

**DEPARTMENT OF LABOR OVERSIGHT: MISSION,
MANAGEMENT, AND PERFORMANCE**

HEARING
BEFORE THE
SUBCOMMITTEE ON HUMAN RESOURCES
OF THE
COMMITTEE ON GOVERNMENT
REFORM AND OVERSIGHT
HOUSE OF REPRESENTATIVES
ONE HUNDRED FIFTH CONGRESS

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**DEPARTMENT OF LABOR OVERSIGHT:
MISSION, MANAGEMENT, AND PERFORMANCE**

TUESDAY, JUNE 10, 1997

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HUMAN RESOURCES,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 1:10 p.m., in room 2247, Rayburn House Office Building, Hon. Christopher Shays (chairman of the subcommittee) presiding.

Present: Representatives Shays, Towns, Barrett, and Kucinich.

Staff present: Lawrence J. Halloran, staff director and counsel; R. Jared Carpenter, clerk; Cherri Branson, minority counsel; and Ellen Rayner, minority chief clerk.

Mr. SHAYS. We will call the subcommittee hearing to order and to welcome Secretary Herman. All the members of the subcommittee appreciate your accepting our invitation to describe your vision for the Department of Labor.

Over the past 3 years, we have begun our oversight partnership in this way with each Secretary of the five cabinet departments under our jurisdiction. For us, these hearings establish a solid foundation for constructive, nonpartisan oversight. For you, it is your chance to help focus our agenda on the challenges and opportunities we see facing the Department.

Today, the Department of Labor plays a central role in two vitally and recently important public-policy initiatives: implementation of welfare reform and health care portability reform. Each challenges the DOL's management capacity and resources. We look forward to hearing your plans in these critical areas.

In the last Congress, based on work done by the General Accounting Office, GAO, this subcommittee began to identify the basic operational characteristics of successful job-training programs. Now we need to know how DOL's welfare-to-work and school-to-work programs will measure up against these standards.

Under the Government Performance and Results Act, DOL's draft strategy plan has been received by the subcommittee, and congressional consultations are ongoing. Last year, we noted some obstacles to Department-wide coordination that could hinder results-oriented case management, particularly in the area of criminal enforcement. We hope you will address these issues today in terms of your immediate plans, as well as your longer-term goals under the Results Act.

Again, Madam Secretary, we appreciate your being here.

I think, as you know, it is our policy to swear in all witnesses, including Members of Congress, and then we never get into a problem as to who we should and should not swear in. So if you would stand, I will administer the oath.

[Witness sworn.]

Mr. SHAYS. Thank you. We have a number of committees that are in markups because of the budget agreement, including the ranking member, Mr. Towns, who I feel is an equal partner in these hearings. So he wishes me to convey to you that he is in markup, and he will be coming hopefully shortly.

You have a fairly long testimony, but I am more than happy to have you put a good deal of it in the record verbally, so you can summarize what you want, but you can read whatever you would like to, and there is no time problem. You can pick and choose, but we certainly will put anything that you want in the record that you want to submit, but I am happy to hear your testimony.

**STATEMENT OF ALEXIS M. HERMAN, SECRETARY, U.S.
DEPARTMENT OF LABOR**

Ms. HERMAN. Thank you very much, Mr. Chairman. Thank you for your opening comments. I would like to have my full statement included for the record, and I would briefly like to summarize the full statement for you.

Let me begin by saying it is a great pleasure for me to appear before you today to discuss some of the issues and challenges that face the Department of Labor. As you know, I have been with the Labor Department for just a short time, and I look forward to establishing a close working relationship with the subcommittee.

During the course of the Clinton administration, we have made great progress in helping America's working families build a better future for themselves. The economy is growing steadily. More than 12 million new jobs have been created since January 1993. Unemployment is at its lowest rate in nearly 24 years.

The recently negotiated budget agreement balances the budget and still maintains badly needed investment in education, training, health care, and the environment. Both you, in the Congress, and we, in the administration, can claim credit for this effort, which still needs to be, of course, enacted. Yet we still face the challenge of helping every American to participate and prosper in the new economy.

It is our responsibility to make sure that all Americans have the opportunity to find and hold secure jobs with good wages, reliable pensions, health benefits, and opportunities to improve their skills and earning capabilities. Work enables us to support ourselves and our families. It affirms our humanity and allows each of us to make our own unique contribution to the world.

That is why every worker is entitled to a fair wage, safe working conditions, and a sense of dignity and respect. As Secretary of Labor, I have established five goals which will build on the success of the past 4 years and address the challenges that lie ahead.

They are, first, to equip every working American with the skills to find and hold good jobs with rising incomes throughout their lives; second, to help people move from welfare to work; third, to assure that working Americans enjoy secure pensions when they

retire; fourth, to guarantee every American a safe, healthy workplace, free of employment-related discrimination; and, last, to help families balance work and family.

My first goal, to equip all Americans with the tools they will need to begin working and then throughout their careers to enhance their productivity and raise their standard of living, is a goal that I intend to pursue vigorously.

In our fiscal year 1998 budget request and in negotiations on the Balanced Budget Agreement, the President has held firm on one of his top priorities: investing in education and training to ensure that every American has the schooling and the skills to succeed in the increasingly competitive global economy.

We seek to offer all Americans the tools to manage their careers in the new economy, and we target the high unemployment, low skills, and lack of work experience among youth and adults in some of our poorest communities. That is why I am particularly delighted that the bipartisan budget agreement will include \$250 million for the opportunities area for out-of-school youth initiatives, which will provide grants to 15 to 20 high poverty urban communities for training, an estimated 50,000 teens for careers as an alternative to welfare and crime.

Two years ago, President Clinton proposed to dramatically overhaul the complex structure of Federal job training programs by consolidating multiple programs into a single integrated work force development system by providing skill grants or vouchers to adults who need training and by improving accountability by focusing on results and not process.

I am specially pleased that the House passed a bipartisan bill on May 16 that reflects our common goal of building an integrated work force development system and incorporates principles similar to the tenets in the President's GI Bill for America's workers.

I look forward to working with the Congress to realize enactment of this important legislation this year. After enactment, it is our expectation that we will continue to work in a bipartisan fashion on its implementation. My second goal is to begin successfully to implement the welfare-to-work effort launched last year. In our new system, millions of people must make their way from a welfare check to a paycheck.

I started my own career by helping people move from welfare to work, and I can tell you it will not be an easy task. It will take a profound depth of commitment, learning what kinds of skills employers are looking for, equipping welfare recipients with those skills, and then convincing employers to hire them. Once hired, we need to ensure that we do the best job we can to encourage retention if we are to succeed.

We have requested \$756 million in the 1998 appropriations for a new Welfare-to-Work Jobs Challenge, which is designed to help States and cities move hundreds of thousands of the hardest-to-employ welfare recipients that will be in hopefully lasting jobs by the year 2000 through job placement and job creation.

My third goal is to assure that workers and their dependents are economically secure when they retire. Life-skills development, economic security, is a lifelong concern. We must continue to do all that we can to safeguard private pension funds and encourage

workers to save on their own for retirement. More than 150 million participants and beneficiaries depend on the Employee Retirement Income Security Act to protect their pension, health, and other welfare benefits.

Employee benefit plans provide critical income and services on which workers and their families rely to protect their financial security. My charge as Secretary of Labor is to protect and strengthen this Nation's private pension system. Three weeks ago, Attorney General Janet Reno and I announced a successful, multi-agency enforcement initiative. Its purpose was to crack down on white collar pension crimes targeted at the \$3.5 trillion in assets held by the Nation's private sector pension plans. This initiative to date has closed 70 cases, involving more than 150 participants.

Just last week, the administration—or I should say today—the administration transmitted the legislation to Congress, entitled the Pension Security Act of 1997. For a number of years, Secretaries of Labor and Inspector Generals of the Department, as well as at the GAO, have reported to the Congress a major loophole in ERISA known as the “limited scope audit.” The bill would close that loophole. The audit reforms contained in the Pension Security Act make limited changes to ERISA rules but have the potential to create lasting reform with respect to the enforcement of ERISA.

Mr. Chairman, I ask you and members of this subcommittee to commit to working with me to improve the quality of pension plan audits to better assure hard-working Americans that their pension benefits will be protected.

My fourth goal is to guarantee every worker a safe and healthy workplace, free of employment-related discrimination. I spent a substantial portion of the 1970's, including my service as director of the Women's Bureau, fighting barriers to employment opportunity for women and minorities. I spent most of the 1980's advising companies on how to create a climate of understanding so that those hired would stay on and succeed with their respective corporate cultures.

In this intensely competitive new economy, smart employers must utilize all of the talent that is available to them. We must also strive to guarantee safe and healthy workplaces, as well as other worker protections. Although most employers make good faith efforts to protect their workers, others do not. DOL's worker protection agencies, therefore, must maintain a credible enforcement presence. Every day, the lives and health of American workers are jeopardized by the experiences they have at work.

For this reason, American workers need their Government's help and credible enforcement as an important intervention tool and an effective deterrent.

Let me speak briefly to a subject of special interest to you, Chairman Shays: the criminal enforcement efforts of the Labor Department's agencies. In addition to the work of the Independent Office of the Inspector General, five department agencies and offices—the Office of Occupational Safety and Health, Mine Safety and Health Administration, the Pension and Welfare Benefits Administration, the Office of Labor Management Standards, the Wage and Hour Division—conduct investigations that may lead to criminal prosecutions. I should point out that the Solicitor's Office may have had

very limited involvement in criminal matters as opposed to civil matters, per se.

In most criminal cases, Labor Department agencies, particularly PWBA and OLMS, work directly with the Justice Department prosecutors. In recent years, the Inspector General's Office has suggested that the criminal enforcement coordination among the various Labor Department agencies could be improved. The Inspector General's view is that the individual agencies could do more work together, despite the very real differences in their programs.

The Department has taken the Inspector General's suggestions very seriously. A group was established in the Department that brings together the criminal enforcement coordinators of the five key agencies at the Department, along with the representatives of the Inspector General's Office and the Solicitor's Office.

The Criminal Enforcement Coordination Group has met to address common issues confronting the agencies and to build a relationship among its key staff. A pilot plan to create an interagency, coordinating mechanism in the field is now being developed, and in July representatives from other DOL agencies will attend a 2-day conference for criminal investigators organized by the Office of Labor Management Standards for its own staff.

My last and final goal, helping working Americans balance work and families, is something that I have seen work from a very practical point of view in the workplace today. I have worked with dozens of major corporations and labor unions that have adopted policies that support families. This is simply good business and good family values.

And let me just say, as I conclude my remarks, that as a former small business owner myself, I am particularly pleased with the opportunity to work on the Government Performance and Results Act. The Department has traditionally viewed its work in this area with an eye toward improving program accountability. Much progress has been made in preparation for the Government Performance and Results Act implementation.

The Department has established a results-oriented environment and is well positioned to meet its ambitious goals. Let me assure you of my own commitment to continue the performance-based, results-oriented approach to goal-setting and strategic planning. I personally welcome GPRA as a management tool to help the Department ensure the value of its accomplishments to the American public as well as to the Congress. The Government must not only work better, but it must also be able to demonstrate that it is working better if we expect the public to have confidence in this institution.

Mr. Chairman, this concludes my prepared statement. I would like to thank the subcommittee for the opportunity to discuss the issues and challenges of the Labor Department. I would be happy to answer any questions that you or other Members may have.

[The prepared statement of Ms. Herman follows:]

**STATEMENT OF ALEXIS M. HERMAN
SECRETARY OF LABOR
BEFORE THE
SUBCOMMITTEE ON HUMAN RESOURCES
AND INTERGOVERNMENTAL RELATIONS
HOUSE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
JUNE 10, 1997**

Mr. Chairman and Distinguished Members of the Subcommittee:

It is a great pleasure to appear before you today to discuss some of the issues and challenges facing the Department of Labor. As you know, I have been with the Department for just a short time. I look forward to establishing a close working relationship with this Subcommittee.

I am delighted to have the opportunity to discuss with you my goals for the Department; the proposed Pension Security Act of 1997; efforts to coordinate enforcement activities at DOL; our Government Performance and Results Act implementation status; our Chief Financial Officer structure; and the status of our Year 2000 conversion effort. With the help of this Subcommittee, I believe that the ambitious goals I have established for the Department are well within reach.

SECRETARIAL GOALS AND THE FY 1998 BUDGET REQUEST

During the course of the Clinton Administration, we have made great progress in helping America's working families build a better future for themselves. The economy is growing steadily. More than 12 million new jobs

have been created since January 1993. Unemployment is at its lowest rate in 23 years.

The recently negotiated bipartisan budget agreement balances the budget and still maintains needed investments in education and training, health care, and the environment. Both you in the Congress, and we in the Administration can claim credit for this agreement, and we look forward to working with you to ensure its enactment.

Yet, we still face the challenge of helping every American to participate and prosper in the new economy. The new economy, relying on advancing technology, will require highly skilled workers to make the highest quality products and offer the highest-quality services for markets at home and abroad. But, millions of Americans continue to toil daily in the old economy with soon-to-be, if not already, outdated skills and tools; and millions more still seek full-time jobs. It is our responsibility to make sure that all Americans have the opportunity to find and hold secure jobs, with good wages, reliable pensions, health benefits and opportunities to improve their skills and earning capabilities. Work enables us to support ourselves and our families. It affirms our humanity, and allows us to make our own unique contribution to the world. That is why every worker is entitled to a fair wage, safe working conditions, and a sense of dignity and respect.

In the short period of time I have been Secretary of Labor, I have established five goals which will build on the successes of the past four years and address the challenges that lie ahead. My goals are:

- **One, equip every working American with the skills to find and hold good jobs, with rising incomes throughout their lives;**
- **Two, help people move from welfare to work;**
- **Three, assure that working Americans enjoy secure pensions when they retire;**
- **Four, guarantee every American a safe, healthy, workplace free of employment-related discrimination; and,**
- **Five, help working people balance work and family.**

Our Fiscal Year 1998 budget request includes the resources we will need to pursue these goals, as well as to improve the accuracy of the economic indicators that guide our department and other federal departments. The total request is \$37.9 billion in budget authority and 17,143 full-time equivalent (FTE).

Goal #1: Lifelong Learning and Skill Development

My first goal is to equip all Americans with the tools they will need to begin working and then, throughout their careers, to enhance their productivity and raise their standard of living. In the new economy -- and on the edge of a new century -- education can no longer end with a high school degree, or even

with a college diploma. Now, education must mean lifelong learning and constant development of new skills.

In our FY 1998 budget request and in negotiations on the Balanced Budget Agreement, the President has held firm on one of his top priorities: investing in education and training to ensure that every American has the schooling and the skills to succeed in the increasingly competitive, global economy. We seek to offer all Americans the tools to manage their careers in the new economy. And, we target the high unemployment, low skills, and lack of work experience among youth and adults in some of our poorest communities.

Many young people need help to find work and shoulder family responsibility. We need to help them learn skills and get work experience as they prepare for the jobs of the 21st Century. That is why we are continuing to help states develop and implement School-to-Work systems within the mainstream education system, including alternative systems for youth who have already or are on the verge of leaving school. Of equal importance to the job skill and work opportunity aspect of the program is the academic education that students acquire. Many students do not go directly from high school to a job. Many go on to a postsecondary education where they are expected to perform at the same high academic standards as all students in the State.

A great deal of progress in the area of School-to-Work system building has been made nationwide in the three years that have passed since the

School-to-Work Opportunities Act was signed into law. Thirty-seven States have made great strides in implementing comprehensive statewide School-to-Work systems; in the implementation phase, they have awarded funds to over 1,000 local communities. These local partnerships are the result of active collaboration between teachers, parents, students, employers, organized labor, colleges and universities, and nonprofit organizations. It is significant that the number of these partnerships increased 200% between December, 1995 and June, 1996. To use the vernacular, "we are on a roll." Fiscal Year 1997 funds are expected to permit all 50 states to fully implement school-to-work strategies as an integral part of their job training and educational systems. In addition to these investments, the Departments of Labor and Education have awarded funds directly to over 100 local sites, including over 50 investments in high-poverty communities in urban and rural areas.

The Job Corps will continue to serve some of the most disadvantaged young people in the U.S. with both school and work-based learning in a residential setting. Job Corps is the nation's largest training program for at-risk youth. In its more than 30-year history, the program has served almost two million young people, providing education, vocational training, social skills, counseling and related support in residential Job Corps centers. Over the next two years, with 1996 and 1997 funds, we will be opening eight new Job Corps centers, bringing the total to 118 centers.

The expense to society of impoverished youth, particularly those who do not graduate from high school or receive an equivalency degree, is staggering. By one estimate, the total lifetime costs to the broader society of a cohort of 16-24 year-old inner city drop-outs is roughly \$41 billion, including the cost of lost earnings, lost tax revenues, and expenditures by the criminal justice system and for welfare and additional health care. On the human side, the lack of hope is too great a price to pay. Our pact with workers has always been that working hard earns entrance into a productive future and a share of the American dream. We must make that dream attainable to all who are willing to work for it.

We can make a difference. The General Accounting Office last year produced a study of highly regarded local programs. We are gratified that five of six highly regarded local programs identified by GAO receive Job Training Partnership Act (JTPA) funds. The findings in this report reinforce many of the results of recent Labor Department research projects and endorse the directions toward which we are moving job training programs. They clearly indicate that JTPA training programs in many areas have an extraordinary impact on individuals and communities.

In his FY 1998 Budget, the President has proposed competitive, national grants to high-poverty urban and rural areas with major youth unemployment problems, including designated and prospective Empowerment Zones and Enterprise Communities. The Youth Opportunity Area grants are time-limited

Federal seed funds. These funds would be awarded for local designs based on proven models that show the best chance of substantially increasing employment among youth. These seed funds would leverage State, local, and private resources to sustain public-private efforts to train and employ youth in private sector jobs as an alternative to welfare and crime.

Although job training reform legislation was not enacted last year, the Department has pressed ahead with reforms to the job training system under current law and funding made available by the Congress. At One-Stop Career Centers, Americans will have easy access to reliable, up-to-date information on where the jobs are and what skills are in demand. One-Stops are also a place where individuals can obtain ready access to training-related and support services. Employers will increasingly rely on one-stop centers as an important source for recruiting qualified workers for job openings. The Employment Service's universal labor exchange and related assistance provide a critical job-finding infrastructure for the emerging State One-Stop Career Center networks.

An integral part of the One Stop initiative is labor market information. The One Stop investment supports the creation of America's Labor Market Information System to provide all American workers and businesses with the information and value-added services necessary to exercise informed choices in their workforce decisions. Two essential and related initiatives are the modernization and expansion of America's Job Bank, and creation of America's Talent Bank.

Since November 1994, twenty-four States have begun implementing One-Stop systems through DOL grants. Another nine States will receive implementation grants in FY 1997. We anticipate that the twenty-one remaining States and territories will receive implementation grants by July 1999.

Creating a New System for Workforce Development and Labor Market Transition

Two years ago, President Clinton proposed a dramatic overhaul of the complex structure of Federal job training programs by consolidating multiple programs into a single, integrated workforce development system, by providing skill grants or vouchers to adults who need training, and by improving accountability by focusing on results, not process.

This year, the House and Senate authorizing committees are working on legislative proposals to reform the job training and employment system that build on the broad consensus regarding key portions of last year's proposal. I am especially pleased that the House passed a bipartisan bill on May 16 which reflects our common goal of building an integrated workforce development system and incorporates principles that are similar to the tenets in the President's G.I. Bill for America's Workers. While we do not agree with every provision of the House-passed bill, I look forward to working with the Congress to realize enactment of this important legislation this year. After enactment, it

is our expectation that we will continue to work in a bipartisan way on its implementation.

Goal #2: Promoting Welfare to Work

My second goal is to work with the Department of Health and Human Services to implement successfully the welfare reform effort launched last year. As the President laid out in his FY 1998 budget, successful implementation of last year's Personal Responsibility and Work Opportunity Reconciliation Act is a high priority for this Administration. I am particularly pleased that the recently negotiated balanced budget agreement explicitly includes funds for the Welfare-to-Work Jobs initiative. In our new system, millions of people must make their way from a welfare check to a paycheck. I started my career helping people move from welfare to work, and I can tell you it will not be an easy task. It will take a profound depth of commitment -- learning what kinds of skills employers are looking for, equipping welfare recipients with those skills, and then convincing employers to hire them -- if we are to succeed. Together with governors and mayors, businesses and unions, churches and community organizations, our goal must be to create opportunities for welfare recipients to find real jobs at fair wages that reward work.

We have requested \$756 million in FY 1998 for a new Welfare-to-Work Jobs Challenge, which is designed to help States and cities move millions of

the hardest to employ welfare recipients into lasting jobs by the year 2000 through job placement and job creation.

The Jobs Challenge will make it possible for many welfare recipients to do what most want to -- work. It will help individuals get jobs in the private sector and keep them. To be successful, it requires a strong private sector role. I am pleased that the Welfare-to-Work provisions which cleared the Ways and Means Subcommittee on Human Resources last week will actively engage the 640 "employment councils" in place across the country -- including over 10,000 private sector volunteers -- in meeting the Welfare-to-Work Jobs Challenge. Under the Job Training Partnership Act, these councils oversee the training and job placement of welfare recipients, other low income adults and youth, as well as dislocated workers.

Last year this Subcommittee held hearings on "Designing More Effective Job Training Programs at the State and Local Levels." You heard testimony from the GAO on the strategies and elements common among successful job training programs in its study of highly regarded programs. A number of the successful programs cited by the GAO served welfare clients and a number of successful strategies they employed are critical to the design of a Welfare-to-Work program.

Among the elements cited by GAO was that successful programs shared a strong emphasis on removing barriers to training and employment. The same Ways and Means provisions will target funds to those clients that experience

multiple barriers to employment. If we are to be successful in welfare reform, we must target resources to those recipients who cannot make the transition from welfare to work without assistance.

Successful programs also shared strong links with the local labor market. The welfare-to-work language in Ways and Means recognizes this need by not creating a new program, but by driving the bulk of the new resources to the current workforce development system in local communities -- both in cities and rural areas with the largest poverty and public assistance populations -- to ensure that services are designed by entities which have those linkages to the local labor market.

The President's FY 1998 Budget also proposes an increase of \$169 million for the JTPA program for low-income adults so that additional welfare recipients and other disadvantaged individuals can be served, by funds in addition to those in the Temporary Assistance for Needy Families (TANF) block grant. Already, this program helps many welfare recipients get the training they need to become economically self-sufficient. In Program Year 1995, about 42 percent of those leaving the program were welfare recipients. JTPA has documented success in placing women on welfare in private sector jobs, particularly through on-the-job training. Overall outcomes for welfare recipients are positive, too -- 56 percent get jobs when they leave the program, and of these, nearly two-thirds get jobs with fringe benefits.

Goal #3: Enhancing Retirement Security

My third goal is to assure that workers and their dependents are economically secure when they retire. Like skills development, economic security is a lifelong concern. My contemporaries in the "baby boom" generation are beginning to realize that retirement is not all that far into the future. We must continue to do all we can to safeguard private pension funds and encourage workers to save on their own for retirement.

Over 150 million participants and beneficiaries depend on the Employee Retirement Income Security Act (ERISA) to protect their pension, health and other welfare benefits. DOL's Pension and Welfare Benefits Administration (PWBA) is the agency largely responsible for the enforcement and administration of this landmark law. Also in the Department, the Office of the Inspector General is responsible for criminal investigations of racketeering involving ERISA plans.

Employee benefit plans provide critical income and services on which workers and their families rely to protect their financial security. Also, ERISA-covered pension plans are the U.S. economy's single largest source of capital for investment. The quality of the lives of American workers and their families is jeopardized when pension, health, or other vital benefits are not paid as promised. Fraud and abuse that cause plan assets to be placed at risk or lost cannot and will not be tolerated. PWBA's regulatory and enforcement actions, assisted by the Office of the Solicitor, are designed to ensure the integrity of

employee benefit plans. At the same time, we must be careful that we do not discourage the formation of new plans or prevent investment of plan assets in new opportunities.

My charge as Secretary of Labor is to protect and strengthen this nation's private pension system. On March 31, 1997, President Clinton announced a 401(k) enforcement initiative of the Labor Department's Pension and Welfare Benefits Administration. The President also called on the Congress to enact legislation to improve the quality of pension plan audits. The Administration today will be transmitting legislation to the Congress, entitled the Pension Security Act of 1997. At the heart of this proposal are changes to ERISA, which will improve our enforcement of the law in general, and the quality of employee benefit plan audits specifically.

Mr. Chairman, as you know, larger pension plans are required by ERISA to be audited annually. Congress intended that pension plans be closely scrutinized by independent public accountants. The audit requirement is a key part of our flexible, voluntary system of private pensions and it serves to protect the hard-earned benefits of workers, retirees, and their families.

For the past seven years, the Department has reported to the Congress a major weakness in pension security enforcement efforts. Nearly \$950 billion in plan assets held by 32,500 larger pension plans covering 23 million Americans do not receive a full, meaningful audit. This untenable situation exists because of a loophole in ERISA, known as the "limited scope audit." The limited scope

audit provision enables plan administrators to escape a full independent audit if any portion of the plan's assets is held by regulated financial institutions, such as banks or insurance companies. The discretion to limit the scope of the audit was given to plan administrators when ERISA was enacted in 1974 because, at the time, financial institutions were believed to be heavily regulated by the federal and state governments. While this may have once been true, it is not the case today. Moreover, under current auditing standards, when a limited scope audit is elected by a plan administrator, the accountant cannot render an opinion on any aspect of the plan's operation.

Thus neither plan participants nor the federal government can be certain that \$950 billion in plan assets are secure. The very idea that federally insured workers' money held in trust for retirement purposes can escape a meaningful audit is unsettling. It is an aberration that exists nowhere else in the world of accountancy.

From an ERISA enforcement perspective, we are mindful of two facts. First, independent public accountants can deter would-be wrongdoers by exposing the operations of a pension plan to the "sunlight" of an audit. This approach to ERISA enforcement builds on the private sector role of auditors to ensure that financial statements of a pension plan are accurate and comply with generally accepted accounting principles. It is obviously more efficient to prevent problems from occurring through thorough audits of plans than to expend resources to restore plan assets lost through fraud or abuse.

Secondly, the experience of PWBA is that, because full scope audits uncover more potential violations, monetary recoveries on behalf of pension plans are significantly greater than from limited scope audits.

For years the Labor Department's Inspector General has, in testimony before this Subcommittee and in Semiannual Reports to Congress, called for the elimination of the limited scope audit. In each of the past seven years, the Secretary of Labor has reported this major weakness in the Department's Federal Managers' Financial Integrity Act annual report. The General Accounting Office has also called for this same change to ERISA. The clear message is that Congress needs to act now. We cannot afford to ignore this warning. The audit and other reforms contained in the Pension Security Act make limited changes to ERISA's rules, but have the potential to create lasting reform with respect to the enforcement of ERISA.

Mr. Chairman, I ask you and the Members of this Subcommittee to commit to working with me to improve the quality of pension plan audits to better assure hard-working Americans that their pension benefits will be protected.

Goal #4: Safe and Equal Opportunity Workplaces

My fourth goal is to guarantee every worker a safe and healthy workplace free of employment-related discrimination. I spent a substantial portion of the 1970s, including my service as the Director of the Women's Bureau, fighting

barriers to employment opportunity for women and minorities. I spent most of the 1980s advising companies on how to create a climate of understanding so that those hired would stay on and succeed in their corporate cultures. In this intensely competitive new economy, smart employers must utilize all of the talent that is available to them.

We also must strive to guarantee safety and health in the workplace as well as other important worker protections. If an employer's practices threaten workers' safety and health; discriminate on the basis of gender, race, disability, or other unlawful grounds; or deprive workers of fair wages or pension and health benefits, tough enforcement is necessary. But our ultimate goal must be compliance with employment laws, not punishment for its own sake.

The Occupational Safety and Health Administration (OSHA), as does the Mine Safety and Health Administration (MSHA), play vital roles in protecting workers. I last worked with OSHA almost twenty years ago, and I have been reassured to learn how, over the past four years, OSHA has adopted innovative approaches to securing safe and healthy workplaces. The New OSHA is making substantial changes, fostering cooperative programs with employers and workers; expanding its use of compliance assistance, outreach, education and training; leveraging the agency's limited resources; and improving our ability to protect those workers most in danger. The ultimate goal is to ensure worker protection through an appropriate balance of fair and consistent enforcement, cooperative partnerships with small and large employers, and compliance

assistance and training. These are the approaches that make the agency the New OSHA -- Partnership and Compliance Assistance; Smarter Fairer Enforcement; and Common Sense Standards.

The Partnership Initiative builds upon the commitment to offer employers a choice between partnership and traditional enforcement. As part of this initiative, the agency will continue to establish multi-disciplined strategic teams that define, target and implement programs to address those workplaces and work processes with the most acute safety and health problems.

Although most employers make good faith efforts to protect their workers, others do not. DOL's worker protection agencies therefore must maintain a credible enforcement presence. Everyday the lives and health of American workers are jeopardized by conditions they experience at work. For this reason, American workers need their government's help and a credible enforcement effort remains an important intervention tool and an effective deterrent.

Let me speak briefly to a subject of special interest to Chairman Shays: the criminal enforcement efforts of Labor Department agencies. In addition to the work of the independent Office of the Inspector General, five Department agencies conduct investigations that may lead to criminal prosecutions: the Pension and Welfare Benefits Administration (PWBA), the Office of Labor-Management Standards (OLMS) and the Wage and Hour Division of the Employment Standards Administration, the Occupational Safety and Health

Administration (OSHA), and the Mine Safety and Health Administration (MSHA). I should point out that the Solicitor's Office has very limited involvement in criminal matters, as opposed to civil matters. In most criminal cases, Labor Department agencies--particularly PWBA and OLMS--work directly with Justice Department prosecutors.

In keeping with the remedial statutes administered by the Labor Department, most of the Department's enforcement work necessarily has been civil in character. These efforts are designed to win relief for workers--to recover back wages, restore pension funds, re-run union officer elections, or remedy unsafe working conditions--rather than to criminally punish employers or union officials. Nevertheless, criminal enforcement is an important part of the Labor Department's mission, in cooperation with the Justice Department, the Inspector General, and other law enforcement agencies

In recent years, the Inspector General's Office has suggested that criminal enforcement coordination among the various Labor Department agencies could be improved. The Inspector General's view is that the individual agencies could do more to work together and share enforcement information and successful techniques, despite the differences in their programs.

The Department has taken the Inspector General's suggestions very seriously. A group was established in the Department that brings together the Criminal Enforcement Coordinators of the five key agencies at the Department,

along with representatives of the Inspector General's Office and the Solicitor's Office. The criminal enforcement coordination group has met to address common issues confronting the agencies and to build relationships among key staff. A pilot plan to create an inter-agency coordinating mechanism in the field is now being developed. And in July, representatives from the other DOL agencies will attend a two-day conference for criminal investigators, organized by the Office of Labor-Management Standards for its own staff.

Efforts like this will help strengthen criminal enforcement work at the Department. In the end, of course, real success will be measured by whether workplaces are safer and fairer, and by whether pension and benefit funds and union treasuries are more secure. Those are the aims of the statutes that the Labor Department enforces, whether through civil or criminal proceedings.

Goal #5: Helping Working Americans Balance Work and Family

My fifth goal is to help workers balance work and family. I have worked with dozens of major corporations and labor unions that have adopted policies that support families. This is simply good business and good family values. The Department has also taken steps to promote this important value. The Women's Bureau, through its Working Women Count Honor Roll Program, established 1,600 partnerships with private and not-for-profit organizations promoting a greater balance of work and family responsibilities. Through these partnerships, more than 2 million women and men received benefits of greater

access to quality child care, elder care, and flexible training opportunities. To further our commitment, on June 5, 1997, during the National Working Women's Summit, approximately 25,000 women met and discussed successful strategies addressing future actions with regard to these important needs.

GOVERNMENT PERFORMANCE AND RESULTS ACT IMPLEMENTATION

The Department has traditionally viewed its work with an eye toward improving program accountability. Much progress has been made in preparation for the Government Performance and Results Act (GPRA) implementation. The Department has established a results-oriented environment and is well-positioned to meet its ambitious goals. Let me assure you of my own commitment to continue the performance-based, results-oriented approach to goal setting and strategic planning.

I welcome GPRA as a tool to help the Department ensure the value of its accomplishments to the American public as well as to Congress. The government must not only work better, but must also be able to demonstrate that it is working better, if we expect the public to have confidence in this institution. GPRA, when successfully implemented, will support our efforts to improve the delivery of services to the public, while meeting the rightful expectations of citizens to be treated fairly, responsively, and with good effect. If GPRA is to work as envisioned, government managers must absorb its principles into day-to-day agency administration and program management.

The concepts of management and good business must be integral to the way that government works.

Early last week, the Department forwarded its draft strategic plans to various Committees in Congress to begin the formal consultation process. While we have had meetings on the strategic plans of selected Labor Department agencies, I look forward to further consultations with Congress as well as with our other stakeholders over the next several months as the Department completes its work on its initial strategic plan due to Congress in September.

CHIEF FINANCIAL OFFICER AND CHIEF INFORMATION OFFICER

Chief Financial Officer Structure and Authority

The Department has taken major strides in the implementation of the Chief Financial Officers Act. The role of the Chief Financial Officer (CFO) in the Department of Labor has been clarified in a Secretary's Order issued by Secretary Reich on January 10, 1997. Further guidelines have been issued in the Department of Labor Manual Series on Financial Management, Budget Formulation, and Budget Execution. Director Raines issued the Office of Management and Budget's approval of the functions of the CFO on January 17, 1997, noting that the changes made in those issuances, "define more clearly the authority of the CFO, making them consistent with the requirements of the Chief Financial Officers Act and other, more recent, financial management

statutes.” The new definition of the CFO’s authority was also cleared by the Inspector General whose audit opinion on the Department’s Financial Statements stated that the issue of the Department’s compliance with the CFO Act could be closed upon issuance of the policies and procedures.

The most significant changes to the CFO’s authority provide more direct participation in the budget formulation process of the Department; approval of the disbursement of funds through initial allotments of all funds to the Department’s programs; and membership with the Chief Information Officer on the Department’s Capital Planning Investment Board to develop the information technology framework for financial and other systems. The CFO is well-poised to continue providing financial management leadership in the Department, proper stewardship over the Department’s resources, and maintaining high quality financial services and systems.

The CFO also continues to make good progress with respect to audited financial reporting. The FY 1996 consolidated financial statements were compiled by management, audited by the Office of the Inspector General, and submitted to the Office of Management and Budget ahead of schedule on February 28, 1997. The Office of Inspector General’s audit of the FY 1996 consolidated financial statement found that the principal statements fairly presented those funds over which the Department exercises direct control.

Chief Information Officer Structure and Year 2000 Conversion

Mr. Chairman, the Department has moved forward with vigor to create a stronger, more cohesive information resource management program, responsive to the mandate and full intent of the Information Technology Management Reform Act (the Clinger-Cohen Act). We have established the position of Chief Information Officer (CIO) within the Department and are placing strong emphasis on achieving a structured and goal-oriented information technology environment. The CIO chairs the recently established Capital Planning and Investment Board and is also the Departmental Year 2000 project manager. The Board was established specifically in response to the capital planning requirements of Clinger-Cohen, and it brings high-level management focus to the Department's information technology environment and the issues surrounding it. In conjunction with the planning framework established by the CIO, agencies have developed individual Year 2000 plans, with milestones geared to programmatic requirements. We reviewed these plans carefully, looking for consistency and completeness and paying special attention to any potential problem areas. To facilitate assessing the scope of Year 2000 conversion requirements, the CIO organization requested Year 2000 budget estimates from Department of Labor component agencies. Based on the results of that survey, the Department provided a summary report to OMB, in which we estimated Year 2000 conversion costs to be approximately \$15.2

million for the five year period from fiscal year 1996 to fiscal year 2000. Our budget request includes resources to meet these demands.

In addition to these costs, the President's FY 1998 request includes \$200 million for the conversion of State information systems that support Federal programs. The requested increases will enable State agencies to convert their computer systems to be Year 2000 compatible. Failure to convert employment security computer programs, such as benefit and tax systems, will result in massive disorder and a tremendous number of errors causing over-payment of benefits and under-collection of taxes. The requested amount is approximately one-half of the estimated total cost for conversion; State agencies will finance the remaining half with their own funds.

Through the combined effects of actions completed, those currently underway, and ongoing coordination and information sharing, the Department is well on the way to meeting the Year 2000 challenge. Nonetheless, it would be difficult to overstate the magnitude of the challenge, and there are areas that need to be monitored closely.

CONCLUSION

Mr. Chairman, this concludes my prepared statement. I would like to thank the Subcommittee for the opportunity to discuss the issues and challenges of the Labor Department. I would be happy to answer any questions that you or other members of the Subcommittee may have.

Mr. SHAYS. Thank you, Madam Secretary. We have been joined—Mr. Towns obviously came in first, and as you know is in a markup in Commerce, a less important committee than this one, but still an important committee. Mr. Kucinich of Cleveland is here; Mr. Barrett of Wisconsin; and I do not know if any of the three gentlemen, before asking questions, would just like to make a statement.

Mr. TOWNS. I would just like to ask that my written statement be included in the record.

[The prepared statement of Hon. Edolphus Towns follows:]

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OPENING STATEMENT

REP. EDOLPHUS TOWNS
RANKING MINORITY MEMBER
SUBCOMMITTEE ON HUMAN RESOURCES

JUNE 10, 1997

Mr. Chairman, I want to thank you for holding today's hearing on the mission, management and performance of the Department of Labor.

In Fiscal Year 1997, the Department of Labor had a budget of \$34 billion and employed 16,000 people. For Fiscal Year 1998, the Department has requested \$37.9 billion and seeks to employ 17,000. Included in this request is \$750 million in mandatory funding for a new welfare-to-work jobs programs.

Standing at the helm of this department is a large responsibility not only because of the size of the budget, but also because of the significance of the mission. The Department of Labor is responsible for the development and promotion of the well-being of American workers by improving their working conditions and advancing their opportunities for profitable employment. The Department fulfills this mission by administering programs which guarantee workers' rights to safe and healthy working conditions; assure a minimum hourly wage and overtime pay; sustain the safety net of unemployment insurance and worker's compensation and promote the pledge of freedom against employment discrimination and pension fraud. The Department also keeps track of changes in rates of employment, prices, and other national economic indicators. In essence, there is no economic decision that the department is not in a position to influence or affect.

That is why I am here to express my confidence in Ms. Herman's ability to lead and oversee this department. I am particularly concerned with the Department's role in welfare reform. I will be interested in hearing the Secretary's plans for "one stop" service centers. In previous testimony before this Subcommittee, the GAO praised the Department for the initiation of grants for "one-stop" career centers which attempt to weave together employment programs and other federal assistance programs. The success of welfare reform initiatives may hinge on the coordination of these types of programs. I know that as a fellow former social worker and a business woman, Ms. Herman understands the concerns of the employer and the employee.

Again, Mr. Chairman, I thank you for holding today's hearing and look forward to hearing from our witness.

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Mr. SHAYS. Would you start with the questioning?

Mr. TOWNS. Sure. I would be delighted.

Mr. KUCINICH. I would also like to do the same. I have a statement that I would like included in the record.

[The prepared statement of Hon. Dennis J. Kucinich follows:]

**Opening Statement for Dennis Kucinich
GROC HR Committee, June 10, 1997 -- 1:00 p.m.
"Dept. of Labor Oversight"
Secretary of Labor Alexis Herman**

Mr. Chairman, I would like to welcome our new Secretary of Labor Alexis Herman to her first appearance in front of the Government Reform and Oversight Committee. Madam Secretary, you have had a long and difficult road from your nomination by President Clinton to your approval by the Senate. I commend you for your tenacity and dedication.

As you know, the Department of Labor also has had a long and difficult road over the past 15 years. It has gone from a peak budget of \$47 billion in 1992 to outlays of \$32 billion in 1996. Dept of Labor employees have been under siege for a number of years. Secretary Reich made solid progress in restoring morale at the Department, and we look forward to ^{seeing} learning about your efforts to continue that progress.

The Department of Labor has an awesome responsibility: to help protect the welfare, wages and working conditions of some 125 million workers. Citizens in my district are vitally concerned about the Department's administration of minimum wage and employment standards legislation, as well as the new Health Care Portability Law. Our nation is very concerned about issues such as child labor and the impact of international trade on job opportunities. You have a great challenge ahead of you. I look forward to working with you in the years ahead.

Mr. SHAYS. Mr. Barrett, do you have any—

Mr. BARRETT. I have no—

Mr. SHAYS. Well, if I could, I would like to do the unanimous consent request. We just have two housekeeping things that we need to do, ask unanimous consent that all members of the subcommittee be permitted to place any opening statement in the record and that the record remain open for 3 days for that purpose, and without objection, so ordered; and also ask further unanimous consent that all witnesses be permitted to include their written statements in the record, and without objection, so ordered.

Mr. Towns, why don't we start with you?

Mr. TOWNS. Thank you very much, Mr. Chairman. You are right. The reason I was a few minutes late is that we were voting in the Commerce Committee, and, of course, I kept saying to them, hurry up and vote so I can get down here, because this is a very important committee and a very important topic, and we are delighted to have the Secretary of Labor here with us.

Let me begin by saying, I know there are some things that are broken that need to be fixed, and, of course, I know there are some things that are running, but not running as fast as we would like for them to run. And I want to say that with also saying that I am delighted to have given you the ball, but recognizing that when you have the ball, you need to have some blockers, and I really want to let you know that I consider myself as being one of the blockers. And knowing the chairman as I do, he is the kind of person who would be one of your blockers, too, because he feels very strongly about the issues that I know, having just listened to your testimony, that you feel about.

But I would like for you to just sort of expand on some of these things for me. No. 1, what is your vision for the American worker? I would like to hear where you would like to go. In other words, what do you plan to be your legacy as the Secretary of Labor, and will your budget, the budget allocations in terms of the money that is being allocated, does it reflect in terms of the kinds of things that you would like to do and be a part of your legacy?

Ms. HERMAN. Thank you very much, Congressman Towns, and let me say I appreciate the offer to be a blocker. I can certainly use blockers in this environment.

With regard to my own vision for my tenure as Secretary of Labor, it is really a very simple and a very basic vision. I want all Americans today, all American workers to be able to get good jobs with decent pay and to enjoy a rising standard of living throughout their lives. That means for me, in selecting the five goals that I have selected, those goals contribute to that very basic and simple statement.

The first goal, as I articulated, to make the appropriate investments that we must make in lifelong learning and skill development to ensure that workers today not only have the opportunity to compete and to prepare for the new jobs that clearly will be a part of the new economy that will be in particular impacted by technology today, but workers who are trapped in the old economy who do not have the skills, who perhaps are not as mobile as they need to be to go to where the jobs are.

We need to be equally concerned about those individuals, and so for us to be able to target the resources appropriately of the Department to make the appropriate investment in skill development and lifelong learning that will lead to higher productivity is very critical.

Second, as I talked about the challenge of moving people from welfare to work, that I think is also one of the important goals of the President, it is important that we ensure that these individuals get good jobs with dignity and respect, and that they truly can become a part of the economic mainstream, which means that we have to find a way to provide these jobs in the private sector for the long haul. I am committed to helping to make that happen.

Third, when we look today in particular at the aging of the baby boom generation, the whole question of pension retirement and pension security, it seems to me, becomes critically important, and so my emphasis on pension protection, as well as looking at ways of ensuring greater pension portability, is also an area that I intend to pursue. How can we make it possible in particular for small businesses to set up pension plans for their own workers? As a small business owner myself, I am particularly sensitive to what we can do to assist small businesses, where the largest number of jobs are being created today in our economy.

Fourth, as we talk about the enforcement programs of the Department of Labor, we must maintain our enforcement presence to ensure that not only are our workplaces safe and healthy, but, in fact, they are free of employment discrimination today. We, in this economy, as we talk about what it means to compete today in the global marketplace, certainly we do not have one worker to spare, and to the extent that we can make sure that our enforcement programs are protecting the rights of those workers, it is very critical.

And, last, with the increased numbers, as we have seen for more than a decade, of two earner families, in particular, we know from all reports certainly that we receive at the Labor Department that one of the No. 1 factors today that families talk about is the stress that they feel as a family in the workplace today. So what we can do to help workers balance the demands of work and family, it seems to me, is very important.

With respect to the resources that are in the budget of the Department to carry out these goals, I think that the President's 1998 budget, in particular, is reflective of these priorities.

I am particularly pleased that the President has made a request for additional investments in the employment and training area so that we can continue to make the appropriate investments in skill training and development, especially the Out-of-School Youth Initiative, where the President has requested \$250 million for the highest areas in our country today where we have high rates of youth unemployment and high incidences of poverty.

All of these efforts I hope to work on as Secretary of Labor to take us back to that very basic vision statement of basically helping every worker to have a good job, to get a good job, to keep a good job, but to also be concerned about our rising standard of living today.

Mr. TOWNS. In the 15 years that I have been here, this is the first time I have said to the Secretary, I want to be identified with that. I yield back.

Mr. SHAYS. I thank the gentleman.

Ms. HERMAN. Thank you.

Mr. SHAYS. Mr. Kucinich.

Mr. KUCINICH. Thank you very much, Mr. Chairman, members of the committee. I want to welcome Madam Secretary, and I will probably be seeing a lot of you because not only am I fortunate to be on Mr. Shays' subcommittee, but I am also a member of what was formerly known as the Labor and Education Committee. These are two assignments that I requested because I know there is juncture with the work of the Labor Department, and I am quite pleased that you have the opportunity to serve as Secretary.

As someone who, in the Ohio Senate, had a 100 percent labor voting record, actually the only member of the Senate with that record, I expect that we will be talking quite often about the needs of the people I represent from Ohio's 10th District.

There is one area of concern that I have that perhaps you could give some thought to, and that is the underutilization of NAFTA/TAA funds for dislocated workers. As I am sure you know, this NAFTA/TAA program provides Federal resources to workers who have been displaced because of the impact of NAFTA. And although many plants have been certified by the Department of Labor as being affected by international trade policies, it appears that NAFTA/TAA funds are being underutilized. For example, at the end of 1996, about \$13 million in NAFTA/TAA funds for fiscal year 1995 and fiscal year 1996 remain unobligated.

I might add that if they are not spent by September 30 of this year, they could go back to the Treasury. And I wondered if you have any thoughts on this problem or plans or considerations to increase the awareness of available NAFTA or TAA funds around the country?

Ms. HERMAN. Yes, I do, Congressman, and I think that you said the key words at the end of the statement, and that is we have to do a better job of increasing the awareness of the availability of the NAFTA funds. In looking at the programs in the Department, both the Trade Adjustment Assistance Program and the NAFTA Program, as you know, both of these programs perform a similar function, but clearly the historical nature of the Trade Adjustment Assistance Program is one that is probably viewed as a program that is being more user-friendly.

It is also a program, clearly, that is better known in terms of its availability and what it can do for affected communities. We, as you know, do not have any available resources left, quite frankly, in the Trade Adjustment Assistance Program. Those resources, we do use, and I am looking into this really to support my own hypothesis here of what I believe is taking place, but I do recognize that to the extent that many individuals who are able to utilize the NAFTA funds have also sought the use of the Trade Adjustment Assistance Budget, not knowing about the availability of the NAFTA resources that are there.

So what I think what we have to do is to do a better job of communicating what the program does and to make that information

available to affected communities so that they can avail themselves of those resources.

Mr. KUCINICH. Madam Secretary, thank you. I would be most interested in hearing what your plans are as they unfold, and we are working up against a deadline right now, because those funds will be returned to the Treasury by September 30, unless other legislative action is taken. I think it is much easier to try to find ways of getting the information out and make those funds available as opposed to trying to seek a reauthorization of spending.

Ms. HERMAN. Yes. I would certainly agree with that, and we will do everything that we can to try and accomplish that end.

Mr. KUCINICH. And one final note. I do not really have any confidence in NAFTA, one of the reasons is because I have never seen the Department produce any information about the jobs that have actually been created. We do know from NAFTA/TAA about the jobs that are lost or certified. I would like to see some certification of jobs created presented to the Congress at some point in the future.

Ms. HERMAN. Thank you very much, and we will certainly take a look into that situation as well. It is something that I, too, have an interest in as we look at what we are doing more globally on the trade front, and I think that is information that can be beneficial to all of us.

Mr. KUCINICH. Thank you, Madam Secretary, and thank you very much for serving our country.

Ms. HERMAN. Thank you.

Mr. SHAYS. Mr. Barrett.

Mr. BARRETT. Thank you, Mr. Chairman; and Madam Secretary, it is a delight to have you here. Congratulations on your confirmation.

Ms. HERMAN. Thank you very much.

Mr. BARRETT. I am glad I am not reading so many stories about you. I am glad you are in your job.

Ms. HERMAN. So am I.

Mr. BARRETT. I want to echo my colleague from Ohio's comments on NAFTA and the need to quantify what the changes are in jobs. I represent Milwaukee, WI, and it is a community where unfortunately we are tapping into the Department of Labor all too often for funding for companies that have reduced their work force as jobs move out of the country. And I think it is imperative that we get an accurate handle on how exactly this trade pact is working so that we can see who the winners are and who the losers are.

A couple of other points that I want to make, and most of these arise from parochial issues that I think probably resonate throughout the country. One pertains to Pabst Brewery, which for almost 150 years was located in the district that I represent and recently closed its doors. The Department of Labor has been helpful, and I want to thank you on behalf of that as we attempt to fight in the courts the denial of benefits to retirees.

And I think that this is something that the Department of Labor has to be far more aggressive on, not only in the area that I represent, but throughout the country where you have a situation where workers have been promised benefits, and those benefits were promised through collective bargaining agreements, and years

pass and you have different people at the table, and promises that were made at one time are no longer honored, in part because you have different pressures on the people who are in the community.

Maybe you can tell me what, if anything, your Department has looked into in this arena or if you have any plan.

Ms. HERMAN. Thank you very much, Congressman, for, first of all, the compliment to the Department for its work in this area, because I do think, as you have stated, it is a very critical issue today that certainly is impacting many of our retirees. We have actually filed five friend-of-the-court briefs similar to the Pabst case that has impacted more than 89,000 workers to date. We do believe that where benefits have been promised as a part of retirement health plans, that there is some obligation on the part of employees to honor that obligation, and where we can make our views known in court cases, the Department has done that.

We will continue, obviously, to monitor these plans where those commitments are made and encourage employers as best we can to honor those commitments.

Mr. BARRETT. And I appreciate that, and, again, I think that you have done a wonderful job. I would be more than interested to work with the Department if you have suggestions where legislative changes are necessary. Again, my fear is that we have not seen the end of this, that as companies feel greater and greater pressure to cut costs, that this is a very convenient way for them to cut costs, notwithstanding the fact that promises have been made and court decisions have been quite tight in allowing for extrinsic evidence to show that these promises were made and should be kept.

Another area that is similar to that that I am, again, quite confident that the Department is aggressive on is the whole issue of ERISA and pension benefits. Again, for system reasons, I think that it is imperative that the Department remain very vigilant to ensure that benefits that have been placed in accounts on behalf of workers are used for that.

Ms. HERMAN. I would certainly concur with that statement. That is why in my opening statement I was pleased to reference the fact that approximately 3 weeks ago, as Secretary of Labor, and with Attorney General Janet Reno, we actually did announce several criminal indictments, as well as civil cases, against more than—I believe it was 70 employers who had defrauded their workers of more than \$90 million. So what we can do to aggressively enforce the law when it comes to pension protection is very, very important.

Mr. BARRETT. OK. And my good friend, Congressman Shays, is always quite generous with time in the way he handles this committee, and I want to thank him for that.

My final question is a more difficult question, at least for me, because when I am in my district, and I have a district which has a very large central city population, has a very large, unemployed population at a time when, as everyone in this room knows, unemployment records are at decades lows; and I preach over and over again education, education, education, because I fear what we are seeing is a growing gap between those people who do well in society and those people who do not do well in society economically.

And I realize that we could talk for 50 hours on this, but what thoughts do you have on whether we should be or how we can be closing that income gap?

Ms. HERMAN. You are right. We could talk probably for 50 hours. This is a subject obviously that is very close to me personally. I think that there are a lot of things that obviously we can do in this area. Very specifically, I am hoping, one, that we can more aggressively target the resources of the Department, particularly through our training programs, to those most in need who are really trapped in the old economy where we see the income disparity that is so great, to get them the appropriate skills and training that they do need for the real jobs and time in the future. And I intend to closely monitor our own targeting of our resources, particularly in those programs where we have the flexibility to work at the local level to ensure that that can happen.

As we look in particular at the President's 1998 budget, we have made a request for additional resources in the out-of-school-youth area for communities such as the one that you have described, where we can hopefully begin to target young people at an early age to break the cycle of dependency earlier to get them into better-paying jobs, jobs that will have real skills with lifelong capacity at the end of the day.

To the extent that we can use some of the very practical experiences that we have in the Department to upgrade training, to upgrade learning, and to make that connection, I am hopeful that we will be able to do this through this pilot experience.

One of the things that I would like to see us do more of at the Department, quite frankly, is to replicate successful models and to be able to share that information and those techniques where we can move people into better-paying jobs. I also believe that, overall, as we look at the whole question of the wage structure today and the service economy in particular that is growing at a rapid rate where a number of the jobs are being created, that we need to have more innovation in terms of what we can do to target resources and capacity building into those areas in the workplace today where the jobs are actually being created to bring up the standard of living in those occupations. And to the extent that we can be more innovative and creative in doing that, I want to.

And, last—and I will just stop with this as a comment—I believe very strongly also that the work of the Skill Standards Board can help us a great deal in this area to better identify what are the real skills that employers are going to need in the future as we look at the job demands as well as the requirements of workers, and the work that Jamie Houghton and others have begun in this area, I think, will be valuable to us as we begin to examine more closely practical solutions on what we do to close the income gap.

Mr. SHAYS. Again, thank you for coming. I, as you were talking, was thinking that one of the challenges is I am not sure that big government, big business, big labor can adapt quickly enough to all the changes that are taking place. We were talking about this, Larry and I were just talking about it, and we were saying that 18 months ago Windows 95 did not even exist, and yet that is a basic information system software that everyone really needs to use, and it did not exist a very short time ago.

And it may disappear quickly with something taking its place, which leads me to talk to you about welfare reform, job training, and the ability of the Bureau to marry labor statistics in terms of occupational needs with very real job training needs.

The bottom line: I am just trying to see the connection between job training programs and how they relate to jobs that actually exist. While you are just thinking about the answer, let me just give you another sense of why I am asking the question.

When we had a hearing on job training programs, I was amazed on how much we spent on all the different departments, and I was amazed that we loaned out in 1 year alone \$750 million to individuals who went to schools of cosmetology. Many of them never got a job because there was no job that existed for them, and they did not pay back their loans because they said, "I am not paying back a loan on an educational skill that I got where I do not have a job that I am even implementing. What a waste."

So just give me your thoughts on how you relate job training to the jobs that actually exist.

Ms. HERMAN. Well, first of all, I think the first priority has to be that training programs have to be targeted to the jobs that do exist. Then the question becomes, what is the best way to do that, what are the appropriate systems that you need to have in place, and what are the appropriate strategies to make that happen; and what are the resources in the Department of Labor that we can use and throughout the administration to bring that appropriate match about?

When we look at the Department of Labor, in particular, we certainly realize that we have the Bureau of Labor Statistics and other statistical capacities, if you will, that engage in job predictability that certainly we ought to be in a position to share more broadly, let's say, with the Department of Education, as we are looking at ways to have better coordination.

I might add, Mr. Chairman, this is something that I have actually had a conversation with Secretary Riley about, and he agrees that this is an area where we can share resources more appropriately to help with some of the training and skill development that is taking place on the education front.

We also have at the local level in communities around the country the private industry councils that have the responsibility for being more locally tied to their own labor markets that, in my view, are probably the best people to be predictable indicators of what is going on in their own local economies, working with local job forecasting and economic development offices.

We need to do a better job of coordinating with those local entities as well in terms of our own statistical work. As you look at new programs that we have mounted, such as the School-to-Work Transition Act, here we have the opportunity, and I believe that we are doing a good job, from what I have seen in terms of the initial reports, of making sure that we are more appropriately linking school to work and that the education and the training and, to some extent, the apprenticeship opportunities that these young people are engaged in are, in fact, tied to the skill developments that they are going to need for the real jobs that will be there in the future.

In short, what I would say is that we need to take the information and the resources clearly that we have available at the Department and do a better job of coordinating with other departments and agencies like the Department of Education, in particular, that has the mandate for educational requirements, to make sure that where appropriate we can share information and make sure that we are doing a better match.

I believe that the Job Training Consolidation Bill that we have looked at as well that just recently passed the House will give us the opportunity to do that, and as we look in particular at the one-stop career centers that are being operated around the country today, we are looking at how we can bring in other departments and agencies into the one-stop model so that we have a better coordination, if you will, at the local level to take advantage of the Department's services.

We have done it with HHS, and we need to look at how we can further explore that, I think, with the Department of Education as well.

Mr. SHAYS. Thank you. The Bureau of Labor Statistics is an organization that technically is not independent. It is not an independent agency, but in a sense, it has functioned somewhat independently. While some would say it just gathers statistics, the impact of what it decides is tremendous, and I am interested to know how you are able to interact with the Department without it becoming—first off, do I make an assumption that there is a point at which you have to be careful?

It is a unit within the Department of Labor that you oversee, but the data it gathers makes millions and costs millions to people. We depend on it, for instance, in terms of the Consumer Price Index, ultimately. So I would like to just know how you interact and what can we do to help them become a little more up to date and speed up the process of gathering statistics so that the statistics are more timely.

Ms. HERMAN. Well, I think it is very important, certainly for me as Secretary of Labor, to make sure that the independence of BLS is protected, and I view my job largely as one of making sure that the Bureau of Labor Statistics has the resources that it needs.

Mr. SHAYS. Let me just clarify one thing.

Ms. HERMAN. OK.

Mr. SHAYS. Is it independent by statute or independent by custom?

Ms. HERMAN. It is independent by custom, not by statute, per se. But to maintain, I think, the integrity, if you will, of the Bureau of Labor Statistics, I think that we have to continue to protect that integrity by, in fact, insulating it from political considerations and allowing the technical experts to be able to do its job.

So, for me, making sure that it has the resources to do that and, second, as it relates in particular even to the question that we just discussed, how can the information that the Bureau is gathering be more broadly shared in terms of the outputs and its products is something that I think we can be more supportive of in terms of the work of the Bureau of Labor Statistics itself because, as you know, we all depend on the statistical data that the Bureau does gather.

Mr. SHAYS. We had a hearing about the CPI, and Mr. Barrett was there for some of it as well, and I went with the sense that the CPI is out of date, that the basket of goods and services needs to be revised and there are issues of substitution. What I left with was the sense that under the present capability, whatever adjustments it makes to that bread basket would not have any financial impact until 1999 and beyond, so not next year's budget but the budget afterwards, which was a surprise to me.

But are you relatively comfortable or very comfortable that the Office has all the resources it needs to ensure that it is as quick as possible—as current, not as quick—as current as possible with its statistics; and, second, that it has the ability to review issues like CPI and review it well?

Ms. HERMAN. Well, we have a request in the 1998 budget. When you say the “degree of comfort,” I think it is tied in part to the resource request that is actually in the 1998 budget, because we have made a request for additional support for BLS to continue its improvement process, if you will, to the CPI revisions.

Mr. SHAYS. If you find that the Committee on Appropriations is not inclined to favor that request, I would like to make sure that you have your staff let our committee know, and we would like to weigh in on that regard.

Ms. HERMAN. Thank you, Mr. Chairman. We will be certain to do that.

Mr. SHAYS. Would you—I mean, we will as well, but if you get information that lets us think that it will not be respected and be able to be funded. Getting to this whole issue of the audits and the issue of full-scope audits and limited audits dealing with retirement pension funds, I am fascinated by this issue, and you made reference, I think, to that in saying you would forward a proposal.

Can you, in simple terms, tell me how someone qualifies for a limited scope audit? These are big pension plans that instead of having a full audit, end up with a partial audit that basically tells us nothing or very little. First, how do you qualify for that?

Ms. HERMAN. Well, when we talk about a plan that has a limited scope audit, what you are basically saying in simple terms is that the CPA that is certifying the plan assets will not give a full opinion. It will only give a qualified opinion because they have not had the benefit, if you will, of having the full certification of the full plan.

Mr. SHAYS. How does someone—to me, I consider it a loophole, and would that be your sense?

Ms. HERMAN. Oh, it is definitely a loophole in the legislation, and that is why—

Mr. SHAYS. And the loophole occurs because of—

Ms. HERMAN. The loophole occurs because right now you can actually opt to have a limited scope audit.

Mr. SHAYS. By doing something.

Ms. HERMAN. Well, you can opt to have a limited scope audit because if you are with a financial institution, a bank or an insurance company, that is regulated, you have the option there for saying that you will invoke “a limited scope audit.”

Mr. SHAYS. So, for instance, if in a major pension plan they had a \$100 certificate of deposit from a bank or a credit union in a \$100

million pension plan, that would qualify them for a limited scope audit?

Ms. HERMAN. It would qualify them for a limited scope audit if they are in a regulated Federal institution, if that is where their assets are held, and if they have—

Mr. SHAYS. For some. It does not have to be all. Correct?

Ms. HERMAN. Right. And if they have 100 or more participants in their plan, then they can qualify for a limited scope audit, and what we are trying to do is to close that loophole by basically saying that if you have that much in terms of assets in a regulated institution, be it a bank or insurance company or what have you, that we need to have a full audit.

Mr. SHAYS. My sense from your testimony is there are about 32,000 of these potential audits and close to \$1 trillion of assets that basically your Department has very little comfort level that these pension funds are secured funds.

Ms. HERMAN. That is correct. And it covers actually about 23 million workers when you talk about those 30,000-odd plans; and we also know, in plans where we have had full audits, if you will, that the recovery is about four times as great as with those plans that do not have it. So we have actually seen evidence of what can happen.

Mr. BARRETT. When you say “recovery,” what do you mean?

Ms. HERMAN. When I am saying recovery when you go in to actually review and conduct an audit of your plan, if there are things that are found to be in question or issues that could speak to the viability of the plan, that the likelihood of getting that information around the soundness of the plan is four times as great in plans where we have full audits as opposed to limited scope.

Mr. SHAYS. Now that the Department has forwarded its request for reform, we are going to be weighing in as an oversight committee to encourage the statutory committees to move forward. Just tell me what is your knowledge of why, in the 7 years under Republican and Democrat White House and Congress, there has been no action. Is there a general sense that it is just totally the issue of Republicans not wanting to regulate—what is the bottom line—and Democrats not wanting what?

Ms. HERMAN. Well, you know, it is interesting because I have asked that question, too, and I have concluded—this is my personal opinion—that it really is not about Republicans or Democrats. The bill was first introduced by Senator Dole in 1990, in terms of the need to close the loophole here, so it has enjoyed bipartisan support in terms of an effort really for the last 7 years.

I do think, in part, that some of the misunderstandings may, in fact, be due to not having a greater appreciation for what is at stake here in terms of what it is we are trying to do and viewing this as being overburdensome in terms of the process.

Mr. SHAYS. The full scope is burdensome, and the limited scope is—

Ms. HERMAN. I think that could potentially be the perception here. That is why one of the provisions in the bill actually could state that you do not have to bring in additional accountants, if you will, to certify the plan, but if the institution, let’s say, that you just referenced in your own model has its own accountant already

on board, then we will accept the opinion of that accountant that is already certifying the existing plan, so there really is not a laying on of additional administrative requirements. I think that could be in part the perception around the intent of the legislation.

Mr. SHAYS. But a full scope means you are going to do a lot more investigating. There is going to be greater cost, but the bottom line is we want to know what is happening to \$1 trillion.

Ms. HERMAN. We want to know what is happening, and the bottom line is that if there is a certified accountant that is already in place for, let's say, a NationsBank or a Metropolitan Insurance Co., then that accountant would simply have to verify as well the assets of that plan as a part of the overall portfolio.

Mr. SHAYS. I am very happy that on a bipartisan basis we passed the Health Care Portability Act, and this is something that Tom and I know had been around Congress for a long time, and it was great to finally see this come to fruition. I am not quite sure how the Department of Labor weighs in, and I am not sure we gave you any additional resources to do this, but what is the role of the Department of Labor in overseeing the Health Portability Act?

Ms. HERMAN. Well, the Department has a substantial role in overseeing the act. We had the responsibility for actually issuing the interim regulations, the final regulations, which the Department did do the first of April this year, and we will have the responsibility for basically enforcing that provision and health plans as the law now kicks in. The way it works, any plan that employers are mounting after the April 1 date has to come into compliance on an annual basis with the HIPPA requirements specifically as it related to the portability of pre-existing medical conditions. We will, of course, be continuing to analyze the regs in its interim final stage, and we will have the responsibility for issuing final regs on this legislation.

Mr. SHAYS. So you do the regulations, but I do not quite understand how the oversight—will you go into businesses and determine if they are following it?

Ms. HERMAN. We will have to take on the traditional enforcement responsibilities that go with the legislation.

Mr. SHAYS. And will it be done when you do something else, when you are going in for some other issue? It will not be OSHA inspectors. Who will be doing this?

Ms. HERMAN. We have actually asked for additional resources in the President's 1998 budget. We have actually asked for 63 additional positions to help with the enforcement of the HCFA regs.

Mr. SHAYS. Who would take the complaints? If there is a complaint, who would it—

Ms. HERMAN. It would go into PWBA. They have the responsibility.

Mr. SHAYS. Do they have offices around the country?

Ms. HERMAN. They do have offices around the country.

Mr. SHAYS. So this is the same group that basically would oversee retirement funds will oversee it.

Ms. HERMAN. It is the same group, but that is why we have asked for additional resources in the 1998 budget, to help with the enforcement aspects of the HCFA regs.

Mr. SHAYS. I just have a few more questions. Mr. Barrett, do you have some?

Mr. BARRETT. Just a couple, if I could?

Mr. SHAYS. Feel free, as many as you want.

Mr. BARRETT. To go back to the issue of the pension plans, of the 32 pension plans that qualify for a limited audit, have you any breakdown as to how many of those have gone out of their way to avoid the audit by putting a small amount into a regulated financial institution, or are most of them legitimate ones that just happen to fall into the category that allows the exception?

Ms. HERMAN. I do not have any specific data on that. I should point out it is 32,000—

Mr. BARRETT. I am sorry.

Ms. HERMAN [continuing]. I do not have specific data on that. I will be happy to check with the staff to see if we have any profiles on that. I think the general view here, though, is that it is the latter as opposed to the former aspect of your statement.

Mr. BARRETT. I am sorry. So that means?

Ms. HERMAN. That it is generally those plans with 100 or more participants that are in institutions that are federally regulated that would fall under the limited scope audit provision as it is now presently stated in the legislation.

Mr. BARRETT. OK. And if you have an accountant that is doing a qualified analysis, what does that show us, or what does that tell us?

Ms. HERMAN. Presently? You mean as it is presently?

Mr. BARRETT. Yes.

Ms. HERMAN. Well, basically what it says is that if it is a qualified opinion, it is a qualified opinion and that they would not give you the full certification that all of the plan assets and all of the backing that is stated is, in fact, there.

Mr. BARRETT. But does it do us any good? Does it do you any good to get that qualified opinion?

Ms. HERMAN. Well, obviously, some representation is better than none, but it is not what you want to have for \$1 trillion of assets in terms of the Nation.

Mr. BARRETT. OK. Thank you. I have no other questions.

Mr. SHAYS. Thank you. As it relates to OSHA, OSHA does not have enough inspectors to go out and periodically visit every business on an ongoing basis, and so it has established a program where if businesses continue to show a good record and not have many complaints, no accidents, they are able to be more self-policing. We refer to it as the "Maine plan" in one instance where they took 200 businesses.

Ms. HERMAN. Maine 200.

Mr. SHAYS. Are you on board with that approach, or are you opposed to it? How do you weigh down on that one?

Ms. HERMAN. Oh, I am very supportive of the Compliance Assistance Program that OSHA is now operating. I think it helps us to get more small businesses involved with understanding the requirements of OSHA, and I also think in terms of just more effective management of our resources, since we cannot cover obviously every workplace today, to the extent that you can use models like Maine 200, it is very helpful.

Mr. SHAYS. Is the Department still comfortable that the program is working well?

Ms. HERMAN. We are still comfortable that the program is working well, and obviously where we can make improvements, we will do that, and as more communities use the model, I am sure that we will benefit from those learnings.

Mr. SHAYS. Are you aware of any problem—I am not, so I am not asking it with a hidden agenda here, but are you aware of any problems that are not working out, that there are some kinks in the program that you think need fixing, or is it pretty much going according to plan?

Ms. HERMAN. I think anything that is—and I am not aware of any huge problems either, but just from a conceptual standpoint of view, I think any experimentation that is still as new as this one, you have to assume that there are still some blips in the road as we attempt to educate and involve more of the employer community around this effort, and there obviously will be some issues, I am sure, that will be raised somewhere along the way still.

Mr. SHAYS. Let me get to the last area, and that deals with a hearing that we had on July 11 of last year with the Department's criminal and civil enforcement duties. You have reference to that in your statement, and you refer to some of it in your statement in your oral testimony. There has been a longstanding disagreement between the Inspector General again and the Department as to what the Department should be doing. As we reviewed it, some of it we agreed with and some of it we felt, frankly, was straining out gnats and swallowing camels. We felt that there could be room for some better communication between the Department and the Inspector General.

Are you finding that dialog taking place, and is it a positive dialog?

Ms. HERMAN. I think it is a positive dialog. I think the fact that we now have a formal coordinating team comprised of all of the various enforcement agencies in the Department is useful and helpful, and not only have we instituted this at headquarters, but as I indicated in my written statement, we are actually now trying to replicate this at the regional level as well, and to the extent that information is being shared, strategies are being shared, I think it will be a benefit overall to effective enforcement coordination.

Mr. SHAYS. I said it was the last area, but I would like to just revisit one area that I have made mention to, and that is the whole issue of welfare reform and job training. I would like to know your view about one tradition, particularly at the Department of Labor, has been you get job training and you look for work, and another one that has started to evolve is, you have job training—by the way, the people who are giving this job training are going to be staying in touch with you while you have this job.

They are going to be calling you up in the morning sometimes, finding out that you may not be going to work because you do not have day care, and they are going to say, "Well, you have got to find a solution to that," and the job trainer is in touch with the employer and saying, "Are you pleased?" and the employer is saying, "Well, I am pleased about this, but we do not have success, that we are having problems here. The employees come in late."

And we, in fact, have found that some programs where you actually do not pay the job trainer until a year later or 6 months later, so they have a stake in the person not just getting the training but getting a job and being able to stay on the job.

Do you have any initiatives in that area? Do you focus any attention? Are you thinking about this at all? This is an area you have had a background with, but I am just curious as to what your thinking is.

Ms. HERMAN. That is an area that I am taking a look at, Mr. Chairman. I think what we have to concentrate on that is equally important is not just securing the job, but what we do to help people keep the jobs for the long haul. And so the ability to have follow-through services, if you will, follow-through support as a part of our job-training systems, I believe, is something that we need to take a look at, what we can do to foster greater flexibility in this area with our existing programs to allow for this kind of activity to occur, what can we glean to date from models that we are operating in this area that can prove to us that these kinds of activities, in fact, lead to a greater retention; and, therefore, a greater payout in the long haul is an important area that I intend to give greater attention to.

Mr. SHAYS. Thank you. I would conclude. Do you have any concluding comment that you would like to make? I just have one other comment I would make, not a question. Do you have anything else you would like—

Ms. HERMAN. No. I would just say, in conclusion, I appreciate the opportunity to appear before you and this committee, and I particularly appreciate the interest that you have taken in not only just the oversight questions into a number of the programs of the Department, but our ongoing fiscal health as it relates to how we maintain our effectiveness.

Mr. SHAYS. We look forward to working with you and your Department, and I would say to you in public—I have said it to you privately—that I believe that this administration and this Congress have a vested interest in working together, obviously, for the American people.

We both have decided that we were going to move forward with welfare reform, and we may have had our differences in certain aspects, but the bottom line is I think we are going to be judged by the success or failure of our ability to get people off welfare and into work. And if you do not succeed in that, this Congress will have failed, as well as the White House.

So the success or failure of that will depend on how people, I think, in the years to come view how well we in the Congress and the White House have done our jobs, so we are definitely going to be working together.

Ms. HERMAN. Thank you, Mr. Chairman.

Mr. SHAYS. Thank you. And with that, I will close this hearing. Thank you for being here.

[Whereupon, at 2:10 p.m., the subcommittee was adjourned.]