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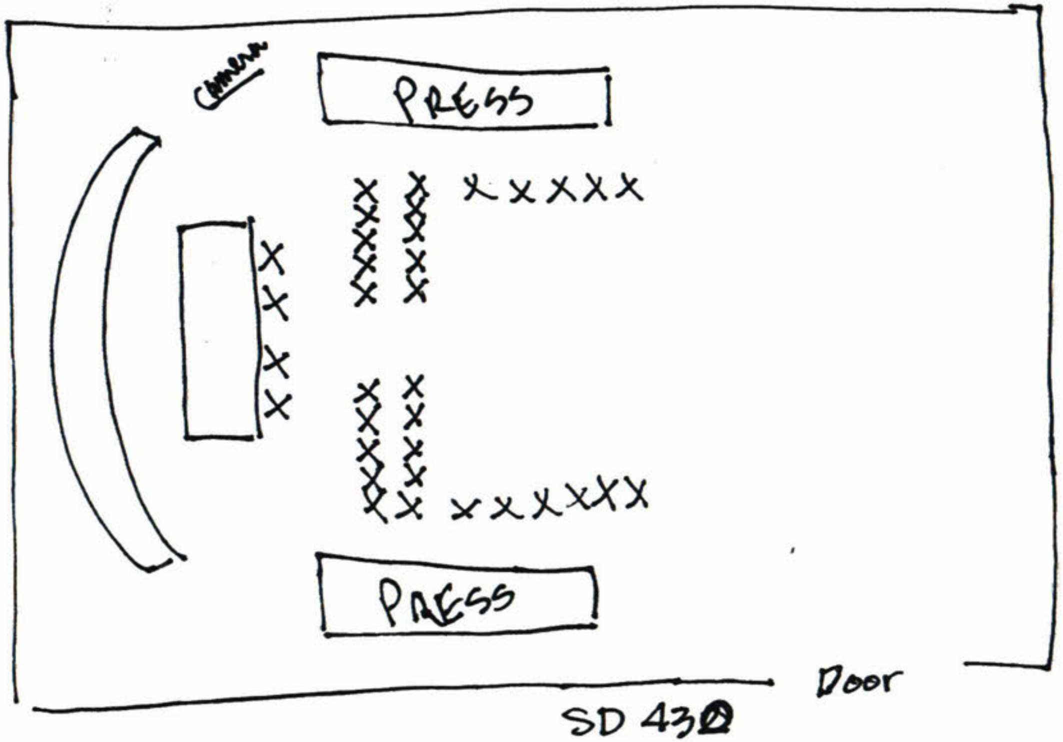

ELEVATORS

Public
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NOTE:
OVERFLOW
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RESTROOMS

DIST
Ruby
Lee
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Revised
3/6/97

GREENSPAN COMMISSION PROPOSAL

Question:

What is your reaction to Chairman Greenspan's recent proposal to establish an independent national commission to determine annual cost-of-living increases for federal tax brackets and benefit programs on a periodic basis?

Answer:

o The Administration is in the midst of consultations with members of Congress and other interested parties about whether such a commission is advisable. A decision has not been made as to whether to pursue establishing this panel of experts.

o This is a consultation over whether to form such a commission and not over any bias in the CPI.

Background:

o On January 30th, Federal Reserve Chairman Alan Greenspan called for a two-track process:

  -- BLS should continue to make improvements in the CPI.

  -- A commission, made up of academic experts, should be established that would set cost-of-living factors for federal receipt and outlay programs.

o Although the reaction to his commission proposal has been mixed, Greenspan's continued leadership on the CPI issue has kept it front and center in Congress.

o Katharine Abraham (BLS Commissioner) publicly stated that she has no views one way or the other on this commission proposal.

o The Administration's position on this issue is rapidly evolving so caution is necessary not to foreclose or commit to the establishment of such a Commission.

Revised
3/5/97

METHYLENE CHLORIDE STANDARD

Question:

Will you consider pulling back the new Methylene Chloride regulation?

Answer:

- o It is my understanding that OSHA recently published the final standard in the Federal Register, after 10 years of work.

- o I am not aware of all the details of this OSHA standard, but I am told that it will improve protection for workers from exposure to methylene chloride and as a result, help to prevent many cancer deaths.

Background:

- o Employers have filed suit in the U.S. Circuit Court of Appeals to block the standard, and unions have filed a suit seeking to strengthen the standard. OSHA is under discussions with employers in an effort to seek settlement of the lawsuit.

- o Methylene Chloride is the first DOL standard to be subject to Congressional review under the Small Business Regulatory Enforcement and Fairness Act (SBREFA). Congressman Roger Wicker introduced a joint resolution of disapproval relating to occupational exposure to MC under the SBREFA provisions.

- o Approximately 50 Members of Congress have written to OSHA concerning MC. They have raised several concerns about the standard, including that it sets the exposure limit too low, that OSHA's risk assessment conflicts with an assessment EPA intends to do, that OSHA failed to provide adequate opportunities for public comment, and that OSHA improperly analyzed the effects of the standard on small business.

- o OSHA has responded to all of the Congressional commenters, who include Sen. Coats and Sen. Frist.

New page 244

Revised
3/06/97

JOB TRAINING CONSOLIDATION LEGISLATIVE OUTLOOK

Question:

Is the Administration looking to pass legislation in the 105th Congress on job training consolidation?

Answer:

o Yes, the Administration is still committed to its reform agenda.

o The President's "G.I. Bill for America's Workers" still represents the framework for the Administration's approach to this legislation and the President in his State-of-the-Union address called on Congress to pass it.

o I know that there was a log jam at the end of the 104th Congress that prevented this legislation from being enacted.

o There was broad consensus on key portions of this legislation and I'm confident that we can work together in a bipartisan fashion to enact a bill this Congress.

Background:

o The President did not introduce a G.I. Bill for America's Workers legislative proposal. Instead, he detailed his vision for workforce development policy through a set of principles -- individual opportunity; leaner government; greater accountability; State and local flexibility; and strong private sector roles.

o Senator DeWine's subcommitee began hearings on job training reform on March 11 and heard testimony from ETA Acting Assistant Secretary Raymond Uhalde. Senator DeWine has planned 4 or 5 hearings on various aspects of the consolidation and reform agenda over the next two months. The House is on an even faster track -- and expects a subcommittee mark-up in mid-April.

Cautionary Note:

o This Q&A will be revised based on ongoing policy discussions within the Administration.

Revised
3/06/97

JOB TRAINING CONSOLIDATION: SKILL GRANTS

Question:

The Administration's approach relied heavily on the use of vouchers ("skill grants") for adults to access job training. Will this remain a part of the Administration's proposal, and how do you answer the criticism that vouchers might result in participants being lured to "fly-by-night" or ineffective providers?

Answer:

o A key principle of the President's G.I. Bill for America's Workers is to empower workers who need skill training with the resources -- through Skill Grants or vouchers -- along with the information needed to make good choices.

o This principle received support both in the House and in the Senate. **I hope that any new workforce development legislation emerging from this Congress would incorporate skill grants.**

o With respect to the possibility of vouchers being used for fly-by-night or ineffective providers, I understand that the G.I. Bill for America's Workers strengthened accountability in order to prevent this.

Background:

o Under the G.I. Bill for America's Workers, individuals would get consumer reports on the quality of schools and their programs, so they could make their own informed choices. They could use their Skill Grants only at institutions that met strict eligibility requirements based on quality standards.

o We think it is important that training institutions meet quality standards. Quality standards complement customer choice by weeding out the fraudulent or flatly incompetent training institutions. This is often called "gatekeeping" and refers to eligibility and certification requirements for training providers to ensure that training is of high quality.

3/1

<u>Cautionary Note</u>:

o There is internal White House discussion on the design of a skill grant system. The GI Bill concept included State and local control over skill grant resources. The NEC is considering a radical shift to a Federal Skill Grant pool -- although this fact is not yet widely known.

GSA

**Revised
3/06/97**

JOB TRAINING CONSOLIDATION: GOVERNANCE

Question:

There was also a great deal of debate about governance of the new system -- with the Administration seeming to side with local (city and county) officials versus the Governors. What do you see as the relative roles of Governors and local officials in a workforce development system?

Answer:

- All levels of government -- local, State and Federal -- should have significant roles to play in the workforce development system. The key is to try to achieve the appropriate balance.

- As I understand it, the concern of the Administration with the Workforce Development Act -- a concern that was shared by Members of Congress, the counties, the Mayors, and others -- was that the traditional role of localities was eviscerated.

- The Administration supports a strong and substantive role for the States, but local governments must be partners in the decision-making process.

Background:

- In the last Congress, the House proceeded, in a largely bipartisan manner, to pass (345 to 79) the CAREERS Act that incorporated many, although not all, of the key elements of the G.I. Bill -- including the provision of a strong role for local officials and the private sector. The Senate passed (95 to 2) the Workforce Development Act that went far afield from the G.I. Bill approach. It made harmful changes in both the local and Federal roles. The Administration did not take a formal position on either bill during floor consideration. The Senate bill and conference report moved most authority for job training decisions from the local level (Mayors and county officials) to the Governors. The Administration supported local officials in an attempt to maintain their traditional role in planning and overseeing job training programs.

Cautionary Note:

- The internal deliberations concerning a Federal Skill Grant pool would represent a shift in the Administration's support for local control over job training resources.

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Revised
3/06/97

WELFARE-TO-WORK JOBS INITIATIVE

Question:

Last year the President announced that he would be recommending a $3 billion Welfare-to-Work Jobs Challenge initiative. Can you tell us more about what will be proposed -- and what will the role of the Department of Labor be in the administration of a Welfare-to-Work initiative?

Answer:

- o The initiative announced by the President last summer and included in his FY 1998 Budget would help communities move 1 million of the hardest-to-employ welfare recipients into jobs by the year 2000.
- o It provides $3 billion in mandatory financing (over three years) through the Department of Labor for job placement and job creation.
- o Cities and States can use these funds to provide subsidies and other incentives to private business.
- o Details of the proposal will be available this spring, and I anticipate working closely with this Committee and the Finance Committee in exploring ways to assist States and localities in helping welfare recipients who can't find jobs on their own transition from welfare and into "real" private sector jobs, and equipping them with skills that will lead to productive careers.

Background:

- o This area of the Department's budget is of great interest to Congress. The Hill is displeased with the lack of details about this initiative.
- o Because of statutory rules, the mandatory spending classification means that financing for this initiative does not compete with other job training programs under the tight discretionary spending cap. Questions are being raised about why it's mandatory financing. The reason for mandatory financing is the initiative would replace a similar program for welfare recipients (JOBS) that was mandatory and also complements the welfare block grant (referred to as the TANF block grant), which is also mandatory spending. The initiative would not be an entitlement for individual welfare recipients. It also is short-term -- three years -- and is capped at a specific amount for each year.

Cautionary Note:

- o There are ongoing policy discussions within the Administration on the design and administration of this initiative.

New
3/06/97

DISLOCATED WORKERS: CONSOLIDATION

Question:

Given the Administration's support for consolidation, why should dislocated workers be maintained as a separate funding stream?

Answer:

o The President and I are committed to assuring that adequate resources are available for the types of assistance that have proven successful in helping dislocated workers.

o It is important to provide a helping hand to experienced workers who have made significant contributions to our economy and are hit by economic change.

o Currently, these workers can count on government help to learn new skills and land new jobs.

o I believe that the dislocated worker program has proven that it helps such workers get jobs.

Background:

o More than 500,000 workers received services in Program Year 1995 under the JTPA dislocated worker program, and 72 percent of them were employed when they left the program.

o Across the Nation, earnings for dislocated workers served by JTPA have averaged 92 percent of their previous wages.

o Even more impressive results are documented for those participants who received retraining services: more than 76 percent had a job when they left the program, earning almost 95 percent of their previous wage.

o A separate funding stream for dislocated workers avoids the risk of diverting resources to finance efforts to train and place welfare clients and thus, abandon the commitment to such workers.

o The President's FY 1998 Budget proposes to increase funding for dislocated workers by $64,300,000 to $1,350,500,000.

3/6

Cautionary Note:

- o Internal deliberations at the NEC/OMB center around whether we should continue to advocate a separate funding stream for dislocated workers. If asked, the phrase approved for Ray Uhalde's testimony at both the House and Senate job training hearings was that there be "adequate funding for skill grants for dislocated and other adult workers."

Revised
3/06/97

EMPLOYMENT SERVICE PRIVATIZATION

Question:

I understand that the Department is currently conducting a review of the issue of "contracting out" or privatization of certain Employment Service activities. Could you elaborate on your views of a public Employment Service and indicate what you expect to come out of the review?

Answer:

- o I am aware that privatizing or contracting out public labor exchange services to for-profit and not-for-profit entities is an emerging issue in a number of States.
- o This is a complex issue and requires careful thought and consultation with you and others.

Background:

- o State and local jurisdictions have flexibility to contract out functions under the Job Training Partnership Act. However, the Wagner-Peyser Act provides for a national system of "public employment offices" to provide labor exchange services.
- o Several States have raised questions regarding privatization of labor exchange services in the context of emerging new State workforce development systems. Largely driven by a Texas request, the Department has undertaken a broad review of the legal and policy issues related to the contracting out, privatizing and out-sourcing of Wagner-Peyser labor exchange services.
- o Public employee unions are very concerned about privatization of the Employment Service.
- o OMB and the White House are exploring issue of the extent to which States should be permitted to transfer the responsibility for eligibility determinations in public assistance programs (such as Food Stamps and Medicaid) to the private sector through competitively bid contracts.. This could open our deliberations beyond the Employment Service to the Unemployment Insurance system, which would be of even greater concern to public employee unions.

DRAFT
3/6/97

Application of Employment Laws to Welfare Recipients

Question:

Do you believe that welfare recipients who participate in work activities under the new welfare law should be paid the minimum wage?

Answer:

- The President is committed to two principles:

  - reforming welfare by moving welfare recipients into work; and
  - assuring the integrity of the Fair Labor Standards Act so that every worker is paid at least the minimum wage.

- I understand that we are still studying how worker protection laws and the new welfare reform law interact.

- My hope is that we will have answers soon so that we can begin working with the states and private employers to implement welfare reform in the best way possible.

Background

- This is a controversial issue because there may be a conflict between paying the minimum wage (and perhaps obeying other worker protection statutes) and meeting the work requirements established by the new welfare law.

- Under the new welfare law, states must move 25% of their total welfare caseloads into "work activities" by the end of this fiscal year (50% by the end of FY 2000). The states argue that they will not have sufficient resources to meet these work requirements if they must pay working welfare recipients the minimum wage, particularly for community service-type activities. The U.S. Chamber of Commerce has also stated that private-sector employers will not hire welfare recipients if they are subject to the restrictions imposed by employment laws

- The Fair Labor Standards (which sets minimum wage, overtime, and child labor protections) and other employment laws protect all "employees," although there is not a single definition of "employee" for all laws. "Employee" is usually defined very broadly and reflects the economic realities of the worker's relationship with her employer.

3/6

- Since the new welfare law does not explicitly exempt welfare recipients who work from employment laws, and it does not say they are not "employees," working welfare recipients are entitled to the same protections as all other workers. There is a consensus among government lawyers on this legal point. Governors and state welfare officials will contest the policy question --- whether welfare recipients should get the minimum wage --- rather than the legal conclusion of what current law requires. Thus, the governors may ask Congress to exempt welfare recipients from the minimum wage and other employment laws.

- In sum, under current law, welfare recipients who meet the definition of "employee" must be, among other things: paid the minimum wage and, where applicable, time-and-one-half for overtime; provided with a safe and healthy workplace; and protected from discrimination on the basis of race, gender, national origin, religion, and disability. There is a question as to whether working welfare recipients are entitled to the Earned Income Tax Credit, which is governed by tax law.

Cautionary Note

- This is a controversial subject on which advocates for both sides (labor and welfare advocates vs. states and some business advocates) are focused. You should avoid making any comment indicating that we have reached a conclusion on how employment laws interact with the new welfare law.

Updated in briefing book

New
3/7/97

KENNEDY/WELLSTONE/DINGELL CONSUMER PROTECTION BILLS

Question:

What are the Administration's views on the consumer protection bills recently introduced by Senators Kennedy and Wellstone and Congressman Dingell?

Answer:.

- The Administration applauds Senators Kennedy and Wellstone and Congressman Dingell for their leadership in this area, and we look forward to working with them and members of both parties in Congress to develop a consensus around the most appropriate interventions for consumer protections.

- We believe that there can be significant improvement in protections afforded people under ERISA health plans.

- The President's Advisory Commission on Consumer Protection and Quality will also provide an important forum within which the parameters of these proposals can be explored.

Background:

- ERISA currently has relatively few consumer protection standards. The Kennedy, Wellstone, and Dingell bills would for the first time impose significant requirements on ERISA health plans.

- States have enacted strong consumer protection laws, but these laws generally are preempted by ERISA. Because ERISA impedes states' efforts, it is viewed as a barrier to health reform on the state level. The Kennedy, Wellstone, and Dingell bills would provide a federal solution by creating federal standards.

- Achieving consensus on federal consumer protection standards will be politically challenging. Employers, insurers, and managed care companies have strongly resisted efforts to impose state-level reforms, and the content of federal standards will be of great concern. State policymakers, consumer advocates, and physicians will generally favor strong protections.

- The Senate Labor and Human Resources Committee held a hearing on March 6 to address consumer protection and quality issues.

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

FEB 25 1997

The Hon. James M. Jeffords
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D.C. 20510

Dear Chairman Jeffords:

We understand that your Committee may consider S. 295, the "Teamwork for Employees and Managers Act," on Wednesday, February 26. I am writing to emphasize the Administration's opposition to S. 295, and to urge your Committee not to order the bill reported.

This bill would amend section 8(a)(2) of the National Labor Relations Act (NLRA) to broadly expand employers' abilities to establish and control employee involvement programs. Section 8(a)(2) states, in part, that it is an unfair labor practice for an employer to dominate or interfere with the formation or administration of any labor organization. By prohibiting employer domination and interference, section 8(a)(2) protects the right of employees to choose their own independent representative to advance their interests.

The Administration strongly supports further labor-management cooperation within the broad parameters allowed under current law. Recent decisions of the National Labor Relations Board (NLRB) have helped clarify the broad legal boundaries of labor-management teamwork, and the NLRB can be expected to provide additional guidance in the exercise of its independent authority. Your Committee's hearing showed that employers currently do have the latitude to cooperate with employee teams. The employee groups described by IBM, for example, were clearly legal, and the IBM team that testified has never found it necessary to discuss wages and hours, showing that productivity and quality teams need not run afoul of the law. I note that the NLRB has ordered only four companies a year, on average, to terminate illegal employee involvement schemes since *Electromation* was decided, and that there is no other penalty for violation of section 8(a)(2).

Rather than promoting genuine teamwork, S. 295 would undermine the delicate system of checks and balances between employer and employee rights and obligations that has served this country so well for six decades. It would do this by allowing employers to establish company unions where no union currently exists and by permitting company-dominated unions where employees are in the process of determining whether to be represented by a union. Rather than encouraging workplace cooperation, this bill would abolish basic protections that help ensure independent democratic representation in the workplace.

As several witnesses before the Committee testified, section 8(a)(2) is not the place to begin reform of the National Labor Relations Act. Rather, they -- as did the Dunlop Commission before them -- recommend changes in the law to facilitate the free choice of employees to be represented by an independent union and to deter unfair labor practices by employers, which have become routine and widespread. The Administration agrees with that approach.

For the foregoing reasons, the Administration opposes the enactment of S. 295. If S. 295 were presented to the President, I would recommend that he veto the bill.

Sincerely,

Cynthia A Metzler

CYNTHIA A. METZLER
Acting Secretary of Labor

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

FEB 26 .....

The Honorable James M. Jeffords
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, D.C. 20510

Dear Chairman Jeffords:

We understand that your Committee will consider S. 4, the "Family Friendly Workplace Act," on Wednesday, February 26. I am writing to emphasize the Administration's strong opposition to S. 4, and to urge your Committee not to order the bill reported.

The Administration believes strongly that any legislation to authorize compensatory time -- "comp time," or paid time-off -- under the Fair Labor Standards Act (FLSA) should be linked to expansion of the Family and Medical Leave Act (FMLA), as the President proposed during the last Congress. The FMLA provides important benefits to working families and has proved effective in meeting the needs of both families and businesses. And, unlike comp time which would be optional, family and medical leave is a right that covered employers may not deny to eligible employees. Expanding FMLA to give working families the flexibility they need for greater involvement in the education of their children and elder care will go a long way toward achieving the stated goals of S.4. The bill before your Committee does not include FMLA expansion, and it should.

Any comp time legislation must effectively and satisfactorily address three fundamental principles: real choice for employees; real protection against employer abuse; and preservation of basic worker rights, including the 40-hour workweek.

Real choice for employees must include the right to choose whether to earn comp time or overtime premium pay; the right to take comp time when needed for FMLA purposes; the right to choose to use comp time for any purpose with two weeks notice unless its use would cause substantial injury to the employer; and the right to "cash out" accrued comp time for pay on 15 days notice, as well as a prohibition against giving employers the unilateral right to cash out an employee's accrued comp time at their discretion. Real protection against employer abuse must include a number of protections that are entirely absent from S.4, such as the exclusion of vulnerable workers; special protections in cases where the employer goes bankrupt or out-of-business; prohibitions against employers' substituting comp time for paid vacation or sick leave benefits, or penalizing employees who choose overtime premium pay instead of comp time; damages that allow an employee to obtain adequate relief if denied the use of comp time or denied overtime assignments; and strong effective provisions for enforcement. Preservation of worker rights requires preserving the 40-hour workweek, the right to receive premium pay for overtime work, and the cardinal FLSA principle that overtime is earned whenever an employer knows or has reason to know that overtime is being worked. Several provisions of S. 4., including the 80-hour biweekly work program and the flexible credit hour program, could effectively eliminate these rights.

President Clinton will veto any bill that does not meet these fundamental principles. While the President has called for and strongly supports enactment of responsible comp time legislation, he will not sign any bill -- including S. 4 -- that obliterates the principle of time-and-a-half for overtime or that destroys the 40-hour workweek. Workers -- not employers -- must be able to decide how best to meet the current needs of their family.

The Office of Management and Budget advises that there is no objection to the submission of this report.

Sincerely,

Cynthia A. Metzler

CYNTHIA A. METZLER
Acting Secretary of Labor