the Monfort Beef plant closing which caused the loss of 1,300 jobs. These workers later in the year received funding for training from the Title III National Reserve Account. The Secretary thanked Senator Harkin for his leadership in restoring Summer Youth Employment Program money. In May 1996, the Secretary spoke with the Senator in regards to the CAREERS/Workforce Development and the FY'97 Budget Resolution and sought and received his support for Administration positions.

Key Votes:

Welfare Reform - Y
 Bond- N
 TEAM Act - N

TAA - Y
 Job Corps - Y
 Right to Work - N

Interest Group Ratings:

ADA
 100

AFL-CIO
 88

CCUS
 36

ACU
 0



BARBARA MIKULSKI (MD)

709 Hart Senate Office Building
Washington, D.C. 20510

Committees: Labor & Human Resources; Appropriations; Ethics
PH: 224-4654
FAX: 224-8858

Biographical Information:

Born: 7/30/36, Baltimore, Maryland
Home: Baltimore, Maryland
Education: Mount Saint Agnes College, B.A. 1958; Univ. of Maryland, M.S.W. 1965
Profession: Social Worker
Political Career: Baltimore City Council 1971-1977; U.S. House of Representatives, 1977-1987
Religion: Catholic
Marital Status: Single
First Elected: 1986
Reelection Year: 1998

Likely ranking member on Aging Subcommittee. Focused largely on Senior Employment Service Reauthorization. She introduced the successful floor amendment to remove the Senior Employment program from job training consolidation legislation. Supportive of labor positions, but most of her committee activity focuses on her assignment on HUD/NASA/VA Appropriations Subcommittee. Was not actively engaged on labor related issues in the 104th Congress. Will be important to establish a relationship with her early in the 105th Congress. She is a member of the Senate leadership team as Secretary of the Democratic conference,

- o Has been an advocate for non-traditional work opportunities for women.

Key Votes:

Welfare Reform - Y
Bond - N
TEAM Act - N

TAA - Y
Job Corps - Y
Right to Work - N

Interest Group Ratings:

ADA

AFL-CIO

CCUS

ACU

85

75

40

0



JEFF BINGAMAN (NM)

703 Hart Senate Office Building
Washington, D.C. 20510

Committees: Labor & Human Resources; Armed Services; Energy
and Natural Resources; Joint Economic
PH: 224-5521
FAX: 224-2852

Biographical Information:

Born: 10/03/43, El Paso, TX
Home: Santa Fe, NM
Education: Harvard, B.A. 1965; Stanford Univ., J.D. 1968
Profession: Attorney
Political Career: New Mexico Attorney General 1979-1983
Religion: Methodist
Marital Status: Married(Arne Kovacovich); one child
First Elected: 1982
Reelection Year: 2000

Was a member of the Committee in the 103rd Congress. He was actively involved in the health care reform debate. There is an ongoing discrimination complaint regarding the Los Alamos lab that is moving from reconciliation to enforcement. Senator Bingaman's staff has asked to be kept up to date on the status of the complaint.

- o Corporate responsibility and wage equity are important issues for him. Authored report for Democratic Policy Committee on these issues in 104th Congress.
- o Has cosponsored pension proposal with Senator Jeffords to expand pension coverage for small businesses that establish "Pension Pro-Save" Accounts.
- o Potentially interested in seeking compromise with TEAM Act sponsors.
- o Communicated with the Secretary on Native American projects, wage determinations and Title III dislocated worker benefits.
- o This past February, the Secretary spoke with Senator Bingaman regarding corporate citizenship. The Secretary worked with the Senator to shape the proposal, and then spoke at the Democratic Policy Committee briefing on the issue.

Key Votes:

Welfare Reform - N
Bond - N
TEAM Act - N

TAA - Y
Job Corps - Y
Right to Work - N

Interest Group Ratings:

ADA
60

AFL-CIO
75

CCUS
55

ACU
16



PAUL WELLSTONE (MN)

717 Hart Senate Office Building
Washington, D.C. 20510

Committees: Labor & Human Resources; Foreign Relations; Indian
Affairs; Small Business
PH: 224-5641
FAX: 224-8438

Biographical Information:

Born:	7/21/44, Washington, DC
Home:	Northfield, MN
Education:	Univ. of North Carolina, B.A. 1965, Ph.D 1969
Profession:	Professor
Political Career:	United States Senate 1990-
Religion:	Jewish
Marital Status:	Married(Sheila Ison); three children
First Elected:	1990
Reelection Year:	2002

Active supporter and spokesperson for all labor-related issues. Very supportive of one-stop and youth programs. MN was awarded a state-wide One-Stop implementation grant in 1995. Played a major role in the budget debate as an advocate for DOL funding. He favors domestic over military spending and often takes the Senate floor to condemn misplaced priorities.

- o Active on minimum wage and striker replacement issues.
- o Very active in job training consolidation legislation.
- o Sought increased funding for one-stop and youth programs.
- o In FY '97 defense authorization bill, offered floor amendment to restore funds for education and training programs to President's requested level.
- o Strong supporter of homeless veterans program which was rescinded in 1995.
- o In May 1996, Senator Wellstone spoke with the Secretary several times regarding his concerns with the CAREERS/Workforce Development bill.

Key Votes:

Welfare Reform - N
Bond - N
TEAM Act - N

TAA - Y
Job Corps - Y
Right to Work - N

Interest Group Ratings:

ADA
100

AFL-CIO
100

CCUS
9

ACU
4



PATTY MURRAY (WA)

111 Russell Senate Office Building
Washington, D.C. 20510

Committees: Labor & Human Resources; Appropriations; Budget
PH: 224-2621
FAX: 224-0238

Biographical Information:

Born: 10/11/50, Seattle, WA
Home: Seattle, WA
Education: Washington State Univ., B.A. 1972
Profession: Educator
Political Career: Shoreline School Board 1983-1989; Washington State Senate 1989-1993;
Religion: Catholic
Marital Status: Married(Rob Murray); two children
First Elected: 1992
Reelection Year: 1998

Familiarity with labor issues through her work on Appropriations, particularly around School-to-Work and dislocated workers (particularly timber workers served by a non-legislative set-aside within JTPA Title III). Campaigned as "mom in tennis shoes" in 1992, and has focused much attention on children's issues during her time in the Senate. She was a member of the bipartisan 21 member Glass Ceiling Commission, which was chaired by Secretary Reich. In 1995, the Commission released a two volume report, supported by Murray, which among other things recommended that affirmative action be used by business as tool to help break the glass ceiling. In the 104th Congress, when the provisions of the Dole-Canady anti-affirmative action bill were added on to the Commerce, Justice, State appropriations bill, she worked with then Senator Cohen (R-ME) to get the provisions taken out of the bill. Maintains strong working relationship with Seattle Mayor Norm Rice, who chairs US Conference of Mayors Welfare to Work Task Force.

- o She supported DOL programs and fought cuts in worker protection programs as a member of the Budget Committee.
- o She has been supportive of affirmative action.
- o Strong supporter of OSHA.

- o Strong supporter of STW and other education related issues.
- o She has shown a strong interest in dislocated workers, particularly in the timber industry, as well as youth program issues. Washington received a \$4,000,000 Title III grant in June 1996 for dislocated timber industry workers.

Key Votes:

Welfare Reform - N
Bond - N
TEAM Act - N

TAA - Y
Job Corps - Y
Right to Work - N

Interest Group Ratings:

ADA
90

AFL-CIO
88

CCUS
27

ACU
0



JACK REED (RI)

Senate Office Building
Washington, D.C. 20510

Committees: Labor & Human Resources; Banking, Housing and
Urban Affairs
PH:
FAX:

Biographical Information:

Born: 11/12/49, Providence, RI
Home: Cranston, RI
Education: United States Military Academy, B.S. 1971; Harvard Univ., M.P.P.
1973, J.D. 1982
Profession: Attorney
Political Career: Rhode Island Senate 1985-1991; U.S. House of Representatives
1993-1996
Religion: Catholic
Marital Status: Single
First Elected: 1996
Reelection Year: 2002

New to the Senate, served on the EEO Committee in the House. Strong supporter of STW and was active in championing RI's application for a statewide implementation grant which it won this fall. The Laborers are a major union in Rhode Island, and he has an interest in Davis-Bacon reform and the helpers regulations. Has a strong populist message.

- o Champion for Rhode Island dislocated workers, particularly those in the fishing industry. Pushed the State of RI to include needs-related payments for workers dislocated from the closing of a large grocery chain (ALMACS).

Key House Votes:

Welfare Reform - Y
Goodling - N
Compensatory Time - N
TEAM Act - N

ETI - Y
CAREERS - Y
Portal to Portal - Y

Interest Group Ratings:

ADA
85

AFL-CIO
78

CCUS
18 (1993)

ACU
5

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Divider Title: **Issues Briefings**

ISSUE	LEAD AGENCY	OTHER AGENCIES
Corporate Welfare	ASP	OCIA
CPI Revision	BLS	CHECO OCIA
Social Security Reform	CHECO	
GI Bill - Employment and Training Consolidation	ETA	OCIA
Immigration: Employment-Based Permanent Labor Certification Reform	ETA	ASP WH OCIA SOL
Job Corps: Congressional Concern	ETA	OCIA
JTPA Dislocated Worker Program - (Title III - B)	ETA	OCIA
JTPA - Wagner-Peyser Statutory Waivers	ETA	OCIA
School-to-Work	ETA	OCIA
Summer Jobs - (JTPA Title II-B)	ETA	OCIA
TAA and NAFTA/TAA Reauthorization	ETA	OCIA
Welfare-to-Work/Welfare Reform	ETA	ASP CHECO OCIA WH
Work Opportunity Tax Credit	ETA	ASP OCIA CHECO
Youth Opportunities Area Grants	ETA	OCIA
Fast Track Negotiating Authority	ILAB	OCIA
International Child Labor	ILAB	OCIA
NAFTA Issues	ILAB	
Single Shift Sampling	MSHA	
Merger MSHA/OSHA Legislation	MSHA	OCIA OSHA
CFO Delegation of Authority	OASAM	OCIA
GPRA Implementation	OASAM	CFO
Year 2000 Impact on DOL's Information Technology Environment	OASAM	OCIA
Davis-Bacon Reform Legislation	OCIA	Samuel WH

TEAM Act	OCIA	ASP Samuel SOL
Pensions: 401(K) Protection Act	OCIA	PWBA
Prison Labor	OCIA	WH
Super Section 127 Tax Credit for Education and Training Work Related Expenses	OCIA	ASP ETA CHECO
Affirmative Action	OFCCP	OCIA SOL
Teamsters Election	OLMS	SOL Samuel
Reauthorization of ISTE A	OLMS	ASP OCIA SOL WH
Section 13 (c) Transit Employee Protection Program	OLMS	OCIA
Abatement Verification Rulemaking	OSHA	ASP OCIA
California Hazard Communication/Proposition Standard	OSHA	ASP OCIA SOL
Cooperative Compliance Programs	OSHA	ASP OCIA
DOE/OSHA Mergeer Proposal	OSHA	ASP OCIA
Ergonomics	OSHA	ASP OCIA
Indoor Air Quality Rulemaking	OSHA	ASP OCIA
Methylene Chloride Rulemaking	OSHA	ASP OCIA
OSHA Reform/Reg Reform Legislation	OSHA	ASP OCIA
Safety and Health Program Standard	OSHA	ASP OCIA
Silicosis Prevention	OSHA	ASP OCIA
Tuberculosis Rulemaking	OSHA	ASP OCIA

Voluntary Protection Program	OSHA	ASP OCIA
Workplace Violence Guidelines	OSHA	ASP OCIA
Economically Targeted Investments (ETIs)	PWBA	OCIA
Employer Stock & Employer Real Property to 401(k) Plans	PWBA	
ERISA Enforcement Improvement Act - Audit Bill	PWBA	OCIA
Health Care Coverage for the Unemployed	PWBA	ASP CHECO ETA OCIA
Health Care Commission	PWBA	
Kennedy-Kassebaum Health Care Legislation Implementation	PWBA	
Multiple Employer Welfare Arrangements - MEWAs	PWBA	OCIA
Pension Abuse Project	PWBA	
Retiree Health	PWBA	OCIA
Retirement Security Act: Sen. Daschle's Pension Bill	PWBA	OCIA
Beck: Mandatory Union Dues for Political Purposes (Campaign Finance Reform)	SOL	ASP OCIA Samuel
Right to Work Legislation	SOL	ASP OCIA
Child Labor	WH	ASP ILAB OCIA SOL
Comp Time and FMLA Expansion	WH	ASP CHECO OCIA
Davis-Bacon Wage Determination Reinvention (Inc. Audit of Davis-Bacon Prevailing Wage)	WH	ASP OCIA
Davis-Bacon Helpers Regulation	WH	ASP OCIA
Firefighters - (Garcia - Overtime/Comp. Time)	WH	ASP OCIA
FLSA Enforcement Review	WH	ASP OCIA

Garment	WH	ASP ILAB OCIA SOL
Section 541 - FLSA Exemption	WH	ASP OCIA

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Divider Title: **CHECO**

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Divider Title: ETA

ETA

GI Bill - Employment and Training Consolidation
Immigration: Employment Based Permanent Labor Certification Reform
Job Corps
JTPA Dislocated Worker Program (Title III)
School-to-Work
Summer Jobs (JTPA Title II-B)
TAA and NAFTA/TAA Reauthorization
Welfare-to-Work/Welfare Reform
Work Opportunity Tax Credit
Youth Opportunities Grants

The President's G.I. Bill Proposal - Employment and Training Consolidation

Issue: The President's G.I. Bill Proposal -- Employment and Training Program Consolidation in the 105th Congress

Background: In January, 1995, the President proposed a G.I. Bill for America's Workers as part of his Middle Class Bill of Rights. While formal legislation was not introduced, the G.I. Bill would have consolidated 70 different job training and workforce education programs into four block grants. Although both Houses in the 104th Congress initially advanced legislation on a bipartisan basis to reform and consolidate job training programs, no final consensus was reached. The conference bill, which was reported along partisan lines, failed to incorporate key elements of the President's proposal, including vouchers for training, maintenance of a dislocated worker funding stream, retention of School-to-Work legislation, and provisions on funding, accountability and local governance. These issues were all laid out in a Presidential letter to conferees and the Administration was successful in ensuring that the Conference Report did not receive floor action.

Despite the failure of a legislative reform bill, we have been able to proceed administratively to implement some aspects of the GI Bill for America's Workers through waivers and system-building grants, underscoring the Administration's commitment to reforming the status quo. However, new legislation is needed to implement essential elements of the proposal. There was considerable consensus in the last Congress on many features of the legislation, and we believe that in the next Congress, the Administration should seek enactment of these consensus elements in workforce development legislation.

Current Status: Preliminary consultations have taken place with Congressional staff, and preliminary DOL staff work has begun on the development of an outline for a bipartisan proposal. While no decisions have been made about a new Administration proposal, we anticipate that a proposal would at least include items in the G.I. Bill on which there was a bipartisan consensus. The Department of Education is pursuing a separate track for reauthorization of Vocational Education and Adult Education programs, which were included in the original GI Bill. In addition, the Administration's Welfare-to-Work Jobs initiative could be added to the proposal. The FY '98 budget will likely help clarify the Administration's next steps on the legislation.

Key Constituents: During the 104th Congress most constituencies (mayors, counties, organized labor, community-based organizations) supported reform, but, like the Administration, opposed the conference report as being too

extreme. These groups appreciated the Administration's tough stance in rejecting the partisan conference report. The National Governors' Association strongly supported the Senate legislation, which used a block grant approach with considerable control for Governors. In an effort to save the bill, they urged Senator Kassebaum to try to reach a bipartisan agreement. Still, the governors were the one group whose position most diverged from the Administration, and were the most disappointed in the failure to complete work on the legislation.

Hill Positions:

During the December Republican Governors' meeting, Congressman Goodling, Chairman of the House Committee on Economic and Educational Opportunities, indicated that he believed that new workforce development legislation would be introduced. Representative McKeon who chaired the subcommittee that authored the House job training reform bill during the 104th, also stated that job training reform was needed and that to be successful, it would need to be bipartisan. With the retirement of Senator Kassebaum, and the assumption of Senate Labor Committee leadership by Senator Jeffords, who has explicitly bemoaned the partisanship of last year's conference, the prospects for genuinely consensus legislation seems to have improved.

Pros/Cons:

The major decision to be made is whether to seek enactment of consolidation/reform legislation in the Republican-controlled 105th Congress, given the failure to achieve enactment of the G.I. Bill. The President has repeatedly called for both reform and investment in this area and the improved Congressional environment argues for pursuing legislation. There is always the danger that the "reform" legislation emerging from Congress could be harmful to the job training system and the customers it serves and, therefore, must be monitored closely. However, without the prospect of reform, Congress may reduce future appropriations for workforce development programs.

Down the road, we may be faced with questions regarding linking the Welfare-to-Work Jobs Initiative to the job training reform proposal.

Immigration: Employment-based Permanent Labor Certification Reform

Issue: Possible legislative and administrative reforms to the employment-based immigration programs administered by the Labor Department.

Background: The Labor Department administers several programs that allow employers to bring foreign workers into the United States:

- o The Alien Labor Certification (ALC) Program permits primarily skilled alien workers to immigrate permanently to the United States.
- o The H-1A program temporarily allowed foreign nurses to enter the United States; that authority has now expired.
- o The H-1B program admits up to 65,000 skilled foreign "temporary" (for up to 6 years) workers each year.
- o The H-2A program temporarily admits farm workers.
- o The H-2B program admits seasonal workers (e.g., resort workers, crab pickers).

The principal criticism of the skilled workers programs (ALC, H-1A and H-1B) is that U.S. workers do not have a fair opportunity to get these high-wage, high-skill jobs.

On May 22, 1996, the Labor Department's Inspector General (OIG) issued an audit report that was highly critical of the ALC (permanent) program and the H-1B (temporary skilled workers) program. While the report concluded that ETA is doing all it can to achieve the objectives of these programs within its existing authority, it found that the permanent program does not adequately assure U.S. workers a fair opportunity to compete for the high-skill, high-wage jobs into which foreign workers are being placed. It also found that the H-1B program requires legislative reform to provide needed protections for U.S. workers.

U.S. employers seeking to employ foreign workers in certain permanent immigrant categories must first obtain a "certification" from the Department that no U.S. worker is able, willing, qualified, and available for the job to be filled by the immigrant worker. The labor certification process requires employers to demonstrate that they have recruited U.S. workers but have not been able to find a qualified worker. The

OIG report found, however, that in the majority of cases a foreign temporary worker is already employed (either legally or illegally) in the job for which the employer is recruiting. As a result, the OIG concluded that the recruitment process is a sham. U.S. workers are hired in less than one-half-of-one percent of cases. In cases where U.S. workers are hired, they are usually placed in jobs other than the one for which the foreign worker is sought.

Even before the OIG report, DOL worked closely with Congress (Senator Kennedy in particular) on reforming employment-based immigration. A number of proposals to improve the ALC program supported by DOL were discussed with Senator Kennedy, including:

- A labor certification system that requires businesses to employ U.S. workers as a substantial majority of its workforce and its recent hires during the 2 years prior to application.
- Recruitment provisions that require the employer to have engaged in bona fide recruitment before a foreign workers has been hired.
- New enforcement powers for DOL.

In the last Congress, the Administration also proposed H-1B reforms that were contained in early versions of the immigration reform bill. These provisions would have, among other things:

- o Prohibited employers from laying-off U.S. workers to replace them with immigrant or foreign temporary workers;
- o required employers to recruit and retain U.S. workers before hiring a foreign temporary worker; and
- o reduced the length of time foreign temporary workers can stay in the U.S. from 6 to 3 years.

*Current
Status:*

Immigration reform legislation passed by Congress addressed only illegal immigration. Consequently, none of the provisions described above became law. However, Senator Kennedy has expressed continuing interest in measures to correct weaknesses in the permanent employment-based immigration program. The Department will be working closely with Senator Kennedy's office on these matters in the near future.

The Department agrees with the OIG's recommendations and has supported proposed legislative reforms. In the absence of congressional action, ETA has initiated reengineering efforts to streamline the certification process. Also, together with ASP, ESA and SOL, ETA has considered regulatory options to change the recruitment process for the ALC program to address program weaknesses. These options are modeled on the Senator Kennedy's draft amendment on recruitment under the permanent program.

An immediate and direct result of the OIG report was a 20% cut in the appropriations for the Alien Labor Certification program. ETA is working with BLS to change the way we collect data for certifications in an attempt to reduce their costs given ETA's new budget constraints.

The President's FY '98 budget request will include a user fee proposal. The remaining question is whether ETA can capture the funds, or whether the fees will revert to general revenue, the more likely outcome.

*Key
Constituents:*

Certain employers --- high-tech companies, health care employers, colleges and universities, among others --- have a strong interest in liberal employment-based immigration. Unions and other advocates representing U.S. workers in these industries support reform.

*Hill
Positions:*

Senator Kennedy supports the reforms enumerated above. Any hope of progress on employment-based immigration reform must be tempered by the strength of business interests that will oppose measures that restrict employment-based immigration or increase its cost (e.g. increased enforcement powers, payment of user fees, and requiring majority of workforce and recent hires to be U.S. workers). The retirement of Senator Simpson, a long-time leader on immigration reform, will also hurt chances for legislation this year.

Pros/Cons:

The legislative changes proposed would provide enhanced protections to U.S. workers, while not significantly affecting employers' access to international labor markets. Nonetheless, enactment of these legislative changes may be difficult if employer opposition is comparable to that mounted in the last Congress.

JOB CORPS: Congressional Concern with Job Corps

Issue:

Senate Committee on Labor and Human Resources raised serious questions about violence, drug abuse, other unacceptable behavior among students at many Job Corps centers, and accountability issues with regard to poor performing centers.

Background:

The Senate Committee, chaired by Senator Nancy Kassebaum, held oversight hearings on Job Corps in 1994/1995. As part of her Workforce Development legislation, Senator Kassebaum fought very hard to turn Job Corps over to the states as part of a youth block grant. In a showdown floor vote (57-42) on Job Corps, Senators Specter and Simon successfully offered an amendment to retain Job Corps as a national program. The Department has implemented a range of policies to address the Committee's concerns. These included:

- ▶ initiation of a code of conduct at all Job Corps centers requiring zero tolerance policy for violence and drugs,
- ▶ establishing a 30-day probationary period after enrollment whereby students are terminated for failure to adhere to the zero tolerance policy,
- ▶ introduction of a strengthened applicant selection process to ensure that recruited young people are both committed and motivated to benefit from the program,
- ▶ establishment of improved placement definitions and performance standards to focus on full-time job placements,
- ▶ development of a follow-up survey system to determine status of students three months after they are placed in a job or school,
- ▶ implementing strong actions on poor-performing centers, such as terminating contracts, stopping input, and providing intensive technical assistance through high-performance challenge teams, and
- ▶ incorporating student surveys into Job Corps' performance assessment system.

Current

Status:

The Office of Job Corps continues to focus its efforts on improved performance. Several initiatives are being undertaken:

- ▶ Job Corps is converting from its rigid franchise model for serving severely disadvantaged youth to an outcomes-based, innovative School-to-Work (STW) system. This involves revising training policies, integrating academic and vocational training, changing the role of Federal staff from compliance monitoring to that of technical assistance and structuring programs to meet local employer and Workforce Development needs within the framework of a national program.
- ▶ Efforts are underway to enable Job Corps centers to take full advantage of technological advancements in all areas of their training operations.
- ▶ Increased emphasis is being placed on student employability in jobs that are training-related, pay well, and are consistent with long-term employment status.
- ▶ Intensive on-site assistance will continue to be provided to improve training and outcomes at centers with a demonstrated record of poor performance.

*Key
Constituents:*

State Workforce Development Boards, State and local STW systems, various advocacy groups such as the Children's Defense Fund, employers, and Job Corps contractors and eligible youth.

*Hill
Positions:*

While Senator Kassebaum has retired, we should continue to anticipate interest from the Senate Committee on Labor and Human Resources, the House EEO Committee and Appropriations.

Pros/Cons:

As a result of Congressional interest and the Department's response to these concerns, the Job Corps has become a stronger program. Centers are safer, with substantially reduced behavior problems and enhanced performance. Nevertheless, even with the programmatic steps undertaken, the new Congress may still take issue with some of these areas or with other concerns such as cost per participant, gang activity and placement levels and wage rates.

Job Training Partnership Act -- Title III B: Secretary's National Reserve Account For Dislocated Workers

Issue: The Secretary of Labor's approval of requests for discretionary funds to serve dislocated workers under the National Reserve Account (NRA), JTPA Title III B is required under current Departmental procedures. Requests are received on an ongoing basis. The Department's commitment is to make a decision relative to each request within 30 days of receipt.

Background: Of the funding appropriated by the Congress each year for the Title III Dislocated Workers program, 80 percent is allocated by formula directly to the States and local areas to provide reemployment services for eligible dislocated workers. The remaining 20 percent of the annual appropriation is reserved by the Secretary of Labor for special projects, and to respond to unanticipated worker dislocations caused by mass layoffs and plant closures and natural disasters that cannot be adequately supported with existing State or local formula funds. Funding is also made available to assist in clean-up and restoration activities as a result of natural disasters. These funds are available to States and local communities through grants awarded under the National Reserve Account (NRA). Grants are awarded in response to applications submitted by eligible applicants, primarily States. The need for NRA funding assistance in most instances is immediate: Layoffs have occurred or are imminent and workers are in need of readjustment and/or reemployment assistance.

Current Status: Of the approximate \$211 million available for Title III discretionary activities for the funding period beginning July 1, 1996, over \$39 million has already been awarded in 18 grants to States. Another \$10 million is currently pending approval by the Secretary of Labor. Another approximate \$18 million is pending review and recommendation. An additional \$17.9 million has been reserved to supplement assistance for trade-impacted worker dislocations and to provide assistance for workers dislocated from timber and timber-related industries in the northwest. Also, more than \$30 million has been reserved for demonstration projects to test the efficacy of various approaches to serving dislocated workers and to provide technical assistance to improve the quality of the services delivered.

Key Constituents: Workers dislocated as a result of plant closures or mass layoffs, including workers affected by the closures of mines resulting from implementation of the Clean Air Act, and workers affected by decisions of the Base Realignment and Closure Commission relative to military bases and installations; States and local areas submitting such requests

and, in many cases, workers representatives such as organized labor.

Note: The Department has made a commitment to fund Clean Air Act and Defense Conversion/Diversification grants out of the NRA, even though the appropriation for these programs has expired.

Hill Positions:

Members, in many cases, are actively involved in the Department's response to Title III NRA funds. Senator Dodd was instrumental in retaining a national reserve account within the Senate-passed job training legislation, and while a separate funding stream for dislocated workers at the state level is still an issue, there is agreement that a national "emergency" account is a necessary feature. Senator Specter chairs our Appropriations Subcommittee and has been very supportive of funding for this program. The Philadelphia Naval Shipyard is one of several NRA funded projects in his State.

There also have been numerous grants to states represented by members of our authorizing committee; examples of these grants will be supplied prior to confirmation hearing.

Job Training Partnership Act/Wagner-Peyser Statutory Waivers.

Issue: Job Training Partnership Act/Wagner-Peyser Statutory Waivers. During the first 100 days of 1997, states will be petitioning the Secretary of Labor to waive statutory requirements in certain titles under the Job Training Partnership Act and Wagner-Peyser.

Background: With the Administration's active support, DOL 1997 Appropriations included authority, for the first time, for the Secretary to consider requests from States to waive statutory provisions in the Job Training Partnership Act and Wagner-Peyser. The authority for operating programs under these waivers is limited to Program Year 1997 which begins on July 1, 1997. However, the Administration will propose an extension of this authority as part of its' FY '98 budget request. We support this waiver authority as a demonstration of our interest in reform, over the status quo, and respect for state ingenuity.

Current Status: DOL policy to implement Appropriations Act authority is under development for issuance to the States. Departmental guidance must be available before the end of February so that States can begin planning, submitting requests, and implementing approved waivers in time for the start of the program year.

There are two types of waivers authorized -- six states will be chosen as "workflex" states, where Governors will be given authority to grant waivers to local areas, according to an approved plan. Other waiver requests will come directly to the Department for approval.

Key Constituents: ▶Organized labor and community based organizations want to ensure funds are available for targeted populations. Public employee unions particularly wary about waiving Wagner-Peyser (Employment Service) rules, due to questions of job security and privatization.

▶Governors and State officials want to maximize flexibility of JTPA funds to respond to state initiatives such as welfare-to-work.

▶Local elected officials, National Association of Counties, Conference of Mayors, National Association of Private Industry Councils, CBOs and other stakeholders want to ensure retention and enhancement of local decision-making and receipt of funds.

Hill Positions: Senator Hatfield initiated JTPA waivers for Oregon in the FY 1996 and 1997 Appropriation Acts. In 1997, a separate and modified authority was granted to the Secretary for JTPA and Wagner-Peyser programs in all states. The Appropriations Committee cleared the language with the

Senate Labor and Human Resources Committee and House Economic and Educational Opportunities Committee.

Certain statutory requirements are excepted from this authority, such as eligibility, labor standards, service delivery areas, and functions of private industry councils.

Pros/Cons:

Proposed workforce development reform legislation died in the last Congressional session. The Secretary has the opportunity to solicit or promote certain types of waiver requests that will move the system in a direction consistent with the Administration's vision for a one-stop based workforce development system and a school-to-work system. In fact, we are able to point to this authority to demonstrate how we are achieving reform even while pursuing legislation.

Organized labor could well lead a fight over the continuation of the waiver process in FY '98 budget and appropriations process.

School-To-Work

Issue: The School-to-Work Opportunities Act of 1994: Threats of Repeal.

Background: The School-to-Work Opportunities Act was signed into law by the President in May 1994. It is jointly administered by the Departments of Labor and Education. It is a new approach to learning that seeks to better prepare all American youth for careers in high skill, high wage jobs and to strengthen the link between what is learned in school and what is needed in the workplace. The Act, which sunsets in 2001, provides venture capital to states and local communities to begin systemic reform efforts that will better prepare today's youth for the world of work. Funds are also a set-aside for national activities that support system building through technical assistance and capacity building activities, outreach and communications efforts, and research and evaluation. The Act was never intended to become a permanent federal program. It was designed to provide seed money for development and implementation activities for a maximum duration of 5 years to each State with a declining federal investment over time.

*Current
Status:*

Appropriations under the School-to-Work Opportunities have been: \$245 million in FY/PY'95 and \$350 million in FY/PY'96. The Administration is expected to request \$400 million in FY/PY'97. Currently 37 States have been awarded multi-year implementation grants and more than 100 communities receive funds directly from the National School-to-Work Office. Sufficient funds are available in the 1997 funding year (available July 1) to fund the remaining States for implementation. Under the current spending plan, all States could receive the equivalent of five years of funding prior to the Act's scheduled expiration in 2001. However, during the last Congress, legislation passed each House that would consolidate a number of existing employment, training and education programs into block grants to the States. The proposed legislation would have repealed the School-to-Work Opportunity Act and incorporated some School-to-Work principles into the block grant legislation. The Administration was **strongly opposed** to repeal of the School-to-Work Opportunities Act. The repeal effort was defeated.

Key

Constituents: Business, labor, education and public interest groups (including the Governors, mayors, county officials and state legislators) have largely been supportive of the School-to-Work initiative. Vocal opposition to this effort has come almost exclusively from the conservatives such as the Eagle Forum and the Christian Coalitions.

Hill

Positions: Bipartisan legislation passed both the House and Senate last year which would

have repealed the STWO Act as part of the above mentioned consolidation effort. That repeal remained in the conference report which never made it back to either House. If there is a bipartisan effort to enact job training consolidation legislation as well as legislation for vocational and adult education, it is likely that the School-to-Work initiative will remain separated and survive, at least at the committee level. If there is a partisan environment, School-to-Work is likely to face similar hurdles to those that existed in the previous Congress. There is also the possibility of a floor amendment to repeal the School-to-Work Act. To date, the House and Senate Appropriations Committees have been supportive of continuing funding for School-to-Work. There is a general concern, however, that this initiative not become a permanent program. Both authorizers and appropriators will be watching the Department very closely to ensure that the program sunsets after 5 years occurs as planned.

Pros/Cons: System change takes time and resources. The School-to-Work initiative should be allowed to continue so that it can take hold and leverage the kind of systemic change within education, employment and training and economic development communities that was envisioned by the Act.

Those who may use job training consolidation to attempt the repeal of School-to-Work will argue that within a block grant scheme, decisions regarding the use of resources for initiatives such as School-to-Work should be made at the State and local levels. This is really a smoke-screen for a conservative attack on School-to-Work by groups who fear that employment/labor concerns will compete with education fundamentals and parents in the shaping of education policy.

Summer Youth Jobs Program

Issue: Continued funding of the Summer Youth Jobs Program (Job Training Partnership Act, Title II-B). Congressional members will be closely monitoring this program to determine whether increased numbers of youth are served during the summer of 1997.

Background: The Summer Youth Jobs program provides low-income youth, especially inner-city minority youth, with valuable employment experiences that most will not get from private companies. In early 1995 and again in 1996, Congress attempted to zero out the summer youth program. Only through the tireless efforts of the Secretary, chief elected officials of cities, counties and States, community based organizations, and many private citizens was it restored. As a result, the summer program for both 1995 and 1996 were announced late and local jurisdictions had to scramble to make necessary arrangements to get the program in place. As a result of that, and of new authority to transfer funds between the summer and year-round programs, in the summer of 1996 there were only 407,000 youth served.

For calendar year 1997, the President's request for the Summer Youth Jobs Program was fully funded at \$871 million (\$246 million above the 1996 appropriation). It has been projected that this increased level will permit 500,000 low-income young people ages 14-21 to have an opportunity to get a first job, use some of the skills they have learned in school, and build their knowledge of the demands of the workplace. The Department will be issuing guidance to the employment and training system in January to kick-off the planning for this summer's youth jobs program. In addition, we will be sending technical assistance materials which will focus on how to further involve the private sector.

Current Status: The FY '98 budget for the Summer Youth Jobs Program is continued at the FY '97 level of \$871 million.

Key Constituents: Chief elected officials at the city and county levels. They have actively supported the continuation of the Summer Youth Jobs Program as a key learning and earning opportunity for youth.

Hill Positions: Senator Kennedy has been a strong advocate for this program and has worked with members of the Senate Labor and Human Resources Committee to continue the funding of this program. Senators Specter and Harkin led the efforts in both FY '95 and FY '96 to overturn the house's proposed elimination of the program. In contrast, the House Republican leadership has publicly noted that they feel the funds are not well spent. Fortunately, bi-partisanship by members of the House on

this program, especially from Jack Quinn (R. NY) saved it from elimination and resulted in the continued funding.

Pros/Cons:

Pros: The Department is totally committed to the funding of this program for the following reasons:

- It is a proven way to give youth an opportunity to test the labor market while earning so they can cover back-to-school costs they would not be able to do otherwise.
- It gives youth jobs which would not be possible from the private sector, especially for the cohort of youth 14-16. Also, it encourages the leveraging of local resources and involvement of complementary private sector summer jobs program.
- It provides a connection between school and work that is real to the youth and permits them to understand the demands of the workplace in such diverse job areas as administrative, clerical, health, and maintenance.
- It provides academic enrichment during the summer months for a group of at risk youth who may be thinking of dropping out of school when formal learning is all but eliminated.
- It provides an important funding level for future negotiations on workforce legislation.

Cons: The Summer Youth Program has been characterized by persons opposed to this investment in the following ways:

- It is expensive in this era of budget cutting and should be eliminated or greatly reduced.
- Youth should take private sector jobs during the summer rather than asking the government to pay for them to get jobs, especially with the tightening of the labor market.
- It provides little real value in the way of job experience or learning - it is a "make work" program.

Trade Adjustment Assistance (TAA) and North American Free Trade Agreement Transitional Adjustment Assistance (NAFTA-TAA)

Issue: Trade Adjustment Assistance (TAA) and the North American Free Trade Agreement Transitional Adjustment Assistance (NAFTA-TAA) programs expire at the end of fiscal year 1998.

Background: The TAA program provides job retraining, income support, job search relocation benefits, and other reemployment services to production workers impacted by increased imports generally. The NAFTA-TAA program provides the same services to production workers who lose their jobs as a result of increased imports from, or by a firm shifting production to Canada or Mexico. These are entitlement programs authorized through amendments to the Social Security Act, and the level of income support is consistent with workers' entitlements to unemployment compensation.

During fiscal year 1996, over 32,000 workers entered training, and over 30,000 received some income support under the TAA program. These figures represent an increase of approximately 20 percent overall compared to fiscal year 1995. Under the NAFTA-TAA program, also during fiscal year 1996, over 2,200 workers entered training, and over 1,800 received some income support; these figures represent an increase of approximately 10 percent overall compared to fiscal year 1995. Where workers can qualify for both programs ("dual certification") they generally choose to be served under TAA because it allows for flexibility in receipt of income support while waiving delaying participating in job training.

Current Status: Comprehensive workforce development legislation proposed by the Administration which included these trade programs was not enacted. Separate pieces of workforce development legislation considered by the House and by the Senate in the last session did not address the Trade Act. Reauthorization legislation must be sent to the Hill this spring.

Key Constituents: TAA and NAFTA-TAA are strongly supported by organized labor, although labor has continued its opposition to NAFTA.

The Teamsters Union is lobbying to add service workers to the NAFTA-TAA program so that truck drivers who are expected to be impacted by NAFTA would be eligible for benefits.

Hill Positions: These entitlement programs are under the jurisdiction of the House Ways and Means Committee and Senate Finance Committee. Proposals to consolidate these programs into the larger job training consolidation bill were abandoned by the House and defeated on the Senate Floor.

Yet, since these programs are strongly supported by organized labor, the majority in Congress could use reauthorization of TAA and NAFTA-TAA as an opportunity to take on labor, arguing that job training consolidation would be incomplete unless these programs are included.

Pros/Cons:

Experience has identified both policy and technical issues which can be addressed in a reauthorization. However, any discussion of modifying the Trade Act will be viewed as a threat by organized labor. On the other hand, the Administration will have to defend allowing program inconsistencies (such as the waiver provision within TAA) to go unaddressed.

Welfare-to-Work Jobs Initiative/Welfare Reform

Issue: Welfare-to-Work Jobs Initiative/Welfare Reform

Background: The welfare reform bill signed by the President requires that states move 25% of their welfare caseloads into "work activities" by the end of FY '97 and 50% by the end of FY 2000. As a result, one of the President's top priorities will be to help states create job opportunities for welfare recipients.

There is concern over how existing employment law protections (e.g., minimum wage, overtime, safety and health) will be applied to welfare recipients in "work activities." It is DOL's preliminary view that these protections apply as they would to any other worker. The Department is working with HHS and the White House to establish mechanisms for providing technical assistance to the states regarding the application of labor law protections to participants.

The President's FY '98 budget request will contain an entirely new proposal to create job opportunities for welfare recipients. The Welfare-to-Work Challenge would provide \$3 billion in mandatory spending over three years to help communities move one million of the hardest-to-employ welfare recipients into jobs. A portion of grant funds would be paid as a bonus to communities for each long-term recipient who is placed and retained in a private sector job for at least nine months. While no final decision has been made as to whether the Department of Health and Human Services or Labor would administer this initiative, Department's FY '98 budget. Both Departments have been working closely with OMB to develop the proposal.

We believe that the Welfare-to-Work initiative design should be guided by the principles that govern the President's G.I. Bill for America's Workers: individual opportunity and informed choice, strong private sector roles, greater accountability, streamlined systems, and State and local flexibility. We also believe that it (a) should be targeted on the harder-to-serve of the employable welfare recipients; (b) focus on placements into "real" private sector jobs; and (c) include strong local and private sector roles.

Current Status: On the Welfare-to-Work Challenge, DOL, HHS, and OMB have prepared papers on various issues relating to the design of the President's welfare-to-work proposal. These proposals have been discussed at meetings chaired by OMB. This proposal will likely be included in the President's FY '98 budget. OMB has drafted a decision memo for the White House on key issues, which is now being reviewed

by the two Departments. DOL, HHS and the White House will be meeting to work out details of technical assistance for the States on the application of labor laws.

On worker protections for welfare recipients, the Department is working with the White House and HHS on a technical assistance system.

Key Constituents: Governors would likely welcome the additional resources that will come from the Welfare-to-Work Challenge to use in transitioning welfare recipients into employment, but would strongly prefer "no strings" on the use of funds. They will be skeptical about strict enforcement of employment laws on behalf of welfare recipients.

Mayors want a stronger role in welfare reform, which the Welfare-to-Work Challenge offers them. Counties and community-based organizations would welcome additional resources, but may be skeptical about details of the proposal.

Organized labor is concerned about worker protections in the Welfare-to-Work Challenge. They are deeply concerned about the displacement effects on other low-wage workers of moving welfare recipients into work. They are also very focused on how the Department will assure that welfare recipients' rights under employment laws are protected.

Hill Positions: Key Republicans (Archer, Shaw) have indicated they are not receptive to substantive changes to last year's welfare reform legislation. Budget pressures will make it extremely difficult to fix the perceived inequities, especially in light of the hefty price tag. Should these political pressures consume the initiative, Republicans may prefer simply adding funds to the TANF block grant or to the adult training program under JTPA (Title II-A). Harkin and Kennedy are strong supporters of the Welfare-to-Work Challenge being administered by DOL.

Pros/Cons: The key remaining issues relating to the design of the Welfare-to-Work Jobs Initiative and the pros and cons of various options are discussed in the draft OMB memo.

Work Opportunity Tax Credit (WOTC) Implementation/Expansion

Issue: Will employer participation in the WOTC program be extensive enough to make it and proposed expanded tax credit programs a major resource in welfare-to-work transition?

Background: The Work Opportunity Tax Credit (WOTC) replaces the Targeted Jobs Tax Credit (TJTC) which expired on December 31, 1994. TJTC had come under criticism from DOL's Office of the Inspector General (OIG) and Secretary Reich as a program that was a windfall for employers. Under TJTC, some employers would inventory their existing workforce to identify incumbent workers for whom the credit could be claimed. Thus, TJTC would leverage no new hires. WOTC revamped the TJTC to address these criticisms. Program eligibility determinations must be made before a job offer is made, and an employee must now work 400 hours (vs. 120 under TJTC) before employers can earn a tax credit.

New hires from among 7 target groups can establish an employer's eligibility for a tax credit under the WOTC program. The WOTC provides a maximum tax credit of \$2100 to employers who hire targeted adults, and \$1050 for targeted summer youth. WOTC became effective on October 1, 1996 and is authorized for one year ending September 30, 1997.

Welfare recipients are likely to be the largest WOTC target group and the Administration has identified the WOTC as a key resource in welfare-to-work transition. Also, the WOTC provides a foundation for **expanded tax credit programs** proposed by the Administration for authorization in FY 1998 as part of the Welfare-to-Work Jobs Challenge. These expanded tax credit programs are the **Targeted Welfare-to-Work Tax Credit**, a tax credit for employers who hire long-term welfare recipients and the **Expanded Work Opportunity Tax** a tax credit targeted on adults age 18-50 who become ineligible for Food Stamps because they did not satisfy the work requirements of the new welfare reform law.

The ability of the WOTC and the proposed expanded tax credit programs to serve as a key resource in welfare-to-work transition depends on the scope of employer participation in the program and strategic use of the tax credit by workforce development and welfare agencies serving welfare recipients. Broad-based employer participation requires a program that is easy for employers to use and a Job Service system that is eager to provide a level of service that renders certification decisions quickly and avoids uncertainty about

whether eligibility for the tax credit has been established. The Job Service certifies an employer's eligibility for the tax credit.

*Current
Status:*

Operating guidance for the program has been issued and the first round of training for state and Federal regional staff has been held. A second round of training is planned for early February 1997 on the updated handbook for WOTC administration. Feedback from large employers indicates that the program's operating guidance defines a certification process that will be easy for them to use.

ETA is organizing marketing efforts to enlarge the scope of employer participation to include medium-sized and small employers. The traditional users, large employers who use consultants as intermediaries with the Job Service, are likely to match or exceed their participation in WOTC compared to the TJTC. The participation of medium- and small-sized employers in TJTC was low.

Marketing and program development efforts are also targeted on workforce development agencies, welfare agencies, Empowerment Zones/Enterprise Communities, et. al. -- agencies that are in a position to use the WOTC strategically to transition welfare recipients to jobs. An aspect of this effort will focus on Job Service concerns about administrative funding for WOTC. \$20 million has been allocated to states in FY 1997 for WOTC administration. The same amount is requested in FY 1998 when the expanded tax credit programs are proposed for implementation. Some Job Service agencies have noted that available funding is not commensurate with the workload the WOTC presents. ETA's marketing and program development in this connection will emphasize the opportunity for leadership on a key aspect of welfare-to-work that WOTC presents to the Job Service.

*Key
Constituents:*

Awareness of the WOTC is relatively low among agencies that are in a position to use the WOTC strategically to transition welfare recipients to jobs. Marketing and program development initiatives are intended to correct this.

Large employers support the WOTC and have responded positively to the operating guidance that ETA has issued. Awareness by medium- and small-size employers needs to be increased. ETA marketing plans are designed to increase awareness.

Hill Positions:

Relevant tax and oversight committees of the Congress generally support WOTC as correcting the major weaknesses the TJTC. Support is strong among certain Members of Congress including Congressman

Charles B. Rangel (D-NY; Ways and Means), Amory Houghton (R-NY; Ways and Means), Senator Orrin Hatch, and Senator Max S. Baucus (D-MT; Senate Finance).

State and local elected officials remain skeptical about the potential interest in the WOTC. They are not yet hearing from employers that a tax credit will make a real difference. ETA marketing plans will include outreach to elected officials who interact with business leaders regularly.

The WOTC expires on September 30, 1997. Congress is likely to request evidence concerning the performance of the WOTC to inform its decisions on reauthorization and its action on proposals for expanded tax credit programs.

Pro/Cons:

The Administration has an interest in demonstrating that tax credit programs like the WOTC can have a significant and positive welfare-to-work impact. Affirmative Congressional action on expanded tax credit programs could be influenced by the achievements of the WOTC during its first year.

Youth Opportunity Area Grants

Issue: The President's budget provides for \$250 million for Youth Opportunity Grants.

Background: Out-of-school youth in many of our country's inner-city neighborhoods currently have employment rates of less than 50 percent, and school dropout rates in these areas can exceed 60 percent. These problems contribute significantly to crime, youth gangs, welfare dependency, and drug abuse in these communities. Because of the difficulty in effectively serving youth in high-poverty areas and the overwhelming need to do so, the President requested \$250 million in his FY 1997 budget for new competitive grants to selected high-poverty urban and rural communities aimed directly at boosting the employment rate of out-of-school youth in these pilot areas to levels commensurate with that of non-poor communities, with the hope of having a dramatic impact on all aspects of life in these target areas.

Although Congress did not appropriate funds for this initiative in FY97, it recognized the complex and extraordinary needs of out-of-school youth by stating in the omnibus appropriations act language that it "expects the Department to continue using a portion of pilot and demonstration funds to support this initiative." Three communities -- Chicago, Houston, and Los Angeles -- were awarded three-year demonstration grants under a competition in 1996 to be pilot sites for this broader initiative. We hope that in implementing these three pilot sites, we will be better able to implement the broader initiative.

The President again will propose \$250 million in his FY 1998 budget for this initiative. Because many of those targeted are welfare recipients or young minority males who experience extremely high rates of non-employment, this initiative will complement welfare reform and the welfare-to-work jobs initiative.

This initiative builds on preliminary results from Labor's Youth Fair Chance (YFC) initiative that suggests that programs that concentrate resources can have community-wide impacts. Youth Fair Chance provided a large amount of funds for youth development programs in selected high-poverty communities. Localities typically developed a combination of community learning centers for youth, alternative schools, work opportunities, in-school programs, and comprehensive sports and recreation activities. Results from the seven initial pilot sites show dropout rates going down in six of the seven sites, and adolescent births going down in all six of the sites for which data were available.

Current Status:

The Department plans to announce a new competition next month to select an additional site or two. We would also propose that this initiative be authorized as part of any new workforce development legislation.

Key Constituents:

Mayors and counties with high poverty inner-city neighborhoods and rural areas would welcome additional resources to target out-of-school youth. Governors would be skeptical about the success of concentrating large amounts of resources in high poverty areas with strong local control. Community-based youth-serving organizations generally will be supportive, but will want to assure that these resources have a broad youth development focus and avoid setting up separate delivery systems for out-of-school youth. Schools and organized labor will be concerned about local and State matching funds that might shift scarce resources from students to out-of-school youth.

Hill Positions:

Pressures to consolidate training programs and increase State and local flexibility will make it extremely difficult to authorize a separate program for out-of-school youth or to obtain funding for such an initiative. Although Congress recognizes the role that pervasive joblessness plays in explaining poverty, welfare dependency, the rise of single parent households, and crime in high poverty communities, appropriators may prefer to continue directing the Department to support the initiative through existing programs/funds. It is too early to know whether House or Senate authorizing committees would support some form of "national reserve" for youth opportunity areas similar to that for dislocated workers.

Pros/Cons:

Current efforts to consolidate job training programs and to give broad authority to Governors do not lend themselves to programs that concentrate funds in selected neighborhoods and we will be asked to defend keeping any programs outside of consolidation. States and local political constraints will drive consolidated program resources towards being disbursed widely to serve as many persons and geographic areas as possible which argues more emphatically for that need for this initiative. However, the evidence supports concentration models, especially for youth, and if we really want to promote "what works", this needs to be part of the package.

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Divider Title: **PWBA**

PWBA

Economically Targeted Investments (ETIs)
Employer Stock & Employer Real Property to 401(k) Plans
ERISA Enforcement Improvement Act - Audit Bill
Health Care Commission
Health Care Coverage for the Unemployed
Kennedy-Kassebaum Health Care Legislation Implementation
Multiple Employer Welfare Arrangements - MEWAs
Pension Abuse Project
Retiree Health Care
Retirement Security Act - Senator Daschle's Pension Bill

Economically Targeted Investments (ETIs)

Issue: The Department's activities related to pension fund investments that seek competitive financial returns as well as economic benefits such as job creation or affordable housing.

Background: Public and private pension fund investments total roughly \$5 trillion in overall assets and comprise approximately one-fifth of the total financial assets in the U.S. today. The Clinton Administration has supported strategies to invest these assets to produce competitive rates of return while boosting the economy and creating stable jobs so that workers can retire with adequate pensions. These investment strategies have been pursued by many state public employee pension funds and several private sector plans.

ETIs have been studied by reputable organizations, including the GAO and the SBA, which have found that these investments performed comparably to other types of pension fund investments. Furthermore, in 1992 and 1993, the Department's ERISA Advisory Council, a bipartisan body of recognized benefits policy experts, recommended that the Department (a) clarify its position on ETIs, and (b) collect and distribute information on ETIs. In 1994, the Department issued its interpretive bulletin on ETIs which made clear that properly structured ETIs were permissible under federal law. This bulletin codified the same position that the Department has taken for over twenty years through Democratic and Republican administrations. In 1995, the Department also provided seed money for the establishment of an ETIs information clearinghouse.

In 1995, Congressman Jim Saxton (R-NJ) introduced the "Pension Protection Act of 1995," which purported to revoke the Department's interpretive bulletin on ETIs, prohibit certain DOL actions relating to ETIs and terminate the contract for the ETIs clearinghouse. After considerable debate in committee and on the House floor, the bill passed the House. A companion bill was introduced by Senator Connie Mack (R-FL), but no Senate hearings were held on the bill, nor was it ever voted on by the Senate. The Department also responded in writing to three Congressional inquiries in 1995 and 1996 regarding ETIs.

ETIs was also considered briefly during the FY 96 appropriations process. The final Senate Appropriations Committee report recommended that the Department terminate its contract for the ETIs clearinghouse. This language did not require the Department to take such action, but clearly made known the views of certain members of Congress on this issue.

Current status:

The Department's seed money for the clearinghouse was provided through a contract which expired in September, 1996; the contractor submitted its first major collection of ETIs-related data to the Department at that time. The clearinghouse itself continues to operate.

Key Constituents:

ETIs have been vigorously supported by state and local public pension funds, including statewide pension funds of California, Massachusetts, Pennsylvania and New York. Private pension funds have increased investment in ETIs, although they have taken a modest profile in the ETIs discussion. The labor movement has also made significant investment in ETIs. For example, the AFL-CIO established its Housing Investment Trust to facilitate investment by labor pension funds in ETIs. Other key supporters include the National Women's Business Council, the National Senior Citizens Council, the Pension Rights Center and the Government Finance Officers Association.

Hill Positions:

Congressman Saxton has indicated that he is considering whether to re-introduce his bill in the next session of Congress. His position may be muted, however, because of the narrower Republican majority in the House. In addition, the bill's concern over ETIs may be undercut by the position of Jack Kemp, during his tenure as HUD secretary, who made a formal inquiry to Labor Secretary Elizabeth Dole to persuade the Department to approve below-market pension fund investments for housing projects; Secretary Dole rejected the proposal.

Pros/Cons:

The Department is not currently pursuing any additional initiatives regarding ETIs at this time. The interpretive bulletin codifies and confirms the same standard of scrutiny for pension fund investments that has been held for the past twenty years under both Democratic and Republican administrations, i.e., ETIs are permissible under federal pension law as long as their goal is to achieve competitive rates of return for their plan sponsors.

Employer Stock and Employer Real Property Contributions to 401(k) Plans

Background:

The issue relates to whether ERISA should be amended to establish limits on the investment of employee and employer contributions to 401(k) plans in employer securities and real property (i.e., real property owned by the plan and leased to the employer). Unlike traditional defined benefit pension plans, generally, there are no specific limits on the amount of employer securities and real property that a 401(k) plan may invest in. Typically, employers match a certain percentage of employee elective contributions to 401(k) plans. These employer contributions are often made in company stock. There have been instances where employees' retirement savings have been adversely affected by their employer's decision to invest substantial portions of the 401(k) plan in employer securities or real property. For example, Color Tile Corporation's 401(k) plan invested over 80% of its assets in Color Tile stores before the company went into Chapter 11 bankruptcy. The Department has an ongoing investigation into Color Tile's plan to ensure that the employees' interests are protected and to determine if there were any violations of ERISA. In another example, Carter, Hawley, Hale's 401(k) plan was nearly 100% invested in company stock, which was rendered worthless when the company went into bankruptcy.

The Color Tile and Carter, Hawley, Hale situations have been the subject of several press articles and Senator Boxer has introduced legislation to establish limits on the investment of 401(k) plan assets in employer securities and real property. On September 12, 1996, Secretary Reich sent a letter to Senator Boxer expressing the Administration's support for legislation that would impose the same ten percent limit on plan investments in employer securities and real property currently applicable to traditional defined benefit pension plans to employee elective contributions to 401(k) plans over which the employees do not exercise control. The General Accounting Office has initiated a study of the issue in response to a request from Congressman Archer. In response to requests from the Hill, Department staff have provided technical assistance and guidance to Congressional staff in developing a framework for the ten percent limit. This framework has been incorporated into an omnibus pension bill that will be introduced by Senator Daschle on behalf of the Senate Democratic leadership as one of the first ten Senate bills in the 105th Congress.

Current Status:

Senator Daschle will introduce legislation shortly after Congress reconvenes in January. (See issue paper No. 8.)

Key Constituents:

401(k) plan sponsors and their representatives may object to having any limit on the investment of employer contributions in employer related investments. There may be less opposition, however, to a limit on such investments of employee contributions. 401(k) plan participants are likely to be generally supportive of this legislation.

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Background:

The issue relates to whether ERISA should be amended to establish limits on the investment of employee and employer contributions to 401(k) plans in employer securities and real property (i.e., real property owned by the plan and leased to the employer). Unlike traditional defined benefit pension plans, generally, there are no specific limits on the amount of employer securities and real property that a 401(k) plan may invest in. Typically, employers match a certain percentage of employee elective contributions to 401(k) plans. These employer contributions are often made in company stock. There have been instances where employees' retirement savings have been adversely affected by their employer's decision to invest substantial portions of the 401(k) plan in employer securities or real property. For example, Color Tile Corporation's 401(k) plan invested over 80% of its assets in Color Tile stores before the company went into Chapter 11 bankruptcy. The Department has an ongoing investigation into Color Tile's plan to ensure that the employees' interests are protected and to determine if there were any violations of ERISA. In another example, Carter, Hawley, Hale's 401(k) plan was nearly 100% invested in company stock, which was rendered worthless when the company went into bankruptcy.

The Color Tile and Carter, Hawley, Hale situations have been the subject of several press articles and Senator Boxer has introduced legislation to establish limits on the investment of 401(k) plan assets in employer securities and real property. On September 12, 1996, Secretary Reich sent a letter to Senator Boxer expressing the Administration's support for legislation that would impose the same ten percent limit on plan investments in employer securities and real property currently applicable to traditional defined benefit pension plans to employee elective contributions to 401(k) plans over which the employees do not exercise control. The General Accounting Office has initiated a study of the issue in response to a request from Congressman Archer. In response to requests from the Hill, Department staff have provided technical assistance and guidance to Congressional staff in developing a framework for the ten percent limit. This framework has been incorporated into an omnibus pension bill that will be introduced by Senator Daschle on behalf of the Senate Democratic leadership as one of the first ten Senate bills in the 105th Congress.

Current Status:

Senator Daschle will introduce legislation shortly after Congress reconvenes in January. (See issue paper No. 8.)

Key Constituents:

401(k) plan sponsors and their representatives may object to having any limit on the investment of employer contributions in employer related investments. There may be less opposition, however, to a limit on such investments of employee contributions. 401(k) plan participants are likely to be generally supportive of this legislation.

Hill Positions:

Senator Boxer has been the primary sponsor of this legislation. It is likely that those legislators who are sympathetic to the business community may be concerned about imposing the additional burdens on 401(k) plan sponsors.

Pros/Cons:

The major rationale for the legislation is to help avoid reoccurrences of situations like Color Tile and Carter, Hawley, Hale. With the growth of 401(k) plans, this is viewed by many as desirable. The major argument against will come from plan sponsors who will claim the proposal will diminish the attractiveness to formation of 401(k) plans to employers and/or lessen their willingness to contribute to these plans. This criticism is being addressed in the proposal by establishing limits already accepted in the defined benefits pension plan world.

ERISA Disclosure and Protection Act for Employees and Retirees (Audit Bill)

Background:

ERISA generally requires health and pension plans with 100 or more participants to have an annual audit by an independent accountant. However, plan assets held by banks or insurance companies can escape audit by outside plan auditors if the plan administrator elects a so-called "limited scope audit", a loophole in the 1974 ERISA law that permits a business to satisfy the "legal" requirement to do an audit without examining all of the plan's assets and without the auditor expressing an opinion regarding the soundness of the plan management. As a result, it does not provide for prompt reporting to the DOL of likely criminal activities related to the plan. Currently, there are \$950 billion in pension plan assets receiving no meaningful audit because of the limited scope audit provision. This bill would correct these problems.

Both the Department's Inspector General and the General Accounting Office (GAO) have warned of accounting weaknesses in employee benefit plans which, they warn, could lead to a situation similar to the S&L crisis. Senator Simon and Senator Jeffords introduced in the 104th Congress the ERISA Enforcement Improvement Act and the President's Retirement Savings and Security Act (S.1818/H.R.3520), which contained repeal of the limited scope audit. They were not enacted in the 104th Congress.

Action on this proposal is needed to achieve the Administration's stated goal of protecting employee benefits for American working families.

Current Status:

To help ensure chances for enactment, the proposal should be resubmitted to the Congress by the Administration soon after the new Congress convenes.

Senator Daschle is expected to address these issues as part of his comprehensive Senate Democratic pension bill, which he has announced he will introduce early on in the 105th Congress. Senator Rockefeller is expressing interest in assuming Senator Simon's past role as chief legislative advocate of the bill.

Key Constituents:

This legislation is supported by federal law enforcement agencies including the Pension and Welfare Benefits Administration, the Department's Inspector General and the GAO, as well as the American Institute of Certified Public Accountants. Many business groups have opposed this legislation, including the ERISA Industry Committee (generally representing large companies offering pension and other welfare benefit plans) and the Investment Company Institute (representing the mutual fund industry).

Hill Positions:

While some business opposition remains, bipartisan support was developing for repeal of the limited scope audit for pension plans only at

the end of the 104th Congress.

Pros/Cons:

The major argument for this legislation is that it is needed to help protect plan assets in pension and welfare benefit plans. The business community will argue that doing a full audit in many instances is unnecessary and in other instances duplicative and costly. They will also assert there is no convincing evidence of accounting weakness when limited scope audits are utilized. We believe PWBA experience is to the contrary.

Advisory Commission on Consumer Protection and Quality in the Health Care Industry

- Background:* President Clinton established the Advisory Commission on Consumer Protection and Quality in the Health Care Industry on September 5, 1996, through Executive Order 13017. The Advisory Commission is co-chaired by the Secretaries of Labor and Health and Human Services, and the Department of Health and Human Services has been designated the lead agency pursuant to the Federal Advisory Committee Act. Members of the Advisory Commission are to address issues concerning consumer protection and quality related to health care and make recommendations to the President as may be necessary for improvements in these areas.
- Current status:* No formal announcement has been made concerning the appointment of Advisory Commission members, and staff has yet to be hired.
- Key constituents:* The Department's interests in the Advisory Commission largely stem from the Employee Retirement Income Security Act (ERISA), which is administered by DOL's Pension and Welfare Benefits Administration. Health benefit plans sponsored by private sector employers and unions fall under the scope of ERISA. Employers and unions that sponsor health benefits do so voluntarily; no federal law requires employers or unions to provide health benefits to workers. In 1993, 74% of private sector workers were in firms that sponsored a health benefit plan. Many employers and unions are large purchasers of health care coverage and can exert leverage to influence the cost and quality of health care through their purchasing power in the voluntary health care marketplace. Consequently, key constituents include the employer and union communities as sponsors of health benefit plans as well as workers and their families as consumers of health care under these plans.
- Hill positions:* Many members of Congress have proposed legislative initiatives that address consumer protection and quality in health care, and legislative proposals in the 105th Congress are likely to extend to the private sector in addition to Medicare and Medicaid. For example, members who have expressed an interest in consumer protection proposals include Senators Kennedy, Graham, and Wellstone and Representatives Dingell, Cardin, Stark and DeLauro. Legislation may range from omnibus consumer protection bills to proposals aimed at specific issues. Many members of Congress have also recommended individuals for appointment to the Advisory Commission.
- Pros/Cons:* The rationale for the Commission is that the health care market is undergoing rapid changes, and the Advisory Commission provides an opportunity to bring together some of the best minds in the field to analyze and make recommendations on how to ensure that people get the best quality care possible. Instead of waiting for the work of the Commission, the Republicans in Congress may choose to move forward to develop their

own proposals on health care quality, particularly to forstall pressure to enact incremental reforms and to address a growing popular pulic concern.

Health Coverage for the Unemployed

Issue: Providing health care coverage for unemployed individuals and their families.

Background: The Administration has developed a Worker Transition Insurance Proposal (WTIP) that would provide unemployed individuals and their family members income-based subsidies for the purchase of up to six months of health care coverage. Individuals would be eligible if they: are collecting unemployment insurance; had health insurance through their employer for at least the last six months of their most recent job; have family income below 240 percent of the poverty line; and are not eligible for health insurance coverage through an employed spouse, Medicare, or Medicaid. WTIP would establish a four-year demonstration project that would provide annual grants to states which choose to participate. HHS would operate a program in states that choose not to participate. WTIP would serve approximately 3 million unemployed workers and their family members in its first calendar year.

WTIP is targeted to middle and lower-income individuals and their families who could lose their health care coverage when they are between jobs. It complements the recently passed Health Insurance Portability and Accountability Act (HIPAA, otherwise known as Kassebaum-Kennedy), which helps individuals get and keep insurance coverage when they change jobs. WTIP was included in President Clinton's FY97 budget and will be included in FY98, and the President emphasized this issue throughout his campaign.

Current Status: WTIP was developed through an interagency group coordinated through the White House by Chris Jennings. Most design issues have been settled, and the Department of Health and Human Services is drafting language to be submitted to Congress. \$9 billion dollars to fund the program for 4 years would be included in the FY98 budget proposal the President will send to Congress in February. While the Department of Labor (DOL) has proposed two changes to WTIP - broadening WTIP eligibility to include persons who had health coverage at their previous job but not through that employer and giving states the option of continuing coverage for WTIP participants who take jobs that do not provide health care coverage - these changes will not be included in the budget but remain for the legislative process.

Key Constituents: The strongest constituents are middle and lower-income workers. Recent polling data indicate that losing their health care coverage if they lose their jobs through downsizing or lay-offs is among the top concerns of women. The states will find the program appealing because it provides them with full funding while affording significant flexibility in its implementation. Unions will also be very supportive, although employers may perceive the proposal as potentially raising their health benefit costs if states choose to

help unemployed workers maintain coverage under their previous employer's health plan.

Hill Positions:

Senators Kennedy and Kerry have proposed a bill that is very similar to WTIP, although it clearly encourages workers to maintain coverage through a previous employer's health plan, while the Administration seeks to give states maximum flexibility to administer the subsidies. Senators Kennedy and Kerry are familiar with a successful program that Massachusetts operates through which unemployed workers receive assistance to buy coverage through their previous employer. The Massachusetts program builds on COBRA, a federal law that provides workers and their families the opportunity to purchase group health coverage through their employer's health plan for a limited period of time if they lose coverage due to specified events, including termination of employment, divorce, or death. Workers in companies of 20 or more employees generally qualify for COBRA. DOL continues to work closely with Senator Kennedy's staff to discuss proposals.

The Kennedy-Kerry proposal is known as a "COBRA-first" proposal, which means that coverage for COBRA-eligible individuals must be in the form of subsidizing COBRA payments. Only those not eligible for COBRA could receive coverage through other methods, such as through a state's high risk pool, Medicaid buy-in, or purchasing individual insurance policies. Employers are opposed to a "COBRA-first" approach because they do not think that they should shoulder the costs of unemployed workers' health coverage, and they believe that a "COBRA-first" approach could raise their COBRA-related costs. Because COBRA premiums are limited to 102 percent of the combined employer and employee premiums and COBRA enrollees tend to have considerably higher health care costs than the average worker in the health plan, the 102 percent limit effectively forces employers to pick up part of the cost of COBRA coverage, even though there is no explicit employer premium contribution.

Pros/Cons:

DOL strongly supports efforts to provide health care coverage for temporarily unemployed individuals and their families, particularly the concept of providing an appropriate interim benefit without encouraging longer periods of unemployment. The Majority may oppose this as a costly new program and criticize the design of the program, claiming it provides incentive to stay on unemployment insurance longer to retain health care benefits and these individuals will substitute this program for another option of retaining health care insurance during this period of unemployment. There is also likely to be confusion over the provisions of the new Kennedy-Kassebaum bill because many people are under the mistaken impression that the new law accomplishes this end.

Kennedy-Kassebaum: Implementation of the Health Insurance Portability and Accountability Act of 1996

- Issue:* Implementation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) through the promulgation of regulations by April 1, 1997.
- Background:* HIPAA, signed into law on August 21, 1996, amended Title I of the Employee Retirement Income Security Act of 1974 (ERISA) as well as the Internal Revenue Code and the Public Health Service Act and charged the three Agencies with jurisdiction with respect to the relevant laws to work together on the regulations implementing the new provisions. The regulations due April 1, 1997, include the portability provisions which decrease preexisting condition exclusions through crediting previous coverage identified in certifications required to be provided to individuals by their employers. Other provisions to be addressed in regulations include nondiscrimination based on health status, guaranteed renewability, newborn and mothers' coverage, and mental health parity. A regulation regarding notification of material reductions in benefits is due in late February 1997.
- We have already issued a model notice to assist employers and plan administrators in notifying participants of the changes made by HIPAA to the continuation health coverage rules (COBRA). In addition, we have issued a question and answer pamphlet designed to help the average participant better understand the changes under the new health legislation. Finally, we have published a request for comments from the public and regulated entities for their views on the HIPAA portability provisions to assist the Agencies in their deliberations on the regulations.
- Current Status:* The Agencies have been meeting since HIPAA was signed into law in August 1996 and are actively drafting all of the regulatory sections. We have had discussions with both the Office of Management and Budget and various staff members in Congress regarding the status of the regulations.
- Key Constituents:* Group health plan sponsors and participants. Plan sponsors generally are concerned with the ease of administration of the plan. Plan participants are generally concerned with the ease of understanding the plan provisions.
- Hill Positions:* The key committees, Labor in the Senate and the Education and Economic Opportunities and Ways and Means in the House, have expressed an interest in the timely development of the regulations. Department officials recently met with Senator Jeffords committee health care staff to discuss implementation.
- Pros/Cons:* We agree with plan sponsors that the regulations should not complicate

plan administration because we would like to encourage employers to sponsor plans and not make plan administration a major plan expense. We also want to make the provisions under HIPAA effective with regard to the intent and make the regulations, such as the coverage certification, easy for participants to understand so they may get the most coverage under their plan. Finally, we agree with the Hill that the regulations should be timely to help carry out these provisions while we also want to assure that they are a thorough and precise interpretation of HIPAA and its intent.

Multiple Employer Welfare Arrangements (MEWAs)

Background:

A multiple employer welfare arrangement (MEWA) provides health benefits to the employees of two or more employers. Under ERISA, the Department shares regulatory responsibilities for MEWAs with the States. The States have primary responsibility over the financial soundness of MEWAs and the licensing of MEWA operators, reflecting the fact that MEWAs essentially act as insurance carriers, and the Department enforces fiduciary duties. In part by creating economies of scale, MEWAs can increase health coverage, especially in the small group market, by offering affordable health benefits. In practice, however, MEWAs have a long history of abuse, and hundreds of thousands of workers and their families have been left with tens of millions of dollars in unpaid claims. While it is difficult to quantify how many MEWAs exist, a 1992 General Accounting Office report estimated over 2.5 million participants and beneficiaries in 46 states were enrolled in MEWAs.

Current status:

Legislation was introduced by Rep. Harris Fawell (R-IL) in the 104th Congress that would have federalized most existing MEWAs and encouraged their expansion by exempting them from state regulation unless the Department rejected a MEWA's application for exemption. DOL would have to implement an exemption program - ruling on solvency and adequacy of reserves for thousands of applications.

The Administration opposed Rep. Fawell's proposal to federalize MEWA regulation and has argued that statutory changes to ensure that financially sound MEWAs continue as a viable alternative for small employers should build on the current federal/State framework. The Administration viewed this legislation as a barrier to the States' ability to regulate group health insurance by encouraging self-funded, federal-level MEWAs at the expense of the insured group health insurance market, which presently is regulated at the State level. The Administration supported a proposal by Senators Kennedy and Kassebaum to encourage the creation of purchasing cooperatives, authorizing States to certify as "purchasing cooperatives" entities that met certain conditions designed to protect consumers and employers as well as the viability of state insurance markets.

Key constituents:

Many organizations representing small businesses, including the National Federation of Independent Businesses and the National Association of Manufacturers, supported legislative proposals to federalize MEWA regulation. Opponents to the proposal includes state legislators and insurance commissioners.

Hill positions:

The Department anticipates the introduction of bills in the 105th Congress that would federalize MEWA regulation. Congressman Fawell has stated that it will be one of his priorities in the 105th Congress. Other members of Congress that may support such a proposal include Senators Lott and

Jeffords and Reps. Goodling, Archer, and Thomas.

Pros/Cons:

Advocates of federal MEWAs argue they will expand health insurance coverage to individuals, particularly in the small business sector. Opponents argue, federalizing MEWAs could diminish states' ability to pool risk in the small group market, allowing entities to "cherry-pick," potentially raising health insurance costs for people left in state-regulated insurance markets and driving health insurers out of the small group market. Moreover, in an era of shrinking federal resources, the Department simply does not have the resources to carry out such substantial new federal responsibilities as envisioned by Rep. Fawell's bill.

Pension Abuse Project: The Failure of Employers to Promptly Remit Employee Contributions to 401(k) Retirement Plans.

Background:

This enforcement initiative addresses the diversion or misappropriation of employee contributions by employers that sponsor benefit plans. Increasingly, employees are funding their own retirement through 401(k) plans. By regulation, the Department has required that employers forward such contributions as soon as the employer reasonably can segregate the money from company assets. A final regulation, effective February 3, 1997, will shorten the holding period for employee contributions to retirement plans to 15 business days after the month in which the employer receives or withholds the employee contributions. Under ERISA employers must apply employee contributions toward benefits or administrative expenses. Any other use, such as the payment of business expenses, is unlawful.

Current Status:

This project formally began in 1995 with the Secretary's announcement of ten warning signs of employer abuse of workers' contributions. The Department also publicized the number of its investigations, and the amount of diverted employee funds that PWBA recovered. From March to September 7, 1996 the Department in coordination with the Department of Justice and the Internal Revenue Service offered an opportunity for employers to correct prior violations without civil or criminal penalties. Approximately 170 employers participated in the program depositing \$ 4.8 million into the contributory retirement plans. Currently, PWBA has recovered \$12 million and opened over 1,300 cases.

Key Constituents:

Single employers are the primary sponsors of this type of retirement plans. Thus, union-sponsored plans are not a focus.

Hill Positions:

Congress has been generally supportive of our initiative.

Pros/Cons:

The Department has emphasized that most contributory plans are responsibly managed. Nonetheless, critics alleged that the Department exaggerated the scope of the pension abuse problem because most employers appropriately and timely forward withheld contributions. Critics have charged that employees might contribute less and that employers might curtail contributory plans.

However, an employer's processing of employee contributions creates a tempting pool of cash. The number of 401(k) plans has grown to over 140,000, with over \$553 billion in assets controlled by these plans. A shorter holding period may minimize, but cannot eliminate, the potential for abuse. A heightened enforcement profile will help instill confidence in the private retirement system, and deter unscrupulous employers.

Retiree Health

Background:

Rising costs of health care and changes in accounting rules have resulted in corporations cutting back on retiree health benefits, and retirees have faced impediments to enforcing an employer's promise of lifetime health benefits when they have received one. Early retirement agreements between the employer and retirees containing specific promises of lifetime benefits may be overridden by the courts if the plan document also contains boilerplate reservations of a right to amend. Additionally, employers may terminate coverage without any advance notice to retirees.

Current status:

The Department has filed *amicus curiae* briefs in several high profile cases involving the reduction of retiree health benefits and has observed a recent trend in the courts that tends to favor employers who seek to avoid honoring apparent promises of lifetime health benefits rather than retirees who have reasonably relied on these representations. The Department's current position is to work with Congress on their proposals and to continue to monitor court cases involving retiree health benefit promises. Additionally, the Department recently released an advisory aimed at helping workers and retirees protect their health care in retirement.

Key constituents:

Employers are not required to provide health benefits to retirees or current employees. Their willingness to provide such benefits depends, to some extent, on the ability to adjust or terminate the benefits as dictated by business needs and would likely oppose any proposals to make more enforceable their apparent promises for benefits. Retirees have an interest in enforcing promises for health benefits made to them by their employers.

Hill positions:

The Department anticipates Reps. Kleczka and Barrett to reintroduce proposals addressing these issues, including requiring employers to provide advance notice of benefit cuts, allowing early retirees to buy into their employer's group health plan through COBRA until they are eligible for Medicare, and providing a presumption in favor of retirees when evidence exists that employers have made a lifetime promise of health benefits. In addition, Senator Daschle has indicated that he will reintroduce a proposal allowing early retirees to buy into their employer's health plan through COBRA.

Pros/Cons:

Advocates of change argue that the sudden termination of retiree health care benefits should not be permitted and that the rights of former employees and commitments of employers to retirees need to be clear. Opponents of change argue the system is clear and needs to be flexible to encourage maximum participation of employers in financing retiree health benefits.

The Retirement Security Act: Senator Daschle's Pension Bill

Background: Senator Daschle, on behalf of the Democratic Caucus, is developing a significant pension bill for introduction early in the 105th Congress. The legislation includes many provisions from the President's Retirement Savings and Security Act proposal of April 1996 that were not enacted as part of The Small Business Job Protection Act of 1996. The bill has over 30 provisions, including the provisions of the ERISA Disclosure and Protection Act for Employees and Retirees (Audit Bill). Other provisions would expand IRAs, provide for a 1% mandatory contribution for all employees in the SIMPLE small business plan, provide for increased spousal rights, limit 401(k) plan investments in employer stock and real property, increase multiemployer PBGC guarantees, and provide for a toll free number for women's pension issues.

The Senate Minority Leader is attempting to solidify Democratic positions and support on pension issues by these proposals to increase leverage in the Senate. Many parts of the legislation may be targeted for eventual passage, either on their own or as amendments to other legislation.

Current Status: We expect that Senator Daschle will introduce this legislation in the first few weeks of the new 105th Congress. The National Economic Council pension working group has provided technical assistance support on this legislation, but the Administration does not yet have a formal position on the legislation.

The Secretary may be called upon to lend support to Senator Daschle or to assist in the passage of components of this legislation. Strategic questions may arise in connection with the handling of the ERISA Disclosure and Protection Act for Employees and Retirees and other DOL initiatives included in this legislation.

Key Constituents: Lower paid workers; unions; and federal, state, and local governments should generally support this legislation because it has many provisions that would benefit them. The business community is likely to oppose many provisions of this bill, like the audit bill and Senator Boxer's proposal to limit the investment of employee contributions to 401(k) plans in employer securities and real property.

Hill Positions: It is expected that there again be significant opposition to this legislation.

Pros/Cons: The legislation includes many provisions from the President's Retirement Savings and Security Act proposal of April 1996 that were not included in The Small Business Job Protection Act of 1996 so there are many provisions in the bill that the Administration would like to see enacted. Advocates will argue that continuing pension reform and security is a policy priority. Opponents are likely to argue that a large step forward

was taken through enactment of the Small Business Job Protection Act of 1996 and additional legislation at this time is premature.

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