

~~appropriate, provided that such legislation also guaranteed employees' continued access to collective bargaining.~~

~~The TEAM Act, however, would not increase genuine teamwork, and would undermine the system of collective bargaining that has served this country so well for many decades.~~ ^{It would do this by} ~~The TEAM Act~~
~~would allow~~ ^{ing} employers to establish company unions where no union currently exists and ~~would permit~~ ^{ing} company-dominated unions where employees are in the process of determining whether to be represented by a union. Rather than encouraging true workplace cooperation, ^{this bill} ~~the TEAM Act~~ would abolish protections that ensure independent and democratic representation in the workplace.

True cooperative efforts must be based on true partnerships. A context of mutual trust and respect encourages the prospect for achieving workplace innovation, improved productivity, and enhanced efficiency and workplace performance.

I nstead, this legislation, rather than promoting

THE WHITE HOUSE,
 July 30, 1996.

Any ambiguities in this situation should be resolved, but without ^{weakening or} eliminating the fundamental rights of employees to collective bargaining.

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval, H.R. 743, the "Teamwork for Employees and Managers Act of 1995," commonly known as the TEAM Act. This act would undermine crucial employee protections.

I strongly support workplace practices that promote cooperative labor-management relations. In order for the United States to remain globally competitive into the next century, employees must recognize their stake in their employer's business, employers must value their employees' labor, and each must work in partnership with the other. Cooperative efforts, by promoting mutual trust and respect, can encourage innovation, improve productivity, and enhance the efficiency and performance of American workplaces.

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I strongly support ~~encouraging~~ further labor-management cooperation within the broad parameters allowed under ~~current~~ law. ~~As case law and workplace practices evolve, the NLRB should exercise its independent authority to provide guidance and clarify the legal boundaries of labor-management teamwork.~~

To the extent the NLRB fails to provide such guidance, reasonable legislation clarifying the wide range of workplace cooperative schemes allowed under NLRB decisions might be

C. requested a more narrowly defined proposal version of this bill designed to accomplish this ~~legislative~~ purpose

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THE WHITE HOUSE,

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Current law provides for a wide variety of cooperative workplace efforts. It permits employers to work with employees in quality circles to improve quality, efficiency, and productivity. Current law also allows employers to delegate significant managerial responsibilities to employee work teams, sponsor brainstorming sessions, and solicit employee suggestions and criticisms. Today, 30,000 workplaces across the country have employee involvement plans. According to one recent survey, 96 percent of large employers already have established such programs.

I strongly support further labor-management cooperation within the broad parameters allowed under current law. To the extent that recent National Labor Relations Board (NLRB) decisions have created uncertainty as to the scope of permissible cooperation, the NLRB, in the exercise of its independent authority, should provide guidance ^{to} ~~and~~ clarify the broad legal boundaries of labor-management teamwork. The Congress rejected a more narrowly defined proposal designed to accomplish that objective.

Instead, this legislation, rather than promoting genuine teamwork, would undermine the system of collective bargaining that has served this country so well for many decades. It would

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↳ Congress rejected a non-military ~~defined~~ ^{proposal} ~~for the legislation~~ designed to accomplish this objective.

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~~employees/ unions/ and other interested parties~~
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 The TEAM Act, however, would not increase genuine teamwork,
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 partnerships. A context of mutual trust and respect encourages
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 productivity, and enhanced efficiency and workplace performance.

Any ambiguity in this situation must be resolved, but without weakening or eliminating the
fundamental rights of employees.

THE WHITE HOUSE,

THE WHITE HOUSE

WASHINGTON

July 30, 1996

Leon --

Here's draft of TEAM Act veto message.
The highlighted sentence is the new
addition to meet President's concern.

If we do add the sentence, it will be very
unpopular with labor.

I think best way to bring this to closure
today is for us to meet with President
right after the signing event for the
Taxpayers Bill of Rights. I'd say you,
Harold, me and maybe Bruce.


Todd

cc: Harold
Jen O'Connor

TO THE HOUSE OF REPRESENTATIVES:

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I strongly support encouraging further labor-management cooperation within the broad parameters allowed under current law. As case law and workplace practices evolve, the NLRB should exercise its independent authority to provide guidance and clarify the legal boundaries of labor-management teamwork. To the extent the NLRB fails to provide such guidance, reasonable legislation clarifying the wide range of workplace cooperative schemes allowed under NLRB decisions might be

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True cooperative efforts must be based on true partnerships. A context of mutual trust and respect encourages the prospect for achieving workplace innovation, improved productivity, and enhanced efficiency and workplace performance.

THE WHITE HOUSE,

July 15, 1996

MEMORANDUM FOR THE PRESIDENT

FROM: ??

SUBJECT: TEAM ACT LETTER TO CEOS

Attached is a draft veto statement for the TEAM Act. The statement rearticulates the message in the Statement of Administration Policy on the bill: 1) the Administration strongly supports labor-management partnerships; 2) labor management partnerships are flourishing under current law; 3) the TEAM Act wouldn't increase or strengthen these partnerships but instead would undermine the collective bargaining system. It also points out that the NLRB will independently continue to clarify the law in this area. It does not endorse any legislation to change current law.

Pros:

- Makes a strong statement in favor of labor-management partnerships and your consistent support of them.
- Will be consistent with the promise the Vice President made in his Bal Harbour appearance before the AFL-CIO in 1995
- Will not cause unintended consequences in the Congress.

Constituents who are most concerned about the TEAM Act fear that if you make a positive statement about changes to §8(a)(2) of the National Labor Relations Act, you will generate renewed interest in finding a legislative compromise that you could sign. They point out that the alternative Democratic bills have not generated any media stories suggesting that Democrats want to amend §8(a)(2). But they fear that presidential support for changes to §8(a)(2) is a different matter and will create momentum that will lead to actual changes in the law. They believe that any changes to §8(a)(2) risk making it more difficult for employees to organize new workplaces; and so they believe any such changes are tantamount to an assault on the right of employees to organize unions.

- Maintains a balanced approach to labor policy. While the NLRB estimates that an average of three businesses per year are ordered to disband labor-management

committees due to violations of 8(a)(2), it estimates that XX thousand businesses are found guilty each year of illegally firing employees because they support unions. It would appear unbalanced to address the business community's concerns without also addressing related employee/union concerns which also undermine cooperation in the workplace.

- Will not generate criticism from the labor movement. The AFL-CIO views this issue a threat to employees' ability to organize -- the very essence of the labor movement. Their sentiments on this issue are even more intense than their sentiments about NAFTA.

Cons:

- If this issue takes on a larger symbolic prominence in the public debate, we will be hard pressed to explain why you are not supporting an alternative bill supported by 202 Democratic House Members and 37 (check) Democratic Senators.
- Some in the business community argue clarification is needed and this letter addresses that concern merely by noting the NLRB's ability to clarify the law.
- Could be viewed as giving in to labor constituents' demands.

Alternative

The attached statement could also be amended to include a paragraph stating that to the extent some employers are reluctant to use labor-management cooperation efforts due to confusion about the law, you would welcome reasonable clarifications to the law, along the lines of the Democratic bill in the Senate. The advantage of this approach is it addresses the problems outlined in the "cons" section above, enabling you to state that you, like the many Democrats who voted for the bill, are in favor of legislative changes that facilitate labor-management partnerships. The disadvantage of this approach is that it negates all but the first "pro" outlined above, potentially leading to unintended congressional results and definitely leading to harsh criticism from supporters.

Options

_____ Statement as drafted _____ Alternative _____ Let's discuss

NEW PARAGRAPH 4:

To the extent that some employers may be reluctant to utilize such workplace cooperative efforts because of confusion over what may or may not be permitted, I would support reasonable clarification of current law. The N.L.R.B. may well have opportunities in the near future to make such clarifications. If the N.L.R.B. does not do so, legislation along the lines of S. _____, which spells out and specifically authorizes the wide range of workplace cooperative schemes allowed under N.L.R.B. decisions, might be appropriate. To be most fair and effective, however, such legislation should include associated proposals ensuring ^{continued} restating employees' access to collective bargaining.

June 21, 1996

The President
The White House
Washington, DC 20500

Rec'd 6/24
to Gulin

Dear Mr. President:

In your State of the Union address this January, you said, "When companies and workers work as a team, they do better—and so does America."

We agree, and your leadership is needed now to allow 85% of the American workforce to respond effectively to your call.

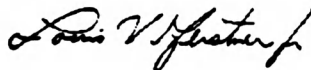
Recent government decisions have put at risk the ability of groups of employees and managers to put their heads together and cooperate in non-union workplaces. Yet, at the same time, companies large and small have been encouraged by your Administration and its predecessors to compete for the Malcolm Baldrige National Quality Award. The regrettable irony is that in order to win the award, a company must use the very employee involvement teams these recent decisions are closing down. This just doesn't make sense.

There is legislation to correct this situation and bring common sense to bear. It is called the "TEAMwork for Employees and Managers (TEAM) Act." It has passed the House of Representatives on a bipartisan basis and is soon to be considered by the full Senate. Even William Gould, National Labor Relations Board Chair, recently acknowledged that the Congress and the President should pass legislation to clear up this problem.

However, some of your senior advisors have stated opposition to the legislation, and they are recommending that you veto it. We urge you to reject a veto and seize this chance to lead by supporting legislation that enables employees and managers to cooperate.

American companies in all industries are rediscovering the spirit and value of cooperation. Employees and employers are working together in teams to address and solve workplace issues such as health and safety, quality, flexible work schedules, and diversity. We stand ready to work with you to do what you have extolled the nation to pursue—embrace teamwork.

Respectfully,



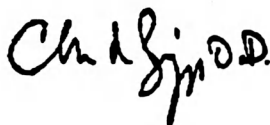
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Chairman and CEO
IBM Corporation



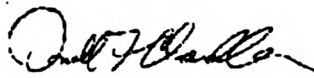
Bill Budinger
CEO
Rodel, Inc.



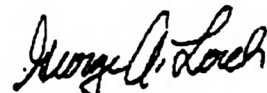
George M. Fisher
Chairman, President and CEO
Eastman Kodak Company



Dr. Charles Briggs
President and CEO
Sunsoft Corporation



Donald F. Chandler
President
Precision Filters, Inc.



George A. Lorch
Chairman and CEO
Armstrong World Industries,
Inc.

THE PRESIDENT HAS SEEN
7-30-96

THE WHITE HOUSE

WASHINGTON

July 29, 1996

H.R. 743
The Team Act

MEMORANDUM FOR THE PRESIDENT

FROM: TODD STERN 
SUBJECT: The TEAM Act -- H.R. 743

Attached for your review is a draft veto message for the TEAM Act. **Last day for action is tomorrow, July 30.**

Background. This bill amends Sec. 8(a)(2) of the National Labor Relations Act (NLRA), which states that it is an unfair labor practice for an employer to interfere with the formation or administration of any labor union. Sec. 8(a)(2) was designed to prevent employers from setting up company unions or hand-picking employee reps to discuss issues relating to the terms and conditions of employment. H.R. 743 was prompted by a 1992 NLRB decision, upheld by the 7th Circuit, ruling that a small, non-union electronics manufacturer (Electromation, Inc.) violated Sec. 8(a)(2) when it set up certain "action committees" to discuss workplace issues such as absenteeism, smoking policy and attendance bonuses.

The bill. H.R. 743 would amend Sec. 8(a)(2) to state that it does not constitute an unfair labor practice for employers to unilaterally set up or participate in employee-management organizations to address issues such as productivity, quality, efficiency, or health and safety. The bill says that employee involvement groups may not negotiate collective bargaining agreements or seek to act as the exclusive bargaining agent for employees. The bill would not apply to unionized workplaces. It has been strongly opposed by organized labor and strongly supported by major corporations, as reflected in the June 21 CEO letter you have seen. The bill passed the House 221-202 and the Senate 53-46.

Administration position. Via SAPs and letters from DOL, we have clearly signaled your intention to veto legislation allowing employers to establish, unilaterally, employee involvement programs. We have noted that the NLRA already permits the creation of employee involvement programs to address workplace quality, productivity and efficiency issues, with appropriate employee protections. H.R. 743 would undermine employee protections by allowing employers to establish company unions where no union exists or where employees are in the process of trying to organize.

Veto message. The attached draft indicates that you strongly support encouraging further labor-management cooperation, but oppose the TEAM Act as detrimental to our system of collective bargaining. The message does not indicate support for alternative legislation; such an indication would be most unwelcome by those opposing H.R. 743. *This draft has been cleared by all relevant White House advisors.*

Approve draft _____

Discuss  _____

PHOTOCOPY
WJC HANDWRITING

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval, H.R. 743, the "Teamwork for Employees and Managers Act of 1995," commonly known as the TEAM Act. This act would undermine crucial employee protections.

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The TEAM Act, however, would not increase genuine teamwork and would undermine the system of collective bargaining that has served this country so well for many decades. The TEAM Act would allow employers to establish company unions where no union

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THE WHITE HOUSE,

Todd

THE WHITE HOUSE

WASHINGTON

July 29, 1996

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Veto message. The attached draft indicates that you strongly support encouraging further labor-management cooperation, but oppose the TEAM Act as detrimental to our system of collective bargaining. The message does not indicate support for alternative legislation; such an indication would be most unwelcome by those opposing H.R. 743. *This draft has been cleared by all relevant White House advisors.*

Approve draft _____

Discuss _____

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THE WHITE HOUSE,

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TEAMWORK FOR EMPLOYEES AND MANAGERS ACT OF 1995

SEPTEMBER 18, 1995.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOODLING, from the Committee on Economic and Educational Opportunities, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 743]

[Including cost estimate of the Congressional Budget Office]

The Committee on Economic and Educational Opportunities, to whom was referred the bill (H.R. 743) to amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Teamwork for Employees and Managers Act of 1995".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the escalating demands of global competition have compelled an increasing number of employers in the United States to make dramatic changes in workplace and employer-employee relationships;

*99-006

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TEAMWORK FOR EMPLOYEES AND MANAGEMENT ACT OF
1995

MAY 1, 1996.—Ordered to be printed

Mrs. KASSEBAUM, from the Committee on Labor and Human
Resources, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 295]

The Committee on Labor and Human Resources to which was referred the bill (S. 295) to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
I. Introduction	1
II. Purpose and summary	3
III. Background and need for legislation	3
IV. Legislative history and committee action	16
V. Explanation of bill and committee views	19
VI. Cost estimate	23
VII. Regulatory impact statement	23
VIII. Section-by-section analysis	23
IX. Minority views	25
X. Changes in existing law	41

I. INTRODUCTION

In his State of the Union address in 1996, President Clinton told the country: "When companies and workers work as a team, they

One Hundred Fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Wednesday,
the third day of January, one thousand nine hundred and ninety-six*

An Act

To amend the National Labor Relations Act to allow labor management cooperative efforts that improve economic competitiveness in the United States to continue to thrive, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Teamwork for Employees and Managers Act of 1995".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the escalating demands of global competition have compelled an increasing number of employers in the United States to make dramatic changes in workplace and employer-employee relationships;

(2) such changes involve an enhanced role for the employee in workplace decisionmaking, often referred to as "Employee Involvement", which has taken many forms, including self-managed work teams, quality-of-worklife, quality circles, and joint labor-management committees;

(3) Employee Involvement programs, which operate successfully in both unionized and nonunionized settings, have been established by over 80 percent of the largest employers in the United States and exist in an estimated 30,000 workplaces;

(4) in addition to enhancing the productivity and competitiveness of businesses in the United States, Employee Involvement programs have had a positive impact on the lives of such employees, better enabling them to reach their potential in the workforce;

(5) recognizing that foreign competitors have successfully utilized Employee Involvement techniques, the Congress has consistently joined business, labor and academic leaders in encouraging and recognizing successful Employee Involvement programs in the workplace through such incentives as the Malcolm Baldrige National Quality Award;

(6) employers who have instituted legitimate Employee Involvement programs have not done so to interfere with the collective bargaining rights guaranteed by the labor laws, as was the case in the 1930's when employers established deceptive sham "company unions" to avoid unionization; and

THE WHITE HOUSE

(7) Employee Involvement is currently threatened by legal interpretations of the prohibition against employer-dominated "company unions".

(b) PURPOSES.—The purpose of this Act is—

(1) to protect legitimate Employee Involvement programs against governmental interference;

(2) to preserve existing protections against deceptive, coercive employer practices; and

(3) to allow legitimate Employee Involvement programs, in which workers may discuss issues involving terms and conditions of employment, to continue to evolve and proliferate.

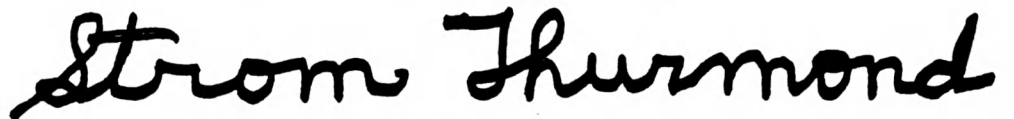
SEC. 3. EMPLOYER EXCEPTION.

Section 8(a)(2) of the National Labor Relations Act is amended by striking the semicolon and inserting the following: "*Provided further*, That it shall not constitute or be evidence of an unfair labor practice under this paragraph for an employer to establish, assist, maintain, or participate in any organization or entity of any kind, in which employees who participate to at least the same extent practicable as representatives of management participate, to address matters of mutual interest, including, but not limited to, issues of quality, productivity, efficiency, and safety and health, and which does not have, claim, or seek authority to be the exclusive bargaining representative of the employees or to negotiate or enter into collective bargaining agreements with the employer or to amend existing collective bargaining agreements between the employer and any labor organization, except that in a case in which a labor organization is the representative of such employees as provided in section 9(a), this proviso shall not apply;"

SEC. 4. LIMITATION ON EFFECT OF ACT.

Nothing in this Act shall affect employee rights and responsibilities contained in provisions other than section 8(a)(2) of the National Labor Relations Act, as amended.


Speaker of the House of Representatives.


~~Vice President of the United States and~~
President of the Senate 



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

July 24, 1996 ^{96 JUL 24} P4: 49

Todd - 726
per your
request
— Ten

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 743 - Teamwork for Employees and
Managers Act
Sponsors - Rep. Gunderson (R) WI and 106 others

Last Day for Action

July 30, 1996 - Tuesday

Bill is
here

Purpose

Allows employers to establish teams of management and labor representatives in non-union settings to address workplace issues.

Agency Recommendations

Office of Management and Budget	Disapproval
Department of Labor	Disapproval (Veto message attached)
National Labor Relations Board (NLRB)	No comment
Department of Justice	No comment (Informally)

Background

Section 8(a)(2) of the National Labor Relations Act of 1935 (NLRA) states that it is an unfair labor practice for an employer to dominate or interfere with the formation or administration of any labor organization. Section 8(a)(2) was added to the NLRA to prevent employers from establishing company-dominated unions to avoid recognizing and bargaining with independently organized unions. It also recognizes that it is inappropriate to allow employers to select the employee representatives to serve in organizations designed to discuss issues relating to terms and conditions of employment.

In 1992, the National Labor Relations Board (NLRB) ruled on the legality of employee involvement programs in its decision on Electromation, Inc. case. Electromation, Inc., a small non-union electronics manufacturer, had established so-called "action committees" to address workplace issues such as absenteeism, no smoking policy, and attendance bonuses. In its decision, the NLRB ruled that these committees -- violated Section 8(a)(2) of the NLRA because they were dominated by the employer. That decision was later affirmed by the Seventh Circuit Court of Appeals. The Electromation, Inc. case and subsequent NLRB rulings prompted the introduction of H.R. 743.

Major Provisions of H.R. 743

The House Economic and Educational Opportunities Committee report on H.R. 743 states that the bill "signals a new era in employee relations and recognizes that the best workplaces . . . are ones where labor and management work together hand in glove."

Accordingly, H.R. 743 would amend section 8(a)(2) of the NLRA to state that it does not constitute an unfair labor practice for employers to establish, assist, maintain, or participate in any organization, consisting of both employees and management, established to address issues of mutual interest. Issues of mutual interest include, but are not limited to, productivity, quality, efficiency, and health and safety.

The bill also specifies that such employee participation groups may not have, claim, or seek authority to enter into or negotiate collective bargaining agreements or to amend existing collective bargaining agreements. Also, such groups may not claim to seek authority to act as the exclusive bargaining agent of employees. In addition, the bill specifies that it does not apply to unionized workplaces.

Administration Position on H.R. 743

Statements of Administration Policy and Department of Labor letters sent to the House and Senate have stated repeatedly that the Secretary of Labor would recommend a veto of this or other legislation that would permit employers to establish unilaterally employee involvement programs.

These communications to Congress indicated that the NLRA already permits the creation of employee involvement programs that address workplace quality, productivity, and efficiency, with appropriate employee protections. H.R. 743 would undermine such employee protections by allowing employers to establish: (1) company unions where no union currently exists, and (2) alternative, company-dominated unions where employees are in the process of determining whether to be represented by a labor organization. The communications concluded that this would be detrimental to the 60-year tradition of collective bargaining and could undermine employees' rights to elect their own representatives through a democratic process.

Conclusion and Recommendations

We join the Department of Labor in recommending disapproval of H.R. 743, which passed the House by a vote of 221-202 and the Senate by a vote of 53-46.

The Department of Labor has prepared a draft veto message, which is attached to its views letter, for your consideration. The message reiterates the Administration's previous statements that H.R. 743 would undermine crucial employee protections in current law by allowing employers to establish company unions. It also states that the bill would "abolish protections that ensure independent and democratic representation in the workplace and undermine the system of free collective bargaining that has served this country well for many decades." The Department of Justice and the NLRB had no comment on the veto message.



Jacob J. Lew
Acting Director

Enclosures

TO THE HOUSE OF REPRESENTATIVES:

I am returning herewith without my approval, H.R. 743, the Teamwork for Employees and Managers Act, commonly known as the TEAM Act. This Act would undermine crucial employee protections.

My Administration strongly supports workplace practices that promote cooperative labor-management relations. Cooperative efforts, by promoting mutual trust and respect, can encourage innovation, improve productivity, and enhance the efficiency and performance of American businesses.

Current law permits employers to work with employees to improve quality, efficiency, and productivity. As articulated in recent decisions of the National Labor Relations Board, the law leaves room for a wide variety of cooperative workplace efforts, with appropriate employee protections.

The TEAM Act would, however, allow employers to establish company unions where no union currently exists and would permit company-dominated unions where employees are in the process of determining whether to be represented by a union.

Rather than encouraging true workplace cooperation, the TEAM Act would abolish protections that ensure independent and democratic representation in the workplace and undermine the system of free collective bargaining that has served this country well for many decades. True cooperative efforts must be based on labor-management partnership not employer domination. A context of mutual trust and respect encourages the prospect for achieving workplace innovation, improved productivity, and enhanced efficiency and workplace performance.

TO THE HOUSE OF REPRESENTATIVES;

I am returning herewith without my approval, H.R. 743, the ^{of 1995} Teamwork for Employees and Managers Act, commonly known as the TEAM Act. This act would undermine crucial employee protections. ✓

I strongly support workplace practices that promote cooperative labor-management relations. In order for the United States to remain globally competitive into the next century, employees must recognize their stake in their employer's business, employers must value their employees' labor, and each must work in partnership with the other. Cooperative efforts, by promoting mutual trust and respect, can encourage innovation, improve productivity, and enhance the efficiency and performance of American workplaces.

Current law leaves room for a wide variety of cooperative workplace efforts. As ✓ articulated in recent decisions of the National Labor Relations Board, ✓ current law permits ✓ employers to work with employees in quality circles to improve quality, efficiency, and productivity. Current law allows employers to delegate significant managerial responsibilities to employee work teams, sponsor brainstorming sessions, and solicit employee suggestions and criticisms. Today, 30,000 workplaces across the country have employee involvement ✓ plans. According to one recent survey, 96% of large employers already have established such programs. ✓

I strongly support encouraging further labor-management cooperation within the broad parameters allowed under current law. As case law and workplace practices evolve, the ✓ NLRB will exercise its independent authority to provide guidance and clarify the legal boundaries of labor-management teamwork. ✓ should

The TEAM Act, however, would not increase genuine teamwork and would undermine the system of collective bargaining that has served this country so well for many decades. The TEAM Act would allow employers to establish company unions where no union currently exists and would permit company-dominated unions where employees are in the process of determining whether to be represented by a union. Rather than encouraging true workplace cooperation, the TEAM Act would abolish protections that ensure independent and democratic representation in the workplace.

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The White House, ✓

Clerk
ed:ts
7/29/96
5:40pm

OMB still
working per
Lois ~~at~~ 3:00p.
7-26

7-26-26 7:20pm
per Lois Altuf,
OMB has no
comment
-John

WHITE HOUSE STAFFING MEMORANDUM

DATE: 7-25 ACTION/CONCURRENCE/COMMENT DUE BY: 7-26 2pm

SUBJECT: Team Act - - Veto Message

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☐
PANETTA	☒	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
ICKES	☒	☐	QUINN	☒	☐
LIEBERMAN	☐	☒	RASCO	☐	☐
LEW ⁷⁻²⁶ _{7:20pm} <i>No Comment per Lois Altoff</i>	☒	☐	REED	☐	☐
BAER	☐	☐	SOSNIK	☒	☐
CURRY	☐	☐	STEPHANOPOULOS	☒	☐
EMANUEL	☐	☐	STIGLITZ	☐	☐
GIBBONS	☐	☐	STREETT	☐	☐
HALE	☐	☐	TYSON	☒	☐
HERMAN	☒	☐	HAWLEY	☐	☐
HIGGINS	☐	☐	WILLIAMS	☐	☐
HILLEY	☒	☐	<u>Angell</u>	☒	☐
KLAIN	☐	☐	<u>Kagan</u>	☒	☐
LAKE	☐	☐	<u>Spearing</u>	☒	☐
LINDSEY	☒	☐		☐	☐

REMARKS: Comments to this office

RESPONSE:

TO THE HOUSE OF REPRESENTATIVES

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Current law leaves room for a wide variety of cooperative workplace efforts. As articulated in recent decisions of the National Labor Relations Board, current law permits employers to work with employees in quality circles to improve quality, efficiency and productivity. Current law allows employers to delegate significant managerial responsibilities to employee work teams, sponsor brainstorming sessions, and solicit employee suggestions and criticisms. Today, 30,000 workplaces across the country have employee involvement plans. According to one recent survey, 96% of large employers already have established such programs.

I strongly support encouraging further labor-management cooperation within the broad parameters allowed under current law. As case law and workplace practices evolve, the NLRB will exercise its independent authority to provide guidance and clarify the legal boundaries of labor-management teamwork.

The TEAM Act, however, would not increase genuine teamwork and would undermine the system of collective bargaining that has served this country so well for many decades. The TEAM Act would allow employers to establish company unions where no union currently exists and would permit company-dominated unions where employees are in the process of determining whether to be represented by a union. Rather than encouraging true workplace cooperation, the TEAM Act would abolish protections that ensure independent and democratic representation in the workplace.

True cooperative efforts must be based on true partnerships. A context of mutual trust and respect encourages the prospect for achieving workplace innovation, improved productivity, and enhanced efficiency and workplace performance.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 7-25 ACTION/CONCURRENCE/COMMENT DUE BY: 7-26 2pm

SUBJECT: Team Act - - Veto Message

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☐
PANETTA	☒	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
ICKES	☒	☐	QUINN	☒	☐
LIEBERMAN	☐	☒	RASCO	☐	☐
LEW	☒	☐	REED	☐	☐
BAER	☐	☐	SOSNIK	☒	☐
CURRY	☐	☐	STEPHANOPOULOS	☒	☐
EMANUEL	☐	☐	STIGLITZ	☐	☐
GIBBONS	☐	☐	STREETT	☐	☐
HALE	☐	☐	TYSON	☐	☐
HERMAN	☒	☐	HAWLEY	☐	☐
HIGGINS	☐	☐	WILLIAMS	☐	☐
HILLEY	☒	☐	<u>Angell</u>	☒	☐
KLAIN	☐	☐	<u>Kagan</u>	☒	☐
LAKE	☐	☐	<u>Spearing</u>	☒	☐
LINDSEY	☒	☐		☐	☐

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Comments to this office

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Stencils
no
union
with
change
ag.

7-29
Sen D'Amato
OK with
change

"will" = direction
"should" = suggestion

- no language - ok
in veto msg
- CEO letter -
absence of
ag.

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Should
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- ① message only
- ② message + letter
- ③ consistent (no)
- ④ inconsistent

To the extent
most facts to provide
such guidance, &
would not be adverse
to clarifying legislation,
the wide range...
provided _____.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 7-25 ACTION/CONCURRENCE/COMMENT DUE BY: 7-26 2pmSUBJECT: Team Act -- Veto Message

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☐	☐
PANETTA	☒	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
ICKES	☒	☐	QUINN	☒	☐
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HILLEY	☒	☐	<u>Angell</u>	☒	☐
KLAIN	☐	☐	<u>Kagan</u>	☒	☐
LAKE	☐	☐	<u>Speeling</u>	☒	☐
LINDSEY <i>OK</i>	☒	☐		☐	☐

REMARKS:

Comments to this office

RESPONSE:

*OK but careful to be sure
veto message different from
CED letter*

Staff Secretary

TO THE HOUSE OF REPRESENTATIVES

I am returning herewith without my approval, H.R. 743, the Teamwork for Employees and Managers Act, commonly known as the TEAM Act. This act would undermine crucial employee protections.

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True cooperative efforts must be based on true partnerships. A context of mutual trust and respect encourages the prospect for achieving workplace innovation, improved productivity, and enhanced efficiency and workplace performance.

SECRETARY OF LABOR
WASHINGTON

JUL 22 1996

96 JUL 22 P6:45

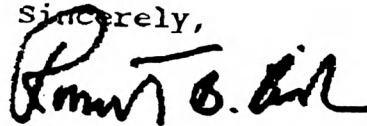
The Honorable Jacob J. Lew
Acting Director
Office of Management and Budget
Washington, D.C. 20503

Dear Acting Director Lew:

This is in response to your request for my recommendation on Presidential action on H.R. 743, the "Teamwork for Employees and Managers Act of 1995."

In accord with our proposed Message to the House of Representatives Returning Without Approval Labor-Management Team Legislation, which I am enclosing, I recommend that the President veto H.R. 743.

Sincerely,



Robert B. Reich

Enclosure

TO: J Hilkey
J Angell
G Sperling
E Kagan
B Lindsey
T Stern

From - J O'Connor

Re - TEAM Act veto Stmt

I think many edits will be needed to this, and that something closer to the CEO letter we've been circulating should be sent

**Message to the House of Representatives
Returning Without Approval
Labor-Management Team Legislation**

To the House of Representatives:

I am returning herewith without my approval H.R. 743, the Teamwork for Employees and Managers Act.

The Administration strongly supports workplace practices that promote cooperative labor-management relations. Cooperative efforts, by promoting mutual trust and respect, can encourage innovation, improve productivity, and enhance the efficiency and performance of American businesses.

Current law permits employers to work with employees to improve quality, efficiency, and productivity. As articulated in recent decisions of the National Labor Relations Board, the law leaves room for a wide variety of cooperative workplace efforts, with appropriate employee protections.

As I have previously stated, the Teamwork for Employees and Managers Act would undermine these crucial employee protections. The Team Act would allow employers to establish company unions where no union currently exists and would permit company-dominated unions where employees are in the process of determining whether to be represented by a union.

Rather than encouraging true workplace cooperation, the Team Act would abolish protections that ensure independent and democratic representation in the workplace and undermine the system of free collective bargaining that has served this country well for many decades. True cooperative efforts must be based on labor-management partnership not employer domination. A context of mutual trust and respect encourages the prospect for achieving workplace innovation, improved productivity, and enhanced efficiency and workplace performance.

Draft letter to CEO's

Dear Sirs:

I want to thank you for your letter regarding the Teamwork for Employees and Managers (TEAM) Act. I strongly support workplace practices that promote cooperative labor-management relations. In order for the United States to remain globally competitive into the next century, employees must recognize their stake in their employer's business, employers must value their employees' labor, and each must work in partnership with the other. Cooperative efforts, by promoting mutual trust and respect, can encourage innovation, improve productivity, and enhance the efficiency and performance of American workplaces.

Current law, as articulated in recent NLRB decisions, leaves room for a wide variety of cooperative workplace efforts. Employers can work with employees in quality circles to improve quality, efficiency, and productivity. They can delegate significant managerial responsibilities to employee work teams, sponsor brainstorming sessions, and solicit employee suggestions and criticisms. Today, 30,000 workplaces across the country have employee involvement plans. According to one recent survey, 96% of large employers already have established such programs.

I am all in favor of encouraging further labor-management cooperation within the broad parameters described above. As case law and workplace practices evolve, the NLRB will exercise its independent authority to provide guidance and clarify the legal boundaries of labor-management teamwork.

As I have previously stated, I will veto the TEAM Act because it will not increase genuine teamwork and would instead undermine the system of free collective bargaining that has served this country well for many decades. Rather than encouraging true workplace cooperation, the TEAM Act would abolish protections that ensure independent and democratic representation in the workplace.

I look forward to working with you in the future to encourage real labor-management cooperation. I know that we share the same goals. I am confident that, acting together, we can further promote the kind of cooperative workplace practices that will strengthen labor-management relations and the economic health of American companies.

96 JUL 17 All : 34

Ten -

I've tried to edit this so that Bruce would feel comfortable with it. Let me know if you have any problems with incorporating my changes.

Elena.

Todd -

I sent the attached to Ten O'Connor. The most important thing is to describe the alternative paragraph (which I assume you still have) fully and fairly.

— Elena

July 15, 1996

MEMORANDUM FOR THE PRESIDENT

FROM: ??

SUBJECT: TEAM ACT LETTER TO CEOS

Attached is a draft letter responding to 634 CEOs who wrote to ask you not to veto the TEAM Act. ~~This draft is consistent with the legislative strategy that was successful during both the House and Senate consideration of the TEAM Act. When the Senate voted last Wednesday, all Senate Democrats but two (Hollings and Nunn) voted against the TEAM Act, and Senator Ben Nighthorse Campbell joined the Democrats voting "no."~~

The letter ^{re}articulates the message ~~that was successful in Congress, and was articulated in the~~ Statement of Administration Policy: 1) the Administration strongly supports labor-management partnerships; 2) labor management partnerships are flourishing under current law; 3) the TEAM Act wouldn't increase or strengthen these partnerships but instead would undermine the collective bargaining system. It also points out that the NLRB will independently continue to clarify the law in this area. It does not endorse any legislation to change current law.

Pros:

- Makes a strong statement in favor of labor-management partnerships and your consistent support of them.
- Will not cause unintended consequences in the Congress.

Constituents who are most concerned about the TEAM Act fear that if you make a positive statement about changes to §8(a)(2) of the National Labor Relations Act, you will generate renewed interest in finding a legislative compromise that you could sign. They point out that the alternative Democratic bills have not generated any media stories suggesting that Democrats want to amend §8(a)(2). But they fear that presidential support for changes to §8(a)(2) is a different matter and will create momentum that will lead to actual changes in the law. They believe that any changes to §8(a)(2) risk making it more difficult for employees to organize new workplaces; and so they believe any such changes are tantamount to an assault on the right of employees to organize unions.

Jim -

I think this is a bit much, given that the Senate Dems had, as part of their strategy, alternative legislation - precisely the thing not mentioned here. If you think he needs to know the Senate vote, I wouldn't be averse to a more factual way of stating the matter.

As an immediate matter, the House has yet to vote on the Senate version of the TEAM Act. Any positive presidential statements about amending the law prior to that vote could potentially lead to the same problems outlined above.

- Maintains a balanced approach to labor policy. While the NLRB estimates that an average of three businesses per year are ordered to disband labor-management committees due to violations of 8(a)(2), it estimates that XX thousand businesses are found guilty each year of illegally firing employees because they support unions. It would appear unbalanced to address the business community's concerns without also addressing related employee/union concerns which also undermine cooperation in the workplace.
- Will not generate criticism from the labor movement. The AFL-CIO views this issue a threat to employees' ability to organize -- the very essence of the labor movement. Their sentiments on this issue are even more intense than their sentiments about NAFTA.

Cons:

- If this issue takes on a larger symbolic prominence in the public debate, we will be hard pressed to explain why you are not supporting an alternative bill supported by 202 Democratic House Members and 37 (check) Democratic Senators.
- Some in the business community argue clarification is needed, ~~and this letter addresses that concern merely by noting~~ the NLRB's ability to clarify the law, ^{may} not seem to take seriously ^{merely} that concern.
- Could be viewed as giving in to labor constituents' demands.

and The NLRB ~~does not~~ ^{fails to} address this issue,

Alternative

The attached letter could ~~also~~ be amended to include a paragraph stating that to the extent ^{that} some employers are reluctant to use labor-management cooperation efforts due to confusion about the law, you would welcome reasonable clarifications to the law, along the lines of the Democratic bill in the Senate. The advantage of this approach is it addresses the problems outlined in the "cons" section above, enabling you to state that you, like the many Democrats who voted for the bill, are in favor of legislative changes that facilitate labor-management partnerships. The disadvantage of this approach is that it ~~negates all but the first "pro"~~ ^{will} ~~outlined above~~, potentially leading to unintended congressional results and definitely leading to harsh criticism from supporters.

Options

but also including proposals ensuring employees' continued access to collective bargaining

_____ Letter as drafted

_____ Alternative

_____ Let's discuss

Then - if it's a balanced legislative proposal, Pro 3 may not be negated.
and ... on Page 2 + 4

Draft letter to CEO's

Dear Sirs:

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Current law, as articulated in recent NLRB decisions, leaves room for a wide variety of cooperative workplace efforts. Employers can work with employees in quality circles to improve quality, efficiency, and productivity. They can delegate significant managerial responsibilities to employee work teams, sponsor brainstorming sessions, and solicit employee suggestions and criticisms. Today, 30,000 workplaces across the country have employee involvement plans. According to one recent survey, 96% of large employers already have established such programs.

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New para

As I have previously stated, I will veto the TEAM Act because it will not increase genuine teamwork and would instead undermine the system of free collective bargaining that has served this country well for many decades. Rather than encouraging true workplace cooperation, the TEAM Act would abolish protections that ensure independent and democratic representation in the workplace.

I look forward to working with you in the future to encourage real labor-management cooperation. I know that we share the same goals. I am confident that, acting together, we can further promote the kind of cooperative workplace practices that will strengthen labor-management relations and the economic health of American companies.

July 2, 1996

Attached is a memorandum that describes the current legislative status of the TEAM Act, a Democratic alternative to the TEAM Act and four options for a public strategy on the TEAM Act. The TEAM Act will be debated next Tuesday, July 9, and voted on on Wednesday, July 10, so this issue is pressing.

The options range from simply supporting labor-management partnerships but not recommending any changes to the law, to supporting the Democratic alternative bill. They are summed up below. Option 1, which is the only option that would not seriously anger labor constituents, suggests no changes to the law. Each of options 2-4 would utilize the same message points as option 1, but would have an additional element supporting changes in the law.

- 1) **Continue to express support for labor-management cooperation without explicitly endorsing changes to current law.**
 - The President strongly supports labor-management cooperation.
 - The President has been able to visit with and applaud many companies engaged in labor-management partnerships because they are currently legal. The law currently allows all labor-management partnerships except the very few we think should appropriately be illegal -- those where the labor-management committee is infringing on the collective bargaining process and on employees' rights to independent representation.
 - The TEAM Act is the wrong approach because it doesn't clarify this law -- rather it undermines the sixty year tradition of collective bargaining in this country and undermines employees' right to democratically elect their own representatives.
- 2) **Endorse the Democratic alternative.**
- 3) **Invoke some of the Dunlop Commission recommendations as evidence that a variety of changes to current labor law might need some review.**
- 4) **Endorse principles for an alternative bill, without endorsing an alternative bill.**

These memoranda incorporate the views of John Hilley, John Angell, Gene Sperling and Jennifer O'Connor.

The TEAM Act is scheduled to come up in the Senate for debate on July 9 and a vote on July 10. Senators Daschle and Kennedy have developed a strategy in which Democrats vote for an alternative to the TEAM Act and then vote against the TEAM Act, giving the President a margin to sustain a veto of the TEAM Act. The White House, Department of Labor, congressional staffs and the AFL-CIO have worked together on the alternative. Daschle's and Kennedy's staffs believe most moderate Democrats are supportive of this alternative and the strategy. The AFL-CIO is not publicly supportive of the alternative bill, and some affiliate unions are actively lobbying Senators to vote against it because they believe any change to current law could make it harder for them to organize new workplaces. Below is a description of the alternative bill and options for a public strategy for the President on this issue.

The Alternative Bill

The alternative bill aims to codify current case law and thus to "clarify" which labor-management cooperation arrangements are legal. It states that employers may:

- 1) Engage in discussions with employees as a group or individually to discuss any issue of mutual concern;
- 2) Assign employees to work teams and discuss issues related to the work responsibilities of the team; these teams may discuss work conditions occasionally;
- 3) Set up quality circles and productivity teams to discuss such issues as improving productivity and quality of products, methods of work organization, sales; these teams may discuss work conditions occasionally;
- 4) Set up independent labor-management committees to discuss work conditions, but not to negotiate collective bargaining agreements; the employees must be able to select their own representatives to the committee through a democratic voting process, and employees must be able to choose whether or not to participate in the committees.

The alternative also provides that an employer may not establish a work unit or committee while a petition for a union election is pending before the NLRB. If, after the establishment of a labor-management committee, a union seeks to organize the employees, the union will be given the same rights of access to the employees as the labor-management committee. The alternative's rules would apply only to non-unionized workplaces.

This alternative is quite different from the TEAM Act. The TEAM Act permits employers to establish and control any type of employee organization that addresses any matter, including working conditions, and permits the employer to select the employee representatives for the committees and to discipline employees who participate in or refuse to participate in the committees. It would apply even in unionized workplaces. It thus goes beyond clarifying the current law and instead changes it to permit company domination of employee organizations, even in workplaces in which the employees have elected a union.

Public Strategy for the President

The President and Vice President have stated on several occasions since February, 1995, that the President would veto the TEAM Act, attempts to "weaken" § 8(a)(2) of the NLRA and attempts to "create company dominated unions." The Statement of Administration Policy for the TEAM Act in the House said that Secretary Reich would recommend a veto. Thus there is no question in the minds of Democratic Senators and various constituents that the President would veto the TEAM Act. What hasn't been clarified, however, is whether the President would endorse any changes whatsoever in §8(a)(2).

A threshold issue is what degree of prominence this issue will be given. On the one hand, there may never be any push for the President to endorse changes to current law. Democratic Senators are currently comfortable with the alternative bill strategy and are not asking for public presidential support for the alternative bill. The labor community does not want the President to endorse the alternative bill because they feel such support would provide momentum to attempts to change 8(a)(2) and upset the delicate balance they have achieved with the alternative bill legislative strategy. To endorse any changes to 8(a)(2) will likely seriously harm our relationship with this constituency. The TEAM Act coalition of businesses will not appreciate presidential support for an alternative because they want him to sign the TEAM Act and will be angry when he vetoes it, no matter what he says.

On the other hand, if this issue takes on a larger symbolic prominence in the public debate next week, we will be hard pressed to explain why the President is not supporting an alternative bill supported by 202 Democratic House Members.

Depending on the tenor of the public debate, there are four options for the President. All but the first will probably seriously damage our relationship with labor constituents.

- 1) **Continue to express support for labor-management cooperation without explicitly endorsing changes to current law.**

An Administration position would have the following components:

The President strongly supports labor-management cooperation. Increased participation by employees in decisionmaking is one of the key ingredients in the recipe for creating high performance workplaces. For American to be globally competitive in the 21st century, employees and management must work in partnership -- employees must recognize their stake in the company and employers must value their employees. Labor-management cooperation can improve productivity, encourage innovation and increase employee satisfaction.

The President has been able to visit with and applaud many companies engaged in labor-management partnerships because they are currently legal. According to the legislative findings in the TEAM Act, there are more than 30,000 employee involvement plans up and running today. A recent study by the Labor Policy Association suggested that 96% of large employers have employee involvement programs. Under current law,

employers who want to know about a particular working condition or idea for change can ask their employees individually, in groups or in a committee. Employers can invite employee suggestions, ideas, comments and criticisms, share information with employees or brainstorm with them. Employers can set up quality circles or other teams to discuss how to improve quality, efficiency and productivity. They can set up troubleshooting committees to deal with workplace safety and other issues. Because all of these kinds of partnerships are legal, there are only an average of three companies per year who are ordered by the NLRB to disband committees which violate 8(a)(2). [This compares to roughly 10,000 cases per year in which an employer is found by the NLRB to have unlawfully discharged an employee for supporting a union.] The law currently allows all labor-management partnerships except the very few we think should appropriately be illegal -- those where the labor-management committee is infringing on the collective bargaining process and on employees' rights to independent representation.

The TEAM Act is the wrong approach. The only thing the TEAM Act changes about current law is it opens the door for the small number of ill-motivated companies that want to keep their employees from electing their own representatives.¹ It undermines what has been a traditional principle in this nation since the 1930s -- that employees ought to be able to democratically elect representatives if they choose to. Allowing companies to prevent their employees from electing representatives is the opposite of the corporate responsibility principles championed by the President.

Pros

- Makes a strong case for employee involvement without upsetting the congressional strategy in the Senate.

Cons

- Some in the business community argue clarification is needed and this position does not address that concern.
- Could be viewed as giving in to labor constituents.
- Doesn't provide an answer to why the President is not supporting a bill that 202 Democrats voted for in the House.

¹ This idea could be expanded upon by also arguing that if any clarification to 8(a)(2) is needed, the NLRB is the appropriate body to clarify the law. We would argue that for 60 years, the NLRB has developed case law which has maintained a careful balance of employer and employee interests. There are several cases currently pending before the NLRB which concern employee involvement programs. We should allow the administrative agency charged with interpreting the NLRA to issue those decisions and issue any clarifications of 8(a)(2) it deems necessary. This argument would have to be crafted so it is not inconsistent with the premise that the current law is adequate.

2) Endorse the Democratic alternative

An Administration position would have the same components as option 1) above, with the addition of the following component:

If some people think clarification is needed, the Democrats in the Senate have the right kind of approach. The Administration believes that labor-management participation is legal and is flourishing. But we are sympathetic if some businesses feel the law is not clear enough for them. Senate Democrats have introduced a balanced bill that spells out clearly for employers what kinds of labor-management partnerships are allowed under the current law. It also goes further -- allowing employers to establish committees that can talk to employees about their wages, benefits and other conditions of work -- but only if the employees are able to freely and democratically elect their representatives -- and only if there are protections so employers can't use these committees to prevent their employees from forming unions.

Pros

- Enables the President to point to a legislative proposal he supports instead of the TEAM Act.

Cons

- Businesses will not view support of the alternative as a positive step because of the provisions for democratic elections of labor-management committees and the provision allowing union representatives to have the same access to the premises as labor-management committee members.
 - Labor constituents will be furious. They believe there are scores of problems in the labor laws that need to be fixed (such as 10,000 cases each year where an employer is found guilty of illegally discharging an employee due to the employee's support of a union). Because only 3 employers a year are ordered to disband labor-management committees, they see the §8(a)(2) issue as a tiny problem relevant only to the small number of employers who want to break a union or prevent its formation. In the scope of labor-management problems, they would view a fix to this particular problem as a one-sided gift to business with no corresponding provision for labor.
 - Would likely upset the congressional strategy in the Senate by encouraging moderate Democrats to try to find a deal that the President could sign. This would cause labor unions to lobby against the Democrats who would vote for the deal, and would split Democrats. Could result in a bill the President could sign, which would anger labor even more.
- 3) Invoke some of the Dunlop Commission recommendations as evidence that a variety of changes to current labor law might need some review.

An Administration position would have the same components as option 1) above, with the addition of the following component:

Maybe this and some other aspects of labor law need to be reviewed. While the Administration believes the law allows employee participation, some businesses have said it is unclear just what is allowed under current law. We're sympathetic -- because businesses should be encouraged to participate in these valuable committees. The Dunlop Commission suggested there might be ways to make this law clearer -- but it said that if the law against company unions were changed all by itself, without addressing other areas of labor law as well, that labor-management cooperation would get worse, not better. If the TEAM Act were a balanced bill that addressed business' concerns about clarification, and employee concerns as well, then the Administration would be for it.

Pros

- Enables the President to state that he supports the kinds of clarifying changes that businesses say they need without putting the Administration on the record in support of a particular bill.
- Neutralizes a potential charge that the Administration is not willing to help struggling businesses with a simple fix.

Cons

- Could upset the congressional balance in the Senate. At present, Democrats are comfortable voting so that the alternative bill fails and the TEAM Act passes and is vetoed. A signal from the President that he would sign a bill if it were the right bill could generate an effort to shift that strategy.
- Could generate expectations that the Administration would introduce comprehensive labor law reform in the second term.
- Doesn't address the true concerns of the businesses that wrote to the President. The Dunlop Commission recommended that changes to 8(a)(2) be coupled with changes to other aspects of labor law that are pro-labor. In saying the administration will revisit the Dunlop Commission report, the administration would be saying pro-business reforms need to be coupled with pro-labor reforms.
- Will anger labor constituents. They did not like the Dunlop Commission's approach to 8(a)(2) because it recommended clarification. They believe that any change to 8(a)(2) could make it harder to organize new workplaces.
- Opens door to question of which legislative changes we would approve of.
- Doesn't adequately answer question of why we can't change 8(a)(2) by itself and fix the other problems at a later date.

4) Endorse principles for an alternative bill, without endorsing an alternative bill.

An administration position would have the same components as option 1) above, with the addition of the following component:

If clarification is needed, then the Administration would be for reasonable clarifications.

The administration believes that labor-management participation is legal and is flourishing. But we are sympathetic if some businesses feel the law is not clear enough for them. The Administration believes it is possible to clarify the law without upsetting the delicate balance between labor and management built up over the 60 year history of the NLRB. We know that work teams and quality circles and productivity teams are all legal under current case law -- that can be spelled out so that small businesses that can't afford to hire in house counsel can easily see what kinds of activities are legal -- and which are not. Employers should be able to talk to their employees, as they do today, about virtually anything -- so long as they do not dominate a work committee that deals with them on working conditions. If employers want to discuss working conditions with employees, there is a simple answer -- employees ought to be able to democratically elect representatives who can discuss these matters with the employer. And there must be protections so employers can't use these committees to prevent their employees from forming unions.

Pros

- Enables the President to point to principles he supports instead of the TEAM Act.

Cons

- Same as 2) above.