

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

Collection/Record Group: Clinton Presidential Records
Subgroup/Office of Origin: National Economic Council
Series/Staff Member: Gene Sperling
Subseries:

OA/ID Number: 24558
FolderID:

Folder Title:
Labor - GI Bill / Job Training / Minimum Wage [2]

Stack:	Row:	Section:	Shelf:	Position:
S	16	5	7	2

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. letter	Ken Parmelee to Gene Sperling re: Rural letter carriers [Personally Identifiable Information] [partial] (1 page)	03/10/1997	b(6)

COLLECTION:

Clinton Presidential Records
National Economic Council
Gene Sperling
OA/Box Number: 24558

FOLDER TITLE:

Labor - GI Bill / Job Training / Minimum Wage [2]

2016-0531-F

jm1819

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

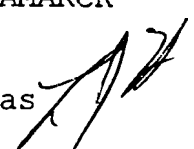


EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

October 1, 1996

MEMORANDUM TO GEORGE STEPHANOPOULOS

DON BAER
MIKE MCCURRY
MICHAEL WALDMAN
✓ GENE SPERLING
RON KLAIN
ELAINE KAMARCK
DAN PINK

FROM: Larry Haas 
RE: POTUS/VPOTUS Remarks Re: Federal Workforce
CC: Frank Raines
Jack Lew
John Koskinen

The President and Vice President of late have been saying some variation of the following: "We have cut the Federal bureaucracy by 250,000, giving us the smallest Federal workforce since the Kennedy Administration."

This sentence has two problems -- one relatively minor, the other more serious. We should correct them; the NPR and I both received calls from Knight-Ridder the other day raising questions about our contentions.

First (on the 250,000):

Back in January, we had reduced the size of the Federal workforce by nearly 240,000 -- compared to where we were when Clinton took office.

Since then, however, the size of the cuts actually declined as the Government went through its normal process of hiring summer help.

At the moment, the bureaucracy is down about 225,000 since we took office. If the President and Vice President want to say "nearly 250,000," that's probably OK.

Second, and more seriously (on the Kennedy reference):

We do not have the smallest Federal workforce since Kennedy was President (even though, unfortunately, the Vice President's new book makes that contention).

Instead, as the President and Vice President had been saying correctly months ago, "based on actions that we've already taken, by the end of this decade we will have the smallest Federal workforce since the Kennedy Administration."

Specifically, the 1994 Federal Workforce Restructuring Act, which we actively pushed and signed into law, sets out annual limits on Federal employment that guarantee a total reduction of 272,900 positions (known as "FTEs") by the end of this decade.

At the moment, we have the smallest workforce in about 30 years (that is, since the Johnson Administration, not Kennedy).

I suggest that we go back to our previous phraseology, as outlined above.

THE WHITE HOUSE
WASHINGTON

January 11, 1994

MEMORANDUM TO THE VICE PRESIDENT

From: Gene Sperling

Re: Best Statistics from December Employment Release

I just wanted you to see the document we sent to the Hill and the DNC following the Congressional meeting last week.

We will continue to distribute talking points on major economic releases as appropriate.

The statistics confirm that 1994 is the best year of job growth in a decade.

Thanks, Gene
Good work.
HG

April 18, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: GENE SPERLING

SUBJECT: FUTURE DIRECTION OF YOUR G.I. BILL FOR AMERICA'S WORKERS

This memorandum presents options for a decision on the content and structure of the second-term G.I. Bill for America's Workers initiative. The memo contains two parts; the first section provides the relevant background. The second section presents options and recommendations.

I. BACKGROUND

THE INITIAL FY 1996 PROPOSAL. In December 1994, you proposed a Middle Class Bill of Rights to empower working Americans to pursue a lifetime of learning through education and training tax deductions, tax credits for families with children, and expanded IRAs. The fourth point of your Middle Class Bill of Rights was the G.I. Bill for America's Workers. In your 1995 State of the Union message, you articulated your vision:

"The New Covenant approach to governing is as different from the old bureaucratic way as the computer is from the manual typewriter The old way dispensed services through large, topdown, inflexible bureaucracies. The New Covenant way should shift these resources and decision-making from bureaucrats to citizens, injecting choice and competition and individual responsibility into national policy . . . We should pass a G.I. Bill for America's workers. We propose to collapse nearly 70 federal programs, and not give the money to the States, but give the money directly to the American people; offer vouchers to them so that they can get a voucher worth \$2,600 a year for up to two years to go to their local community college or wherever else they want to get the skills they need to improve their lives. Let's empower people in this way. Move it from government directly to the workers of America."

The actual proposal, as outlined in your FY 1996 Budget, was far more complex. It included significant consolidation, but the workforce development system, while rationalized, retained five discrete parts (see consolidation schematic at Tab A). The budget request for FY 1996, including all elements of the GI Bill was \$14.3 billion.

INSERT TABLE

(1)Adult Workforce System: This component envisioned a Skill grant for non-degree adult training administered by the Labor Department and Pell grants for degree programs administered by the Education Department. As proposed, these two elements

consolidated 27 separate programs.

(a) **Skill grants.** The FY 1996 budget requested \$3.6 billion for the Labor Department to implement skill grants of up to \$2,620 for “technical education” for dislocated workers and low-income adults. The skill grant for non-degree training included most adult JTPA programs and added non-degree training funded (then and now) by Pell grants into one program, managed by the Department of Labor. The \$3.6 billion budget request included a \$2.1 billion transfer of Pell grant funds for non-degree skill training from the Education Department to the Labor Department. The FY 1996 budget request was sufficient to serve **all** dislocated workers whom we expected to want training, and **some** of the economically disadvantaged adults who needed and wanted training. As a result under the initial proposal, State and local grantees were required to ration Skill grant resources.

(b) **Pell grants.** The FY 1996 budget requested \$4.5 billion for the Education Department budget, to operate Pell grants of up to \$2,620 to defray the costs of associate’s and bachelor’s degree courses. As mentioned above, the proposal assumed that Pell grants would no longer be used for non-degree training and transferred the \$2.1 billion referred to above to the Labor Department.

(2) **One Stop: A grant to States for adult services other than training.** The FY 1996 budget requested \$2.7 billion for the Department of Labor budget to support a State and local private sector-led workforce development system of job placement and training-related services (counseling, skills assessment, etc.) provided through one-stop career centers. The proposal also envisioned a limited fund administered nationally for activities such as grants for multi-State mass layoffs and natural disasters, and research.

(3),(4) **Two State grants for youth.** The FY 1996 budget requested \$2.9 billion for the two state grants for youth. One grant was designed to support vocational education for in-school youth through the Education Department; a second grant for at-risk and out-of-school youth was designed to offer second chance training and work experience through the Labor Department. The FY 1996 proposal called for all activities to be structured within the School-to-Work framework.

(5) **A State grant for adult and family literacy.** The FY 1996 budget requested \$490 million for the Education Department to provide GED, ESL, and basic skills instruction, as determined by the States.

LEGISLATIVE HISTORY. The Administration decided not to transmit legislation to

authorize the G.I. Bill reforms, except for separate bills in May 1995 to reauthorize the vocational and adult education programs of the Department of Education. We chose instead to work informally with the 104th Congress on bills Republicans were moving through both chambers. Our judgment was that specific Administration bill language on categorical program consolidations (which would be seen as terminations) would raise issues our supporters could not accept and would provide fodder for Republicans to criticize our proposal before offering their own. Senator Kennedy supported this approach.

The proposal to transfer the \$2.1 billion in Pell resources for non-degree training to the Labor Department was abandoned almost immediately because it was opposed by the higher education community and many in Congress on both sides of the aisle.

In the Fall of 1995, training reform bills -- known as "CAREERS" (Goodling) and "The Workforce Development Act" (Kassebaum) passed both Houses of Congress with overwhelming bipartisan support (345-79; 95-2). The Administration expressed conditional support for both bills, and organized Democratic and interest group support, despite concerns with each. We wanted to keep the issue alive in Congress and looked to conferees to address our concerns. Supporting reform in principle, and not alienating key constituency groups wedded to specific categorical programs, also helped us in the appropriations fight, where we could argue that it made no sense to cut funding deeply with a major reform on the horizon.

Of the two bills, Rep. Goodling's CAREERS was closer to fulfilling your G.I. Bill principles and the Administration's support for the Kassebaum version was essentially a tactic for keeping the reform conversation alive. CAREERS required: vouchers for adult training (with an exception for training run by community-based organizations), "report cards" and performance standards for training programs, the one-stop and school-to-work frameworks for adult and youth programs (although it would have repealed the School-to-Work Act), and private sector involvement in workforce development programs. By contrast, the Kassebaum bill did not require skill grants and would have made vouchers available only at State option; authorized a single State grant with one quarter reserved for broadly defined State-determined workforce development activities, which could include supporting company training of the employed; weakened accountability by permitting States to define success in their own terms; and greatly diminished the role of local communities in determining training needs.

The conference process on training reform was swamped by the FY 1996 and then FY 1997 appropriations struggle, and the Administration's reform proposals took a backseat to our efforts to preserve funds for categorical training and education programs (dislocated workers, summer jobs and vocational education) under attack. Although we blocked large cuts in the categorical training programs, both the pressures of negotiations with Congress and the need to rally constituency groups who are indifferent or hostile to vouchers and consolidation, led to a blurring of the Administration's principles for changing the way training gets delivered.

In a May 1996 letter to the conference leadership (attached at Tab B), you called for earmarked funding of at least \$1.3 billion for dislocated workers and "properly targeted" resources for a summer jobs program, adult education, in-school youth, at-risk youth, and the

labor exchange. Your original G.I. Bill principles had never explicitly singled out these features as essential components of your reform vision.

Pressured by conservative "family groups" to resist compromise, and for other reasons, Republican conferees excluded the Administration and the minority from the negotiations. Some of the majority conferees believed the Administration was negotiating in bad faith, or defending the status quo. The partisan conference produced a bill that resembled Kassebaum's flawed block grant approach, unacceptable because it required only a 50-State training voucher "pilot," failed to ensure that adequate resources would be available for adult training, included weak accountability provisions and repealed School to Work. Former Chief of Staff Panetta made an effort to reopen negotiations. The last effort, a June 17th offer from the Administration representing our "bottom line," (attached at Tab C), received no response from the conferees. Emerging in July 1996, without the support of a single minority conferee or the Administration, the bill never reached a floor vote.

CONSOLIDATION AND OTHER ADMINISTRATIVE REFORMS. As we consider strategy for a new effort, it is important to recall that we already have made some progress toward achieving your G.I. Bill objectives. The Labor and Education Departments have aggressively pursued training and employment reforms through administrative changes and other statutory authorities, separable from fundamental legislative reform. Both Departments have made progress toward consolidating the tangle of federal employment and training programs.

As you recall, prior to your G.I. Bill announcement, the GAO identified 163 separate employment and training programs in 14 agencies spending nearly \$25 billion in what it called an uncoordinated system.

While the GAO called attention to an important problem, their reports overstated it. Sixty-seven of the 163 programs are targeted at specific non-employment and training problems and do not belong in the education and training system. For example, included in their list of employment and training programs were: the Foster Grandparent and Senior Companions programs (volunteer programs for the low-income elderly); State Legalization Impact Assistance Grants; Women's Business Ownership Assistance, and Health Care for Homeless Veterans.

Of the remaining 96 programs, the administration determined that 70 of them reasonably could be consolidated into a coordinated system such as the schematic at Tab A suggests. (The 26 programs not targeted for consolidation are aimed at special populations -- e.g. Native Americans -- and are most appropriately administered nationally.) The GI Bill proposed consolidating these 70 programs into the system described above.

In spite of legislative obstacles to enactment of the GI Bill, the Departments of Education and Labor have consolidated 33 of the original 70 programs targeted through administrative reform, appropriations, and other means. Another five of the 70 programs have been dropped from our consolidation efforts as a result of policy or other considerations.

Other administrative reform successes include:

- **One-stop career centers.** Begun in 1994, this Department of Labor initiative consolidates multiple training and employment programs at the “street level” through competitively awarded State implementation grants. The number of States implementing one-stop systems will grow from 16 currently, to 43 by the end of 1997, to 50 by the end of 1998.
- **America’s Job Bank and America’s Talent Bank.** These two rapidly expanding Department of Labor Internet websites now provide access to 600,000 job openings and resumes of two million job seekers.
- **School-to-Work opportunities.** Since enactment in May 1994, the School-to-Work Act has provided the “seed capital” to spur State school-to-work systems that connect secondary education to work-based learning, postsecondary training, and career opportunities. Currently 37 States are receiving implementation grants; in 1998, all States are expected to be implementing their School-to-Work systems.
- **Waivers and funding transfers.** With the Administration’s support, the FY 1997 appropriation for the Department of Labor provided unprecedented flexibility for State and local employment and training programs. (You had already obtained significant new waiver authority for Education Department programs in 1994.) The Budget which continues this flexibility in FY 1998, includes:
 - **Authority** for the Labor Secretary to waive a wide range of JTPA and Wagner-Peyser Act (i.e., Employment Service) statutory and regulatory provisions pursuant to a request submitted by a State, in return for improved performance.
 - **“Work-Flex” partnership demonstration** (modeled on the 1994 “Ed-Flex”), in which up to six States are authorized by the Labor Secretary to waive JTPA and Wagner-Peyser provisions, pursuant to a plan describing the local waiver process, outcomes to be achieved, and assurances of fiscal accountability.
 - **Funding transfer authority** to permit Governors to approve requests by local programs to transfer up to 20% of funds for the dislocated worker and low-income adults between the two JTPA programs. Since FY 1996, unlimited funding transfers have been permitted between the JTPA Summer Jobs and year-round youth training programs.

G.I. BILL IN THE FY 1998 BUDGET AND 105TH CONGRESS. The FY 1998 Budget reiterates support for the G.I. Bill principles, characterizes training reform as “essential,” and anticipates working with the 105th Congress to produce a bill. The FY 1998 Budget proposes an increase of \$400 million over the FY 1996 request for the relevant Labor and Education Department budgets. The details are as follows:

INSERT CHART

In the 105th Congress, training reform legislation is a priority for the Republican chairmen of the House (Goodling) and Senate (Jeffords) Committees. Both chambers have begun hearings and the House Committee is drafting a bipartisan bill for markup next week. In the Senate, although Chairman Jeffords has not begun drafting legislation, he is planning to report a bill out of Committee by the end of June.

The draft House bill, prepared by Congressman McKeon, Chair of the subcommittee on Chairman of the Subcommittee on Postsecondary Education, Training and Lifelong Learning, is similar to last year's bill, but assures that funding for dislocated workers will be maintained and does not repeal School to Work. As it did last year, it requires vouchers for adult training (with an exception for training provided by community-based organizations), "report cards" and performance standards for training programs, the one-stop and school-to-work frameworks for adult and youth programs, and private sector involvement in workforce development programs. And, as was the case last year, it maintains local agencies' discretion in allocating skill grants.

Legislation will so be under development in the Senate under the leadership of Senator DeWine, who heads the Subcommittee on Employment and Training. While Chairman Jeffords is expected to be less hostile to skill grants than was his predecessor, there is still skepticism among Democrats on the panel.

The House bill is expected to include a title reauthorizing adult education programs, while vocational education will be considered separately. In the Senate, it is unclear whether vocational and adult education will be addressed separately or as part of larger workforce development legislation. In an effort to maximize the prospect for reforms, and as a hedge against the possibility that training reform legislation stalls again, the Education Department is sending separate reauthorizing legislation to Congress again this year. Secretary Riley is proposing to consolidate 23 vocational education programs into 3, and 12 adult educational programs into 2.

Given the legislative context, there is an opportunity to make progress toward your central goals -- more choice and less bureaucracy for workers who need training -- but we need to decide where to compromise, and where to draw lines, with Congress and constituencies.

II. OPTIONS

This section of the memo lays out some second-term options for your "GI Bill for America's Workers" initiative.

There's no (internal) dispute on the basics:

- Abolishing the JTPA practice of contracting for training slots and then steering trainees into the slots;

- Giving trainees more choice in employment options and training providers;
- Bolstering information about training providers and skills in demand, so trainees can make good choices;
- Tightening provider accountability;
- Barring bad providers from the skill-grant system.

But the Administration needs to sort out two issues in order to best engage with Congress in the push toward reform:

Cost: Liberal eligibility rules for skill grants would cost several billion dollars more than your current budget covers.

Choice: The “purer” the voucher approach, the greater the risk of bad training choices -- especially in the short run (as the data systems ramp up) and especially among low-income trainees.

We’ve framed three skill grant options, each embodying a different resolution of the “cost” and “choice” issues. The options all share baseline features.

SHARED FEATURES

1. All options use the term skill grants; all feature some progress toward making skill grants the form of access to training.
2. People can use the grants as they choose for training from any approved provider.
3. State and local delivery systems are altered, but not abolished. Existing programs are reorganized around the “One Stop” model to provide job-search, counseling, and other training-support services. Two of the three options sharply scale back the current system’s role in allocating resources to individuals; the third envisages a major State and local role.
4. Skill grants could be used at 2-year, 4-year, and trade schools approved for Pell and student loans, and at “non-traditional” suppliers like the Urban League, union training programs, and community action agencies -- all subject to the same accountability standards.
5. The dollar value of skill grants (like Pell grants) would be based on the trainees’ income and the cost of training, up to the maximum of \$3,000, as in the FY 1998 budget. Unlike Pell grants, skill grants can be used for training that doesn’t lead to a degree, and dislocated workers’ eligibility would be based on their “prospective

income,” not on their pre-layoff earnings.

6. All options assume a nationally administered fund for the Secretary of Labor to use in response to mass layoffs.

SKILL GRANT OPTIONS

Option 1: Universal Eligibility

All dislocated workers and economically disadvantaged adults (as defined by current JTPA rules) would be eligible for skill grants. As is now the case for Pell grants, discretionary BA would be requested according to best estimates of how many eligibles would actually use the grants, but outlays would be driven by actual use. Eligibility rules include, in theory, 11 million dislocated workers and 29 million disadvantaged adults. Only a small fraction will seek training. But reasonable assumptions about take up rates still point to outlays of \$4.2 billion -- far more than the \$1.37 budgeted for comparable JTPA efforts.

Within this option, a federal clearinghouse could be set up to establish income eligibility, leaving people the option, as in the Pell program, of going directly to training providers without checking in at state and local agencies. Alternatively, individuals could establish their eligibility at the state and local One-Stop institutions which also provide information, oversight, and support services.

Nothing like Option 1 is currently on the table in the legislative debate. We include it in part to help you calibrate the other options' degree of compromise, but also to offer you the opportunity to stake out a clean vision as a contingency in case the budgetary context changes or (conceivably) as a lever for changing the budget constraints.

Pros of Option 1:

- Clearly delivers on the message of empowering individuals with training resources they can use as they see fit.
- Dramatic break with the past.
- Minimizes rules and bureaucracy; maximizes the role of market signals and individual choice.
- Abolishes JTPA practice of contracting training slots and then steering trainees into the slots.

Cons of Options 1:

- Well outside the current budget.
- While technically discretionary, could be criticized as a new entitlement.
- Unconstrained choice (especially for workers with little labor market experience) will lead to some, and potentially much, waste and inefficiency.
- State and local stakeholders (Governors, Mayors, CBOs and labor unions) will oppose

“federalization” of the job-training system.

Option 2: Limit Skill Grant Eligibility, and Deal Differently with Dislocated and Disadvantaged Workers.

This option structures eligibility to stay within the \$1.37 billion budget for training under current rules while giving dislocated workers (who presumably have more labor market savvy) more wide-open choice than disadvantaged adults in how skill grants are used. Under this option eligibility for dislocated workers could be determined either through a federal clearinghouse or at state and local One-Stop centers, offering additional training-related assistance. The One-Stop centers’ role is concentrated on service to disadvantaged workers.

There are several ways to tighten eligibility for dislocated workers. One option is to offer skill grants only to workers laid off after 3 years in a job, on the grounds that short-tenure workers have fewer job-specific skills to replace and aren’t strictly speaking “dislocated.” Another option is to exclude the long-term unemployed, who are often eligible for Pell grants. These two screens would shrink the pool of eligible dislocated workers from 11 million to 643,000. (Your original proposal included \$1 billion more than the FY 1998 budget and envisioned serving several hundred thousand additional workers.)

For disadvantaged adults, eligibility could be limited in practice, in one of the two following ways, while addressing concerns that a weak attachment to the job market makes people especially prone to bad training choices.

Sub-option A would require **counseling and assessment** at a One-Stop center before disadvantaged adults can get a skill grant, but once they complete the required counseling, they would be served on a first-come, first-served basis. Nevertheless, they could then use the skill grant as they choose.

The tougher **sub-option B** would give state and **local agencies discretion** to decide which disadvantaged adults can best make use of limited skill grants.

Relative to Option 1, this option represents a strategic compromise. In the face of budgetary limits, and some plausible worries about the uniform workability of a pure voucher approach, it falls back to make the stand for the skill grant principle on the terrain where that principle is strongest -- dislocated workers with labor-market experience. And it preserves the local workforce-development system in its most plausible role -- guiding disadvantaged who may have special problems making good choices on their own.

Pros of Option 2:

- Lives within current budget estimates.
- Avoids the “new entitlement” charge **while delivering training via skill grants.**
- Addresses concerns (based on Pell and student loan histories) that the disadvantaged often have trouble making good training choices without guidance.

- Abolishes JTPA practices of contracting training slots and reduces the role of the system in steering trainees into training programs.

Cons of Option 2:

- Eligibility screens as the rationing mechanism for training resources reduce state and local elected officials ability to respond to variations in the local labor market, and reduce the system's responsiveness to individual needs.
- Heavy reliance on local agencies to steer disadvantaged adults and (under sub-option B) a sharp increase in local discretion relative to Option 1.
- State and local stakeholders (Governors, Mayors, and labor unions) will oppose what they will characterize as federalization of dislocated workers training system and advocates for the disadvantaged will object to be treated differently.

Option 3: Local Rationing of Skill Grants

This option does away with new national eligibility rules as the rationing mechanism for disadvantaged and dislocated workers alike, and instead relies on local agencies to allocate skill grants, just as they now allocate JTPA training funds. As with Option 2, skill grants are limited by the amount of funding available. *But the discretion state and local agencies exercise over which disadvantaged workers get skill grants under sub-option 2-B becomes universal here;* One-Stop officials award skill grants based on aptitude, local labor market conditions, and judgments about who can best benefit. Skill grants, once awarded, would still be under individuals' control.

For disadvantaged workers, this option is the same as Option 2B. The two options differ in the treatment of dislocated workers: under this option, local discretion is the rationing mechanism for skill grants for dislocated workers; whereas under Option 2B new federal eligibility screens substitute for that discretion.

This option preserves skill grants but in practice would be far from a vision empowering individuals not just to select training providers, but also to manage their own career decisions about where employment opportunities might lie and whether or not to seek training.

(Legislation taking shape in the House is very similar to this option, but includes many more exceptions -- adopted at the insistence of Congressional Democrats -- expanding local agencies' authority over what training is allowable and who can provide it.)

Pros of Option 3

- Lives within current budget estimates.
- Addresses concerns (based on Pell and student loan histories) that the disadvantaged often have trouble making good training choices without guidance.
- Avoids differential treatment of dislocated and disadvantaged adults.
- Obviates the need for new Federal eligibility screens to ration training dollars.

Cons of Option 3

- Does not adopt “entitlement-like” skill grant approach of other options.
- Relies heavily on the JTPA system to steer clients into training and thus does not fully empower individuals.

RECOMMENDATIONS

OMB recommends Option 3. Consistent with the principles the Administration enunciated during the debate last year, Option 3 explicitly recognizes the reality of resource constraints, adopts the widely desired guidance and help for disadvantaged adults and dislocated workers who want it, maintains the goal of a thoroughly reformed private-sector-based local service system, and preserves the key skill grant vision of individual control over training providers

THE WHITE HOUSE

WASHINGTON

MEMORANDUM

TO: GENE SPERLING

FROM: ANNE LEWIS

RE: MEETING WITH MCENTEE

DATE: JUNE 4, 1997

AFSCME wants to meet with you to brainstorm about a welfare to work proposal they are developing. They want to develop a welfare to work initiative, like the private sector initiative led by Eli, for cities and use it to urge cities to hire welfare recipients. *They have not finished developing the outline of their plan and had no paper to share with us in advance, although they will bring paper tomorrow. They already met with Podesta and he suggested they meet with you and Bruce.*

Although we can't predict their plan, there are a few issues which you would expect would be on their radar screen. For example, we would expect that their plan would accord welfare recipients hired by cities the full protection of the Fair Labor Standards Act and other employment/workplace laws. I would assume they will be looking to access the welfare to work funds, probably for job training (Emil has prepared a memo updating you on the status of our welfare to work negotiations). Finally, one would expect their plan to address the displacement issue, consistent with their view on TANF. They may be seeking stronger nondisplacement language for the WTW budget proposal, as well as for their initiative (see the note on nondisplacement in Emil's memo).

Rhetorically and thematically, I think they are looking for a vehicle to use to exhort the cities to be responsible "corporate citizens" and one presumes to ensure that when cities hire welfare recipients AFSCME can organize them.

Sorry this isn't more detailed. I spoke with McEntee's chief of staff and he said he just wasn't ready to discuss their proposal yet because he hadn't spoken with McEntee yet.

Attachments (from Emil)

THE WHITE HOUSE

WASHINGTON

June 4, 1997

TO: GENE SPERLING

FROM: EMIL PARKER 

SUBJECT: Welfare-to-work and FLSA legislative language in Shaw mark

The Ways and Means Human Resources Subcommittee markup may be moved up from Friday at 9:00 to sometime tomorrow, primarily because the House is not in session on Friday. I will keep you posted.

Welfare to Work

Ron Haskins, the majority Subcommittee staff director, has been quite responsive to Administration concerns regarding the welfare-to-work legislation (but not the immigrant or FLSA provisions):

Formula versus competitive. *Fifty percent of the funds are to be distributed by formula and 50 percent by competitive grants.* The formula dollars are allocated to the States based on the following factors (weighted equally): 1) number of people in poverty; 2) number of unemployed; and 3) number of adult TANF (welfare) recipients. Each State must in turn pass through 85 percent of the formula dollars to service delivery areas, or SDAs (the administrative subdivisions under the Job Training Partnership Act), within the State.

Under the current version of the legislation, *the sub-State formula would be determined by the governor, but excess poverty—the number of persons in poverty in the SDA above 5 percent of its population—would have to be the most important factor in the formula* (weighted at least 50 percent). Using excess poverty, pursuant to Administration suggestions, would channel more funds to the most disadvantaged areas. The Labor Department, in conjunction with Health and Human Services, is currently conducting formula runs to determine if 5 percent is the appropriate threshold (e.g., 10 percent might significantly enhance the degree of targeting). Haskins may be receptive to Administration technical changes to the formula, either now or prior to full Committee markup.

The remaining 15 percent of the formula dollars would be a discretionary grant fund under the control of the governor. These dollars would be used for grants to projects likely to help long-term recipients move into employment.

Seventy-five percent of the competitive pool (which is 50 percent of the total WTW funds) would be reserved for grants to cities that are among the 100 cities with the largest poverty populations. The grant competition would be held twice, in 1998 and 2000, with grants presumably made for two-year periods.

THIS SEARCH

Next Hit

Prev Hit

Hit List

THIS DOCUMENT

Forward

Back

Best Sections

Doc Contents

GO TO

New Search

HomePage

Help

H.R.1385

Employment, Training, and Literacy Enhancement Act of 1997 (Passed by the House)

SEC. 123. LABOR STANDARDS.

Section 143 of the Job Training Partnership Act (29 U.S.C. 1553) is amended to read as follows:

`SEC. 143. LABOR STANDARDS.

`(a) LIMITATIONS ON ACTIVITIES THAT IMPACT WAGES OF EMPLOYEES- No funds provided under this title shall be used to pay the wages of incumbent employees during their participation in economic development activities provided through the statewide system.

`(b) DISPLACEMENT-

`(1) PROHIBITION- A participant in an activity authorized under title II, III, or IV of this Act (referred to in this section as a `specified activity') shall not displace (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).

`(2) PROHIBITION ON IMPAIRMENT OF CONTRACTS- A specified activity shall not impair an existing contract for services or collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

`(c) OTHER PROHIBITIONS- A participant in a specified activity shall not be employed in a job--

`(1) when any other individual is on layoff from the same or any substantially equivalent job;

`(2) when the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the participant; or

`(3) which is created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals.

`(d) **HEALTH AND SAFETY**- Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in specified activities. To the extent that a State workers' compensation law applies, workers' compensation shall be provided to participants on the same basis as the compensation is provided to other individuals in the State in similar employment.

`(e) **EMPLOYMENT CONDITIONS**- Individuals in on-the-job training or individuals employed in activities under this Act, shall be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.

`(f) **OPPORTUNITY TO SUBMIT COMMENTS**- Interested parties shall be provided an opportunity to submit comments with respect to training programs proposed to be funded under this Act.'

SEC. 124. GRIEVANCE PROCEDURE.

Section 144 of the Job Training Partnership Act (29 U.S.C. 1554) is amended to read as follows:

`SEC. 144. GRIEVANCE PROCEDURE.

`(a) **IN GENERAL**- Each State receiving an allotment under this Act shall establish and maintain a procedure for grievances or complaints alleging violations of the requirements of this Act from participants and other interested or affected parties. Such procedure shall include an opportunity for a hearing and be completed within 60 days of filing the complaint.

`(b) **INVESTIGATION**-

`(1) **IN GENERAL**- The Secretary shall investigate an allegation of a violation described in subsection (a) if--

`(A) a decision relating to such violation has not been reached within 60 days after the date of the filing of the grievance or complaint and either party appeals to the Secretary; or

`(B) a decision relating to such violation has been reached within such 60 days and the party to which such decision is adverse appeals such decision to the Secretary.

THIS SEARCH

Next Hit
Prev Hit
Hit List

THIS DOCUMENT

Forward
Back
Best Sections
Doc Contents

GO TO

New Search
HomePage
Help

<u>THIS SEARCH</u>	<u>THIS DOCUMENT</u>	<u>GO TO</u>
<u>Next Hit</u>	<u>Forward</u>	<u>New Search</u>
<u>Prev Hit</u>	<u>Back</u>	<u>Home Page</u>
<u>Hit List</u>	<u>Best Sections</u>	<u>Help</u>
	<u>Doc Contents</u>	

H.R.1385

Employment, Training, and Literacy Enhancement Act of 1997 (Passed by the House)

`(2) **ADDITIONAL REQUIREMENT**- The Secretary shall make a final determination relating to an appeal made under paragraph (1) no later than 120 days after receiving such appeal.

`(c) **REMEDIES**- Remedies shall be limited--

`(1) to suspension or termination of payments under this Act;

`(2) to prohibition of placement of a participant with an employer that has violated any requirements under this Act;

`(3) where applicable, to reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions and privileges of employment; and

`(4) where appropriate, to other equitable relief'.

SEC. 125. IDENTIFICATION OF ADDITIONAL IMPOSED REQUIREMENTS.

Section 124 of the Job Training Partnership Act (29 U.S.C. 1534) is amended--

(1) by redesignating such section as section 146 of such Act; and

(2) by inserting such section after section 145 of such Act.

SEC. 126. AUTHORITY OF STATE LEGISLATURE.

Section 126 of the Job Training Partnership Act (29 U.S.C. 1536) is amended--

(1) by adding at the end `Any funds received by a State under title II or III of this Act shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under this Act.';

(2) by redesignating such section as section 147 of such Act; and

THE WHITE HOUSE

WASHINGTON

May 30, 1997

TO: GENE SPERLING

FROM: EMIL PARKER *EP*

SUBJECT: FLSA meeting

At the 4:00 FLSA meeting there was a strong consensus that the Administration should take a firm line regarding the application of the minimum wage to workfare participants (welfare recipients required to work in exchange for their grants). John Podesta was especially animated on the point; he was convinced that the governors' position was untenable and tantamount to reintroducing indentured servitude.

Republican proposal

Ron Haskins has circulated a draft of the minimum wage "fix" (see attached) to be included in Shaw's Human Resources reconciliation Chairman's mark next week. The proposal is actually more problematic than anticipated.

Part one would exempt workfare participants in the public and nonprofit sectors from not only the FLSA but also all other Federal laws, including the Occupational Safety and Health Act and antidiscrimination legislation. Denying OSH Act protection to workfare participants does not appear to be defensible from either a policy or a political standpoint. It is not clear if this provision would repeal the section of the welfare bill that explicitly applies a number of antidiscrimination laws to welfare work programs. To the extent it does, it will provoke the ire of an entirely different constituency.

Part two of the proposal purports to apply the minimum wage to workfare programs (although not the enforcement provisions of the FLSA). This minimum wage requirement is, however, wholly bogus. States would be allowed to count not only food stamps (which is allowable under current law; see attached USDA guidance) but also other noncash benefits, including Medicaid, child care and housing assistance. It is difficult to imagine many cases in which the combined total of all means-tested benefits (e.g., WIC or even Head Start could conceivably be included) divided by the number of hours of participation--20 per week--would not equal the minimum wage. This provision raises serious equity considerations. Private or public employers who offer health insurance are not permitted to count this toward the minimum wage and, generally speaking, child care and other benefits also cannot be included in compensation for purposes of the minimum wage. Apart from the policy concerns, the provision would also be an administrative ordeal for HHS, which would be forced to calculate the insurance value of Medicaid for families of various sizes (and possibly the value of on-site child care and other services as well).

The final aspect of provision two, allowing States to count more hours of job search, education or training toward the work requirement, is not as troubling as the rest of the proposal and might form the basis of a fallback position (Elena objected to any weakening of the work requirements, but no one else shared her view).

The 4:00 group was in agreement that the Republican approach as a whole was unacceptable and that the Administration should not, at this point, signal any willingness to negotiate--“people working should be treated as workers, and that means the minimum wage.”

Offering a compromise on FLSA at this point would be especially premature, given that 1) some moderate House Republicans are apparently eager to avoid a minimum wage battle; 2) the extent of Senate Republican interest is unclear; and 3) an FLSA provision might well be subject to a Byrd rule challenge in the Senate on the grounds that it has no effect on mandatory spending.

Treatment under tax laws

According to IRS staff, under current tax law, if income is subject to income tax, it is also, generally speaking, subject to FICA and FUTA tax and qualifies as earned income for purposes of the EITC. The Internal Revenue Service is currently working on a revenue ruling which will consist of two realistic examples of work activities under TANF (based on information provided by HHS and DOL). Under one example the payments to the participant would be considered taxable income; under the other they would not. The examples should be ready for review internally within two weeks. Both examples may address workfare-type activity, since earnings from subsidized private and public sector employment should fairly clearly be considered taxable income.

There was also some discussion of the treatment of workfare under other laws, notably FICA, FUTA and EITC. Governors have expressed concern about the potential fiscal burden of FICA taxes. Both the employee and employer share of FICA could, however, be effectively deducted from the welfare benefit in many cases; there would still be the added administrative responsibility.

Elena Kagan had earlier proposed making a compromise offer to Democratic governors--FLSA would apply but FICA and EITC would not. Elena has repeatedly attempted to concede on the FICA issue, in part because she believes, mistakenly, that under the 1994 Administration welfare bill public jobs would not have been covered by FICA (see attached).

There is a fairly strong policy argument for applying FICA to workfare activities. Women who spend long periods out of the workforce and/or working off the books (e.g., as domestics) can have difficulty accumulating the 40 quarters of work needed to qualify for Social Security. Treating workfare participation as covered employment for purposes of Social Security could be quite advantageous in the long term to some recipients, even if it reduced their current income.

On the other hand, a good case can be made for a FUTA exemption; it is not clear that time in required activity should allow a participant to accrue unemployment benefits. Current law in fact includes a FUTA exemption for "work-relief" and "work training" programs; a legislative change might not be necessary.

While State preferences concerning FICA (and FUTA) are clear, the same cannot be said for the EITC. Making the earned income credit available to workfare participants would generally increase their standard of living but might reduce the incentive to move into unsubsidized employment. Indeed, this was the rationale under the Administration's 1994 welfare bill for denying the EITC to persons in public jobs. There was, however, no time limit on subsidized employment in that legislation, whereas the 1996 welfare law sets a five-year time limit on assistance, and States are permitted to set shorter limits on assistance in general and on subsidized employment in particular. For example, a State could limit participation in subsidized jobs to 6 months at a time and 12 months in a lifetime. Availability of the EITC would allow a State to reduce benefits and still leave the family of a workfare participant better off than the family of a recipient who was not working. Enhanced Federal spending would seem to be the other major countervailing consideration.

Administration strategy re: tax treatment

The IRS may well determine that workfare activities that are virtually indistinguishable from standard paid employment (e.g., no training component, substantial benefits accruing to employer) are subject to all Federal tax laws, while workfare activities that are a blend of training and work might be exempt. *At the very least, it is advisable to wait for IRS to arrive at a position before announcing an Administration stance on the matter.* This is particularly true because it is unclear whether announcing a FICA exemption would generate much goodwill among Democratic governors. Emily Bromberg of Intergovernmental Affairs thought it would not (since the governors are primarily concerned about FLSA). A bipartisan letter from the NGA Executive Committee on the FLSA (and perhaps related) issues may be forthcoming. *In any event, the decision on tax laws should be the product of considered thought.* Mark Mazur suggested to Elena that a joint NEC/DPC process be initiated to resolve the workfare/tax question; she has not responded (to my knowledge).

cc: AL, MM, KW

The final aspect of provision two, allowing States to count more hours of job search, education or training toward the work requirement, is not as troubling as the rest of the proposal and might form the basis of a fallback position (Elena objected to any weakening of the work requirements, but no one else shared her view).

The 4:00 group was in agreement that the Republican approach as a whole was unacceptable and that the Administration should not, at this point, signal any willingness to negotiate--"people working should be treated as workers, and that means the minimum wage."

Offering a compromise on FLSA at this point would be especially premature, given that 1) some moderate House Republicans are apparently eager to avoid a minimum wage battle; 2) the extent of Senate Republican interest is unclear; and 3) an FLSA provision might well be subject to a Byrd rule challenge in the Senate on the grounds that it has no effect on mandatory spending.

Treatment under tax laws

According to IRS staff, under current tax law, if income is subject to income tax, it is also, generally speaking, subject to FICA and FUTA tax and qualifies as earned income for purposes of the EITC. The Internal Revenue Service is currently working on a revenue ruling which will consist of two realistic examples of work activities under TANF (based on information provided by HHS and DOL). Under one example the payments to the participant would be considered taxable income; under the other they would not. The examples should be ready for review internally within two weeks. Both examples may address workfare-type activity, since earnings from subsidized private and public sector employment should fairly clearly be considered taxable income.

There was also some discussion of the treatment of workfare under other laws, notably FICA, FUTA and EITC. Governors have expressed concern about the potential fiscal burden of FICA taxes. Both the employee and employer share of FICA could, however, be effectively deducted from the welfare benefit in many cases; there would still be the added administrative responsibility.

Elena Kagan had earlier proposed making a compromise offer to Democratic governors--FLSA would apply but FICA and EITC would not. Elena has repeatedly attempted to concede on the FICA issue, in part because she believes, mistakenly, that under the 1994 Administration welfare bill public jobs would not have been covered by FICA (see attached).

There is a fairly strong policy argument for applying FICA to workfare activities. Women who spend long periods out of the workforce and/or working off the books (e.g., as domestics) can have difficulty accumulating the 40 quarters of work needed to qualify for Social Security. Treating workfare participation as covered employment for purposes of Social Security could be quite advantageous in the long term to some recipients, even if it reduced their current income.

THIS SEARCH

Next Hit

Prev Hit

Hit List

THIS DOCUMENT

Forward

Back

Best Sections

Doc Contents

GO TO

New Search

HomePage

Help

H.R.1385

Employment, Training, and Literacy Enhancement Act of 1997 (Passed by the House)

`(2) **ADDITIONAL REQUIREMENT**- The Secretary shall make a final determination relating to an appeal made under paragraph (1) no later than 120 days after receiving such appeal.

`(c) **REMEDIES**- Remedies shall be limited--

`(1) to suspension or termination of payments under this Act;

`(2) to prohibition of placement of a participant with an employer that has violated any requirements under this Act;

`(3) where applicable, to reinstatement of an employee, payment of lost wages and benefits, and reestablishment of other relevant terms, conditions and privileges of employment; and

`(4) where appropriate, to other equitable relief'.

SEC. 125. IDENTIFICATION OF ADDITIONAL IMPOSED REQUIREMENTS.

Section 124 of the Job Training Partnership Act (29 U.S.C. 1534) is amended--

(1) by redesignating such section as section 146 of such Act; and

(2) by inserting such section after section 145 of such Act.

SEC. 126. AUTHORITY OF STATE LEGISLATURE.

Section 126 of the Job Training Partnership Act (29 U.S.C. 1536) is amended--

(1) by adding at the end `Any funds received by a State under title II or III of this Act shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under this Act.';

(2) by redesignating such section as section 147 of such Act; and

THE WHITE HOUSE

WASHINGTON

May 30, 1997

TO: GENE SPERLING

FROM: EMIL PARKER *EP*

SUBJECT: FLSA meeting

At the 4:00 FLSA meeting there was a strong consensus that the Administration should take a firm line regarding the application of the minimum wage to workfare participants (welfare recipients required to work in exchange for their grants). John Podesta was especially animated on the point; he was convinced that the governors' position was untenable and tantamount to reintroducing indentured servitude.

Republican proposal

Ron Haskins has circulated a draft of the minimum wage "fix" (see attached) to be included in Shaw's Human Resources reconciliation Chairman's mark next week. The proposal is actually more problematic than anticipated.

Part one would exempt workfare participants in the public and nonprofit sectors from not only the FLSA but also all other Federal laws, including the Occupational Safety and Health Act and antidiscrimination legislation. Denying OSH Act protection to workfare participants does not appear to be defensible from either a policy or a political standpoint. It is not clear if this provision would repeal the section of the welfare bill that explicitly applies a number of antidiscrimination laws to welfare work programs. To the extent it does, it will provoke the ire of an entirely different constituency.

Part two of the proposal purports to apply the minimum wage to workfare programs (although not the enforcement provisions of the FLSA). This minimum wage requirement is, however, wholly bogus. States would be allowed to count not only food stamps (which is allowable under current law; see attached USDA guidance) but also other noncash benefits, including Medicaid, child care and housing assistance. It is difficult to imagine many cases in which the combined total of all means-tested benefits (e.g., WIC or even Head Start could conceivably be included) divided by the number of hours of participation--20 per week--would not equal the minimum wage. This provision raises serious equity considerations. Private or public employers who offer health insurance are not permitted to count this toward the minimum wage and, generally speaking, child care and other benefits also cannot be included in compensation for purposes of the minimum wage. Apart from the policy concerns, the provision would also be an administrative ordeal for HHS, which would be forced to calculate the insurance value of Medicaid for families of various sizes (and possibly the value of on-site child care and other services as well).

Earlier OMB-provided data suggested that about one-third of the nation's poverty population lives in the 100 largest cities. Accordingly, these 100 largest cities could receive well over 50 percent of the total WTW funding (taking into account both formula and competitive dollars).

Control of funds at the local level. The legislation now states explicitly that the private industry councils (the JTPA local governing bodies), or their successors, would have control over the formula funds distributed to the service delivery areas. Under JTPA, local elected officials appoint the PIC members. The workforce development bill that recently passed the House (H.R. 1385) would, however, modify this structure. Under the new workforce bill, local elected officials would still appoint the workforce development board (son of PIC) members, but under criteria determined by the governor through a collaborative process that is only vaguely defined in the legislation. *Emily Bromberg of Intergovernmental Affairs spoke to a number of mayors, including Ed Rendell, who were apparently comfortable with PIC control of the WTW funds.* It was not clear, however, if those mayors were aware of the potential impact of the workforce development legislation on the PIC appointment process (and, by extension, on the nature of PICs).

The competitive funds would be controlled by the applicant, which could be either a private industry council or a political subdivision (as noted above, 75 percent of the competitive funds are reserved for grants to cities that are among the 100 with the largest poverty populations).

Job creation, performance bonuses and nondisplacement language. As promised by Ron Haskins, public sector job creation (through wage subsidies but not economic development efforts) has been added to the list of allowable uses. Also as promised by Haskins, the legislation includes no separate nondisplacement provisions (the quite modest displacement protections in the underlying welfare bill would apply to the new program). Finally, as expected, the legislation provides for no performance bonus, although Haskins indicated he would "entertain it" (but probably not support it) as an amendment.

NOTE ON NONDISPLACEMENT: The workforce development legislation reported by the Education and the Workforce Committee contains nondisplacement language considerably stronger than the provisions in the 1996 welfare law (see attached). For example, the workforce legislation includes protection against partial displacement (e.g., a reduction of hours or wages), bars activities that would impair existing collective bargaining agreements or service contracts, and allows parties to appeal adverse grievance process decisions to the Secretary of Labor. The welfare law includes no comparable protections.

FLSA

The FLSA provisions in the bill are along the lines of the draft proposal circulated last week (see attached memo). The Administration remains firmly opposed to this approach. The Subcommittee Democrats also appear united in opposition; the Labor Department is confident that the same will be true at the full Ways and Means Committee markup; no word from NGA as yet.

THIS SEARCH

Next Hit

Prev Hit

Hit List

THIS DOCUMENT

Forward

Back

Best Sections

Doc Contents

GO TO

New Search

HomePage

Help

H.R.1385

Employment, Training, and Literacy Enhancement Act of 1997 (Passed by the House)

SEC. 123. LABOR STANDARDS.

Section 143 of the Job Training Partnership Act (29 U.S.C. 1553) is amended to read as follows:

`SEC. 143. LABOR STANDARDS.

`(a) LIMITATIONS ON ACTIVITIES THAT IMPACT WAGES OF EMPLOYEES- No funds provided under this title shall be used to pay the wages of incumbent employees during their participation in economic development activities provided through the statewide system.

`(b) DISPLACEMENT-

`(1) PROHIBITION- A participant in an activity authorized under title II, III, or IV of this Act (referred to in this section as a `specified activity') shall not displace (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).

`(2) PROHIBITION ON IMPAIRMENT OF CONTRACTS- A specified activity shall not impair an existing contract for services or collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

`(c) OTHER PROHIBITIONS- A participant in a specified activity shall not be employed in a job--

`(1) when any other individual is on layoff from the same or any substantially equivalent job;

`(2) when the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the participant; or

`(3) which is created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals.

`(d) **HEALTH AND SAFETY**- Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in specified activities. To the extent that a State workers' compensation law applies, workers' compensation shall be provided to participants on the same basis as the compensation is provided to other individuals in the State in similar employment.

`(e) **EMPLOYMENT CONDITIONS**- Individuals in on-the-job training or individuals employed in activities under this Act, shall be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.

`(f) **OPPORTUNITY TO SUBMIT COMMENTS**- Interested parties shall be provided an opportunity to submit comments with respect to training programs proposed to be funded under this Act.'

SEC. 124. GRIEVANCE PROCEDURE.

Section 144 of the Job Training Partnership Act (29 U.S.C. 1554) is amended to read as follows:

`SEC. 144. GRIEVANCE PROCEDURE.

`(a) **IN GENERAL**- Each State receiving an allotment under this Act shall establish and maintain a procedure for grievances or complaints alleging violations of the requirements of this Act from participants and other interested or affected parties. Such procedure shall include an opportunity for a hearing and be completed within 60 days of filing the complaint.

`(b) **INVESTIGATION**-

`(1) **IN GENERAL**- The Secretary shall investigate an allegation of a violation described in subsection (a) if--

`(A) a decision relating to such violation has not been reached within 60 days after the date of the filing of the grievance or complaint and either party appeals to the Secretary; or

`(B) a decision relating to such violation has been reached within such 60 days and the party to which such decision is adverse appeals such decision to the Secretary.

THIS SEARCH

Next Hit

Prev Hit

Hit List

THIS DOCUMENT

Forward

Back

Best Sections

Doc Contents

GO TO

New Search

HomePage

Help

On the other hand, a good case can be made for a FUTA exemption; it is not clear that time in required activity should allow a participant to accrue unemployment benefits. Current law in fact includes a FUTA exemption for "work-relief" and "work training" programs; a legislative change might not be necessary.

While State preferences concerning FICA (and FUTA) are clear, the same cannot be said for the EITC. Making the earned income credit available to workfare participants would generally increase their standard of living but might reduce the incentive to move into unsubsidized employment. Indeed, this was the rationale under the Administration's 1994 welfare bill for denying the EITC to persons in public jobs. There was, however, no time limit on subsidized employment in that legislation, whereas the 1996 welfare law sets a five-year time limit on assistance, and States are permitted to set shorter limits on assistance in general and on subsidized employment in particular. For example, a State could limit participation in subsidized jobs to 6 months at a time and 12 months in a lifetime. Availability of the EITC would allow a State to reduce benefits and still leave the family of a workfare participant better off than the family of a recipient who was not working. Enhanced Federal spending would seem to be the other major countervailing consideration.

Administration strategy re: tax treatment

The IRS may well determine that workfare activities that are virtually indistinguishable from standard paid employment (e.g., no training component, substantial benefits accruing to employer) are subject to all Federal tax laws, while workfare activities that are a blend of training and work might be exempt. *At the very least, it is advisable to wait for IRS to arrive at a position before announcing an Administration stance on the matter.* This is particularly true because it is unclear whether announcing a FICA exemption would generate much goodwill among Democratic governors. Emily Bromberg of Intergovernmental Affairs thought it would not (since the governors are primarily concerned about FLSA). A bipartisan letter from the NGA Executive Committee on the FLSA (and perhaps related) issues may be forthcoming. *In any event, the decision on tax laws should be the product of considered thought.* Mark Mazur suggested to Elena that a joint NEC/DPC process be initiated to resolve the workfare/tax question; she has not responded (to my knowledge).

cc: AL, MM, KW

**NATIONAL RURAL LETTER CARRIERS' ASSOCIATION**

1630 Duke Street, 4th Floor

Alexandria, Virginia 22314-3465

Phone: (703) 684-5545

Executive Committee

SCOTTIE B. HICKS, *President*
LAWRENCE L. ADAMS, *Vice President*
CLIFFORD D. DAILING, *Secretary-Treasurer*
LEO J. ROOT, *Director of Labor Relations*

STEVEN L. TRAYLOR, *Chairman*
P.O. Box 374
Hillsboro, Illinois 62049-0374
(217) 532-9301

March 10, 1997

BRADY H. PORTH, JR.
1101 Brady Porth Road
Lexington, South Carolina 29072-7580
(803) 957-5414

GUS BAFFA
P.O. Box 10600
Brooksville, Florida 34603-0600
(352) 596-0630

BILL GORDON
7294 Lindsey Road
Flagstaff, Arizona 86004-1403
(520) 714-1322

Mr. Gene B. Sperling
Assistant to the President and
Director of the National Economic Council
2nd Floor, West Wing
The White House
1600 Pennsylvania Avenue, N. W.
Washington, D. C. 20500

Dear Gene:

I am requesting a five-minute meeting to share our concerns regarding the ramification of changing the Consumer Price Index (CPI).

Craig Smith and Doug Sosnik said Labor friends are now encouraged to bring concerns directly to the appropriate White House officials.

The National Rural Letter Carriers' Association represents 100,000 rural letter carriers, who daily drive 2.8 million miles, delivering the U. S. Mail to 100 million customers. We have never been affiliated with the AFL-CIO, so the Sweeney meeting with all of you did not incorporate our views, nor was any feedback shared.

We are affected more than any other union by the CPI.

1. We have a contractual COLA in our collective bargaining agreement tied to the CPI.
2. We have a reimbursement from the Postal Service for using our own vehicles to deliver the mail tied to the CPI.
3. Our retirees have CPI based COLA's under the CSRS, FERS, and Social Security.

We would like to share our views at your earliest convenience. Three of us will be attending the meeting:

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. letter	Ken Parmelee to Gene Sperling re: Rural letter carriers [Personally Identifiable Information] [partial] (1 page)	03/10/1997	b(6)

COLLECTION:

Clinton Presidential Records
National Economic Council
Gene Sperling
OA/Box Number: 24558

FOLDER TITLE:

Labor - GI Bill / Job Training / Minimum Wage [2]

2016-0531-F
jm1819

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

March 10, 1997

Page Two

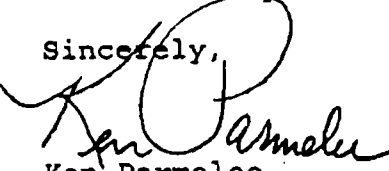
[001]

1. Scottie B. Hicks, President
2. Lawrence L. Adams, Vice President
3. Ken Parmelee, Vice President of
Governmental Affairs

(b)(6)

Thanking you and Melissa in advance for your consideration.

Sincerely,


Ken Parmelee
Vice President of
Governmental Affairs

KP:mlb

AFL-CIO

815 Sixteenth Street, N. W.

Washington, D. C. 20006



Telecopier Transmission

Date: 8-20-96

FAX To:

Gene Sperling

FAX Phone Number:

456-2878

_____From: Gene Shea

Department: _____

Comments:As promised

_____There is 2 page(s) following this cover sheet.

Please call the following number if you have any questions:

AFL-CIO
President's Office
202/637-5237

We can automatically receive transmissions 24 hours a day

Our FAX number is 202/508-6946



**AFL-CIO Comments on
Job Creation Initiative**

August 20, 1996

We commend the Administration for initiating an aggressive proposal to expand job opportunities for welfare recipients in the wake of welfare reform. We are deeply concerned that without such action welfare reform will push millions of welfare recipients into the labor market without increasing available job options.

The principle shortcoming of the proposal under consideration is that the funds allocated for these uses are insufficient, given the scale of the problems you are attempting to address. We urge you to consider a substantial expansion of funding.

Whatever level of funding you finally settle upon, we also urge:

* All available job creation funding should be devoted to the welfare-to-work challenge program. The expansion of the Work Opportunities Tax Credit, like the Targeted Jobs Tax Credit before it, would be a mistake. All available evidence suggests that this tax credit is essentially a giveaway for behavior that would have occurred without the credit. We believe this element of the proposal takes money away from more useful efforts.

* The funds available under this policy initiative should be clearly focused on job creation. We are particularly concerned that funds should not be allowed to go to private, for-profit placement agencies, reducing available job creation moneys. Moreover, training should be the responsibility of private employers and an essential element of employment contracts.

* The administration and development of programs should reside with Mayors, even if states are used to channel funds to lower levels of government, with funds targeted on the basis of unemployment rates and welfare populations.

* We urge you to establish a funding process that provides sufficient up-front funding to promote innovation. To balance the need for initial investments and the need for accountability, we would replace the proposed phased funding mechanism with alternative protections and accountability mechanisms as discussed below.

* It is imperative that this program include significant displacement protections for current workers and existing job slots if it is to meet its intended goal. Similarly, it should make substantial demands on employers to create genuine

employment opportunities. It should be a condition of grant reciprocity that employers are required to retain new hires for at least a minimum duration and to pay minimum wage or more. Workers in these projects should be covered by FLSA, Davis-Bacon, OSHA and other relevant labor protections.

* Grant contracts should impose additional means of enforcing contract conditions. Employers who fail to live up to contractual obligations under the program should be subject to "clawback" conditions, eg, repayment of public funds. This is a more direct way to achieve some of the goals of pay-for-performance. There is substantial state activity around this policy area from which to draw legislative language.

These comments represent our initial reactions to the broad outline that we have seen. We look forward to future dialogue about moving forward on job creation strategies.

job.mem

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

12-Dec-1996 10:22am

TO: Gene B. Sperling

FROM: Paul R. Dimond
 National Economic Council

CC: Kenneth S. Apfel
CC: Barry White

SUBJECT: "Incumbent Worker" Training Proposal

Gene,

However styled -- a categorical program or a maximum setaside in a block grant to the governors -- this is a bad idea. It appeared out of nowhere in the Senate version of the Workforce Development Bill -- permission to Governors to use up to 50% of the "Flex" portion of the block grant for incumbent worker training. [The House Careers Bill had no such provision.] Kassebaum thought Senator Kennedy was the source of this, and Kennedy thought the governors had demanded that Kassebaum include this. After inquiry, it appears that this provision came from some very old DoL ideas from a bygone era, when some thought it made sense to invest in incumbent worker training as a way to make "failing firms" competitive -- which, of course, is a lose-lose proposition.

Following the inquiry, Senator Kennedy said the provision was no idea of his (and he thought it was subject to great abuse and should be eliminated entirely). Kassebaum agreed with this position. Governor Voinovich personally told me it was a terrible idea because all it did was put pressure on governors to put scarce funds into "worker training" in "failing firms" that wanted a "bailout political favor" from the governors. And DoL fought like crazy to get the provision out of the senate version entirely. It was eliminated entirely.

This is an uneconomic, bad idea all around: stick to the real incentives for incumbent working training -- firm self-interest, complete deductibility of all training expenses (although some public firms wish these expenses were instead given less favorable tax treatment and capitalized rather than expensed so that their annual profits look bigger), and expand Section 127 expensing. You know the drill on this: don't let DoL reopen a can of worms (that I suspect they tried last year behind the scenes and then pulled back from when they realized what a bad idea it was). Join Ken in Killing this bad, old idea immediately in the budget process before DoL shoots itself (or our leader) in the foot again.

Last spring, I did propose considering an alternative for firm-training: permitting the flexible state-designed training voucher to be cashed in by "growing firms" who hire dislocated or otherwise unemployed workers

(including welfare mothers), subject to the same gatekeeping requirements as qualifying non-degree training programs at education and training providers i.e., an earnings test from U.I. records for the year following the training whether at the hiring firm or the training provider. Please note, however, that even this proposal merely builds on what you always knew was and is the fundamentally conflict in any of the congressional bills with the President's basic vision for the G.I. Bill -- this proposal is merely another aspect of a vague and variable state-designed voucher approach (with lots of exceptions to permit state-contracted training) AND the likelihood that Congress would limit even this very watered down version to only dislocated workers. The G.I. Bill in congressional authorizing committees was last year and will again this year be so ground down that the President's commitment to clear, federally defined, and assured vouchers for post-secondary education and training won't be implemented.

So do whatever you can on the mandatory side: that's where the Presidential legacy -- and the real dollars and on-going federal commitment are -- for federal vouchers for post-secondary education and training for all Americans (including "unemployed and underemployed" and "dislocated and disadvantaged workers") is going to have to be won.

Paul



Center for Community Change

December 21, 1996

MEMORANDUM FOR: Gene Sperling, Paul Dimond
National Economic Council

FROM: Jerry Jones, Deepak Bhargava

SUBJECT: Design issues related to the Welfare-to-Work
Jobs Challenge

We appreciated the opportunity to meet with you about the President's Welfare-to-Work Jobs Challenge. Based on our follow-up discussion with Paul Dimond, this memorandum responds to some of the program design issues we understand to be now under consideration at the NEC.

Targeting

As we discussed last week, there are significant disadvantages to "overpromising" the expected results of the Welfare-to-Work Jobs Challenge. A national solution to the jobs shortage facing welfare recipients is probably not to be found in the current proposal under its anticipated budget. As we stressed earlier, therefore, to identify this proposal as a national response would diminish the chances for additional measures in future years. Nonetheless, the current proposal does have certain merits, which could be best applied in a limited number of communities targeted by income and high welfare caseloads.

The exact criteria by which these communities would be deemed eligible under a competitive grant process are less important than the general notion that the Welfare-to-Work Jobs Challenge is a limited and concentrated effort, similar to Empowerment Zones in this regard. If tax credits are to remain a central component, such targeting could not be so stringent as to select only neighborhoods of intense poverty and no nearby private sector employers. Balanced with this reality, the program should target the nation's lowest-income communities to the greatest extent possible.

In addition to geographical targeting, we believe individual targeting incentives still remain critical. Subsidies should be focused on long-term welfare recipients for whom the possibility of work is remote without added assistance. Hiring incentives should be provided on a *sliding scale* to those who are indeed

employable but face greater disadvantages with respect to other long-term recipients.

Nonprofit Set-Aside

The success of President Clinton's Welfare-to-Work Jobs Challenge will depend in large measure on the nonprofit role in local implementation. We would advocate that a *minimum of 30 percent* of the direct spending portion of the program be designated to nonprofit employment agencies and other community-based organizations engaged in employment services. The performance of organizations like the Center for Employment Training and Women's Self-Employment Fund demonstrates that such nonprofits lead the job linkage field in most communities. These successful models should be given the opportunity to expand under the new initiative.

There is already precedent for nonprofit set-asides within federal programs targeted to disadvantaged areas, partly based on the rationale that these same communities have been abandoned by most public and for-profit entities. For example, the HOME Investment Partnerships program administered by HUD requires that at least 15 percent of each jurisdiction's funding be utilized by nonprofit housing development organizations. The HOME set-aside was the product of the Rouse-Maxwell National Housing Task Force, a Congressionally sponsored panel of urban experts during 1990 whose ideas can still be traced to most of the public-private partnerships at HUD today.

The creation of a nonprofit set-aside is also essential to balance the program's tax credit subsidies to businesses with the need for a low-income focus for individuals. At a minimum, a comparable share of the resources being awarded to private companies should also be provided to the nonprofits who have created and administered programs that place welfare recipients into jobs.

Syndication of Tax Credits

While syndication was not on our original list of program design issues, we understand that it is under consideration by the Administration. It does not offer solutions to the problems inherent in the tax credit model, but arguably could broaden the political constituency for the President's proposal. If syndication of tax credits is provided for, there should definitely be a statutory cap on related fees -- perhaps to no more than five percent -- to prevent excessive leakage of the subsidies to third parties.

Jerry Jones will be available to discuss these issues further on January 2nd; Deepak Bhargava will return to the office on January 6th. We appreciate your consideration of our views.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

August 10, 1995

MEMORANDUM FOR THE PRESIDENT

FROM:

Alice M. Rivlin
Director

SUBJECT:

Strategy on Reductions in Force (RIFs)

No matter how the budget battle comes out, there will need to be reductions in force (RIFs). We need to decide now what to say and do to prepare.

Why RIFs Will be Necessary

Though final funding levels will not be known for some time, the Congress' overall discretionary spending limit is cut so substantially, and the reallocation toward defense is so severe, that it is a near certainty that there will be a substantial reduction in total nondefense funding -- and hence in the appropriate size of the Federal work force. For example, in the House bills, many salaries and expenses accounts are reduced significantly below FY 1995 -- such as EPA Operations (20 percent), Commerce General Administration (20 percent), and Energy (nine percent). Even if we achieve restoration of funding for key investment programs such as Goals 2000 and National Service, we are still likely to face substantial salaries and expenses reductions in many agencies, though we do not yet know precisely how many RIFs will be needed and from what agencies or geographic regions they will come. All of this is in addition to the personnel cuts in keeping with the recommendations of the National Performance Review, which are on track to hit the statutory target of a reduction of 272,000 full-time equivalent employees (FTE).

What the Law Requires on RIFs

Agencies generally can impose RIFs only with sixty days' notice. (Note that we are already less than sixty days from the start of the next fiscal year.) In some cases, collective bargaining agreements specify even more notice, including in some instances consultation and bargaining before notice is given. In "circumstances not readily foreseen," RIFs can be ordered in thirty days, though resort to such extraordinary authority invariably increases hostility and litigation. RIFs require severance pay and involve other costs.

Management Arguments

To minimize costs, we need to act as soon as possible. Otherwise, those agencies that would encounter large cuts could be forced, for a significant part of the next fiscal year, to spend more than the monthly rates that their appropriations will justify, while they wait to reach the required notice period. Then, they would be forced to cut expenses below the average monthly

rate to compensate. This would require even more RIFs, additional reductions of program activities, or both -- and would appear to be the result of actions of the Administration more than of the Congress. (For example, if an agency facing a ten percent cut spent at the prior-year level for the first two months of the year, it would need to cut its spending rate by twelve percent for the remaining ten months to hit its target for the year.)

RIF notices do entail morale costs. However, uncertainty carries its own costs in morale and productivity. Thus, on balance, it may be no worse to provide early notice.

At a Cabinet meeting on August 9, the department heads expressed a desire for guidance from the White House. They expressed concern that their relatively low-paid employees need information promptly so that they can make appropriate plans for themselves and their families. Some agency heads have explicitly asked for permission to send early notices to avoid even more severe cuts and RIFs in the last months of the next fiscal year.

Federal employee union leaders have also asked for early guidance. They want the opportunity to work with management in the partnerships envisioned in the Vice President's National Performance Review. Past experience suggests that early consultation and cooperation can minimize the difficulties in an unavoidably difficult situation.

Therefore, the NEC believes that we must prepare now for the eventuality of sharply reduced appropriations. In particular, as distasteful as it may be, we must begin the process of *notification* for potential RIFs. (The decisions to *implement* actual RIFs can be made after a continuing resolution is enacted in October.)

Options

We see three possible courses of action from which you can choose.

1. Issue Numerical Guidance at the Worst-Case Level

Direct the agencies to prepare for the lower of House or Senate appropriations levels (where both are available; for the House level, where the Senate has not yet acted), and to send contingent RIF notices accordingly (but not yet begin actual RIFs). Allow limited discretion for agency heads with unusual circumstances, subject to consultation. This option would result in more RIF notices than would ultimately be needed. Your directive would make clear that you would veto many of these appropriations levels if they were passed by the Congress, and that you would continue to fight for your budget. It would be justified by the prudent management practice of planning for the worst case.

Pros:

- This option would send a clear and consistent signal to all agencies.

- Because the guidance would reference appropriations levels that you have said you would veto, it would be harder to interpret this option as a capitulation by the White House (some would disagree; see below).
- Because it is based on a worst-case, lower-bound estimate, this option would provide most, if not all, agencies with more than enough flexibility to achieve sufficient cuts for their ultimate appropriations.

Cons:

- This option would allow the press to sum the directives to all of the agencies and calculate a total level of appropriations supposedly blessed by the White House, and might be interpreted by some as acceptance of the House level, and hence as a surrender by the Administration.
- On the other hand, because it would plan for the worst possible case, this option might be criticized as a scare tactic or a bluff. Furthermore, it would alarm even more employees than ultimately would be RIFed, and productivity might suffer.
- This option would draw any criticism that might eventuate directly to the White House, rather than to the individual agencies.

Other consideration:

- For good or ill, this option would put you in the leading, active role in the preparation for the implementation of this year's budget outcome.

2. *Issue Numerical Guidance at a More Moderate Level*

Direct the agencies to prepare for a more moderate level -- perhaps the average of House appropriations levels and the levels in your budget -- and to send contingent RIF notices accordingly (but not yet begin actual RIFs). Allow limited discretion for agency heads with unusual circumstances, subject to consultation. This option would result in fewer RIF notices than would ultimately be needed -- unless we achieve our long-standing objective of increasing the overall discretionary allocation. We would state that you would continue to fight for your budget, but that prudent management required planning for lower outcomes.

Pros:

- Though the guidance levels might be on the high side, they would be in the likely ballpark for negotiations with the Congress, and would be close enough for reasonably accurate management by the agencies.

- This option would send a consistent signal to all agencies.
- This option might not so easily be interpreted as total surrender by the Administration, because it would submit levels above those passed by the House (but see below).

Cons:

- This option, more than option one, would allow the press to sum the directives to all of the agencies and to interpret the action as an Administration surrender -- an offer to the Congress to "split the difference."
- This option would draw any criticism that might eventuate directly to the White House, rather than to the individual agencies.
- Unless the Congress increases its discretionary spending total later in the process, this option would provide at least some agencies with planning levels above their ultimate appropriations, and thus would require still greater cuts in staff and operations at a later date.

3. *Issue General Guidance and Rely on Agency Discretion*

Begin face-to-face consultations between agency heads and OMB or other White House representatives. Convey general guidance regarding likely ultimate appropriations, but leave action to the discretion of the agency heads.

Pros:

- This option would give the press no opportunity to sum the directives to all of the agencies and calculate a total level of appropriations supposedly blessed by the White House as part of a surrender by the Administration.
- This option would leave responsibility and hence some of the criticism that might eventuate to the individual agencies, rather than at the White House (but see below).
- This option would encourage the cooperation between managers and employees that was envisioned in the National Performance Review.
- If handled well by the agency heads, this option accommodates the differing circumstances of different agencies with no process bottleneck.

Cons:

- This option would almost certainly result in different messages being absorbed by different agencies.
- Experience from prior Administrations suggests that at least some agency heads would not act. Hence, their agencies would ultimately require greater cuts in staff and operations than would be necessary with prompt action. Some other agencies might overreact, and create some unnecessary anxiety in their work forces.
- Although the responsibility for action would be given to the agency heads, the perception of responsibility for any management failures inevitably would fall on the White House.

Other consideration:

- For good or ill, this option would put the agency heads out front, and leave you more in the background of the preparation for the implementation of the budget outcome.

Conclusion

Whatever precise option you choose, any Administration notice on RIFs will be major news and will affect the lives of many Federal employees and their families and communities. It is essential that we deliver accurate information to the public, in spite of the inevitable errors in the press and in word-of-mouth communication at the employee level. A special working group involving the White House, OMB, OPM, and the agencies should be convened to prepare for this effort.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

June 25, 1996

MEMORANDUM FOR THE PRESIDENT

From: Jack Lew and Laura D'Andrea Tyson *LDT*

Subject: Status of the Workforce Development Legislation -- Your G.I. Bill

It is increasingly unlikely that workforce development legislation incorporating your G.I. Bill principles will emerge from Congress in signable form, if at all, this year. The emerging legislation does not meet your stated principles or the principles articulated by key Congressional Democrats.

The G.I. Bill for America's Workers

Eighteen months ago, you proposed a radical restructure of federal job training. Central principles of your proposal are:

- **Empower individuals** with "Skill Grants" for adult training, and with the performance and labor market information needed to make wise training choices.
- **Streamline Adult training services through "One Stop Career Centers,"** building on the One Stop system reforms launched by the Clinton Administration.
- **Expand School-to-Work Opportunities for youth** by completing this Clinton Administration reform that gives every State five years of grants (27 already have them) to build systems that help all youth move more smoothly from school to careers.
- **Consolidate 79 programs into an integrated, simplified system.**
- **Devolve significant responsibility to Governors,** while preserving a strong role for State and local education officials and local, private-sector led, workforce boards.
- **Improve accountability** by focusing on results, not process, and rewarding exceptional performance.
- **Reforming vocational education and adult education** to integrate them into this new system.

Action in the House and Senate

Both the House and the Senate embraced workforce training reform, albeit in very different forms; we had been working with Senator Kennedy on the ideas during 1994. In the Senate, Senators Kennedy and Kassebaum lead the effort; in the House, Representatives Goodling, McKeon, Williams, and Clay.

In the House, the Democratic and Republican committee leadership forged a working relationship. Over objections from certain conservative groups, the committee produced a bill incorporating many G.I. Bill principles, including your market-based Skill Grant concept. While by no means fully satisfying to us, the Administration offered qualified support and worked with Democrats to ensure House passage to get the bill to conference, so that improvements could be made. On September 19, 1995, the bill passed by a vote of 345-79.

In the Senate, we found less support for Skill Grants on either side, and strong Republican pressure to curtail the federal role. This bill was also not satisfactory, as we made clear in Statements of Administration Position. Again, the Administration encouraged our Democratic allies to support the bill through committee and floor passage, so that a better bill could be sought in Conference. On October 11, 1995, the bill passed 95-2.

Effect of the FY 1996 appropriations battle

During the protracted FY 1996 struggle, education and training interest groups helped us win the appropriations battle, supporting many categorical programs which would have been consolidated under our original proposal. As a result, we find it more difficult this year to support consolidation that fails to protect key programs they fought with us to protect -- such as Summer Jobs for youth, dislocated worker assistance, vocational education, and adult education.

The Conference to date

Conference began in October 1995, and immediately stalled. House and Senate Republicans were divided and unable to overcome philosophical and policy differences. Certain conservative groups, such as Phyllis Schlafly's Eagle Forum, have exerted extraordinary pressure on House Republicans to defeat the bill. According to Representative Goodling, "over 60 changes" were made to satisfy them, including repeal of School-to-Work.

Forsaking the traditional bipartisan approach to education and job training, Republicans excluded Congressional Democrats and the Administration from the discussions. Recently, Democratic staff have been allowed some information and influence on lesser issues, but no real voice in decisions. Senator Kennedy and Representative Clay have complained openly about the conduct of this conference, to no avail.

The emerging conference bill would meet a few of your principles: consolidating programs; partly adopting a one-stop center concept; devolving (albeit excessively) control to Governors; and improving vocational education and adult education.

Much more importantly, the Republican conference agreement would fail to incorporate key G.I. Bill features.

- It would include only Skill Grant “pilots” of indeterminate size in each State, limited to dislocated workers -- even though House Republicans had accepted in the House-passed bill a Skill Grant formulation virtually identical to ours.
- It fails to provide adequate funding overall, by authorizing only “such sums,” giving no guidance to appropriators, and it does not require States to finance your priorities at or near your request levels, such as, dislocated worker assistance, Summer Jobs, and vocational and adult education. Without assurances of adequate funding, and without acceptance of Skill Grants, this consolidation would be more of a “block and cut” than a reform and strong commitment to empower individuals.
- It repeals the School-to-Work Opportunities Act.

In addition, the conference agreement diminishes, rather than enhances, local control, by requiring local officials to negotiate with Governors to establish their role and responsibilities. It also provides inadequate accountability for results, preventing the Federal government from assuring minimum quality standards, allowing each State to define performance factors and success differently (and without meeting challenging standards), and excluding many training providers from the requirement to provide consumer reports on performance.

Our efforts to influence the conference outcome

After consultation with Senator Kennedy, Representative Clay, and others, Secretaries Riley and Reich, and Directors Rivlin and Tyson met with Democratic and Republican members to convey your strong desire that the conference bill includes your GI Bill principles.

In a May 20th letter to the conference leadership (attachment #1), you spelled out your requirements for an acceptable bill. In early June, the Chief of Staff met with Senator Kassebaum, Representative Goodling, and others to reinforce your message. In a final effort to determine if Republicans want to negotiate with the Democrats, we extended a good faith compromise offer which preserves your principles but offers some movement (attachment #2). Unfortunately, Republicans have not responded to our offer.

Prospects for a bill

Senator Kassebaum apparently sees little hope for a bill; she blames the Administration for its failure.

Senator Kennedy is on the record as staunchly opposed to the current conference bill passing the Senate. The Education and Labor Departments are working on ensuring Democratic Senate support for stopping a bad bill from passing. At this point, few of the interest groups -- the education community, organized labor, and local officials -- want the bill that is likely to come out of conference.

It is remotely possible that a good bill can be salvaged. Our compromise offer still is on the table, but we are pessimistic that constructive negotiations will result.

In the meantime, White House staff and the agencies are working to make sure that the Administration's reform proposal -- and the Republican anti-reform position -- are represented accurately in the media.

If this legislative process does fail, it is critical that we make clear that the Republicans rejected our individual-oriented, non-bureaucratic Skill Grant reform. We must also use the occasion to make the strong case for why our G.I. Bill of Rights for America's Workers is a must for the future.

November 7, 1996

MEMORANDUM FOR GENE SPERLING
BRUCE REED

FROM: PAUL DIMOND *PD*

SUBJECT: G.I. BILL AND FY98 BUDGET STRATEGY

Introduction. The major strategic judgment is to decide how much (and what portion) of the President's education and employment agenda you want to slam into a major balanced budget reconciliation and how much you want to leave to the authorization and appropriation process. This will require careful attention to priorities and tactical considerations. This memo lays out a range of options that I hope stimulates your more insightful and experienced planning on the politics and the budget.

I also believe these options should be considered against a cross-cut look at a mini-max strategy based on maximum and minimum cooperation from a somewhat cooperative to totally hostile Congress and the maximum use of the President's bully pulpit to persuade the American public that they do have the tools to make the historic crossing from the stagnation in the waning of the old industrial economy to a more rewarding future in the flowering of the new economy in a new century. *The main message and goal of all this should be to put good information and increased purchasing power in the hands of individuals and families so they can learn the skills they choose to make that crossing.*

Finally, I believe that Secretary Rubin could be a major player in pushing this successfully through a balanced budget reconciliation, particularly if he were joined by a prominent Republican (as Secretary of Education or Labor) like former Governor McKernan who is well-connected with Congress, business and the Governors. Any such strategy will require cooperation from Treasury in assuring that compliance and administration burdens are born by competent institutions other than IRS.

G.I. Bill for America's Workers. *The maximum that can be placed in a reconciliation bill:*

- Skill Grant Refundable Tax Credits (administered through U.I. system with advance payment upon proof that have search for new or better job for 8 weeks without success, and could be part of U.I. reform with mandatory Skill Grants) for unemployed workers;
- similar Skill Grants for "underemployed" workers (I would be tempted to merge this with Pell Grants, which already finances more education and training for "under-

- employed, low-income" persons than all of JPTA put together)
- job search credits (say \$250 refundable credit through U.I. system) for unemployed workers.

You could also omit one or both of the last two, and rely on authorizing and appropriation process (e.g., a Higher ed reauthorization bill that adds a new title to Pell Grants). For scoring purposes, individual Skill Grants would only cost the incremental beyond whatever Hope Scholarship, Education Tax Deduction, and Pell Grant would otherwise cost for individual for one year). [Whatever else we do, we should separate the adult from the youth portions of G.I. Bill. The youth portions of the G.I. Bill will have to go through the discretionary authorization and appropriation process, although the youth portions could build on a variation of skill grants and School-to-Work by incenting states and localities to allow state-local school funds to follow youths over the mandatory school-age (to their own choice of "school" until they earn a high school diploma and learn a marketable skill).

If you-submit all of the adult portion of last year's G.I. Bill to the authorizing and appropriation process, we will end at most a block grant to the states, to be administered through One-Stop Reemployment Centers (a euphemism for letting the governors fight it out with the Employment Service) and a requirement that States use individual skill grants that they design for any training and education for dislocated (and disadvantaged) workers. This is not awful, but it does dilute the message, the tools, and the signature of the President. [Whatever the decision here, we do need to pay attention to requiring all providers to make better information on their programs and results available to all consumers.]

Student Financial Aid. There are three parts to this you need to think about: student loans, Pell Grants, and the mandatory tax cuts (or grants).

- *Student loans* are already on the mandatory side of the budget. But we need to rethink our strategy on direct lending vs. the guarantee loan program: the competition from Direct Lending plus improvements in terms, performance, and lowering the subsidy costs and waste of the GSLs, privatizing Sallie Mae, and enabling GSLs to offer income-contingent loans may well make the Guaranteed Student Loan Program more efficient, convenient and effective over time than Direct Lending. We, therefore, need to consider how to *declare and get credit for a well-deserved victory here* rather than manning the ramparts to defend Direct Lending per se and set ourselves up for defeat. (One possibility is to call both GSLs and Direct Loans "HOPE Loans" (i.e., Higher Opportunity Education Loans) to complement the President's Hope Scholarships. In any event, our emphasis should be on delivering the most effective purchasing power to borrowers based on a few key principles: better information and gatekeeping for providers, more affordable and convenient access for borrowers to use at the school of their choice, 25-year terms and Pay-As-You-Earn and other repayment plans for borrowers, more effective collection, etc. (We could press such HOPE loans either (a) through continuing the competition between direct loans and GSLs and touting the competition as great no matter who "wins" or (b) by developing an integrated loan program borrowing the best features of Direct Lending and GSLs.)

- *Pell Grants* could also be included in a budget reconciliation, either as a mandatory individual spending program or as a part of a refundable credit (administered by student financial aid system rather than IRS in either case). If you want to consider an increase in the dollar amount of this individual grant (e.g., to put the purchasing power back to where it was 25 years ago), I don't see how this can be done on the discretionary side of the budget through appropriations. If you do choose to go to the mandatory side and increase the amount of this individual grant, I recommend careful consideration of changing the terms of Pell Grants so that they bear more of the President's mark (e.g., increasing amount to pay for the cost for first two years of public-4 year college, with students required to rely more on student loans for last two years and for graduate school). This would support POTUS idea of making first two years of college universal. You also need to be prepared -- and to take credit -- for -- a legislative compromise that leads to an increase in Pell Grants (and Skill Grants) in exchange removing refundability feature of Hope Scholarship: this will be much easier to consider doing if Pell Grants and Skill Grants are a part of the budget reconciliation.
- *Hope Scholarships and Education Tax Deduction* obviously are integral components of a balanced budget reconciliation. My two suggestions: (a) consider increasing the amount of the Hope Scholarship so that it pays median cost of first ^{two} ~~four~~ years of 4-year public college (that would be more popular and put more real purchasing power in hands of individuals and families than tailoring to community colleges) and (b) consider administering the refundable portion of Hope Scholarships through student financial aid (and U.I. systems) so that this purchasing power (along with Skill Grants, Pell Grants, and student loans) is effectively in the hands of the consumer up front.

Better information and gatekeeping on results of providers would increase (a) popular political support and (b) the on-going accountability and constant improvement through competition of such a market system. Some short-term fig leaf to cover us on increases in tuition costs resulting from increased purchasing power might also build political support now, but this is less critical for support and long-run effectiveness than making sure that administration and compliance in this new system of federal support for financing post-secondary education and training is not loaded onto an already beleaguered IRS.

February 2, 1996

MEMORANDUM FOR THE PRESIDENT

FROM: CAROL H. RASCO
LAURA TYSON

SUBJECT: STATUS OF G.I. BILL FOR AMERICA'S WORKERS AND
THE ROLE OF THE GOVERNORS

The purpose of this memorandum is to inform you of the position of the Governors to key provisions of your G.I. Bill for America's Workers -- Skill Grants, One-Stop Career Centers, School-to-Work and Funding Levels. Republican Governors are now working actively against your position in Conference, often with the tacit silence or explicit support of most Democratic Governors.

As one would expect, the Governors (including most Democratic Governors) oppose our Skill Grant proposal. The idea was to shift the debate away from the Republicans "block and cut" approach to training by creating an alternative that called for consolidation in order to empower the individual as opposed to simply just moving training from federal bureaucracies to state bureaucracies. Your GI Bill of Rights for American Workers puts the money in the hand of the individual; resulting in a more market driven system with one stop shopping and better information for each person.

Our proposal asks states to put in place a market driven system with one-stop career centers, ensuring that individuals get the training they need. Therefore, it is of little surprise that most Governors have expressed a desire for an approach that gives them more discretion. Nonetheless, we feel confident that our approach is popular with the American people and is one in which we should remain committed.

We have had some - though limited - success with the Republican Congress. In the House, the Republicans have sought deep cuts in training -- up to 30%. However, they have been supportive of mandating vouchers for Adult Training, Local Workforce Boards and One-Stop Career Centers. While we strongly disagree with their cuts, we have seen real progress in the House in accepting your skill grant/voucher structure. In the Senate, we have done less well. They have stayed with mostly a pure "block and cut" approach. The Senate bill "authorizes" States to have a skill grant approach. But, it does not require skill grants. Furthermore, it does not require any spending on training at all. States have almost complete discretion.

Also of note is training for younger people. The Senate Republicans have resisted entreaties by the Governors to run School-to-Work education funding through the States. It appears unlikely that the Governors will be your allies on any of the key issues that now

divide the Conferees. Therefore, your discussion with the Governors on these issues does not offer much common ground.

Following is a more detailed summary of the Administration position, the position the Governors have taken, and the status of these key provisions in the House and Senate Bills.

1. Skill Grants for Adults

- The heart of your proposal is to consolidate the resources from dozens of adult training programs and put a **Skill Grant worth up to \$2600** in the hands of the individual. This would empower dislocated and disadvantaged workers who are unable to find new and better jobs through job search to spend this voucher, for example, at a community college learning whatever skills they choose to get ahead.
- The Governors **oppose** individual Skill Grants. The Governors contend that they should be empowered to design whatever workforce system they believe best serves the needs of each state.
- **House Bill:** Requires that States design and implement a system to provide vouchers to dislocated workers and disadvantaged persons who can't find new or better jobs with job-search assistance. Accepts your basic position that resources should be placed directly in the hands of individual so that they can make their own choices.
- **Senate Bill:** Gives only lip service to your basic proposal for Skill Grants. Authorizes but does not require states to design and to implement a system of training vouchers. Any training, whether through vouchers or otherwise, is completely optional. The Secretaries are authorized to offer an incentive reward to states that establish a voucher system for training adults.

2. One-Stop Career Centers.

- Your G.I. Bill proposed to consolidate adult job search and reemployment programs so that states working in partnership with the mayors and the private sector in each local labor market area would design and implement responsive One-Stop Career Centers to provide (a) good information and counseling to individuals on jobs, skills, careers, and education and training providers and (b) effective job search to match individual job-seekers with employer hiring demands.
- The Governors have not actively opposed most of these provisions. The Governors, however, do oppose any required participation by the private sector, unions, and the mayors in design and implementation. The Governors have refused to accept your position that such market-driven reforms provide the means to empower individuals to make their own informed choices about how best to get ahead.
- **House Bill:** Includes strong one-stop career centers, supported by local public-private work-force boards. Embraces your position that such provide the basis for a constantly improving market-responsive system of education, training, and job search based on vouchers and informed choice of individuals.
- **Senate Bill:** Requires states to design one-stop careers centers to provide information, counseling and job search. Does not require local workforce board. Does not provide any requirement for training -- through vouchers or otherwise -- for dislocated or disadvantaged workers who can not find new or better jobs with their current skills.

3. School-to-Work for Youth.

- You proposed that many vocational education and other youth programs be restructured to support your basic School-to-Work principles, with funds flowing through the SEAs and LEAs to fund additional support for your proposed reform of secondary schools and the pathways to careers and college.
- The Governors have generally supported your School-to-Work framework for youth, but they want federal education and training funds for youth to flow through the Governors rather than through the schools.
- **House Bill:** Adopts the principles of School-to-Work (without using the name) but makes no provision for continuation of the School-to-Work seed capital grants. Job Corps remains as a totally separate program, but Summer Jobs is folded into the youth block grant as a permissible (but not required) activity.
- **Senate Bill:** Adopts School-to-Work principles (and name) for consolidated youth block grant. Requires states which have School-to-Work seed capital grants to continue the activities and transformation promised in their approved School-to-Work plan in implementing the youth portion of their workforce plan. Separate funding streams are provided for at-risk youth (to be based on School-to-Work principles) and for Job Corps.

4. Funding

- You proposed major increases in funding for Skill Grants, One-Stop Career Centers, youth programs built around School-to-Work, consistent with your commitment to greater federal investment in expanding educational opportunity for all Americans.
- The Governors -- particularly the Democrats -- initially expressed strong opposition to cuts in authorized levels of funding. The Governors, however, have long been and are now much more vocal in seeking flexibility in using federal education and training funds as they see fit, including for "economic development activities" proposed in the Senate bill that have virtually nothing to do with education or training.
- **House Bill:** Cuts the authorized levels 30% below current appropriation levels and sends all funds through the Governor. Provides Governors with discretion to "flex" (i.e., transfer) 10% of funds between the youth-education block grant and the adult-training block grant.
- **Senate Bill:** Cuts the authorized levels 20% below current appropriation levels but requires that youth education funds go through SEAs and LEAS. Also permits governors a 50% "flex" between the youth-education and adult-training block grants, with governors authorized to use half of this "flex" -- at total of 25% of all federal youth and adult workforce funds -- available to prop up failing firms with "economic development " retraining grants.

Attachment: Administration Letter from Secretaries Riley and Reich to Conferees

September 26, 1996

MEMORANDUM FOR LAURA TYSON
GENE SPERLING

FROM: PAUL DIMOND *PD*

SUBJECT: G.I. BILL FOR AMERICA'S WORKERS -- next steps?

CC: BRUCE REED

Assuming that the Conference Bill rejecting the President's Skill Grant proposal craters as Congress races to adjourn, we need to consider the next steps to keep the President's basic message and principle alive -- during the campaign and for enactment if he is re-elected. Consider the following suggestion:

1. POTUS declare (a) victory for appropriations support for School-to-Work and (b) outrage at Republicans in authorizing committees for caving into to extreme right-wing opposition.
2. POTUS express dismay that Congressional Republicans could not agree on providing Skill Grants to hard-work American workers who are dislocated and want to learn new skills to find new and better jobs in this dynamic economy. Like Portable pensions and health care for America's workers, expanding the opportunity to learn new skills is vital to enabling every worker to know that they can make it in this new economy: this will insure sure that America's workers have the tools they need to make their own choices about how to get ahead. *For that reason, POTUS proposes that a refundable tax credit of \$2600 be made available to every dislocated worker.* [The pay-for this can be cut in DoL budget. I recommend that we not include "underemployed" workers in this Skill Grant tax cut now, for two reasons. First, both Treasury and OMB will be unwilling at this time to do so for a variety of insufficient reasons that can be dealt with later in context of budget proposal. Second, I believe that Skill Grants for the "underemployed" should be integrated into a new proposal for Pell Grants as a part of Budget Reconciliation: a complement to Hope Scholarships and Dislocated Worker Skill Grants as a refundable tax cut (or other mandatory investment). Pell Grants already provide a far larger number of "underemployed" workers with the equivalent of Skill Grants than DoL appropriations for "job training.")
3. POTUS issue executive order on existing DoL Skill Grant national demos/base closure, School-to-Work, and America's Job Bank (and maybe a couple of related items. Tim Barnicle is working on a proposed draft.)

I recommend that Gene be authorized to run this process immediately with OMB, Treasury, DoI, DoEd to drive this to a good outcome ASAP.

Phil Levine
x 5-4597

MEMORANDUM

COUNCIL OF ECONOMIC ADVISORS

August 21, 1996

To: The President of the United States
From: Joe Stiglitz

Subject: Worker Displacement During the the Mid 1990s

DRAFT

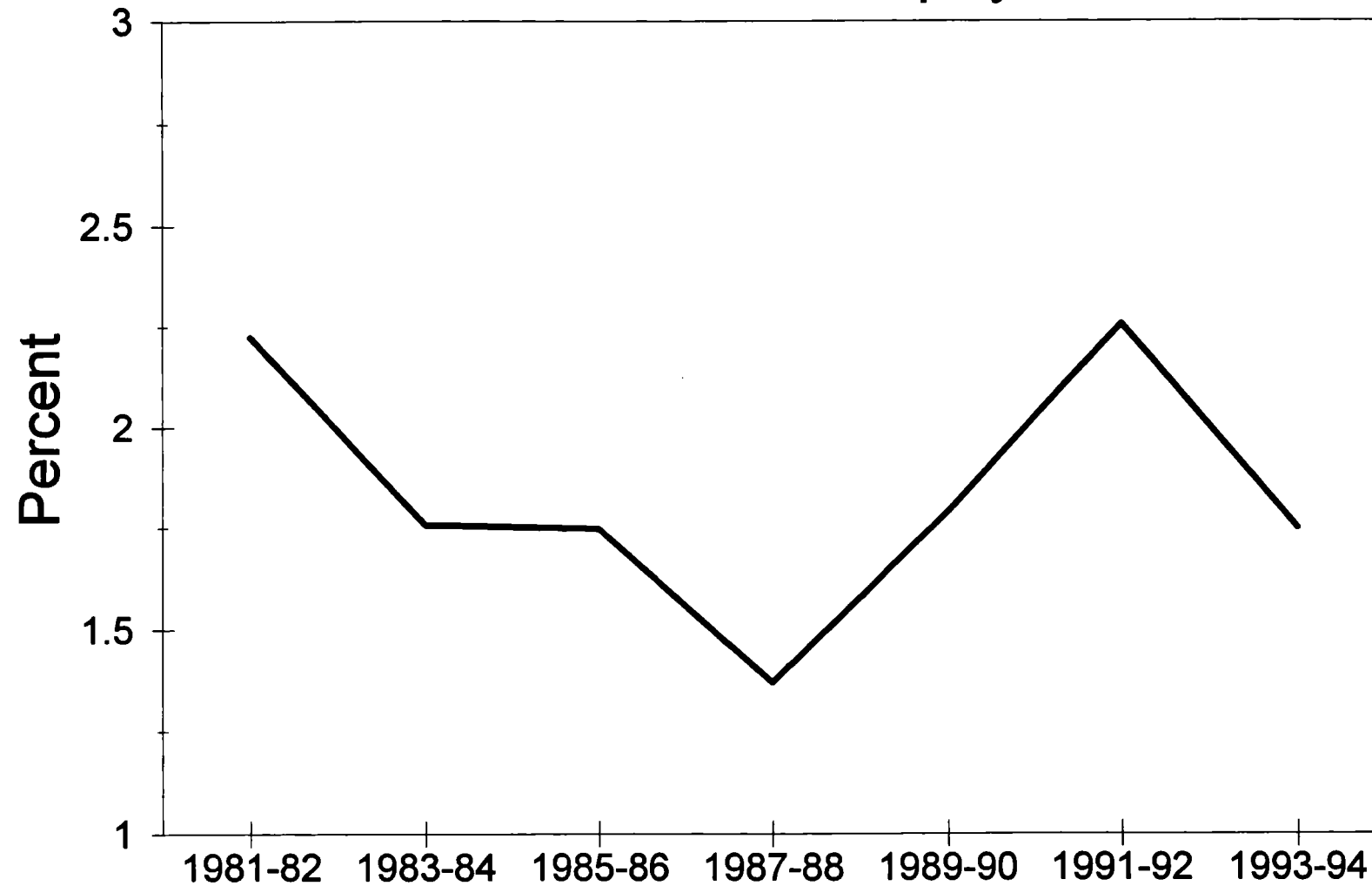
The Bureau of Labor Statistics (BLS) will be releasing the results of its most recent "Displaced Worker Survey" tomorrow at 10:00 A.M. The survey was conducted in February of this year and identifies workers who have lost jobs between January of 1993 and December of 1995 because their plant closed or moved, their position or shift was abolished, or because there was insufficient work for them to do. Most of the reported results reflect job displacement for workers who had been employed in their previous job for three or more years.

The report confirms that job displacement is down. An examination of the data suggests that the amount of worker displacement in the most recent period resembles that of the economic recovery of the mid 1980s (see figure). Thus the new study contradicts earlier reports, including the New York Times series on "The Downsizing of America," which argued that workers are being terminated at the same rate now as they were during the middle of the last recession. Other highlights include:

- **The number of displaced workers fell by 700,000 (15 percent) between 1991-93 and 1993-95.** Levels of displacement for the two sets of years are 3.8 million and 4.5 million, respectively, for long-tenure workers. The reduction in displacement among all workers was similar, declining from 9 million to 8.4 million.
- **73% of workers displaced in 1993-95 were employed in February, 1996.** This is greater than the 68% of workers displaced in 1991-93 who had obtained employment by February of 1994.
- **White collar workers continue to represent an increasing share of those displaced.** These workers remain more likely to have found new employment by February of 1996.
- **Workers in manufacturing industries continue to represent the largest share of displacement, although this share continues to decline.** This sector contributed almost one-half of all displaced workers between 1979-84, but now comprises less than one-third. One-half of the recent decline occurred in this cyclically-sensitive sector. But these workers continue to have the hardest time finding new jobs.
- **Earnings of displaced workers re-employed full-time are more likely to significantly decrease than to significantly increase.** Relative to their last jobs, 31% of displaced workers experienced an earnings loss of 20% or more, while 19% enjoyed a 20% wage increase.

DRAFT

Long-Tenure Displaced Workers as a Percent of Total Employment



March 28, 1996

MEMORANDUM FOR:

LAURA TYSON
GENE SPERLING

FROM:

RON KLAIN *RK*

RE:

ATTACHED

This is the proposal Zoe Baird faxed to me late yesterday. It looks promising. Should we give it the go ahead?

Please advise.

DRAFT

MEMORANDUM

To: Ron Klain
From: Zoe Baird 
Date: March 26, 1996

As we discussed, I'm providing this memorandum to outline a few of my thoughts on an approach to public concern about job loss -- an approach that involves stimulating companies to develop valuable programs for their employees. After you have had a chance to consider it, and share it with others, I'd appreciate your feedback.

White House Event: The White House would provide the forum for a group of CEO's and other company representatives to convene to announce a pledge they are making to their employees and customers. They would call on other companies to enter into the pledge as well.

The pledge would be very short and allow for companies to fulfill it through different vehicles. It would express a real commitment to programs that would help employees -- while employed and thereafter -- have greater ability to control their futures. They would be helped on the track of developing long-term economic security. There has been a great deal of discussion about the insecurity people are feeling as the result of corporate reengineering and downsizing. One of the critical responses needed, in my judgment, is action that better equips people to plan for their future and enhances their marketability throughout their lives. The old paradigm of paternalistic, lifetime employment is eroding rapidly with no new paradigm to replace it. Enhancing individual control and ability to take responsibility for one's own life are important goals. The particular suggestions for commitments listed below are examples of how this can happen.

In addition to the joint pledge, the companies at the event would commit to specific programs of their own that meet the pledge. This would allow a general concept all could sign on to, but individual means of fulfilling the pledge that

fit with the company's culture and existing programs. Some specific company commitments might be to current programs or to exploring the development of new programs, but a good number of the commitments would be to immediate new programs.

Next Step: If this sounds like a direction with promise, I suggest I convene a planning committee from the private sector. My initial thoughts on who to involve include people like: Frank Doyle, Executive Vice President of GE; Gerry Greenwald, Chairman of United Airlines (an employee owned company); Lew Kaden, Davis, Polk and Wardwell; Hillary Pennington, Jobs for the Future; and Lloyd Cutler. Involving people with labor, academia or consumer groups should be considered.

Some possible individual company pledges: Companies will commit to different programs. Some initial possibilities include:

- A. Programs that enhance personal security planning.
 - stock options for all employees
 - possible development of portable financial products
 - possible development of purely private job loss insurance (this grows out of an idea Lloyd Cutler has for tax-incented job loss protection or a government organized insurance plan).
 - retirement planning skills development
 - how to save and invest
 - retirement financial products
 - understanding of company plans
 - consideration of individual products
 - good employee benefits, including health, pension, long-term care and severance packages
- B. Programs that create a more family-friendly workplace.
 - child care/eldercare while taking classes
 - training for jobs that can be done at home, part time/flex time, or job sharing
 - installation of computer systems that allow working at home

- relationship of employer health insurance to extended family members
- C. Programs that provide greater marketability (which may create higher rates of voluntary attrition but that's a legitimate tradeoff for higher involuntary termination rates).
- innovative outsourcing
 - job training while employed, not just when eliminating jobs
 - solutions to barriers to mobility, such as inability to sell homes
 - career planning skills development
 - financial support and skills development to start small businesses

After the Event: The convening group of companies might continue to solicit signatories to their pledge from other companies (individually and perhaps through organizations like trade associations and informal alliances). A follow-up event might also be appropriate, and possible follow-up press coverage.

December 11, 1996

MEMORANDUM FOR GENE SPERLING
BRUCE REED

FROM: PAUL DIMOND *PD*

SUBJECT: MANPOWER AND WTW JOBS CHALLENGE

CC: LAURA TYSON
KEN APFEL
BARRY WHITE

Ellen Seidman and I met with Joel Biller, Executive V.P. of Manpower. Biller reported that Richard Fromstein, the CEO of Manpower, very much wants to participate with the President in an affirmative announcement about the increasing demand of employers for new workers in local labor markets and the new initiatives that Manpower will undertake to connect the supply of inner-city labor and of welfare-to-work participants to jobs. Biller indicated that Fromstein would be prepared to announce the details of Manpower's commitments by late February, but would probably only be prepared to participate in a more general commitment to meet the President's challenge during Inauguration Week in January. Biller will report back to me before the end of the year on his progress with Fromstein.

We discussed three possible initiatives by Manpower:

- **Manpower Offices** -- Manpower would commit to open many (number yet to be determined) inner-city Manpower offices in large cities. Each office requires Approximately an up-front \$100,000 - \$150,000 investment from Manpower, with the goal of being profitable at a rate \$50,000 to \$75,000 per year by the end of the second year. The offices will screen applicants pursuant to Manpower's normal procedures: those who are drug-free and functionally literate, (approximately 60-75% of the applicants in the Milwaukee inner-city demonstration office) who walk through the door (or are recruited by the affirmative out-reach of the Manpower office manager); and 60-70% of those placed end up in a permanent job with one of the employers to which initially placed on a temporary (or "tryout") basis. Employers pay all fees to Manpower, and Manpower refuses to take any fees from the workers (who are the "inventory" that Manpower matches up with employer "job orders.") [Joel also talked about some his suburban office managers merely recruiting in the inner city instead of Manpower opening inner-city offices. I asked how such action (a) demonstrated any kind of real commitment by Manpower warranting a Presidential announcement or (b) would accomplish anything more than their suburban offices probably could or should already be doing anyway. Joel answered by saying that he had reached the same conclusion.]

- **Contracted Manpower Training** -- Manpower would solicit contracts with states or localities to provide intensive one- to two week "quality training" to drug-free, functionally literate persons referred from welfare offices. At the end of the "quality training," successful "graduates" participate in a "job fair" among employers seeking permanent employees immediately; trainees not placed in jobs through the "job fair" could then volunteer to be screened and matched with temporary placements through a regular Manpower office. When I explained on the phone later how the WTW Jobs Challenge would permit Manpower to participate in state and local plans to do such training and placement, Joe was encouraged; and the larger resources available under TANF provide another opportunity for Manpower offices to engage on a contracted basis in such "quality training" and "job fairs" for welfare referrals and, to the extent participants who aren't placed wish, for screening and placement through a regular Manpower office. [I asked Joel specifically if Manpower would accept a voucher from the prospective trainee-employment for such "quality training." Joel said that Manpower would not: because Manpower wants to keep their basic business "ethic" in tact: no charge or fee of any kind to the prospective applicant/trainee for placement; only fees collected from employers for placement.]
- **Supply of entry-level retail and service workers to place in "next and better" jobs** -- Manpower will begin exploring directly with McDonald's, and other entry level retail and service employers whether these firms will offer a "supply" of their entry-level workers to Manpower for placement in "next and better" jobs. [This would, of course, open entry-level jobs to other persons and help make the entry level-jobs for inner-city residents and welfare mothers a stepping stone to "next and better" jobs.] Joel will report by mid-January whether there is any interest in this from the entry-level employers. [Katherine Newman of Columbia has described how the training and work experience at such entry-level jobs is quite good and qualifies the employees for more highly skilled jobs -- which those from the inner-city who struggle to get into the entry level jobs at all never get to because there is no job network. Newman has proposed "Employer Consortia" made up of (a) employers of the entry-level workers who supply trained workers to (b) employers seeking more workers with above-entry level skills and good work experience. Manpower is looking for a supply of just workers that it can place in the many "orders" from their employer clients that they cannot now fill with the limited supply of job-seekers in their suburban, rural and small town offices.]

Finally, Biller made clear two important points for our future planning: (a) Manpower can not train or place "functionally illiterate" persons; and (b) in many, if not most major local labor markets, Manpower has more "orders" from its employer clients than it can fill with the supply of job-seekers who apply at their suburban offices. So, keep the economy rolling -- and Manpower will work (based on its own investment) to make a profit by connecting the inner-city supply of functionally literate job-seekers to real jobs throughout the local labor market. Then, we need to think about how to (a) educate people to functional literacy, (b) place those who are functionally illiterate in jobs and/or (c) declare victory.

THE WHITE HOUSE
WASHINGTON

March 11, 1996

MEMORANDUM FOR THE PRESIDENT

FROM: LAURA D'ANDREA TYSON

SUBJECT: Attached memo from Secretary Reich concerning
pension portability

While your pension simplification and IRA proposals go a long way toward increasing pension coverage and portability, as Secretary Reich's memo points out, barriers remain to complete portability of even defined contribution plans -- mainly 401(k) plans. For example, while employers routinely allow departing workers to roll 401(k) accounts into IRAs or into a subsequent employer's 401(k) plan, the IRA rules are complex and many employers will not accept the rollovers.

Secretary Reich's memo raises the question whether a revised, repackaged pension coverage/portability proposal could include statutory and regulatory provisions to reduce these barriers. Along with Secretary Reich, I believe the answer is "yes."

For the past several months, the NEC pension working group -- which includes active participation from the Labor Department -- has been developing such a revised pension coverage/portability proposal. The items raised in Secretary Reich's memo are under discussion, and various ways of dealing with the problems raised without creating new problems for either employers or employees are being developed. Thus, I believe no additional response to Secretary Reich's suggestion is needed at this time.

We hope to be able to present a broader revised proposal that includes these new items to you within the next several weeks.

SECRETARY OF LABOR
WASHINGTON

MAR 1 1996

MEMORANDUM FOR THE PRESIDENT

FROM: ROBERT B. REICH 
THROUGH: LAURA TYSON
SUBJECT: PENSION PORTABILITY

Herewith, a number of ideas for making 401(k) pensions more portable.

As you know, over 20 million Americans now save at work through 401(k) plans, and the numbers are growing quickly (approximately twice that number are in traditional "defined benefit" plans, but their numbers have remained constant as employers increasingly offer 401(k)s, and as large firms downsize).

401(k) plans are "portable" in the limited sense that workers who leave their jobs typically can roll over their 401(k)s to an IRA and sometimes to a new employer plan. However, pension law gives workers little control over many aspects of portability. For example, job-to-job portability is not possible for about half of all workers because pension law does not require employers who offer plans to accept transfer of their employers' 401(k) savings from previous employment.

Further, the option of rolling a 401(k) to an IRA is more difficult than it may appear. To avoid tax penalties, workers must tip toe their way through tax and timing issues and may have to retain multiple accounts in order to preserve retirement savings or transfer to future employers' plan.

The attached provisions would go some way towards providing more meaningful portability for workers. They could be combined with the pension simplification package already in your budget or included in a later pension initiative. It is my understanding that the NEC is considering these and other ideas.

Attachment

401(k) PLAN PORTABILITY ISSUES

I. BACKGROUND

Pension portability is complicated and is related to other important considerations, such as coverage and benefit adequacy. The challenge is to find ways to expand portability and coverage for workers, while balancing the costs and administrative burdens on employers in a voluntary pension system.

Significant portability changes in defined benefit plans would require radical reforms and could raise costs so as to discourage defined benefit plans.¹

In the 401(k) setting, portability means the ability of workers to preserve retirement savings following a change in employment. 401(k) plans are now relatively portable because workers who separate from jobs may under many circumstances transfer their 401(k) accounts to IRAs or other employers' pension plans.

II. ANALYSIS OF ISSUES

A. 401(k) PLANS ARE NOT REQUIRED TO ACCEPT ROLLOVERS

Issues

When a worker changes jobs, the law allows direct transfers from one employer's 401(k) plan to an IRA or another employer's plan that chooses to accept transfers.

An estimated 98 percent of 401(k) participants are in plans that offer direct transfers for workers who separate before retirement. There is no requirement for 401(k) plans to accept transfers and only 51 percent of 401(k) participants are in plans that do so.

¹Defined benefit plans are designed to fund benefits payable over thirty to forty years, generally on the highest salary. An employer hiring an older worker would assume disproportionate costs for the benefits promised from previous employment. Furthermore, since defined benefit plans count on compounding to fulfill their eventual obligations, the withdrawal of assets would have a detrimental effect on the financial status of the funds.

A direct transfer to an IRA is an alternative for workers unable to rollover their 401(k)s to a new employer's plan. A 401(k) distribution can be transferred directly to a conduit IRA, and later transferred to another 401(k) plan, but this arrangement is not as simple as it appears. Funds in a conduit IRA may be transferred tax-free to another 401(k) plan only if it is not commingled with regular IRA assets. A worker has to establish a second IRA account to receive 401(k) distributions. As contrasted with 401(k) accounts, IRAs may be subject to the claims of creditors.

For those workers fortunate to find a new employer plan that accepts transfers, the receiving plan may be able to delay such a transfer until workers satisfy a waiting period which can be as long as two years. In order to make a requirement that plans accept rollovers a real option, workers should be able to roll their previous accounts of any amount over into a new employer plan even if they are not participating yet in that plan.

Option

Require 401(k) plans to accept direct transfers, possibly before a new worker would be eligible to participate in the plan.

Pros

The consolidation of saving accounts simplifies workers' retirement planning and investment decisions. Requiring plan sponsors to accept rollovers would reduce leakage due to lump sum cashouts.

Cons

Plan sponsors would object to the added administrative burdens and to accepting transfers before a new employee starts participating in the plan because turnover is relatively high for probationary employees.

B. CREATE NEW OPTIONS FOR WORKERS CHANGING JOBS

Issues

Most plans impose a waiting period for new employees. Employers impose waiting periods because they have high turnover among their low-paid employees and probationary employees. Employees who stay for only a short period of time are the least likely to contribute to 401(k) plans. If these employees were eligible for the plan, their failure to contribute would reduce the averages used to determine how much the highly-compensated employees may contribute.

Thus, an employee who switches jobs is often unable to continue uninterrupted 401(k) savings. At the same time, employees who were covered by the prior employer's plan or whose spouse has pension coverage may be unable to make tax-deductible contributions to an IRA.

Option 1

Allow 401(k) plans to accept employee salary deferrals during the period before a new employee is eligible to participate in the plan, without subjecting those contributions to discrimination testing.

Pros

Allowing plans to accept employee contributions would encourage continued savings among workers who change jobs. This proposal is a complement to the option discussed in issue A. If both options were adopted, employees may be able to consolidate their 401(k) savings as well as continue to contribute.

Cons

Highly-paid employees are more likely to take advantage of this option than low-paid employees. Plan sponsors may object to setting up and maintaining 401(k) accounts for short service employees.

Option 2

Allow employees who change jobs to contribute to an IRA during the period before they are eligible to participate in their new employer's plan.

Pros

Allowing IRA contributions would encourage continued savings among workers who change jobs.

Cons

Highly-paid employees are more likely to contribute, since only they are restricted from making tax-deductible contributions to IRAs.

C. WORKERS CANNOT CONTROL THE TIMING OF DISTRIBUTIONS OR ROLLOVERS

Issues

Workers have reported that they have little control over the timing of their 401(k) distributions and transfers. Typically participants can elect to (1) have the retirement savings directly transferred to another retirement account; (2) take the 401(k) assets in a lump sum; or (3) leave the assets in the 401(k) plan until retirement. We have little evidence that timing is a widespread problem, but there are two issues to consider:

1. Workers are required to make hasty elections: Workers leaving jobs may only have a short period of time within which to make decisions about direct transfers. Workers facing long waiting periods to participate in a new employer plan would benefit from having the ability to elect a direct transfer at a later date after separation.

Option 1

Require plans to permit separating workers to elect direct transfers at any time after separation.

Pros

Allowing workers to better control the timing of transfers would mean that they would not have to maintain multiple savings accounts.

Cons

There is not much evidence to show that this is a widespread problem.

2. Workers face significant delays in getting access to their 401(k) assets:

Some workers have complained that once they have elected to transfer or cashout their 401(k) plan assets, they experience significant delays in having those decisions acted upon by the plan. Plans may postpone the distribution of 401(k) accounts until the next valuation of plan assets in order to properly allocate earnings to all participants. Surveys show that most plans conduct quarterly valuations.

Option 2

Require plans to make distributions no later than a set time after valuations unless the employee has elected a later date.

Pros

Workers who are leaving their jobs benefit from a clear standard in the law that sets a maximum period of time for distributions to be made after valuations. Focusing on the timing of distributions rather than the frequency of valuation would not require plans to make major changes in the way they operate.

Cons

Again, we do not have evidence of a widescale problem.

D. PROHIBITING INVESTMENT OPTIONS BASED ON EMPLOYMENT STATUS

Issues

Many participants do not transfer their 401(k) accounts because they prefer other forms of distribution such as an annuity or lump sum. We estimate that of the total \$22 billion in pre-retirement distributions, \$10 billion in 401(k) assets were spent in 1995 rather than saved for retirement.

If the plan provides that 401(k) assets must remain in the plan until retirement age unless immediate distribution is taken, separating workers may be encouraged to take a pre-retirement cash-out. Some plans may encourage cash-outs by providing fewer investment options for separated participants than for active workers.

Option

Require plans to offer the same investment options to all participants regardless of their status.

Pros

This eliminates a disincentive and encourages workers to keep their retirement savings in their 401(k) accounts.

Cons

Without a record of abuse in this area, employers may see the imposition of this rule as unnecessary.

E. ALLOWING TRANSFERS OF AFTER-TAX SAVINGS TO IRAs

Issues

The tax code does not allow after-tax contributions in a 401(k) plan to be transferred or rolled over to another tax-favored vehicle. This means that a worker who consolidates retirement savings loses the ability to shelter the income on after-tax amounts from taxation, resulting in lower savings at retirement.

Option

Allow the transfers of after-tax amounts to IRAs.

Pros

Workers gain the ability to shelter the income of after-tax amounts from taxation as well as simplicity.

Cons

The transfer of after-tax contribution to IRAs may require complicated recordkeeping for tax purposes.

THE WHITE HOUSE

WASHINGTON

March 29, 1996

MEMORANDUM TO THE PRESIDENT

FROM: Laura Tyson

SUBJECT: Memo from Secretary Reich

In the attached memo, Secretary Reich suggests several possible changes that might affect the behavior of American companies toward their workers.

The Secretary does not note that there is already an NEC process underway to examine some of these policies -- including a possible increase in unemployment insurance premiums and the extension of Section 127, the employer tuition deduction. Several other cabinet members -- or their designees -- are involved in that NEC process and I believe that it is important for their views to be represented to you before decisions or public statements are made.

As to the ideas mentioned, there are mixed views, but certainly some support for considering the Section 127 extension -- although there is a concern about the cost and the fact that it is only one of several extensions, including the R & D tax credit, that we have proposed without financing. We are currently planning to send you a pro/con memo on some of these proposals, including the unemployment insurance premium proposal and Section 127, within the next week.

Secretary Reich's proposals also include policies, such as a transfer fee on shares of stock and additional capital gains tax relief, that are opposed by the Secretary of the Treasury and others on your economic team.

Finally, none of the Secretary's proposals have been analyzed to determine their effectiveness or unintended consequences. For example, would capital gains tax relief for long-term investments encourage more investment in workers or more investment in capital at the expense of workers? Would even more preferential tax treatment for ESOPs result in more or less employment over time? (There is some evidence that, all other things equal, worker-controlled firms tend to hire fewer workers so as not to delude share ownership or decision-making across larger numbers of workers). These are all important questions that need serious consideration for you to make an informed decision.

On a more general note, as I have already told you, there is considerable disagreement among your economic advisers about the advisability of using targeted tax relief to encourage responsible "corporate citizenship." Therefore, to the extent that you are interested in the pursuit of the proposals suggested by Secretary Reich, please let me know as soon as possible, so I can arrange a speedy and complete policy review.

March 26, 1996

MEMORANDUM FOR GENE SPERLING

FROM: JON ORSZAG 

SUBJECT: FYI: Minimum Wage and the Omnibus Energy Bill

Here is some background information for the 7:30 tomorrow morning. I thought that it may be useful for you to know the following items.

Senator Daschle will be trying to attach a minimum wage increase as a second degree amendment to the Omnibus Energy Bill. This bill is an amalgamation of Energy Committee reported bills including Utah Lands and Presidio. Here is some information on the Utah Lands provision -- which we object to -- and the Presidio provision -- which we seem to be comfortable with.

- **Utah Lands.** The Department of Interior has recommended a veto due to the Utah Lands provision. This provision would create wilderness areas in Utah with weak environmental restrictions -- the basic problem is the number of acres that this provision would open up. A SAP is pending recommending a veto due to this provision.
- **Presidio.** The Presidio provision sets up a government corporation (independent from Interior) for management and leasing of buildings. There would be no direct management role for the National Park Service, but the National Park Service may enter into agreements to manage open spaces. The Interior Department does not object to this provision because the key sponsors (Feinstein, Boxer, Pelosi) support passage.

Finally, I was told that Senator Murkowski (R-Alaska) will introduce a substitute amendment. I do not know what this substitute amendment will include.

THE WHITE HOUSE
WASHINGTON

September 12, 1997

TO: GENE SPERLING

FROM: EMIL PARKER *EP*

SUBJECT: Compromise FLSA/minimum wage proposal

Political outlook

Attached please find a new draft FLSA proposal from Representative Shaw, chairman of the Ways and Means Human Resources Subcommittee.

According to White House Intergovernmental Affairs, Tom Carper and other Democratic governors were initially considering an official NGA review (and most likely endorsement) of the Shaw proposal. As of this point, the proposal will be circulated to governors outside the NGA framework; they will be asked for their support on an individual basis. While this is a marginally less threatening situation, IGA nonetheless expects many if not most Democratic governors to support this latest Shaw effort.

If Shaw is able to secure bipartisan backing from governors, he apparently plans to schedule a hearing and markup(s) to highlight the proposal and, if possible, have it taken up by the House under suspension of the rules.

Policy analysis

The new legislative language is clearly preferable to the FLSA/minimum wage provisions included in the House-passed budget bill (and dropped from the final law). Under the latest formulation, *workfare participants would generally not be exempted from FLSA coverage*--this approach is consistent with the Labor Department guidance issued earlier this year. The version in the House-passed bill, on the other hand, would have created a minimum wage requirement outside the FLSA and lacking an adequate enforcement mechanism. The Shaw draft also, unlike the earlier House provisions, makes no changes to other employment laws (e.g., OSHA, Title VII of the Civil Rights Act).

The draft legislation does make reference to fulfilling various requirements of the FLSA; we are awaiting further analysis by the Labor Department to determine if these provisions pose any problem.

The proposal would, however, exempt recipients in workfare activities from FICA and FUTA (unemployment tax) coverage. Contrary to press reports, which have largely focused on the

minimum wage question, treatment of workfare participants under FICA and FUTA appears to be the larger concern for governors. Applying FICA to workfare could help recipients accumulate the 40 quarters of coverage needed to qualify for Social Security; women who spend prolonged periods either out of the workforce or working off the books can have difficulty achieving this threshold. On the other hand, the employee share of FICA would be deducted from the welfare benefit, reducing the family's current income. States could in many cases also deduct the employer share from the grant by simply reducing the benefit by that amount (under current law, this option would generally not be open to low-benefit States).

A good case can be made for a FUTA exemption; it is not clear that time in a mandatory activity should allow a participant to accrue unemployment benefits. *DPC is apparently quite comfortable with exemptions for FICA and FUTA.*

The 1996 welfare law requires 20 hours of work per week in core work activities (subsidized and unsubsidized public and private sector employment, workfare and on-the-job training). The Shaw proposal would allow States to count hours in other activities such as education and training toward the 20-hour requirement, if the total of TANF (cash welfare) and food stamp benefits divided by the minimum wage would result in fewer than 20 hours of core work activity per week. For example, if the combined TANF and food stamp benefits in a State for a family of three amounted to \$400 per month, the number of hours of work would be limited to 78 per month (\$400 divided by \$5.15), or about 18 per week. The State could meet the work requirement by enrolling the adult recipient in education, training or job search for 2 hours per week.

The DPC views this change as weakening the work requirement and is consequently strongly opposed to the provision. Governors, conversely, will embrace this modification, since it would afford them increased flexibility in operating their welfare-to-work programs. No constituency (other than DPC) is likely to object to this provision.

The Shaw proposal would also clarify that the check to workfare participants could come from the TANF (welfare) agency rather than the employer at the workfare site. While this would probably be the case under current law, the provision would assuage States and localities concerned about imposing administrative burdens on participating employers.

In all, the proposal represents a substantial improvement over the provisions in the House budget bill and could (contingent on the results of DOL's analysis) serve as the basis for a compromise, depending on the response from interested outside parties. We are awaiting word from them concerning the Shaw draft.

cc: JK, AL

Summary of Compromise Welfare-to-Work Transition Bill

September 1997

1. The compromise bill does not determine the employee status of workfare participants; however, it does specify that if workfare participants are determined to be "employees" and otherwise covered by these laws, then FICA (requiring Social Security taxes) and FUTA (requiring unemployment insurance taxes) do not apply to them. In addition, if workfare participants are determined to be employees otherwise covered by FLSA, the obligations of that Act may be met by benefit checks and determination of maximum hours of work in keeping with the minimum wage as described in #1. These terms apply to workfare positions in the public, nonprofit, and private sectors.
2. The bill does not address other labor laws. If workfare participants are determined to be employees then these laws¹ apply to the same extent as they do to any other employee. Workers' compensation would remain a State issue.
3. All workfare participants are guaranteed the minimum wage. In calculating the number of hours a participant may spend in workfare activities:
 - Food stamps and cash benefits are considered wages;
 - Child support collections are to be subtracted, and States may anticipate future child support collections based on any reasonable methods (subject to the approval of the Secretary, if necessary), such as recent collections (but not arrearages); and
 - The federal minimum wage is to be used.

$$\frac{(\text{food stamps} + \text{cash}) - \text{expected child support}}{\text{federal minimum wage}} = \text{maximum hours in workfare activity}$$

4. If the above formula does not yield enough hours to allow States to count workfare participants towards work participation rates, participants can complete remaining hours in education activities and job search.
5. Grievance procedures and nondisplacement provisions included in the 1996 welfare reform law and the 1997 Balanced Budget Act would apply to workfare participants and those affected by workfare placements, depending on how the position was funded.

¹Including the Davis-Bacon and Service Contract Acts requiring prevailing wages, Employee Retirement Income Security Act (affecting employee benefits including health, retirement, and vacation), group health plan continuation coverage under COBRA, Family and Medical Leave Act, Title VII of the Civil Rights Act (including compensatory and punitive damages), Executive Order 11246 (affirmative action for all government contractors), Age Discrimination in Employment Act, Americans with Disabilities Act (including compensatory and punitive damages), Occupational Safety and Health Act, Drug-Free Workplace Act, National Labor Relations Act (providing for collective bargaining and other union activities), Worker Adjustment and Retraining Notification Act, Child Support Enforcement Reporting, Wage Garnishment Requirements, and many State laws, including common laws regarding wrongful discharge and payment of State payroll and income taxes.



THE WHITE HOUSE
WASHINGTON

September 15, 1997

TO: GENE SPERLING

FROM: EMIL PARKER *EP*

SUBJECT: 5:45 FLSA meeting with labor leaders in Chief of Staff's office

You are scheduled to attend a meeting on welfare reform with labor representatives and other Administration officials in Erskine's office tomorrow at 5:45; the meeting may be canceled.

As you know, the labor movement's priority welfare reform issues are 1) application of the Fair Labor Standards Act and other employment laws to welfare recipients required to work off their grants in work experience/community service (i.e., "workfare"); 2) privatization of eligibility determination for low-income programs other than TANF (welfare), in particular food stamps and Medicaid; and 3) displacement of existing low-income workers by welfare recipients moving into the labor force.

The meeting should be devoted primarily to developing a strategy concerning Representative Shaw's latest workfare employment and tax law proposal, which may be unveiled at a press conference Thursday (see attached memo and legislative language).

FLSA, etc. The Labor Department has serious concerns about the Shaw draft legislation; the proposal includes language all but stating that workfare is training rather than employment. While the language is not as problematic as the provisions in the House-passed budget bill, it could still be used to persuade courts that workfare participants should be exempted from the FLSA and other employment laws (e.g., OSHA, Title VII of the Civil Rights Act).

The Labor Department nonetheless believes that the legislation could be acceptable if modified. It is unclear how receptive Haskins/Shaw would be to Administration fixes. While some of the suggested DOL modifications are technical, others represent major policy changes; e.g., prohibiting workfare in the private sector.

NOTE: Allowing private sector workfare while exempting the activity in general from FICA and FUTA coverage would create a strong incentive for States to label private sector placements workfare rather than subsidized employment; this would have the effect of denying the EITC to participants (see below).

The DPC, on the other hand, remains extremely distressed about the potential "weakening" of the work requirement--i.e., allowing States to count more hours of participation in education, training and job search, rather than in core "work" activities such as workfare or subsidized employment, toward the work rate (which reaches 50 percent in 2002).



Treasury is concerned (and I generally concur) that the overly broad definition of work experience and community service could have the effect of denying the EITC to participants in subsidized public (and, in some cases, private) employment. States could easily label subsidized public employment as workfare in order to avoid FICA taxes. As you recall, we went to considerable lengths at the eleventh hour of tax bill consideration to ensure that recipients in subsidized employment would remain eligible for the EITC.

The labor movement has the draft Haskins proposal but apparently has not conveyed a position to DOL as yet. Given that the Administration is still in the process of developing an overall strategy (e.g., flatly oppose, suggest changes, advance an alternate proposal) as well as a policy analysis of the Haskins draft, it would be best to remain as noncommittal as possible at tomorrow's meeting.

Privatization. The Administration position on privatization has not changed, at least publicly, from the stance outlined in the July 2 letter to the budget bill conferees: "...the certification of eligibility for benefits and related operations (such as obtaining and verifying information about income and other eligibility factors) should remain public functions." The House-passed privatization provisions were, as you know, dropped from the final budget legislation.

Arizona has submitted a waiver request to operate a two-year privatization demonstration in one county (which has 13% of the State's food stamp caseload); the eligibility determination for TANF, food stamps, Medicaid and child care, as well as provision of welfare-to-work services, could be contracted out to a private entity. After 18 months, a board appointed by the Governor would decide whether to expand the privatization effort to the entire State. The Administration is currently considering this waiver request.

Nondisplacement. The budget law includes modest nondisplacement and grievance procedure provisions (e.g., there is an appeal to a State agency other than the TANF agency, but not to a fully independent body or the Federal level). These provisions apply only to the new WtW program, not the underlying welfare bill. To my knowledge, nothing has changed concerning Administration policy on displacement.

cc: JK, AL

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

12-Dec-1996 10:22am

TO: Gene B. Sperling

FROM: Paul R. Dimond
 National Economic Council

CC: Kenneth S. Apfel
CC: Barry White

SUBJECT: "Incumbent Worker" Training Proposal

Gene,

However styled -- a categorical program or a maximum setaside in a block grant to the governors -- this is a bad idea. It appeared out of nowhere in the Senate version of the Workforce Development Bill -- permission to Governors to use up to 50% of the "Flex" portion of the block grant for incumbent worker training. [The House Careers Bill had no such provision.] Kassebaum thought Senator Kennedy was the source of this, and Kennedy thought the governors had demanded that Kassebaum include this. After inquiry, it appears that this provision came from some very old DoL ideas from a bygone era, when some thought it made sense to invest in incumbent worker training as a way to make "failing firms" competitive -- which, of course, is a lose-lose proposition.

Following the inquiry, Senator Kennedy said the provision was no idea of his (and he thought it was subject to great abuse and should be eliminated entirely). Kassebaum agreed with this position. Governor Voinovich personally told me it was a terrible idea because all it did was put pressure on governors to put scarce funds into "worker training" in "failing firms" that wanted a "bailout political favor" from the governors. And DoL fought like crazy to get the provision out of the senate version entirely. It was eliminated entirely.

This is an uneconomic, bad idea all around: stick to the real incentives for incumbent working training -- firm self-interest, complete deductibility of all training expenses (although some public firms wish these expenses were instead given less favorable tax treatment and capitalized rather than expensed so that their annual profits look bigger), and expand Section 127 expensing. You know the drill on this: don't let DoL reopen a can of worms (that I suspect they tried last year behind the scenes and then pulled back from when they realized what a bad idea it was). Join Ken in Killing this bad, old idea immediately in the budget process before DoL shoots itself (or our leader) in the foot again.

Last spring, I did propose considering an alternative for firm-training: permitting the flexible state-designed training voucher to be cashed in by "growing firms" who hire dislocated or otherwise unemployed workers

(including welfare mothers), subject to the same gatekeeping requirements as qualifying non-degree training programs at education and training providers i.e., an earnings test from U.I. records for the year following the training whether at the hiring firm or the training provider. Please note, however, that even this proposal merely builds on what you always knew was and is the fundamental conflict in any of the congressional bills with the President's basic vision for the G.I. Bill -- this proposal is merely another aspect of a vague and variable state-designed voucher approach (with lots of exceptions to permit state-contracted training) AND the likelihood that Congress would limit even this very watered down version to only dislocated workers. The G.I. Bill in congressional authorizing committees was last year and will again this year be so ground down that the President's commitment to clear, federally defined, and assured vouchers for post-secondary education and training won't be implemented.

So do whatever you can on the mandatory side: that's where the Presidential legacy -- and the real dollars and on-going federal commitment are -- for federal vouchers for post-secondary education and training for all Americans (including "unemployed and underemployed" and "dislocated and disadvantaged workers") is going to have to be won.

Paul

4.2.96

THE WHITE HOUSE
WASHINGTON

96 APR 6 P1:45

April 4, 1996

MEMORANDUM FOR THE PRESIDENT

FROM: GENE SPERLING

SUBJECT: Response to Attacks on the Minimum Wage

As you know, Republican Members of Congress attacked your proposal to raise the minimum wage this week, citing a *Time* magazine article from 1995 that quotes you as saying in 1993 that you thought that raising the minimum wage was "the wrong way to raise the incomes of low-wage earners."

But, an exhaustive search of all your statements, speeches, and interviews, and comments as President confirms that you did not say any such thing.

Attached is our one-page response to this claim, accompanied by a chronology of your support for a minimum wage increase -- as governor, candidate, and President.

The DNC and Re-Elect are distributing variations of this response to opinion leaders and validators across the country. The DNC has also released a letter to wire services and news bureaus pointing out the inaccuracy of the *Time* magazine quote. Democratic Members of Congress are also using this paper to respond to these attacks.

Theresa

When I
saw for
Pres-1
C. L. H. S. B. P.
N. L. H. S. B. P.
N. L. H. S. B. P.

Copy
Gene
SP.

96 MAR 30 All: 36

March 29, 1996

STON

Page 6

1996

1000

11:30 AM : 36

Tuition Deduction
Should be extended to railroad-
employees as well as other
employees for their own
education.

suggests several possible changes that might
and their workers.

already an NEC process underway to
possible increase in unemployment insurance
employer tuition deduction. Several other
involved in that NEC process and I believe that it
you before decisions or public statements are
made.

d views, but certainly some support for
there is a concern about the cost and the
including the R & D tax credit, that we have
planning to send you a pro/con memo on some
unemployment insurance premium proposal and Section 127,

Don't know what
way -

SUBJECT: Memo from Secretary Reich

The Secretary does not note that there is already an NEC process underway to examine some of these policies -- including a possible increase in unemployment insurance premiums and the extension of Section 127, the employer tuition deduction. Several other cabinet members -- or their designees -- are involved in that NEC process and I believe that it is important for their views to be represented to you before decisions or public statements are made.

As to the ideas mentioned, there are mixed views, but certainly some support for considering the Section 127 extension -- although there is a concern about the cost and the fact that it is only one of several extensions, including the R & D tax credit, that we have proposed without financing. We are currently planning to send you a pro/con memo on some of these proposals, including the unemployment insurance premium proposal and Section 127, within the next week.

Secretary Reich's proposals also include policies, such as a transfer fee on shares of stock and additional capital gains tax relief, that are opposed by the Secretary of the Treasury and others on your economic team.

Finally, none of the Secretary's proposals have been analyzed to determine their effectiveness or unintended consequences. For example, would capital gains tax relief for long-term investments encourage more investment in workers or more investment in capital at the expense of workers? Would even more preferential tax treatment for ESOPs result in more or less employment over time? (There is some evidence that, all other things equal, worker-controlled firms tend to hire fewer workers so as not to ~~delude~~^{dilute} share ownership or decision-making across larger numbers of workers). These are all important questions that need serious consideration for you to make an informed decision..

On a more general note, as I have already told you, there is considerable disagreement among your economic advisers about the advisability of using targeted tax relief to encourage responsible "corporate citizenship." Therefore, to the extent that you are interested in the pursuit of the proposals suggested by Secretary Reich, please let me know as soon as possible, so I can arrange a speedy and complete policy review.

MEMORANDUM TO THE PRESIDENT

Date: March 26, 1996

RE: Corporate responsibility

Sec Reich Memo
re Corporate
Responsibility

General themes:

-- We have a three-pronged approach to raising wages and providing more employment security: (1) giving people the tools to succeed in the new economy through education and job-training; (2) making work pay through an expanded EITC and higher minimum wage; and (3) easing the transition from job to job through portable health benefits, portable pensions, and training vouchers.

-- But all segments of society have a responsibility to help our people help themselves. There is a limit to what the public sector can do alone. The private sector has a responsibility as well.

-- Some corporations are taking the high road toward competitiveness. They adhere to five "elements" which treat workers as key assets. [You enumerated them last Saturday.] In the long term, this helps their bottom line. We want more companies to follow their example.

To the extent that you want to go further than this -- to "create a climate in which it would be easier" for business to be responsible, as you said last weekend -- you might consider three approaches:

1. Encouraging long-term versus short-term business strategy. Much evidence suggests that corporate decisions are biased in favor of short-term profit maximization. But most of the payoffs from investments in worker skills, participation, pension and health care benefits, family-friendly workplaces, and communities (as well as decisions to downsize more gradually and humanely) accrue over the long term. How, then, to remove the short-term bias? Some possibilities:

- Give longer-term shareholders more proxy voting rights (differentiating between holders of, say, less than a week, holders of a week to a year, and holders of a year or more);
- Give longer-term shareholders lower capital-gains taxes;
- In order to reduce short-term speculation, impose a tiny transfer fee on shares of stock;

2. Encouraging stakeholder ownership. A second way to get companies to be more responsive to the needs of employees and communities is to give them a direct stake in the company's success. Examples:

- Reduce (or eliminate) corporate income taxes on companies that are owned and controlled by employees.
- Increase the tax benefits of Employee Stock Option Plans;
- Provide ESOP employees with direct proxy voting rights;
- Encourage communities that give companies tax abatements (in order to induce the companies to come or to remain) to receive, in return, shares of stock in the companies.

3. Providing direct economic incentives. A third way is to provide companies with direct economic incentives for investing in their employees (and disincentives for laying them off). Examples:

- Increase unemployment insurance premiums on profitable companies that engage in mass layoffs, and use the extra revenues to reduce premiums on other firms. (See attachment).
- *Extend and broaden* { Extend employer tuition deduction. Under Sect. 127 of the Internal Revenue Code, firms can deduct up to \$5250 of employee tuition and provide it tax free. This provision was not extended after 1995.
- Create a "super Section 127" tax credit for small businesses that provide employees tuition assistance. (Small businesses often can't afford tuition assistance, even under Section 127.)

If you want to explore any of these ideas more fully, check them and I'll put detailed proposals through the NEC process.

THE UNEMPLOYMENT INSURANCE SYSTEM AND LAYOFFS BY PROFITABLE FIRMS

SUMMARY AND RECOMMENDATION

The Unemployment Insurance (UI) system is designed to assign a portion of the cost of UI benefits to the businesses responsible for layoffs by using an experience-rated state tax system. This memorandum proposes legislation to *better* allocate the costs of UI benefits to profitable businesses responsible for layoffs by increasing the degree of experience rating in the UI system.

The legislation would impose a surcharge on the state UI tax of profitable firms engaging in mass layoffs. Revenue increases generated by the surcharge would allow for a decrease in state UI taxes for other firms. The proposal specifically targets only profitable firms by allowing unprofitable or low profit businesses to appeal for full or partial exemption from the surcharge. It is designed to be revenue neutral over time within the UI system.

BACKGROUND

A. Layoffs Shift Costs to Workers

Many of the people who have lost their jobs in recent years end up in new jobs with lower wages, fewer benefits, and less security.

- About a third of full time workers who lose their jobs and find new full time jobs take a pay cut of 20 percent or more. A recent study indicates that even six or more years later, earnings are still about 9 percent lower, even after controlling for normal life-cycle wage growth that occurs for all workers over time.
- Conditional on the unemployment rate, the share of unemployment attributable to permanent dismissals has increased steadily and significantly from 1968-1993. Some of these permanent layoffs have involved highly profitable employers.
- The likelihood of health insurance coverage drops by about 20 percentage points following a job separation. Health care costs may be shifted to the individual, subsidized by government, or, in the case of uncompensated care, fall on society as a whole.

While taxes on businesses finance the benefits that workers receive while they are unemployed, many of the costs of layoffs are borne by unemployed workers and society. The individual worker, for example, pays in loss of income and the costs of searching for a new job. Government and therefore all American taxpayers pay for income support programs and re-employment services for unemployed workers.

A variety of public policies have been put in place over the years to balance corporate priorities and the needs of workers and society. The UI system, particularly the experience-rated state tax, is structured to create such a balance.

B. Experience Rating Assigns the Costs of UI Benefits Imperfectly

Unemployment Insurance benefits are financed by state taxes on businesses. The tax paid by an employer is determined, at least in part, by its experience with layoffs or, more specifically, the unemployment benefits collected by employees it has laid off. This state experience rating system is based on legislative requirements in the Federal Unemployment Tax Act. Currently, states must have a maximum tax rate of at least 5.4. Maximum state tax rates range from 5.4 percent up to 10 percent.

Under an experience-rated tax system, an employer with a history of few layoffs receives a relatively low tax rate. If layoffs increase, the employer's tax rate in future years increases. Experience-rated taxes force employers to bear a portion of the costs of layoffs. Since employers have some control over job turnover, it may encourage them to stabilize employment because higher layoffs are associated with higher UI taxes.

A large body of research by both liberal and conservative economists indicates that increasing the level of experience rating in the UI system improves the allocation of costs and may reduce layoffs. In addition, increasing the level of experience rating may limit employers' ability to pass on the burden of UI taxes to their workers in the form of lower wages or fewer benefits, or to consumers in the form of higher prices. Recent research indicates that firms are able to shift a flat tax (for example, the maximum tax rate), but that they are much less able to shift the portion of its taxes that are experience-rated.¹

State UI tax systems are, however, only partially experience-rated. Employers do not repay the full cost of the layoffs that they generate. For example, firms at a state's maximum tax rate do not face any additional tax burden when they lay off additional workers. The cost of UI benefits for additional layoffs are shifted to the firms at lower tax rates.

PROPOSAL

Offer a Legislative Proposal to Impose a Mass Layoff Surcharge on Profitable Firms Engaging in Mass Layoffs

The Administration could develop a legislative proposal to impose a surcharge on state UI taxes of profitable firms engaging in mass layoffs. Revenue generated by the surcharge would be offset by decreases in the state UI tax rate for all other businesses. The revenues from the surcharge would flow into state UI accounts, which are used to pay UI benefits. Thus, firms that are creating unemployment will be required to bear a greater portion of the financial burden of UI benefits.

The legislation would also require states to allow firms that are not profitable (or that have low profits) to appeal for an exemption or a reduced surcharge.

¹ For example, if competing firms face different tax costs, based on their layoff experiences, firms with higher taxes that pass on the full cost of their taxes by increasing prices (or lowering wages) will put themselves at a competitive disadvantage. See Anderson, Patricia and Bruce Meyer, 1994. *"The Incidence of the Unemployment Insurance Payroll Tax,"* prepared for the Advisory Council on Unemployment Compensation.

Pros: Revenue neutrality would be maintained over time within the UI system. Increased revenues generated by the surcharge will result in a shift to a lower state tax schedule in subsequent years. Consequently, taxes will decrease for firms that do not face the surcharge.

In addition, this proposal avoids placing additional burdens on financially troubled businesses by relieving those with high layoffs from all or part of the surcharge. It does, however, effectively target profitable firms which engage in large mass layoffs.

Cons: This proposal defines a new federal requirement in an area where the federal government provides guidance but the states traditionally have had broad discretion.

FAX TRANSMITTAL SHEET**RECEIVER TELECOPIER NUMBER:** 456-2878**TO:** Gene Sperling**FROM:** Anne Lewis**DATE:** March 1, 1996**TIME:** _____**PAGE NUMBER ONE OF** _____ **PAGES****TRANSMITTER TELECOPIER:** (202) 219-7971**ADDITIONAL COMMENTS:****IF YOU HAVE QUESTIONS REGARDING THIS FAX CALL:** Marilyn Stewart on 219-8

SECRETARY OF LABOR
WASHINGTON

MAR 1 1996

MEMORANDUM FOR THE PRESIDENT

FROM: ROBERT B. REICH *RB*
THROUGH: LAURA TYSON
SUBJECT: PENSION PORTABILITY

Herewith, a number of ideas for making 401(k) pensions more portable.

As you know, over 20 million Americans now save at work through 401(k) plans, and the numbers are growing quickly (approximately twice that number are in traditional "defined benefit" plans, but their numbers have remained constant as employers increasingly offer 401(k)s, and as large firms downsize).

401(k) plans are "portable" in the limited sense that workers who leave their jobs typically can roll over their 401(k)s to an IRA and sometimes to a new employer plan. However, pension law gives workers little control over many aspects of portability. For example, job-to-job portability is not possible for about half of all workers because pension law does not require employers who offer plans to accept transfer of their employers' 401(k) savings from previous employment.

Further, the option of rolling a 401(k) to an IRA is more difficult than it may appear. To avoid tax penalties, workers must tip toe their way through tax and timing issues and may have to retain multiple accounts in order to preserve retirement savings or transfer to future employers' plan.

The attached provisions would go some way towards providing more meaningful portability for workers. They could be combined with the pension simplification package already in your budget or included in a later pension initiative. It is my understanding that the NEC is considering these and other ideas.

Attachment

401(k) PLAN PORTABILITY ISSUES

I. BACKGROUND

Pension portability is complicated and is related to other important considerations, such as coverage and benefit adequacy. The challenge is to find ways to expand portability and coverage for workers, while balancing the costs and administrative burdens on employers in a voluntary pension system.

Significant portability changes in defined benefit plans would require radical reforms and could raise costs so as to discourage defined benefit plans.¹

In the 401(k) setting, portability means the ability of workers to preserve retirement savings following a change in employment. 401(k) plans are now relatively portable because workers who separate from jobs may under many circumstances transfer their 401(k) accounts to IRAs or other employers' pension plans.

II. ANALYSIS OF ISSUES

A. 401(k) PLANS ARE NOT REQUIRED TO ACCEPT ROLLOVERS

Issues

When a worker changes jobs, the law allows direct transfers from one employer's 401(k) plan to an IRA or another employer's plan that chooses to accept transfers.

An estimated 98 percent of 401(k) participants are in plans that offer direct transfers for workers who separate before retirement. There is no requirement for 401(k) plans to accept transfers and only 51 percent of 401(k) participants are in plans that do so.

¹Defined benefit plans are designed to fund benefits payable over thirty to forty years, generally on the highest salary. An employer hiring an older worker would assume disproportionate costs for the benefits promised from previous employment. Furthermore, since defined benefit plans count on compounding to fulfill their eventual obligations, the withdrawal of assets would have a detrimental effect on the financial status of the funds.

A direct transfer to an IRA is an alternative for workers unable to rollover their 401(k)s to a new employer's plan. A 401(k) distribution can be transferred directly to a conduit IRA, and later transferred to another 401(k) plan, but this arrangement is not as simple as it appears. Funds in a conduit IRA may be transferred tax-free to another 401(k) plan only if it is not commingled with regular IRA assets. A worker has to establish a second IRA account to receive 401(k) distributions. As contrasted with 401(k) accounts, IRAs may be subject to the claims of creditors.

For those workers fortunate to find a new employer plan that accepts transfers, the receiving plan may be able to delay such a transfer until workers satisfy a waiting period which can be as long as two years. In order to make a requirement that plans accept rollovers a real option, workers should be able to roll their previous accounts of any amount over into a new employer plan even if they are not participating yet in that plan.

Option

Require 401(k) plans to accept direct transfers, possibly before a new worker would be eligible to participate in the plan.

Pros

The consolidation of saving accounts simplifies workers' retirement planning and investment decisions. Requiring plan sponsors to accept rollovers would reduce leakage due to lump sum cashouts.

Cons

Plan sponsors would object to the added administrative burdens and to accepting transfers before a new employee starts participating in the plan because turnover is relatively high for probationary employees.

B. CREATE NEW OPTIONS FOR WORKERS CHANGING JOBS

Issues

Most plans impose a waiting period for new employees. Employers impose waiting periods because they have high turnover among their low-paid employees and probationary employees. Employees who stay for only a short period of time are the least likely to contribute to 401(k) plans. If these employees were eligible for the plan, their failure to contribute would reduce the averages used to determine how much the highly-compensated employees may contribute.

Thus, an employee who switches jobs is often unable to continue uninterrupted 401(k) savings. At the same time, employees who were covered by the prior employer's plan or whose spouse has pension coverage may be unable to make tax-deductible contributions to an IRA.

Option 1

Allow 401(k) plans to accept employee salary deferrals during the period before a new employee is eligible to participate in the plan, without subjecting those contributions to discrimination testing.

Pros

Allowing plans to accept employee contributions would encourage continued savings among workers who change jobs. This proposal is a complement to the option discussed in issue A. If both options were adopted, employees may be able to consolidate their 401(k) savings as well as continue to contribute.

Cons

Highly-paid employees are more likely to take advantage of this option than low-paid employees. Plan sponsors may object to setting up and maintaining 401(k) accounts for short service employees.

Option 2

Allow employees who change jobs to contribute to an IRA during the period before they are eligible to participate in their new employer's plan.

Pros

Allowing IRA contributions would encourage continued savings among workers who change jobs.

Cons

Highly-paid employees are more likely to contribute, since only they are restricted from making tax-deductible contributions to IRAs.

C. WORKERS CANNOT CONTROL THE TIMING OF DISTRIBUTIONS OR ROLLOVERS

Issues

Workers have reported that they have little control over the timing of their 401(k) distributions and transfers. Typically participants can elect to (1) have the retirement savings directly transferred to another retirement account; (2) take the 401(k) assets in a lump sum; or (3) leave the assets in the 401(k) plan until retirement. We have little evidence that timing is a widespread problem, but there are two issues to consider:

1. Workers are required to make hasty elections: Workers leaving jobs may only have a short period of time within which to make decisions about direct transfers. Workers facing long waiting periods to participate in a new employer plan would benefit from having the ability to elect a direct transfer at a later date after separation.

Option 1

Require plans to permit separating workers to elect direct transfers at any time after separation.

Pros

Allowing workers to better control the timing of transfers would mean that they would not have to maintain multiple savings accounts.

Cons

There is not much evidence to show that this is a widespread problem.

2. Workers face significant delays in getting access to their 401(k) assets:

Some workers have complained that once they have elected to transfer or cashout their 401(k) plan assets, they experience significant delays in having those decisions acted upon by the plan. Plans may postpone the distribution of 401(k) accounts until the next valuation of plan assets in order to properly allocate earnings to all participants. Surveys show that most plans conduct quarterly valuations.

Option 2

Require plans to make distributions no later than a set time after valuations unless the employee has elected a later date.

Pros

Workers who are leaving their jobs benefit from a clear standard in the law that sets a maximum period of time for distributions to be made after valuations. Focusing on the timing of distributions rather than the frequency of valuation would not require plans to make major changes in the way they operate.

Cons

Again, we do not have evidence of a widescale problem.

D. PROHIBITING INVESTMENT OPTIONS BASED ON EMPLOYMENT STATUS

Issues

Many participants do not transfer their 401(k) accounts because they prefer other forms of distribution such as an annuity or lump sum. We estimate that of the total \$22 billion in pre-retirement distributions, \$10 billion in 401(k) assets were spent in 1995 rather than saved for retirement.

If the plan provides that 401(k) assets must remain in the plan until retirement age unless immediate distribution is taken, separating workers may be encouraged to take a pre-retirement cash-out. Some plans may encourage cash-outs by providing fewer investment options for separated participants than for active workers.

Option

Require plans to offer the same investment options to all participants regardless of their status.

Pros

This eliminates a disincentive and encourages workers to keep their retirement savings in their 401(k) accounts.

Cons

Without a record of abuse in this area, employers may see the imposition of this rule as unnecessary.

E. ALLOWING TRANSFERS OF AFTER-TAX SAVINGS TO IRAs

Issues

The tax code does not allow after-tax contributions in a 401(k) plan to be transferred or rolled over to another tax-favored vehicle. This means that a worker who consolidates retirement savings loses the ability to shelter the income on after-tax amounts from taxation, resulting in lower savings at retirement.

Option

Allow the transfers of after-tax amounts to IRAs.

Pros

Workers gain the ability to shelter the income of after-tax amounts from taxation as well as simplicity.

Cons

The transfer of after-tax contribution to IRAs may require complicated recordkeeping for tax purposes.

E X E C U T I V E O F F I C E O F T H E P R E S I D E

04-Mar-1996 02:03pm

TO: Gene B. Sperling
TO: Daniel Taberski
TO: FAX (9-622-0605, Mark Iwry)

FROM: Ellen S. Seidman
 National Economic Council

SUBJECT: Draft of 2-pager on pensions

PROBLEM: Only about 50% of even the full-time private workforce is covered by some sort of retirement savings program.

WHY? Small businesses (only 24% of workers in businesses with less than 100 workers are covered) don't have pension programs because:

- o Lots of them don't last very long, or have highly variable earnings and employment patterns
- o Pension plans are complex
- o Complexity breeds costliness, which is far more of a problem for a small business who have fewer workers over which to spread the cost, than for bigger businesses
- o They don't like dealing with the IRS any more than they have to -- or with any other government agency, such as the Labor Department
- o The family aggregation rule sharply diminishes retirement savings opportunities in family-run corporations

WHAT HAVE WE PROPOSED?

- o The NEST, an extremely simple, administratively inexpensive IRA-based retirement savings program for businesses with 100 or fewer employees, which does not require the business to deal with either the IRS or DOL, and which would cover all workers, including low-wage workers
- o Repeal the family aggregation rule

WHY? Larger businesses don't cover many employees (53% of workers in businesses 100-249 are covered; 62% in businesses with 250-499 employees) because pension plans are complex and administratively costly

WHAT HAVE WE PROPOSED?

- o A design-based safe harbor for 401(k) plans that

will greatly reduce administrative costs while ensuring coverage of all workers, including low-wage workers

- o Simplifications of the highly-compensated employee, non-discrimination correction and other rules, to reduce cost and complexity, reducing both financial and psychological barriers to establishing retirement savings programs

WHY? Non-profit organizations cannot have 401(k) plans; because of their financial structure and longevity issues, defined benefit plans are difficult for many of them.

WHAT HAVE WE PROPOSED?

- o Allow non-profit organizations to have 401(k) plans. (Universities and hospitals already have 403(b) plans, which are similar to 401(k)s. We propose allowing them to have 401(k)s also.)

PROBLEM: Even with these reforms, there will always be firms that choose, for financial or other reasons, not to provide retirement savings plans, or not to provide them for all workers, and there will be workers who choose not to participate.

WHAT HAVE WE PROPOSED?

- o Expand IRA eligibility by doubling the income limits for tax-deductible contributions and help encourage workers to use IRAs by allowing tax-free withdrawals for a range of educational, housing and medical needs.
- o A major educational campaign, together with businesses and financial firms, to encourage workers to save and, in particular, to take advantage of tax-advantaged retirement savings plans, whether through an employer or an IRA.
- o Design-based plans (NEST and 401(k)) that free employers from much administrative responsibility if they provide coverage and contributions for all employees, including low-wage employees

PROBLEM: Some workers who are covered by pension plans lose coverage when they change jobs, either because they move to an employer without a pension plan or because of eligibility waiting periods

WHAT HAVE WE PROPOSED?

- o Expanded IRA coverage
- o Reduce multi-employer vesting schedule from 10 years to 5 years
- o Corrective legislation to implement an earlier statute guaranteeing veterans the right to continued pension coverage when they return to a job after military service (will be part of March 18 budget)
- o Expansion of the PBGC missing participants program to defined contribution plans to enable all workers to get the pension benefits they are due when they retire, even if their employer has gone out of business

WHAT ARE WE CONSIDERING PROPOSING?

- o Actions to simplify saving in an IRA of tax refunds
- o Simplification of some [statutory] non-discrimination rules to encourage firms to allow

workers to start participating in retirement savings plans as soon as they're hired

- o Simplification of other [statutory] rules to encourage far easier rollovers of 401(k) accounts into either an IRA or a new employer's 401(k)
- o Increased IRA eligibility for non-working spouses