FOIA Number: 2016-0531-F

FOIA MARKER

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

Collection/Record Group: Clinton Presidential Records

Subgroup/Office of Origin: National Economic Council

Series/Staff Member: Gene Sperling

Subseries:

OA/ID Number: 19181

FolderID:

Folder Title:
[Minimum Wage & Small Business Papers] [loose]

Stack:	Row:	Section:	Shelf:	Position:
S	16	5	9	1

PRESIDENT CLINTON SIGNS THE MINIMUM WAGE LEGISLATION

August 20, 1996

The President today will sign legislation to increase the minimum wage to help ten million Americans who work hard and play by the rules. The bill, formally titled H.R. 3448 -- "Small Business Job Protection Act", also provides for pension reform, tax breaks for small businesses, and a newly created adoption tax credit.

The President has supported increasing the minimum wage, which is now approaching its lowest real value in 40 years, since he was Governor of Arkansas. In his remarks, the President will highlight the importance of providing hard working Americans with a living wage. He will also emphasize the benefits of the new pension reforms and the newly created tax credit to make adoption easier and more affordable for working families.

Participants in today's event include minimum wage workers and their families, representatives from supportive organizations, members of congress, adoption advocates and their families, and administration officials.

The following is the program for the event:

- The Vice President makes remarks
- Kathy Wilkinson, lab assistant and minimum wage employee from Wheeling, West Virginia makes remarks.
- The President makes remarks.

-30-30-30-

MAKING WORK PAY BY INCREASING THE MINIMUM WAGE

In Putting People First, Bill Clinton and Al Gore promised to "increase the minimum wage to keep pace with inflation." In February 1995 -- 18 months ago -- President Clinton specifically proposed increasing the minimum wage from $4.25 to $5.15 over two years. For a full-time minimum wage worker, a 90-cent increase would raise their yearly income by $1,800 -- as much as the average family spends on groceries in over 7 months.

YOU CAN'T RAISE A FAMILY ON $4.25 AN HOUR. The minimum wage is approaching its lowest real value in 40 years. The minimum wage has lost nearly all of its real value since its last increase in April 1991. This minimum wage increase will help restore the real value of the minimum wage back to its level when it was last raised.

- **Ensuring No Parent Has To Bring Up Their Kids In Poverty.** The dramatic extension of the Earned Income Tax Credit (EITC) helped lift hundreds of thousands of working families out of poverty. A 90-cent minimum wage increase and the expanded EITC will ensure that no parent who works full-time would have to bring up their children in poverty.

- **Helping Adult Workers Trying To Support Their Families.** According to the Bureau of Labor Statistics:

  - 69% of those workers who would benefit from an increase are adults, age 20 or over;
  - Three-fifths (59%) are women, many of whom are trying to raise the family on $4.25;
  - Nearly two-fifths (38%) are the sole wage earner in their household; and
  - The average minimum wage worker brings home half of their family's earnings.

- **Giving A Pay Raise To 10 Million Workers At or Near The Minimum Wage.** An estimated 10 million hourly workers earn between $4.25 and $5.14 and would directly benefit from this pay raise. An increase in the minimum wage could also have a "ripple" effect on the over 3 million workers who earn within 60 cents of the new minimum wage.

EMPIRICAL EVIDENCE SHOWS THAT RAISING THE MINIMUM WAGE WILL NOT COST JOBS. Nearly two dozen empirical studies have found that moderate increases in the minimum wage do not have a significant impact on employment. These studies include state-specific research in California, Texas, and New Jersey that shows that state minimum wage increases did not result in any job loss.

- **101 Economists Including 3 Nobel Prize Winners Agree That A Minimum Wage Increase Won't Cost Jobs.** In the fall of 1995, 101 economists -- including 3 Nobel Prize-winners Kenneth Arrow, Lawrence Klein, and James Tobin -- signed a letter supporting the President's proposal to raise the minimum wage, affirming that it would not have a significant effect on employment, and concluding that *"overall effects [of an increase] on the labor market, affected workers, and the economy would be positive."*

THE LAST MINIMUM WAGE INCREASE -- ALSO 90 CENTS -- GARNERED STRONG BIPARTISAN SUPPORT. In 1989, the minimum wage was passed by votes of 382 to 37 (135 Republicans) in the House, and 89 to 8 in the Senate (36 Republicans) and was supported by Senator Dole, Senator Lott, and Rep. Gingrich.

PENSION PROVISIONS IN THE MINIMUM WAGE BILL TO EXPAND COVERAGE, INCREASE PORTABILITY, AND ENHANCE SECURITY

The minimum wage bill includes many of the President's pension proposals, contained in his Retirement Savings and Security Act, which will empower more Americans to save for their retirement by expanding pension coverage, portability, and protections and significantly simplifying pension rules.

- **Expands Pensions** to help millions of working Americans not currently covered by an employer-provided plan save for their retirement.
- **Increases Portability** by reducing the obstacles facing many workers when they change or lose their job and want to keep their retirement savings and continue saving.
- **Enhances Protections** so hard-working Americans do not have to worry whether their retirement savings will be there when they need them.
- **Simplifies Pensions** to encourage and make it easier for employers to offer pensions.

THE MINIMUM WAGE BILL'S PENSION PROVISIONS MEET THESE CHALLENGES:

1. **NEW SMALL BUSINESS 401(k) PLAN -- To Expand Pension Coverage:** While 76% of workers in large businesses have employer-provided pensions, only 24% of workers in small businesses do. In June 1995, the President first proposed a simple small business "401(k) plan" to expand pension coverage to up to *10 million workers* in small businesses not currently covered by a plan. Republicans followed with their own proposal. The minimum wage bill's small business plan, while providing a smaller share of benefits to lower and middle wage workers, includes many elements of the President's plan and provides for:

   - **$6,000 Tax-Free Contributions.** Workers could save up to $6,000 a year tax-free through automatic payroll deductions.

   - **Employers Contribute 2% of Salary or Match Contributions Up To 3% of Salary.**

   - **One-Page Form.** Cuts through the red tape with a simple, one-page form without complicated employer filing, calculations, or testing.

   - **100% Portable.** All contributions would be immediately vested and fully portable.

   The bill also expands coverage by:

   - Simplifying 401(k) plans for *all* businesses;
   - Making the 9 million employees of non-profit organizations, as well as employees of Indian tribes, eligible for 401(k) plans;
   - Enabling relatives who work in a family business to earn their own retirement benefits;
   - Repealing unreasonable limits on benefits for certain disabled and low- and middle-income state and local government employees; and
   - Enabling millions of spouses who do not work outside the home to contribute up to $2,000 to an individual retirement account.

2. <u>INCREASES PENSION PORTABILITY</u>: Workers who change jobs and want to take their retirement savings with them and keep saving currently face a multi-faceted obstacle course. The President's portability proposals in the minimum wage bill could help *over 5 million workers each year* who have an employer-sponsored pension plan and who change jobs:

- **Takes Away 1-Year Wait To Save At a New Job:** Millions of workers are forced to wait 1 year before they can enter their new employer's pension plan. The minimum wage bill changes a law to encourage private employers to stop imposing this 1-year wait.

- **Guarantees Benefits for Workers on the Move:** Reduces the vesting period from 10 to 5 years for multiemployer plans -- which cover union workers such as construction workers who frequently change jobs -- to ensure they don't lose their benefits if they've worked for 5 years.

- **Secures Portability for Veterans:** Changes tax rules to ensure that veterans who serve their nation are not penalized and can continue their pension coverage when they return from service.

3. <u>ENHANCES PENSION PROTECTION AND SECURITY</u>: The Retirement Protection Act, enacted in 1994 at the President's request, has reduced pension underfunding for the first time in a decade, protecting the benefits of 40 million workers and retirees in traditional pension plans. In 1995, the Labor Department launched an initiative to protect savings in 401(k) plans from misuse, recovering to date nearly $10 million for thousands of workers. Recently the Labor Department issued new rules to ensure that worker contributions to 401(k) plans start earning money for workers sooner. Now the minimum wage bill:

- **Protects Government Employees' Savings from Orange County-Style Fiascos:** Requires state and local government retirement savings plans to be held in trust so that employees do not lose their savings if the government declares bankruptcy, as Orange County recently did.

- **Increases Penalties for Self-Dealing:** Penalties for self-dealing pension funds (such as loans to the company owner) are generally doubled, from 5 percent to 10 percent.

- **Improves Spousal Protections:** Helps protect spousal benefits in the choice of an annuity and during divorce proceedings.

4. <u>EASES PENSION ADMINISTRATION</u>: Many employers are discouraged from establishing or maintaining plans because rules governing their administration are complicated and expensive. The minimum wage bill:

- **Eliminates Complex Limitations:** As proposed by President Clinton, the bill eliminates the complex limitations on contributions and benefits for workers in a defined benefit and defined contribution plan with the same employer.

- **Simplifies Corrective Action Rules:** The bill makes it easier for employers to take corrective action if they make excess tax-free contributions, and makes the corrective action rules fairer.

- **Simplifies Computations:** The bill simplifies rules for computing pay for pension purposes, allowing lower-paid workers to receive more benefits.

ADOPTION PROVISIONS IN
THE SMALL BUSINESS JOB PROTECTION ACT
August 20, 1996

The Clinton Administration is committed to breaking down barriers to adoption. The Small Business Job Protection Act includes two adoption provisions that President Clinton has strongly supported. It provides an adoption tax credit and prohibits adoption agencies that receive Federal funds from denying or delaying placement of a child based on race, color or national origin. These provisions will help give more children what every child in America deserves -- loving parents and a healthy, stable home.

America's Waiting Children. More than 450,000 children in this country live in foster care. Eight out of ten of these children have special needs -- they are disabled, older, have siblings who also need to be adopted, or are minorities. The average child may wait as long as two years to be placed in an adoptive home even after they are legally free to be adopted. Minority children may wait twice as long.

Clinton Administration's Commitment to Encouraging and Easing Adoption. The President and the First Lady have worked hard to promote adoption, especially for children with special needs. The Administration's efforts include:

- Increased by 60% the number of children with special needs who have been adopted with Federal adoption assistance.

- Strongly supported the Multi-Ethnic Placement Act that sought to end discrimination and delays in adoption because of race or ethnicity.

- Championed the Family and Medical Leave Act -- which enables parents to take time off to adopt a child without losing their jobs or their health insurance.

- Created an honor roll of private companies who have pledged to make adoption easier for workers and their families by paying adoption benefits, offering leave time after adoption or other programs.

- Launched a public education campaign to highlight waiting children and the importance of adoption.

Helping Families Afford Adoption. This legislation will allow families, many of whom find adoption too expensive, to adopt children to love and nurture. It provides:

- A $5,000 tax credit for costs related to adopting a child. If an employer agrees to pay for adoption expenses, their employee can claim an income deduction of up to $5,000.

- A $6,000 tax credit or income deduction for costs related to adopting a child with special needs.

The full credit and income deductions are available to adoptive parents with annual incomes of up to $75,000 and gradually phase out as income reaches $115,000.

Breaking Down Racial Barriers to Adoption. The legislation builds on the Multi-Ethnic Placement Act, signed by the President in 1994, by strengthening the prohibition against denying or delaying placement on the basis of race, color or national origin. The bill also provides for stronger enforcement against states that fail to comply within 6 months.

ADDITIONAL TAX PROVISIONS IN H.R. 3448 THAT THE ADMINISTRATION SUPPORTS

In addition to the provisions that simplify pensions and expand coverage, H.R. 3448 contains a number of tax provisions that the Administration has long supported, including:

- **Small-business Expensing** -- The bill increases the amount of tangible depreciable property that small businesses can expense from $17,500 to $25,000 by the year 2003. In 1993, the President pushed for such an increase to $25,000. His 1993 Economic Plan successfully increased the limit from $10,000 to $17,500, and his FY 1997 budget contained this proposal to increase it to $25,000, except that the tax relief would have been phased in more quickly. The bill provides an important incentive for small businesses to increase their capital investment, and will simplify reporting for small businesses.

- **Adoption Credit** -- The bill provides a nonrefundable $5000 adoption credit (increased to $6000 for domestic adoptions of children with special needs), phased out for AGI between $75,000 and $115,000. In addition, the bill provides a maximum $5,000 exclusion for amounts paid by the employer in connection with an adoption. The Administration believes that helping families adopt is one of the most important things we can do to strengthen families and give children a healthy home. The Administration has strongly supported such measures as a means to help alleviate economic barriers to adoption and enable many middle-class families, for whom adoption might otherwise be too expensive, to adopt children who need homes.

- **Temporary Extension of Employer-Provided Educational Assistance** -- The $5,250 exclusion for employer-provided educational assistance, which expired after December 31, 1994, is reinstated retroactively and extended until May 31, 1997. It would apply to post-graduate education, but only for courses that began before July 1, 1996. The Administration strongly supports this incentive for employer-provided educational assistance, which is important for U.S. competitiveness because it encourages better-educated employees and boosts the productivity of the American workforce. The Administration is disappointed, however, that Congress has eliminated the incentive for post-graduate education. The Administration will continue to work to improve this provision, as well as to provide small businesses with a ten percent tax credit for educational assistance.

- **Work Opportunity Tax Credit** -- The bill replaces the targeted jobs tax credit (TJTC) with a new Work Opportunity Tax Credit. The new credit will provide incentives to employers to hire individuals from targeted groups most in need of jobs and with the least skills, and it will promote longer, more meaningful work experiences for individuals hired under the credit. Targeted groups include welfare recipients, food stamp recipients, former felons and young adults in empowerment zones and enterprise communities.

- **State Prepaid Tuition Plans** -- The Administration worked with Congress to develop and strongly supports these provisions, which clarify the tax treatment of investments in State prepaid tuition plans, including a provision that investors in such programs generally will not be taxed on the increase in value of their investment until the time of withdrawal. These changes will help parents save for their children's education.

- **Temporary Extension of R&E Credit** -- The credit, which expired June 30, 1995, is reinstated prospectively only, for the period July 1, 1996, through May 31, 1997, and is modified in certain respects. The Administration strongly supports the research tax credit and is disappointed that the research tax credit was not fully reinstated back to July 1, 1995, and made permanent.

- **Temporary Extension of "Orphan Drug" Credit** -- The credit, which expired December 31, 1994, is reinstated prospectively, for the period July 1, 1996, through May 31, 1997. The Administration strongly supports this credit, which provides an incentive for the testing of drugs for rare diseases and conditions.

- **Subchapter "S" Simplification Proposals** -- The Administration has supported Subchapter S simplification, which is important to helping small businesses. The provisions include increasing the number of eligible shareholders from 35 to 75, and allowing S corporations to hold subsidiaries.

- **Reform Foreign Trust Rules** -- The bill contains a series of provisions designed to prevent sophisticated tax avoidance techniques using foreign trusts. The provision is similar to one contained in the Administration's budget.

- **Contributions of Appreciated Stock to Private Foundations** -- This provision, which expired December 31, 1994, would be reinstated for the period July 1, 1996, through May 31, 1997.

PRESIDENT CLINTON SIGNS THE MINIMUM WAGE LEGISLATION

August 20, 1996

The President today will sign legislation to increase the minimum wage to help ten million Americans who work hard and play by the rules. The bill, formally titled H.R. 3448 - "Small Business Job Protection Act", also provides for pension reform, tax breaks for small businesses, and a newly created adoption tax credit.

The President has supported increasing the minimum wage, which is now approaching its lowest real value in 40 years, since he was Governor of Arkansas. In his remarks, the President will highlight the importance of providing hard working Americans with a living wage. He will also emphasize the benefits of the new pension reforms and the newly created tax credit to make adoption easier and more affordable for working families.

Participants in today's event include minimum wage workers and their families, representatives from supportive organizations, members of congress, adoption advocates and their families, and administration officials.

The following is the program for the event:

- The Vice President makes remarks
- Kathy Wilkinson, lab assistant and minimum wage employee from Wheeling, West Virginia makes remarks.
- The President makes remarks.

-30-30-30-

MAKING WORK PAY BY INCREASING THE MINIMUM WAGE

In Putting People First, Bill Clinton and Al Gore promised to "increase the minimum wage to keep pace with inflation." In February 1995 -- 18 months ago -- President Clinton specifically proposed increasing the minimum wage from $4.25 to $5.15 over two years. For a full-time minimum wage worker, a 90-cent increase would raise their yearly income by $1,800 -- as much as the average family spends on groceries in over 7 months.

YOU CAN'T RAISE A FAMILY ON $4.25 AN HOUR. The minimum wage is approaching its lowest real value in 40 years. The minimum wage has lost nearly all of its real value since its last increase in April 1991. This minimum wage increase will help restore the real value of the minimum wage back to its level when it was last raised.

- **Ensuring No Parent Has To Bring Up Their Kids In Poverty.** The dramatic extension of the Earned Income Tax Credit (EITC) helped lift hundreds of thousands of working families out of poverty. A 90-cent minimum wage increase and the expanded EITC will ensure that no parent who works full-time would have to bring up their children in poverty.

- **Helping Adult Workers Trying To Support Their Families.** According to the Bureau of Labor Statistics:

  - 69% of those workers who would benefit from an increase are adults, age 20 or over;
  - Three-fifths (59%) are women, many of whom are trying to raise the family on $4.25;
  - Nearly two-fifths (38%) are the sole wage earner in their household; and
  - The average minimum wage worker brings home half of their family's earnings.

- **Giving A Pay Raise To 10 Million Workers At or Near The Minimum Wage.** An estimated 10 million hourly workers earn between $4.25 and $5.14 and would directly benefit from this pay raise. An increase in the minimum wage could also have a "ripple" effect on the over 3 million workers who earn within 60 cents of the new minimum wage.

EMPIRICAL EVIDENCE SHOWS THAT RAISING THE MINIMUM WAGE WILL NOT COST JOBS. Nearly two dozen empirical studies have found that moderate increases in the minimum wage do not have a significant impact on employment. These studies include state-specific research in California, Texas, and New Jersey that shows that state minimum wage increases did not result in any job loss.

- **101 Economists Including 3 Nobel Prize Winners Agree That A Minimum Wage Increase Won't Cost Jobs.** In the fall of 1995, 101 economists -- including 3 Nobel Prize-winners Kenneth Arrow, Lawrence Klein, and James Tobin -- signed a letter supporting the President's proposal to raise the minimum wage, affirming that it would not have a significant effect on employment, and concluding that *"overall effects [of an increase] on the labor market, affected workers, and the economy would be positive."*

THE LAST MINIMUM WAGE INCREASE -- ALSO 90 CENTS -- GARNERED STRONG BIPARTISAN SUPPORT. In 1989, the minimum wage was passed by votes of 382 to 37 (135 Republicans) in the House, and 89 to 8 in the Senate (36 Republicans) and was supported by Senator Dole, Senator Lott, and Rep. Gingrich.

PENSION PROVISIONS IN THE MINIMUM WAGE BILL TO EXPAND COVERAGE, INCREASE PORTABILITY, AND ENHANCE SECURITY

The minimum wage bill includes many of the President's pension proposals, contained in his Retirement Savings and Security Act, which will empower more Americans to save for their retirement by expanding pension coverage, portability, and protections and significantly simplifying pension rules.

- **Expands Pensions** to help millions of working Americans not currently covered by an employer-provided plan save for their retirement.
- **Increases Portability** by reducing the obstacles facing many workers when they change or lose their job and want to keep their retirement savings and continue saving.
- **Enhances Protections** so hard-working Americans do not have to worry whether their retirement savings will be there when they need them.
- **Simplifies Pensions** to encourage and make it easier for employers to offer pensions.

THE MINIMUM WAGE BILL'S PENSION PROVISIONS MEET THESE CHALLENGES:

1. **NEW SMALL BUSINESS 401(k) PLAN -- To Expand Pension Coverage:** While 76% of workers in large businesses have employer-provided pensions, only 24% of workers in small businesses do. In June 1995, the President first proposed a simple small business "401(k) plan" to expand pension coverage to up to *10 million workers* in small businesses not currently covered by a plan. Republicans followed with their own proposal. The minimum wage bill's small business plan, while providing a smaller share of benefits to lower and middle wage workers, includes many elements of the President's plan and provides for:

   - **$6,000 Tax-Free Contributions.** Workers could save up to $6,000 a year tax-free through automatic payroll deductions.

   - **Employers Contribute 2% of Salary or Match Contributions Up To 3% of Salary.**

   - **One-Page Form.** Cuts through the red tape with a simple, one-page form without complicated employer filing, calculations, or testing.

   - **100% Portable.** All contributions would be immediately vested and fully portable.

   The bill also expands coverage by:

   - Simplifying 401(k) plans for *all* businesses;
   - Making the 9 million employees of non-profit organizations, as well as employees of Indian tribes, eligible for 401(k) plans;
   - Enabling relatives who work in a family business to earn their own retirement benefits;
   - Repealing unreasonable limits on benefits for certain disabled and low- and middle-income state and local government employees; and
   - Enabling millions of spouses who do not work outside the home to contribute up to $2,000 to an individual retirement account.

2. **INCREASES PENSION PORTABILITY**: Workers who change jobs and want to take their retirement savings with them and keep saving currently face a multi-faceted obstacle course. The President's portability proposals in the minimum wage bill could help *over 5 million workers each year* who have an employer-sponsored pension plan and who change jobs:

- **Takes Away 1-Year Wait To Save At a New Job:** Millions of workers are forced to wait 1 year before they can enter their new employer's pension plan. The minimum wage bill changes a law to encourage private employers to stop imposing this 1-year wait.

- **Guarantees Benefits for Workers on the Move:** Reduces the vesting period from 10 to 5 years for multiemployer plans -- which cover union workers such as construction workers who frequently change jobs -- to ensure they don't lose their benefits if they've worked for 5 years.

- **Secures Portability for Veterans:** Changes tax rules to ensure that veterans who serve their nation are not penalized and can continue their pension coverage when they return from service.

3. **ENHANCES PENSION PROTECTION AND SECURITY**: The Retirement Protection Act, enacted in 1994 at the President's request, has reduced pension underfunding for the first time in a decade, protecting the benefits of 40 million workers and retirees in traditional pension plans. In 1995, the Labor Department launched an initiative to protect savings in 401(k) plans from misuse, recovering to date nearly $10 million for thousands of workers. Recently the Labor Department issued new rules to ensure that worker contributions to 401(k) plans start earning money for workers sooner. Now the minimum wage bill:

- **Protects Government Employees' Savings from Orange County-Style Fiascos:** Requires state and local government retirement savings plans to be held in trust so that employees do not lose their savings if the government declares bankruptcy, as Orange County recently did.

- **Increases Penalties for Self-Dealing:** Penalties for self-dealing pension funds (such as loans to the company owner) are generally doubled, from 5 percent to 10 percent.

- **Improves Spousal Protections:** Helps protect spousal benefits in the choice of an annuity and during divorce proceedings.

4. **EASES PENSION ADMINISTRATION**: Many employers are discouraged from establishing or maintaining plans because rules governing their administration are complicated and expensive. The minimum wage bill:

- **Eliminates Complex Limitations:** As proposed by President Clinton, the bill eliminates the complex limitations on contributions and benefits for workers in a defined benefit and defined contribution plan with the same employer.

- **Simplifies Corrective Action Rules:** The bill makes it easier for employers to take corrective action if they make excess tax-free contributions, and makes the corrective action rules fairer.

- **Simplifies Computations:** The bill simplifies rules for computing pay for pension purposes, allowing lower-paid workers to receive more benefits.

ADOPTION PROVISIONS IN THE SMALL BUSINESS JOB PROTECTION ACT
August 20, 1996

The Clinton Administration is committed to breaking down barriers to adoption. The Small Business Job Protection Act includes two adoption provisions that President Clinton has strongly supported. It provides an adoption tax credit and prohibits adoption agencies that receive Federal funds from denying or delaying placement of a child based on race, color or national origin. These provisions will help give more children what every child in America deserves -- loving parents and a healthy, stable home.

America's Waiting Children. More than 450,000 children in this country live in foster care. Eight out of ten of these children have special needs -- they are disabled, older, have siblings who also need to be adopted, or are minorities. The average child may wait as long as two years to be placed in an adoptive home even after they are legally free to be adopted. Minority children may wait twice as long.

Clinton Administration's Commitment to Encouraging and Easing Adoption. The President and the First Lady have worked hard to promote adoption, especially for children with special needs. The Administration's efforts include:

- Increased by 60% the number of children with special needs who have been adopted with Federal adoption assistance.

- Strongly supported the Multi-Ethnic Placement Act that sought to end discrimination and delays in adoption because of race or ethnicity.

- Championed the Family and Medical Leave Act -- which enables parents to take time off to adopt a child without losing their jobs or their health insurance.

- Created an honor roll of private companies who have pledged to make adoption easier for workers and their families by paying adoption benefits, offering leave time after adoption or other programs.

- Launched a public education campaign to highlight waiting children and the importance of adoption.

Helping Families Afford Adoption. This legislation will allow families, many of whom find adoption too expensive, to adopt children to love and nurture. It provides:

- A $5,000 tax credit for costs related to adopting a child. If an employer agrees to pay for adoption expenses, their employee can claim an income deduction of up to $5,000.

- A $6,000 tax credit or income deduction for costs related to adopting a child with special needs.

The full credit and income deductions are available to adoptive parents with annual incomes of up to $75,000 and gradually phase out as income reaches $115,000.

Breaking Down Racial Barriers to Adoption. The legislation builds on the Multi-Ethnic Placement Act, signed by the President in 1994, by strengthening the prohibition against denying or delaying placement on the basis of race, color or national origin. The bill also provides for stronger enforcement against states that fail to comply within 6 months.

ADDITIONAL TAX PROVISIONS IN H.R. 3448 THAT THE ADMINISTRATION SUPPORTS

In addition to the provisions that simplify pensions and expand coverage, H.R. 3448 contains a number of tax provisions that the Administration has long supported, including:

- **Small-business Expensing** -- The bill increases the amount of tangible depreciable property that small businesses can expense from $17,500 to $25,000 by the year 2003. In 1993, the President pushed for such an increase to $25,000. His 1993 Economic Plan successfully increased the limit from $10,000 to $17,500, and his FY 1997 budget contained this proposal to increase it to $25,000, except that the tax relief would have been phased in more quickly. The bill provides an important incentive for small businesses to increase their capital investment, and will simplify reporting for small businesses.

- **Adoption Credit** -- The bill provides a nonrefundable $5000 adoption credit (increased to $6000 for domestic adoptions of children with special needs), phased out for AGI between $75,000 and $115,000. In addition, the bill provides a maximum $5,000 exclusion for amounts paid by the employer in connection with an adoption. The Administration believes that helping families adopt is one of the most important things we can do to strengthen families and give children a healthy home. The Administration has strongly supported such measures as a means to help alleviate economic barriers to adoption and enable many middle-class families, for whom adoption might otherwise be too expensive, to adopt children who need homes.

- **Temporary Extension of Employer-Provided Educational Assistance** -- The $5,250 exclusion for employer-provided educational assistance, which expired after December 31, 1994, is reinstated retroactively and extended until May 31, 1997. It would apply to post-graduate education, but only for courses that began before July 1, 1996. The Administration strongly supports this incentive for employer-provided educational assistance, which is important for U.S. competitiveness because it encourages better-educated employees and boosts the productivity of the American workforce. The Administration is disappointed, however, that Congress has eliminated the incentive for post-graduate education. The Administration will continue to work to improve this provision, as well as to provide small businesses with a ten percent tax credit for educational assistance.

- **Work Opportunity Tax Credit** -- The bill replaces the targeted jobs tax credit (TJTC) with a new Work Opportunity Tax Credit. The new credit will provide incentives to employers to hire individuals from targeted groups most in need of jobs and with the least skills, and it will promote longer, more meaningful work experiences for individuals hired under the credit. Targeted groups include welfare recipients, food stamp recipients, former felons and young adults in empowerment zones and enterprise communities.

- **State Prepaid Tuition Plans** -- The Administration worked with Congress to develop and strongly supports these provisions, which clarify the tax treatment of investments in State prepaid tuition plans, including a provision that investors in such programs generally will not be taxed on the increase in value of their investment until the time of withdrawal. These changes will help parents save for their children's education.

- **Temporary Extension of R&E Credit** -- The credit, which expired June 30, 1995, is reinstated prospectively only, for the period July 1, 1996, through May 31, 1997, and is modified in certain respects. The Administration strongly supports the research tax credit and is disappointed that the research tax credit was not fully reinstated back to July 1, 1995, and made permanent.

- **Temporary Extension of "Orphan Drug" Credit** -- The credit, which expired December 31, 1994, is reinstated prospectively, for the period July 1, 1996, through May 31, 1997. The Administration strongly supports this credit, which provides an incentive for the testing of drugs for rare diseases and conditions.

- **Subchapter "S" Simplification Proposals** -- The Administration has supported Subchapter S simplification, which is important to helping small businesses. The provisions include increasing the number of eligible shareholders from 35 to 75, and allowing S corporations to hold subsidiaries.

- **Reform Foreign Trust Rules** -- The bill contains a series of provisions designed to prevent sophisticated tax avoidance techniques using foreign trusts. The provision is similar to one contained in the Administration's budget.

- **Contributions of Appreciated Stock to Private Foundations** -- This provision, which expired December 31, 1994, would be reinstated for the period July 1, 1996, through May 31, 1997.

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

May 22, 1996
(House)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 3448 - Small Business Job Protection Act
(Archer (R) Texas)

The Administration, while supporting House passage of several provisions in H.R. 3448, will seek amendments to the bill. The Administration strongly opposes the following provisions, which should be deleted from H.R. 3448:

- Section 1501, which would repeal a 1993 Administration initiative that reduces tax incentives for U.S. companies to move jobs and operations abroad. As stated in the President's veto message on the Balanced Budget Act of 1995, which included this provision, the provision would allow businesses to avoid U.S. income taxes by accumulating foreign earnings without limit.

- Section 1601, which would repeal the tax credit related to economic investments in Puerto Rico. The Administration urges the House to replace this provision with its proposal to reform the credit so that it provides benefits based on real economic activity in these underdeveloped areas and uses the projected revenue savings for social and employment and training program needs in Puerto Rico. It is important that legislation concerning the credit contains effective mechanisms to promote job creation in the islands.

The Administration will also work with Congress to adopt other amendments as described below.

Provisions Supported by the Administration
and Additional Recommended Amendments

The Administration supports many provisions of H.R. 3448, which are consistent with Administration proposals to strengthen small businesses, simplify pension laws, and improve incentives for education and work opportunities. The Administration believes that these provisions should be enacted on their own merits, not as part of a bill to increase the minimum wage, and are best considered in the context of the President's balanced budget plan, which CBO estimates will balance in the year 2002.

In particular:

- Small Business Expensing. The Administration strongly supports the bill's increase from $17,500 to $25,000 in the amount of tangible personal property that small businesses can expense. The President proposed such an increase in 1993 and in his FY 1997 Budget, although with a faster phase-in.

- Employer-Provided Educational Assistance. The Administration supports the bill's temporary extension of the exclusion for employer-provided educational assistance, and will work with Congress to provide a permanent extension of the exclusion. The Administration, however, opposes the provision that would disallow the exclusion for post-graduate level education. The Administration also believes there should be a 10% tax credit for educational assistance provided under section 127 plans for small businesses with gross receipts of $10 million or less.

- Work Opportunity Tax Credit. The provision in H.R. 3448 for a new Work Opportunity Tax Credit addresses a number of the criticisms of the prior Targeted Jobs Tax Credit, particularly increasing the period of retention. The Administration will work with Congress to improve the scope and effectiveness of the new credit. For example, the Administration supports the amendment offered in committee by Representative Rangel that would have expanded the category of high-risk youth eligible for the credit.

- Pension Simplification. Many provisions of H.R. 3448 were included in the President's pension simplification proposal announced in June 1995 at the White House Conference on Small Business. More can be done, however, to encourage retirement savings by middle and lower-wage workers, such as providing more meaningful employer contributions under the simplified small business plan and a more appropriate definition of highly compensated employees. The Administration is also concerned that the three-year waiver of the excise tax on very large retirement distributions would add complexity and could actually encourage plan sponsors to terminate plans. The Administration hopes to work with Congress in a bipartisan fashion to simplify the law, expand coverage, increase security, and promote portability.

- Subchapter S. The Administration supports the Subchapter S reform package in the bill, and will work with Congress to provide further reforms and ensure that reforms are appropriately targeted to the intended beneficiaries.

- Technical Corrections. The Administration supports the long-overdue enactment of technical corrections to recent tax legislation. However, the Administration opposes several special-interest, late Committee additions to the consensus package of technical corrections. The Administration also opposes the inclusion in H.R. 3448 of various other special-interest provisions.

Revenue Offsets

The Administration has concerns with certain offset provisions in H.R. 3448 (including the repeal of tax benefits for certain employee stock ownership plans that provide meaningful employee ownership) and will work with Congress to develop more suitable offsets for the lost tax revenue resulting from the new tax incentives. Two of the offsets -- relating to the so-called income-forecast accounting method and to advance refunds of the diesel fuel tax -- are included in the President's balanced budget proposal and should be reserved for deficit reduction and meeting balanced budget goals. In working with the Congress to develop an improved bill that is consistent with the Administration's recommended amendments, appropriate offsets will be sought.

Administration Proposals Not Addressed in H.R. 3448

The Administration will work with Congress to provide other incentives previously proposed by the Administration but omitted from this bill, such as the tuition and training deduction, expanded Individual Retirement Accounts (including penalty-free withdrawals for education expenses, purchases of first homes, major medical expenses, and unemployment), and revenue-neutral extension of the research tax credit and other expiring provisions.

The Administration will also work with Congress to revitalize economically distressed areas through tax incentives previously proposed by the Administration, including incentives to clean up abandoned, contaminated properties, and to create new Empowerment Zones and Enterprise Communities.

Ideally, if not considered in H.R. 3448, all of these provisions should be considered in the context of the President's plan to balance the budget by the year 2002.

Pay-As-You-Go Scoring

H.R. 3448 would affect receipts; therefore, it is subject to the "pay-as-you-go" requirements of the Omnibus Budget Reconciliation Act of 1990. OMB's scoring of this legislation is under development.

* * * * * * * *

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

FAX TRANSMITTAL SHEET

DATE: 8/8/96

NUMBER OF SHEETS TO FOLLOW: 10

TO: TOM KALIL

ADDRESSEE'S FAX #: 456-2223

ADDRESSEE'S CONFIRMATION #: ____________

FROM: MICHAEL BARR

SENDER'S FAX #: 202-622-0073

SENDER'S CONFIRMATION #: 202-622-1700

SPECIAL INSTRUCTIONS/COMMENTS:

AUG-08-1996 17:09 EXEC. SEC. TREASURY DEPT 202 622 0073 P.01/10

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

CRETARY OF THE TREASURY

June 25, 1996

The Honorable Daniel Patrick Moynihan
United States Senate
Washington, D.C. 20510

Dear Pat:

I am writing in regard to two potential amendments to the Small Business Job Protection Act that was reported by the Senate Finance Committee last week. The first amendment would extend further (if not permanently) favorable tax treatment to employer-provided educational assistance (including graduate-level education) and provide a small-business tax credit for education expenses within the scope of that provision. I understand these provisions may be included in a possible floor amendment, and your staff is working with Minority Leader Daschle on such a small-business credit. The second provision, which might be appropriate for the managers' amendment, would grant Foreign Sales Corporation (FSC) benefits to licenses of computer software. This would provide the same result that you sought in a letter to then-Secretary Bentsen in 1994, which was also signed by Senator D'Amato and Congressmen Rangel and Fish. As you know, the Administration has been working with your staff to craft revenue-neutral packages that would include both of these items.

I know you share my disappointment that these amendments were not included in the bill as reported by the Committee. Let's work together to include them in the bill as ultimately passed by the Senate.

THE SECRETARY OF THE TREASURY
WASHINGTON

June 21, 1996

The Honorable Dianne Feinstein
United States Senate
Washington, DC 20510

Dear Dianne:

Thank you for your letter concerning the tax treatment of computer software licenses. Your letter addresses the Administration's position on the issue of whether the statute should be revised to treat licenses of computer software similarly to licenses of films and records.

Treasury, along with the entire Administration, is supportive of a paid-for legislative amendment to the FSC statute. As then-Secretary Bentsen observed in 1994, "the differences between the license of films, tapes and records and the licences of software are not great, and as the technology develops, the demarcation grows less distinct." We have been working with Members of Congress and their staffs to develop appropriate legislative packages and are disappointed that the FSC package has not yet been included in the Small Business Job Protection Act of 1996.

Treasury will continue to work with Congress to find appropriate legislative vehicles for a paid-for FSC amendment. Thank you again for writing.

Sincerely,

Robert E. Rubin

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

July 8, 1996
(Senate) (SENT

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 3448 - Small Business Job Protection Act
(Archer (R) Texas)

The Administration, while supporting Senate passage of a number of provisions of H.R. 3448 as amended by the Finance Committee, will seek further amendments to the bill. And, as stated in the President's June 28th letter to the Senate, a copy of which is attached, if H.R. 3448 is presented to the President with the minimum wage provisions of the Republican leadership amendment, the President will veto the bill.

The Administration strongly opposes section 1601 of the bill, which would repeal the tax credit related to corporate investments in Puerto Rico while allowing several grandfather rules for existing companies. The Administration urges the Senate to delete this provision and adopt instead the proposal to reform the credit contained in the President's FY 1997 Budget. The Administration's proposal provides tax benefits for new and expanded operations based directly on real economic activity in these underdeveloped areas. The projected revenue savings from the reform of this credit would be used for social and employment training programs in Puerto Rico. Unlike section 1601, the final legislative language concerning the credit should contain effective mechanisms to promote job creation in the islands.

The Administration will also work with Congress to adopt other amendments as described below.

Provisions Supported by the Administration and Additional Recommended Amendments

The Administration supports many of the revenue provisions of H.R. 3448, which are consistent with Administration proposals to strengthen small businesses, simplify pension laws, reinstate incentives for research and development, and improve incentives for education and work opportunities.

In particular:

- Small Business Expensing. The Administration strongly supports the bill's increase from \$17,500 to \$25,000 for the amount of tangible personal property that small businesses can expense. The President supported such an increase in 1993 and in his FY 1997 Budget, although with a faster phase-in.

- Employer-Provided Educational Assistance. The Administration supports the temporary extension of the income exclusion for employer-provided educational assistance, including the exclusion for post-graduate level education. The Administration will work with Congress to provide a permanent extension of the exclusion. The Administration also supports a 10 percent tax credit for educational assistance provided under section 127 plans for small businesses with annual gross receipts of $10 million or less.

- Research Tax Credit. The Administration strongly supports full reinstatement of the research tax credit back to its June 30, 1995, expiration date. The Administration will work with Congress to make the credit permanent. The Administration continues to believe that full, permanent reinstatement should take priority over modifications to the credit such as those contained in H.R. 3448.

- Orphan Drug Credit. The Administration strongly supports full reinstatement of the orphan drug credit and will work with Congress to make the credit permanent.

- Gifts of Appreciated Stock to Private Foundations. The Administration strongly supports this provision and will work with Congress to make it permanent.

- Work Opportunity Tax Credit. The provision for a new Work Opportunity Tax Credit addresses many of the criticisms of the prior Targeted Jobs Tax Credit, particularly increasing the period of retention for eligible workers. The Administration will work with Congress to improve the scope and effectiveness of the new credit.

- Pension Simplification. Many provisions of H.R. 3448 were included in the President's pension simplification proposal announced in June 1995 at the White House Conference on Small Business. The Administration is concerned, however, that the safe harbor provisions applicable to both SIMPLE and 401(k) plans do not ensure that middle and lower-wage workers will benefit from the provision of tax-advantaged retirement savings plans. The Administration will work with Congress to modify these safe harbors so that employers taking advantage of them are required to provide meaningful coverage to these workers. The Administration is also concerned that the three-year waiver of the excise tax on very large retirement distributions would add complexity and could actually encourage plan sponsors to terminate plans.

- Subchapter S. The Administration also strongly supports most of the reforms in the bill relating to Subchapter S (closely held) corporations, and will work with Congress to provide further reforms and to ensure that reforms are appropriately targeted to the intended beneficiaries.

- Technical Corrections. The Administration supports the long-overdue enactment of technical corrections to recent tax legislation and will work with Congress to achieve a consensus package of technical corrections.

Objectionable Provisions

- Classification of Workers for Employment Tax Purposes. The Administration has concerns about certain changes proposed to section 530 of the Revenue Act of 1978, which provides "safe harbors" under which an employer has a reasonable basis for treating a worker as an independent contractor rather than as an employee for employment tax purposes. The most important concerns are with proposed changes that would: (1) shift the burden of proof to the Internal Revenue Service with respect to the application of section 530; and (2) replace the safe harbor for reasonable reliance on a long-standing practice of a significant segment of the industry with a rigid numerical test.

- Special-Interest Provisions. The Administration opposes the inclusion in H.R. 3448 of numerous special-interest provisions.

Revenue Offsets

The Administration has serious concerns with the offset provision in H.R. 3448 that would repeal tax benefits for certain employee stock ownership plans that provide meaningful employee ownership. Several of the offsets -- relating to interest allocations for nonfinancial corporations, tax treatment of expatriates, basis adjustment rules under section 1033, withholding on certain gambling winnings, and reinstatement of airport and airway trust fund excise taxes -- are included in the President's balanced budget proposal. These offsets should be reserved for deficit reduction and meeting balanced budget goals. In working with the Congress to develop an improved bill that is consistent with the Administration's recommended amendments, appropriate offsets will be sought.

Proposals Not Addressed in H.R. 3448

In the context of an overall balanced budget plan, the Administration will work with Congress to provide other incentives previously proposed by the Administration but omitted from this bill. Such incentives include the $10,000 deduction for postsecondary tuition and training expenses, the $1,500 tax credit for postsecondary tuition, and incentives to revitalize economically distressed areas by cleaning up abandoned, contaminated properties, and creating new Empowerment Zones and Enterprise Communities.

The Administration would also support an amendment to the Foreign Sales Corporation statute as it applies to licenses of software, and will work with Congress to develop an acceptable package, including appropriate revenue offsets.

Pay-As-You-Go Scoring

H.R. 3448 would affect receipts; therefore, it is subject to the "pay-as-you-go" requirements of the Omnibus Budget Reconciliation Act of 1990. OMB's scoring of this legislation is under development.

96-5485

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

July 11, 1996

The Honorable Dianne Feinstein
United States Senate
Washington, D.C. 20510-0504

Dear Dianne:

Thank you for your letter regarding the extension of FSC benefits to those licenses of computer software that do not currently enjoy such benefits.

As you know, our staffs are in extremely close contact on a regular basis, and are working together with the tax writing committees to achieve a favorable legislative outcome. I look forward to continuing to work closely with you toward this end.

Sincerely,

Bob

Robert E. Rubin

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

July 30, 1996

The Honorable Bill Archer
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. ~~Chairman~~ Bill:

I am writing on behalf of the Administration to urge strongly that the conferees on the Small Business Job Protection Act of 1996 adopt several amendments to the package of small-business tax relief measures under consideration. The Administration strongly supports a number of the tax-relief measures in the House and Senate bills, including the increase in small-business expensing, pension simplification, and extensions of expiring tax provisions. We would like to work with you to improve these provisions and to make other amendments to the package, including:

- <u>Research tax credit</u>. The Administration strongly supports permanent reinstatement of the research tax credit, with no retroactive gap. Research projects take many years to complete, and the impact of the credit will be undermined if firms cannot count on it. In addition, allowing the credit to lapse may undermine its incentive effect, as taxpayers seek to make long-term business plans.

- <u>Treatment of computer software as export property</u>: The Administration strongly supports a legislative modification to the Foreign Sales Corporation (FSC) statute to provide the same tax benefits for licenses of computer software as are currently available for films, records, and tapes. We urge the conferees to include such a proposal in the small-business package.

- <u>Employer-Provided Educational Assistance</u>. The Administration strongly supports permanent extension of the income exclusion for employer-provided educational assistance, including the exclusion for post-graduate level education, because well-educated workers are essential to an economy experiencing technological change and facing global competition. We also believe there should be a 10 percent tax credit for educational assistance provided under section 127 plans for small businesses.

- <u>Repeal of section 956A.</u> The Administration strongly opposes and urges the conferees to reject the House provision that would repeal a 1993 Administration initiative that reduces tax incentives for U.S. companies to move jobs and operations abroad. Repeal of this provision would allow businesses to avoid taxes by accumulating foreign earnings without limit.

- <u>Section 936 possessions tax credit</u>. The Administration strongly opposes provisions in the House and Senate bills phasing out the tax credit related to corporate investments in Puerto Rico. The Administration urges the conferees to reject these provisions and to adopt instead the proposal to reform the credit contained in the Administration's FY 1997 budget. The Administration's proposal provides tax benefits for new and expanded operations based directly on real economic activity in these underdeveloped areas. The projected revenue savings would be used for social programs and job creation in Puerto Rico. Although the Senate bill is less objectionable than the House bill because of the former's permanent credit based on a portion of existing economic activity, it fails to provide any incentive for new or expanded economic activity in Puerto Rico.

- <u>Classification of workers for employment tax purposes</u>. The Administration has concerns about certain provisions in the Senate modifications to the safe-harbor provisions of section 530 of the Revenue Act of 1978, which provides "safe harbors" under which an employer has a reasonable basis for treating a worker as an independent contractor rather than as an employee for employment-tax purposes. The most important concerns are with proposed changes that would: (1) shift the burden of proof to the Internal Revenue Service with respect to application of section 530; and (2) replace the safe harbor for reasonable reliance on a long-standing practice of a significant segment of the industry with a rigid numerical test.

The Administration is eager to work with the conferees to develop an improved bill, including appropriate revenue offsets, that is consistent with the Administration's recommended amendments.

Sincerely,

Robert E. Rubin

cc: Small-Business Conferees

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

MAY 6 1994

MAY 5 1994

The Honorable Dan Rostenkowski
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515-1305

Dear Dan:

Thank you for your letter concerning the tax treatment of software licensing income earned by Foreign Sales Corporations (FSCs).

As you know, a majority of the members of the Ways and Means Committee has written to request that the Treasury revise its 1987 regulations to extend FSC benefits to the license of software with the right of reproduction. You asked for a status report on the Administration's review of the U.S. export program to which Assistant Secretary Samuels alluded in testimony before the Subcommittee on Select Revenue Measures last year. That review has now been concluded. It made no recommendation to extend FSC benefits to software licenses with a right of reproduction.

You further requested our view of the possibility of Treasury administratively extending FSC benefits by revising its 1987 temporary regulations. As you noted in your letter, there is no evidence that the Congress intended to provide FSC benefits to software licensed abroad. Indeed, what guidance exists in the legislative history of the enactment of the FSC rules in 1984 suggests that the FSC rules should parallel the DISC regulations they replaced. Accordingly, the 1987 temporary regulations with respect to software duplicated the interpretation in the DISC regulations.

Moreover, an administrative extension of the FSC benefits to software licensed with a right of reproduction would seem to run counter to the apparent purpose of the FSC rules, which limit tax benefits to the export of products "manufactured, produced, grown, or extracted in the United States." If FSC benefits were so extended, then some part of the processing of software products for sale in foreign markets that is now performed in the United States can be expected to be performed abroad. While a similar point might be made about licenses of films, records, and tapes, the decision to make an exception for those licenses was a legislative one. It would seem appropriate that a decision to expand the scope of the FSC rules to a new category as significant as software licenses (whether or not further processing is conducted by a related party) similarly should be a legislative decision.

Finally, you asked for the Treasury's views on the merits and necessity of the legislative proposal. The Treasury does not oppose the proposal, assuming appropriate offsetting revenue measures can be identified. The differences between the license of films, tapes and records and the license of software are not great, and as the technology develops, the demarcation grows increasingly less distinct.

Thank you for your interest.

Sincerely,
(Signed)

Lloyd Bentsen

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
LEGISLATIVE AFFAIRS

PHONE: 395-4790 / FAX: 395-3729

TO: Gene / Jason / Dan

FROM:

____ CHUCK KIEFFER

____ CHUCK KONIGSBERG

____ LISA KOUNTOUPES

✓ ALICE SHUFFIELD

____ KATE DONOVAN

____ NANCY BRANDEL

comments: Treasury wants to send the letter that follows to the Hill Re: Small Business Conference -

Comments?

(Pauline & John have copies)

Alice

FAX #: 6-2878

PHONE NUMBER: ____

PAGES: 3
(includes cover page)

DRAFT

July 30, 1996

The Honorable name
United States Senate
Washington, D.C. 20510

Dear sal :

I am writing on behalf of the Administration to urge strongly that the conferees on the Small Business Job Protection Act of 1996 adopt several amendments to the package of small-business tax relief measures under consideration. The Administration strongly supports a number of the tax-relief measures in the House and Senate bills, including the increase in small-business expensing, pension simplification, and extensions of expiring tax provisions. We would like to work with you to improve these provisions and to make other amendments to the package, including:

- Section 936 possessions tax credit. The Administration strongly opposes provisions in the House and Senate bills phasing out the tax credit related to corporate investments in Puerto Rico. The Administration urges the conferees to reject these provisions and to adopt instead the proposal to reform the credit contained in the Administration's FY 1997 budget. The Administration's proposal provides tax benefits for new and expanded operations based directly on real economic activity in these underdeveloped areas. The projected revenue savings would be used for social programs and job creation in Puerto Rico. Although the Senate bill is less objectionable than the House bill because of the former's permanent credit based on a portion of existing economic activity, it fails to provide any incentive for new or expanded economic activity in Puerto Rico.

- Repeal of section 956A. The Administration strongly opposes and urges the conferees to reject the House provision that would repeal a 1993 Administration initiative that reduces tax incentives for U.S. companies to move jobs and operations abroad. Repeal of this provision would allow businesses to avoid taxes by accumulating foreign earnings without limit.

- Employer-Provided Educational Assistance. The Administration strongly supports permanent extension of the income exclusion for employer-provided educational assistance, including the exclusion for post-graduate level education, because well-educated workers are essential to an economy experiencing technological change and facing global competition. We also believe there should be a 10 percent tax credit for educational assistance provided under section 127 plans for small businesses.

- Research tax credit. The Administration strongly supports permanent reinstatement of the research tax credit, with no retroactive gap. Research projects take many years to complete, and the impact of the credit will be undermined if firms cannot count on it. In addition, allowing the credit to lapse may undermine its incentive effect, as taxpayers seek to make long-term business plans.

- Classification of workers for employment tax purposes. The Administration has significant concerns about certain provisions in the Senate modifications to the safe-harbor provisions of section 530 of the Revenue Act of 1978, which provides "safe harbors" under which an employer has a reasonable basis for treating a worker as an independent contractor rather than as an employee for employment-tax purposes. The most important concerns are with proposed changes that would: (1) shift the burden of proof to the Internal Revenue Service with respect to application of section 530; and (2) replace the safe harbor for reasonable reliance on a long-standing practice of a significant segment of the industry with a rigid numerical test.

- Treatment of computer software as export property: The Administration strongly supports a legislative modification to the Foreign Sales Corporation (FSC) statute to provide the same tax benefits for licenses of computer software as are currently available for films, records, and tapes. We urge the conferees to include such a proposal in the small-business package.

The Administration is eager to work with the conferees to develop an improved bill, including appropriate revenue offsets, that is consistent with the Administration's recommended amendments.

Sincerely,

Robert E. Rubin

cc: Small-Business Conferees

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

10-Jul-1996 01:12pm

TO: (See Below)

FROM: Ellen S. Seidman
National Economic Council

SUBJECT: Pension part of small business tax bill

Laura, I understand you're doing press on the tax bill. The pension part of the tax bill is really worth touting as (i) movement on the President's program and (ii) an example of how bipartisanship can really work to help America's workers, even in this highly charged time. The points, quickly, on pensions are:

1. The President's initiatives -- in June 1995 -- and persistence -- this year -- were critical to ensuring that this perpetual bridesmade of an issue actually made it to the alter. (Pension simplification has been in bill after bill that has gotten mucked up with things that ensure it doesn't pass or gets vetoed; it looks like we've finally overcome that. Perhaps more easily said, the issue was looked upon as dead before the President revived it in June 1995.)

2. While much of the bill (such as repeal of the family aggregation rule, which will help small business owners set up plans, and repeal of the average compensation limit on benefit payouts for public employee plans, which will protect the pensions of lots of long-service moderate-wage public employees such as school bus drivers) is the evolutionary outcome of many prior pension simplification proposals, there are a number, particularly in the Senate managers' amendment, that come directly from the President;

1. reducing the period for vesting in a multiemployer plan from 10 years to 5, making 1 million more workers immediately vested in their pensions (House and Senate);

2. doubling the multiemployer guarantee, so that a 30-year worker whose plan tanks will not be limited to a $6,000 pension (note, however, that only 14 multiemployer plans have tanked since the program started and moreover, the guarantee for a single-employer plan maxes out at about $30,000) (Senate only);

3. PORTABILITY -- making it much easier for workers to start saving from the first day on the job by changing the nondiscrimination rules so employers have no disincentive to allowing saving (many employers say it saves them money to start people immediately rather than having to educate them about saving a year later, so the adminstrative expense argument is probably not very valid) (Senate only);

4. civil service improvements to help spouses and divorced

spouses get their fair share of their spouse's pension benefits (Senate only); and

5. repeal of the limit on benefits for multiemployer plan participants, again ensuring that long-service, moderate-wage workers will get their full pensions (Senate only).

The major part that we wanted and didn't get is a really good match, coupled with a minimum non-matched employer contribution for all plan participants, for both the simplified small business plan (this is the major difference left between the SIMPLE, which they passed, and the NEST, our plan) or the 401(k) safe harbor. This is where the tension between pure simplification, which the safe harbor as passed certainly is, and making certain benefits actually go to lower-wage workers, came out wrong. I think we need to point this out in the "we'll be working on it manner," fully aware, however, that it won't pass (not being in either the House or Senate bills, and being strongly opposed by business) and that we'll sign a bill even if it's not in.

Ellen

Distribution:

TO: Laura D. Tyson
TO: Dena B. Weinstein
TO: Michael Warren
TO: Thomas O'Donnell
TO: Chris Dorval
TO: Pauline M. Abernathy
TO: Gene B. Sperling

Mark: There is an update to this out later. I will zap it to you later.
Tom

Joint Committee on Taxation
July 9, 1996
JCX-35-96

ESTIMATED BUDGET EFFECTS OF REVENUE PROVISIONS IN H.R. 3448 INCLUDING THE MANAGERS' AMENDMENT

Fiscal Years 1996 - 2006

[Millions of Dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
I. Small Business and Other Tax Provisions															
A. Small Business Provisions															
1. Increase in expensing limitation for small businesses to $18,000 for 1997, $18,500 for 1998, $19,000 for 1999, $20,000 for 2000, $24,000 for 2001, $24,000 for 2002, $25,000 for 2003 and thereafter	tyba 12/31/96	—	-66	-175	-256	-327	-759	-935	-1,029	-977	-928	-882	-824	-1,583	-6,335
2. Provide 15-year depreciation for gas station/convenience stores	ppiso/a/b DOE	-7	-24	-37	-45	-50	-53	-53	-55	-61	-42	-25	-163	-209	-452
3. FICA tip credit:															
a. Provided for off-premises employees	1/1/97	—	-6	-14	-15	-18	-17	-18	-18	-19	-20	-21	-51	-68	-164
b. Clarification of effective date	[1]	Negligible Revenue Effect													
4. Treatment of certain dues paid to agricultural or horticultural organizations	tyba 12/31/86	Negligible Revenue Effect													
5. Fishermen – clarify exemption from FICA taxes and provide that exemption applies even if crew member receives de minimis amounts of cash payments	rpa 12/31/94	[2]	-9	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	-10	-10	-11
6. Change related-party and maximum size requirements for first-time farmer industrial development bonds	bia DOE	—	-1	-6	-12	-17	-21	-26	-30	-34	-37	-40	-36	-57	-224
7. Clarify that newspaper carriers and distributors are independent contractors	spa 12/31/95	Negligible Revenue Effect													
8. Provide involuntary conversion treatment for Presidentially declared disaster areas	DDA 12/31/94	-6	-14	-10	-10	-10	-10	-10	-10	-10	-10	-10	-50	-54	-110
9. Leasehold improvements provision	lida 6/12/96	-12	-22	-19	-16	-13	-11	-7	-4	-2	1	4	-82	-81	-101
10. 100% meals deduction for Alaska seafood processors	tyba 12/31/96	—	-1	-2	-2	-2	-2	-2	-2	-2	-2	-2	-7	-9	-19
11. Modification of excise tax on hard cider	1/1/97	—	[2]	-1	-1	-1	-1	-1	-1	-1	-1	-1	-3	-4	-9
12. Clarification of Section 530 worker classification safe harbor	spa 12/31/96	—	[2]	[2]	[2]	[2]	[2]	-1	-1	-1	-1	-1	-1	-1	-6
13. Additional worker classification items:															
a. Provide that if the taxpayer reclassifies independent contractors as employees, this change does not alter the application of the safe harbor for prior periods	pa 12/31/96	—	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[3]	[3]	[3]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
b. Clarify "substantially similar position"........	pa 12/31/96	Negligible Revenue Effect													
Subtotal of Small Business Provisions........		-25	-143	-264	-357	-436	-874	-1,053	-1,150	-1,107	-1,040	-978	-1,230	-2,079	-7,436
B. Provisions Relating to S Corporations															
1. Increase number of eligible shareholders........	tyba 12/31/96	—	-5	-14	-16	-20	-22	-25	-28	-31	-35	-39	-55	-77	-235
2. Permit certain trusts to hold stock in S corporations........	tyba 12/31/96	—	-2	-2	-2	-2	-2	-2	-2	-3	-3	-3	-8	-10	-23
3. Extend holding period for certain trusts	tyba 12/31/96	—	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[4]	[5]	[6]
4. Financial institutions permitted to hold safe-harbor debt........	tyba 12/31/96	—	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	-1
5. Authority to validate certain invalid elections........	tyba 12/31/82	—	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	-1
6. Allow interim closing of the books........	tyba 12/31/96	Negligible Revenue Effect													
7. Expand post-termination period and amend subchapter S audit procedures........	tyba 12/31/96	—	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	-1
8. S corporations permitted to hold S or C subsidiaries........	tyba 12/31/96	—	-5	-9	-11	-13	-15	-17	-20	-23	-26	-29	-38	-53	-168
9. Treatment of distributions during loss years........	tyba 12/31/96	—	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	-1
10. Treatment of S corporations as shareholders in C corporations........	tyba 12/31/96	—	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[4]	[5]	[6]
11. Elimination of certain earnings and profits of S corporations........	tyba 12/31/96	—	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[4]	[5]	[6]
12. Treatment of certain losses carried over under at-risk rules........	tyba 12/31/96	—	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[4]	[5]	[6]
13. Adjustments to basis of inherited S stock........	dda DOE	—	[7]	[7]	[7]	[7]	[7]	[7]	[7]	[7]	[7]	[7]	[7]	[7]	[7]
14. Treatment of certain real estate held by an S corporation........	tyba 12/31/96	—	-1	-1	-2	-2	-2	-2	-2	-2	-2	-2	-6	-8	-18
15. Transition rule for elections after termination........	tyba 12/31/96	—	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[4]	[5]	[6]
16. Treat financial institutions that do not use the reserve method as eligible corporations........	tyba 12/31/96	—	-1	-3	-5	-6	-8	-10	-12	-14	-15	-16	-15	-23	-90
17. Permit tax-exempts to be subchapter S shareholders with UBTI inclusion and ESOP benefit restriction........	tyba 12/31/97	—	—	-3	-9	-11	-13	-15	-17	-19	-21	-23	-23	-36	-131
18. Interaction of subchapter S changes........	--	—	-3	-26	-32	-37	-38	-39	-40	-40	-40	-40	-98	-136	-335
Subtotal of Provisions Relating to S Corporations........		—	-32	-73	-82	-106	-115	-125	-136	-147	-157	-167	-303	-418	-1,154
II. Pension Simplification Provisions															
A. Simplified Distribution Rules															
1. Repeal of 5-year income averaging for lump-sum distributions........	tyba 12/31/99	—	74	77	108	78	70	44	17	15	—	—	337	407	483
2. Repeal of $5,000 exclusion of employees' death benefits........	dda DOE	—	28	49	52	54	55	55	56	57	57	58	183	238	521
3. Simplified method for taxing annuity distributions under certain employer plans........	asda 90 da DOE	—	22	28	28	29	29	29	30	30	31	31	107	136	287
4. Minimum required distributions........	yba 12/31/96	—	-1	-4	-4	-4	-4	-4	-4	-4	-4	-4	-13	-17	-37

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
B. Increased Access to Retirement Savings Plans -															
1. Establish SIMPLE pension plan as modified, but repeal salary reduction SEPs	yba 12/31/96	—	-50	-76	-79	-81	-84	-87	-91	-94	-97	-101	-286	-370	-840
2. Tax-exempt organizations eligible under section 401(k)	yba 12/31/96	—	-8	-22	-24	-25	-26	-28	-29	-30	-31	-31	-79	-105	-254
3. Increase availability of spousal IRAs	yba 12/31/96	—	-57	-168	-184	-195	-206	-219	-233	-248	-264	-281	-604	-810	-2,056
C. Nondiscrimination Provisions															
1. Simplified definition of highly compensated employees [8]	yba 12/31/96	—	[9]	[9]	Considered in Other Provisions										
2. Repeal of family aggregation rules [8]	yba 12/31/96	—	[10]	[10]	Considered in Other Provisions										
3. Modification of additional participation requirements	yba 12/31/96	Negligible Revenue Effect													
4. Safe-harbor nondiscrimination rules for qualified cash or deferred arrangements and matching contributions [11]	yba 12/31/98	—	—	—	-39	-155	-160	-164	-169	-174	-179	-184	-194	-354	-1,224
5. Definition of compensation for section 415 purposes	yba 12/31/97	—	—	-1	-1	-2	-2	-2	-2	-2	-3	-3	-4	-6	-18
D. Miscellaneous Provisions															
1. Plans covering self-employed individuals	yba 12/31/96	Negligible Revenue Effect													
2. Elimination of special vesting rule for multiemployer plans	yba 12/31/96	—	[2]	-1	-1	-1	-1	-1	-1	-1	-1	-1	-3	-4	-9
3. Distributions under rural cooperative plans	DOE	Negligible Revenue Effect													
4. Treatment of governmental plans under section 415	yba 12/31/94	Negligible Revenue Effect													
5. Uniform retirement age [8]	yba 12/31/96	—	[10]	[10]	Considered in Other Provisions										
6. Contributions on behalf of disabled employees	yba 12/31/96	Negligible Revenue Effect													
7. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations	tyba 12/31/96	—	[2]	-1	-1	-1	-2	-2	-2	-2	-2	-2	-3	-5	-15
8. Require section 457 plan assets to be held in trust	DOE	—	-7	-21	-24	-25	-25	-26	-27	-28	-29	-30	-77	-102	-242
9. Correction of GATT interest and mortality rate provisions in the Retirement Protection Act	[12]	—	-4	-4	-4	—	—	—	—	—	—	—	-12	-12	-12
10. Multiple salary reduction agreements permitted under section 403(b)	tyba 12/31/95	Negligible Revenue Effect													
11. Application of elective deferral limit to section 403(b) plans	tyba 12/31/95	Negligible Revenue Effect													
12. Treatment of Indian tribal governments under section 403(b)	cpbo/a 12/31/96	Negligible Revenue Effect													
13. Allow waiver of 30-day waiting period for qualified plan distributions	pyba 12/31/96	Negligible Revenue Effect													
14. Repeal of combined plan limit	lyba 12/31/99	—	—	—	—	-72	-195	-201	-207	-213	-219	-228	-72	-267	-1,333
15. 3-year waiver of excess distribution tax	1/1/97	—	42	44	47	32	—	—	—	—	—	—	165	165	165
16. Increase section 4975 excise tax on prohibited transactions from 5% to 10%	ptoa DOE	—	2	4	4	4	4	4	4	4	4	4	14	18	38
17. Treatment of leased employees	yba 12/31/96	Negligible Revenue Effect													

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
18. Uniform penalty provision to apply to certain pension reporting requirements	1/1/97	No Revenue Effect													
19. Clarify that SECA does not apply to certain parsonage allowance income	ybbo/a 12/31/94	Negligible Revenue Effect													
20. Direct IRS to develop model forms for qualified domestic relations orders ("QDRO") and spousal consent provisions	DOE	Negligible Revenue Effect													
21 Date of adoption of plan amendments	DOE	No Revenue Effect													
22 Permit volunteer firefighters to make deferrals under section 457 (limited to $3,000 per year)	do/a 1/1/97	—	-2	-5	-7	-9	-11	-13	-16	-18	-20	-23	-23	-34	-124
23. Drop provision eliminating waiting period after pension election	1/1/97	Negligible Revenue Effect													
24. PBGC missing participant program [13]	a/rl	Negligible Revenue Effect													
25. Alternative nondiscrimination rules for certain plans that provide for early participation	1/1/99	—	—	—	-6	-17	-18	-19	-19	-20	-20	-20	-23	-41	-139
26. Allow election of 66.67% joint and survivor annuity benefits	pama 12/31/96	Negligible Revenue Effect													
27. Increase in multiemployer plan benefits guaranteed [13]	[14]	—	-2	-3	-3	-3	-3	-3	-3	-13	-13	-14	-11	-14	-60
28. Grant IRS the discretion to waive pension liquidity shortfall excise tax	eai GATT	—	-4	-3	-2	-1	[2]	[2]	[2]	[2]	[2]	[2]	-11	-11	-11
29. Clarify definition of plan assets	1/1/75	Negligible Revenue Effect													
30. Church pension plan simplification:															
a. Allow pension plan coverage for self-employed clergy	yba 12/31/96	Negligible Revenue Effect													
b. Allow church pension plans to use the new definition of highly compensated employee in the bill - Treasury safe harbor	yba 12/31/96	Negligible Revenue Effect													
c. Allow payroll deduction of pension contributions for clergy on foreign missions	tyba 12/31/96	Negligible Revenue Effect													
Subtotal of Pension Simplification Provisions		**—**	**28**	**-112**	**-140**	**-394**	**-579**	**-637**	**-696**	**-741**	**-790**	**-827**	**-609**	**-1,188**	**-4,879**
III. Extension of Certain Expiring Provisions															
1. Extend the work opportunity tax credit, with modifications through 9/30/97 [15]	10/1/96	—	-117	-143	-83	-33	-12	-2	—	—	—	—	-376	-388	-390
2. Employer-provided educational assistance; sunset after 12/31/97	1/1/95	-136	-1,001	-307	—	—	—	—	—	—	—	—	-1,444	-1,308	-1,444
3. R&E credit, with modifications through 12/31/97	7/1/96	—	-1,279	-811	-373	-265	-159	-40	—	—	—	—	-2,728	-2,887	-2,927
4. Orphan drug tax credit through 12/31/97 with section 39 benefits	7/1/96	-3	-21	-14	-2	-1	-1	-1	-1	[2]	[2]	[2]	-41	-39	-44

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
5. Contribution of appreciated stock to private foundations through 12/31/97	7/1/96	-7	-134	-21	-7	—	—	—	—	—	—	—	-169	-162	-169
6. Extend section 29 binding contract date to 6 months after date of enactment and placed-in-service date to 12/31/98 for biomass and coal	DOE	—	-8	-27	-63	-86	-84	-77	-75	-77	-79	-81	-184	-268	-657
7. Suspend excise tax on motorboat diesel through 12/31/97	DOE + 7 days	-4	-34	-9	—	—	—	—	—	—	—	—	-47	-43	-47
8. Extend publicly-traded partnership grandfather through 12/31/99	tyba 12/31/97	—	—	-7	-23	-17	—	—	—	—	—	—	-47	-47	-47
Subtotal of Certain Expiring Provisions		-150	-2,594	-1,339	-551	-402	-256	-120	-78	-77	-79	-81	-5,036	-5,142	-6,725
IV. Revenue Offsets															
1. Possessions tax credit: Wage credit companies - 6 years of present law, thereafter subject to income cap and, after 10 years, wage credit percentage lowered to 40%; Income companies - 2 years of present law followed by 8 years subject to income cap; QPSII - repealed later of taxable years beginning after 12/31/95 or earnings after 6/30/96	tyba 12/31/95	190	595	540	530	475	500	685	1,075	1,295	1,555	2,175	2,330	2,640	9,615
2. Repeal 50% interest income exclusion for financial institution loans to ESOPs [16]	lma DOE	10	64	105	144	182	220	256	292	327	360	327	505	715	2,287
3. Provide that punitive damages are not excludable from income	ara 6/30/96	—	5	7	7	7	8	8	8	8	8	8	26	34	74
4. Provide for flow through treatment for Financial Asset Securitization Investment Trusts (FASITs)	DOE	—	85	45	7	-3	-8	-13	-18	-24	-30	-37	134	126	4
5. Phase out and extend luxury automobile excise tax through 12/31/02	so/a DOE + 7 days	-4	-56	-105	-132	124	183	140	32	—	—	—	-173	14	182
6. Modify two county tax-exempt bond rule for local furnishers of electricity or gas; prohibit new local furnishers (with current service areas grandfathered)	DOE	—	[17]	5	1	-1	3	4	8	16	22	24	5	8	82
7. Eliminate interest allocation exception for certain nonfinancial corporations	tyba 12/31/95	35	99	107	123	141	163	187	201	215	228	242	505	633	1,741
8. Reinstate Airport and Airway Trust Fund excise taxes through 4/15/97, with exemption for fixed-wing emergency medical aircraft, and mining, oil, and gas industry helicopters for flights not using FAA services	tp7data DOE	28	2,871	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	2,899	2,871	2,899

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
9. Tax-free treatment of contributions in aid of construction for water utilities; change depreciation for water utilities	[18]	---	-21	-9	-3	11	24	35	45	55	64	73	-22	2	274
10. Revision of expatriation tax rules - add estate tax provision with no treaty override	2/6/95	15	37	63	97	139	181	216	247	275	298	318	351	517	1,866
		8	12	18	20	23	24	18	14	12	10	8	79	95	165
Subtotal of Revenue Offsets		**282**	**3,891**	**774**	**794**	**1,098**	**1,298**	**1,536**	**1,904**	**2,179**	**2,515**	**3,138**	**6,639**	**7,655**	**18,209**
V. Technical Corrections		**14**	**[2]**	**[2]**	**[2]**	**[2]**	**[2]**	**[2]**	**[2]**	**[2]**	**[2]**	**[2]**	**14**	**[3]**	**14**
SUBTOTAL OF PARTS I., II., III., IV., AND V.		**121**	**950**	**-1,014**	**-346**	**-240**	**-528**	**-399**	**-154**	**107**	**449**	**1,085**	**-625**	**-1,172**	**29**
VI. Other Provisions															
A. Miscellaneous Provisions															
1. Exempt from diesel dyeing requirement any States exempt from Clean Air Act dyeing requirement	fcqa DOE	—	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-5	-10
2. Application of common paymaster rules to certain agency accounts at State universities [19]	rpa 12/31/96	---	[20]	[20]	[20]	[20]	[20]	[20]	[20]	[20]	[20]	[20]	[20]	[20]	[20]
3. Exempt imported recycled halons from ozone-depleting chemicals tax	cia 12/31/96	---	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-5	-10
4. Authorize tax-exempt bonds for purchase of Alaska Power Authority	bia DOE	—	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-5	-10
5. Allow for tax-free conversion of common trust funds to mutual funds	ta 12/31/95	-4	-9	-8	-8	-8	-8	-8	-9	-9	-9	-9	-37	-41	-89
6. Clarify that State prepaid tuition plans are tax-exempt entities; clarify OID rules	tyba 12/31/95	Negligible Revenue Effect													
7. Suspend excise tax on ozone depleting chemicals used in metered dose inhalers	DOE + 7 days	—	-12	-8	-8	-2	—	—	—	—	—	—	-30	-30	-30
8. Allow certain teaching hospitals to provide tax-free housing to medical faculty	1/1/97	Negligible Revenue Effect													
Subtotal of Miscellaneous Provisions		**-4**	**-24**	**-19**	**-19**	**-13**	**-11**	**-11**	**-12**	**-12**	**-12**	**-12**	**-79**	**-86**	**-149**
B. Additional Revenue Offsets															
1. Modify basis adjustment rules under section 1033	ica DOE	—	1	5	9	14	20	29	37	46	56	64	29	49	281
2. Repeal exemption for withholding on gambling winnings from bingo and keno where proceeds exceed $5,000	DOE + 30 days	1	12	6	6	6	7	7	7	7	8	8	31	37	75
3. Treatment of certain insurance on retired lives	tyba 12/31/95	—	2	1	-2	5	2	[2]	10	-5	2	-3	6	8	12
4. Permit scholarship funding corporation to convert to taxable corporation	1/1/97	—	3	6	8	10	10	9	7	6	5	4	27	37	68

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	1996-00	1997-01	1996-06
5. Personal exemption deduction and dependent care credit disallowed without taxpayer identification number..........	rd 30 da DOE	--	133	272	262	249	242	234	226	217	209	201	916	1,158	2,245
Subtotal of Additional Revenue Offsets..........		1	151	290	283	284	281	279	287	271	280	274	1,008	1,289	2,681
SUBTOTAL OF PART VI.		-3	127	271	264	271	270	268	275	259	268	262	930	1,203	2,532
NET TOTAL OF REVENUE PROVISIONS..........		118	1,077	-743	-82	31	-256	-131	121	366	717	1,347	405	31	2,561

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.
Enactment date is assumed to be August 1, 1996.

Legend for "Effective" column:
- ara = amounts received after
- afri = after final regulations issued
- asda = annuity starting date after
- bia = bonds issued after
- cia = chemicals imported after
- cpbo/a = contracts purchased before, on, or after
- dda = decedents dying after
- DDA = disasters declared after
- do/a = deferrals on or after
- DOE = date of enactment
- eaii GATT = effective as if included in GATT
- fcqa = first calendar quarter after
- ica DOE = involuntary conversions after date of enactment
- lida = leasehold improvements disposed of after
- lma = loans made after
- lyba = limitation years beginning after
- pama = plan amendments made after
- pa = periods after
- ppiso/a/b = property placed in service on, after, or before
- prao/a = plans receiving assistance on or after
- ptoa = prohibited transactions occuring after
- pyba = plan years beginning after
- rd 30 da = returns due 30 days after
- rpa = remuneration paid after
- so/a = sales on or after
- spa = services performed after
- ta = transfers after
- tyba = taxable years beginning after
- tp7da/a DOE = tickets purchased 7 days after date of enactment for travel 7 da
- yba = years beginning after
- ybbo/a = years beginning before, on, or after
- 90 da DOE = 90 days after date of enactment

[1] Effective as if included in the Omnibus Reconciliation Act of 1993.
[2] Loss of less than $500,000.
[3] Loss of less than $5 million.
[4] Loss of less than $15 million.
[5] Loss of less than $20 million.
[6] Loss of less than $30 million.
[7] Gain of less than $1 million.
[8] Revenue effect after 1/1/99 included in the revenue estimate for the safe harbor provision due to interactions between this provision and item II.C.4.
[9] Loss of less than $10 million.
[10] Negligible revenue effect.
[11] This provision considers interaction effects of SIMPLE retirement plan provisions (items II.C.1, II.C.2, and II.D.5)
[12] Effective as if included in the General Agreement on Tariffs and Trade of 1994.
[13] Estimate provided by the Congressional Budget Office. Negative numbers indicate that Federal outlays will increase.
[14] Effective for plans that did not receive assistance payments prior to the date of enactment.
[15] Credit rate at 35% on first $6,000 of income; eligible workers expanded to include welfare cash recipients, veteran foodstamp recipients, and 18 - 24 year olds living in a household receiving food stamps for a period of at least 3 months on the date of hire without pre-certification; 375 hour work requirement; 21 day certification requirement.
[16] The repeal would not apply to loans made pursuant to a binding contract entered into before 6/10/96.
[17] Gain of less than $500,000.
[18] Effective for amounts received after 6/12/96 and property placed in service after 6/12/96 with the exception of certain property subject to a binding contract before 6/10/96.
[19] Estimates provided by the Congressional Budget Office.
[20] Loss of less than $1 million.

NOTES ON "SMALL BUSINESS" TAX BILL PASSED BY SENATE 7/9/96

Increase amount of property smaller businesses are able to expense instead of capitalize and depreciate (Section 179) from $17,500 to $25,000 (phased-in increase that reaches $25,000 in 2003). (-$2.5 billion through 2002) **Administration proposed something like this in 1993 and strongly supports this increase.**

Permit convenience stores with gas stations to depreciate their property over 15 years rather than 39 years. (-$250 million through 2002) **Administration opposed this as a special interest provision; it was designed to help Southland Corporation, owners of 7-11)**

Loosen constraints on S-corporations (allowing greater number of shareholders, more flexible organization forms, etc.) (-500 million through 2002) **Administration generally supported these provisions, though had some minor qualms -- at this point the Administration probably wants to claim credit.**

Pension simplification -- lots of individual items ($-1.8 billion through 2002). **Not as favorable to encouraging coverage and portability as the Administration proposal (and tilted more to business owners instead of workers), but overall not a bad attempt at simplifying some of the most complicated provisions in the Tax Code. Administration should probably try to claim credit for all the good outcomes and still cajole the Congress to do more for workers.**

Extend Work Opportunity Tax Credit (formerly Targeted Jobs Tax Credit) through 9/30/97 (-$400 million through 2002) Some changes are included to make the credit more effective than the TJTC. The Administration has provided lukewarm support for this provision.

Extend exclusion for employer-provided education benefits (Section 127) through 12/31/97 (-$1.4 billion through 2002) Extends prior law; does not include the Administration's proposed small business tax credit for employer-provided education. **Administration should be pleased with this outcome; credit covers graduate education and the extension is for a meaningful period of time.**

Extend R&E tax credit through 12/31/97 (-$2.9 billion) Extends prior law, but leaves a gap in the coverage of the R&E credit; expenses incurred after June 30, 1995 and before July 1, 1996 do not qualify for the credit. **The Administration supports the extension of the credit; would prefer if credit were made permanent; would prefer if the 12-month "gap period" were covered; allowing the credit to expire for 12 months provides a bad precedent for future credit expirations -- firms will not rely on expectation of credit being extended in making their R&D investment decisions.**

Section 936 (Possessions tax credit) (+$3.3 billion through 2002) Phases down tax credit available to firms with operations in US possessions (primarily Puerto Rico); reduces economic activity portion of credit by about 1/3; reduces income-based portion of credit entirely over 10 years. **Not as harsh as the House-passed version of this provision, but Administration strongly believes that phasing out the income-based portion of the credit while maintaining**

the economic activity portion is a far preferable course of action. Administration budget proposal would scale back income-based portion of the credit and would use the revenues generated to improve job-training and investment opportunities in Puerto Rico; the Congressional proposal does not direct increased investments to Puerto Rico to compensate for the loss of the credit.

Repeal 50 percent interest exemption for ESOP loans (+$1 billion through 2002) Reduces the financial benefits of establishing ESOPs by substantially scaling back tax benefits. **The Administration has expressed concerns about this provision because it believes that ESOPs have some positive effects on worker productivity (even though the evidence is equivocal).**

Reinstate Airport and Airway Trust Fund excise taxes (e.g., airline ticket tax) through 4/15/97 (+$2.9 billion through 2002) **Administration supports extension of these taxes as a way to pay for air safety; Congress should not have let these taxes expire in the first place; these taxes will have to be revisited next year; FAA bill in Senate would establish a study of possible user fees to replace these taxes and provide funding source for FAA and for airport construction, rehabilitation, expansion, etc.**

Revise expatriation tax rules (+$700 million through 2002) Generally consistent with Administration proposal.

Require taxpayer IDs for personal exemptions and dependent care credit (+$1.4 billion) Probably not a bad idea to increase compliance.

Small Business Bill

Still circulating 7/8/96

To: Judy Schub 326-4016

FR: Kevin — FYI

July 3, 1996 (2:00 p.m.)

POSSIBLE MANAGER'S AMENDMENT

Small Business Provisions

1. Agricultural dues – apply provision in the bill back to 1/1/87.
2. Fishermen de minimis cash payments – apply provision in the bill back to 1/1/84.
3. Worker classification (additional items):
   a. Future change in status does not preclude section 530 safeharbor for previous years.
   b. The relationship between the parties (not merely the worker's duties) must be considered re section 530 (clarification of "substantially similar position").

Pension Simplification Provisions

1. Drop provision in the bill eliminating waiting period after pension election.
2. Apply PBGC missing participant program to defined contribution plans on a voluntary basis.
3. Alternative nondiscrimination rules for early participation (effective 1/1/99).
4. Add a new joint and survivor benefit election (prospective – add when plans are amended in the future; no additional cost to employers).
5. Inflation increase to PBGC benefit guarantee for multi-employer plans (suspend benefit increase if surplus declines more than 50%).
6. Federal employees: [open for response from Govt Affairs Comm.]
   a. Employee contributions to federal retirement plans may be subject to divorce court order.
   b. Survivor protection for spouses of former federal employees.
7. ? Labor Committee's ERISA provision re <u>Harris Trust</u> decision (clarify that no relief from criminal fraud).
8. Church pension plan simplification:
   a. Allow combined pension plan coverage for self-employed clergy (so-called "mobile ministers").
   b. Allow pre-ERISA pension plans to use the new definition of highly compensated employee in the bill; authorize Treasury (but do not require) to design a nondiscrimination safeharbor for church plans.
   c. Allow payroll deduction of pension contributions for clergy on foreign missions.

Expired Provisions

1. Educational assistance -- extend through 12/31/97 (adds 1 year).
2. R&E credit -- extend through 12/31/97 (adds 6 months).
3. Orphan drug credit -- extend through 12/31/97 (adds 6 months).
4. Stock contributions to private foundations -- extend through 12/31/97 (adds 6 months).
5. Section 29:
   a. Extend placed in service date to 12/31/98 (adds 1 year).
   b. Suspend unrelated party rule for fuel used to generate electricity (date of enactment through 12/31/98). [NOTE: This may be a rifleshot.]
6. Diesel tax for motorboats -- suspend thru 12/31/97 (adds 6 months).
7. Publicly traded partnerships -- extend through 12/31/99 (adds 2 years).

Other Provisions

1. Allow certain teaching hospitals to provide tax-free academic housing to faculty and medical and nursing students.

Revenue Offsets

1. Repeal of 50% exclusion for interest on ESOP loans -- move effective date for binding contracts to date of enactment.
2. Repeal of Ford Credit interest allocation rule -- delay effective date for one year.
3. ? Expatriates -- add estate tax change with treaty override.
4. ? Airport taxes -- extend through ??? (adds ?? months).
5. New item: Allow conversion of scholarship funding corporations (23) to taxable corporations.
6. New item: Apply math/clerical error procedure for filing status, dependency exemptions, and dependent care credit when correct taxpayer identification numbers are not provided.

for POTUS budget ?$1B savings

Technicals to Senate Bill

1. Correct drafting error re sale by a tax-exempt entity of stock in a C corporation that was formerly a S corporation.
2. Correct drafting error re new alternative R&E credit.
3. Delay effective date for two excise tax provisions in the bill (luxury tax and motorboat diesel tax) to 7 days after date of enactment (instead of 7/1/96).

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

July 8, 1996
(Senate)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 3448 - Small Business Job Protection Act
(Archer (R) Texas)

The Administration, while supporting Senate passage of a number of provisions of H.R. 3448 as amended by the Finance Committee, will seek further amendments to the bill. And, as stated in the President's June 28th letter to the Senate, a copy of which is attached, if H.R. 3448 is presented to the President with the minimum wage provisions of the Republican leadership amendment, the President will veto the bill.

The Administration strongly opposes section 1601 of the bill, which would repeal the tax credit related to corporate investments in Puerto Rico while allowing several grandfather rules for existing companies. The Administration urges the Senate to delete this provision and adopt instead the proposal to reform the credit contained in the President's FY 1997 Budget. The Administration's proposal provides tax benefits for new and expanded operations based directly on real economic activity in these underdeveloped areas. The projected revenue savings from the reform of this credit would be used for social and employment training programs in Puerto Rico. Unlike section 1601, the final legislative language concerning the credit should contain effective mechanisms to promote job creation in the islands.

The Administration will also work with Congress to adopt other amendments as described below.

Provisions Supported by the Administration and Additional Recommended Amendments

The Administration supports many of the revenue provisions of H.R. 3448, which are consistent with Administration proposals to strengthen small businesses, simplify pension laws, reinstate incentives for research and development, and improve incentives for education and work opportunities.

In particular:

- Small Business Expensing. The Administration strongly supports the bill's increase from $17,500 to $25,000 for the amount of tangible personal property that small businesses can expense. The President supported such an increase in 1993 and in his FY 1997 Budget, although with a faster phase-in.

- Employer-Provided Educational Assistance. The Administration supports the temporary extension of the income exclusion for employer-provided educational assistance, including the exclusion for post-graduate level education. The Administration will work with Congress to provide a permanent extension of the exclusion. The Administration also supports a 10 percent tax credit for educational assistance provided under section 127 plans for small businesses with annual gross receipts of $10 million or less.

- Research Tax Credit. The Administration strongly supports full reinstatement of the research tax credit back to its June 30, 1995, expiration date. The Administration will work with Congress to make the credit permanent. The Administration continues to believe that full, permanent reinstatement should take priority over modifications to the credit such as those contained in H.R. 3448.

- Orphan Drug Credit. The Administration strongly supports full reinstatement of the orphan drug credit and will work with Congress to make the credit permanent.

- Gifts of Appreciated Stock to Private Foundations. The Administration strongly supports this provision and will work with Congress to make it permanent.

- Work Opportunity Tax Credit. The provision for a new Work Opportunity Tax Credit addresses many of the criticisms of the prior Targeted Jobs Tax Credit, particularly increasing the period of retention for eligible workers. The Administration will work with Congress to improve the scope and effectiveness of the new credit.

- Pension Simplification. Many provisions of H.R. 3448 were included in the President's pension simplification proposal announced in June 1995 at the White House Conference on Small Business. The Administration is concerned, however, that the safe harbor provisions applicable to both SIMPLE and 401(k) plans do not ensure that middle and lower-wage workers will benefit from the provision of tax-advantaged retirement savings plans. The Administration will work with Congress to modify these safe harbors so that employers taking advantage of them are required to provide meaningful coverage to these workers. The Administration is also concerned that the three-year waiver of the excise tax on very large retirement distributions would add complexity and could actually encourage plan sponsors to terminate plans.

- Subchapter S. The Administration also strongly supports most of the reforms in the bill relating to Subchapter S (closely held) corporations, and will work with Congress to provide further reforms and to ensure that reforms are appropriately targeted to the intended beneficiaries.

- Technical Corrections. The Administration supports the long-overdue enactment of technical corrections to recent tax legislation and will work with Congress to achieve a consensus package of technical corrections.

Objectionable Provisions

- Classification of Workers for Employment Tax Purposes. The Administration has concerns about certain changes proposed to section 530 of the Revenue Act of 1978, which provides "safe harbors" under which an employer has a reasonable basis for treating a worker as an independent contractor rather than as an employee for employment tax purposes. The most important concerns are with proposed changes that would: (1) shift the burden of proof to the Internal Revenue Service with respect to the application of section 530; and (2) replace the safe harbor for reasonable reliance on a long-standing practice of a significant segment of the industry with a rigid numerical test.

- Special-Interest Provisions. The Administration opposes the inclusion in H.R. 3448 of numerous special-interest provisions.

Revenue Offsets

The Administration has serious concerns with the offset provision in H.R. 3448 that would repeal tax benefits for certain employee stock ownership plans that provide meaningful employee ownership. Several of the offsets -- relating to interest allocations for nonfinancial corporations, tax treatment of expatriates, basis adjustment rules under section 1033, withholding on certain gambling winnings, and reinstatement of airport and airway trust fund excise taxes -- are included in the President's balanced budget proposal. These offsets should be reserved for deficit reduction and meeting balanced budget goals. In working with the Congress to develop an improved bill that is consistent with the Administration's recommended amendments, appropriate offsets will be sought.

Proposals Not Addressed in H.R. 3448

In the context of an overall balanced budget plan, the Administration will work with Congress to provide other incentives previously proposed by the Administration but omitted from this bill. Such incentives include the $10,000 deduction for postsecondary tuition and training expenses, the $1,500 tax credit for postsecondary tuition, and incentives to revitalize economically distressed areas by cleaning up abandoned, contaminated properties, and creating new Empowerment Zones and Enterprise Communities.

The Administration would also support an amendment to the Foreign Sales Corporation statute as it applies to licenses of software, and will work with Congress to develop an acceptable package, including appropriate revenue offsets.

Pay-As-You-Go Scoring

H.R. 3448 would affect receipts; therefore, it is subject to the "pay-as-you-go" requirements of the Omnibus Budget Reconciliation Act of 1990. OMB's scoring of this legislation is under development.

7/9/96

PRESIDENT CLINTON'S RETIREMENT SAVINGS AND SECURITY ACT

Millions of Americans do not have adequate retirement savings and are worried about their retirement and being a burden on their children. The Retirement Savings and Security Act would empower more Americans to save for their retirement by expanding pension coverage, portability, and protections.

- **Expands Pensions** to help the 51 million working Americans -- nearly half of private-sector workers -- not currently covered by an employer-provided plan save for their retirement.
- **Increases Portability** by removing the obstacle course facing many workers when they change or lose their job and want to bring their retirement savings with them and keep saving.
- **Enhances Protections** so hard-working Americans do not have to worry whether their retirement savings will be there when they need them.

THE RETIREMENT SAVINGS AND SECURITY ACT MEETS THESE CHALLENGES WITH A 5-PART PLAN:

House + Senate have the SIMPLE

1. <u>New Small Business 401(k) Plan -- To Expand Pension Coverage</u>: While 76% of workers in large businesses have employer-provided pensions, only 24% of workers in small businesses do. The Retirement Savings and Security Act offers small businesses a simple small business "401(k) plan," called the NEST, that could expand pension coverage to up to *10 million workers*:

$6,000

- **$5,000 Tax-Free Contributions.** Workers could save up to $5,000 a year tax-free through automatic payroll deductions.

- **Employers Contribute 3% of Salary or 1% Plus a Match of Up To 5% of Salary.** —No

- **One-Page Form.** Cuts through the red tape with a simple, one-page form without complicated employer filing, calculations, or testing.

- **100% Portable.** All contributions would be immediately vested and fully portable.

In H+S Bills

The Retirement Savings and Security Act expands coverage in many other ways as well: it simplifies 401(k) plans for *all* businesses as recommended by Vice President Gore's Reinventing Government initiative, makes the 9 million employees of non-profit organizations eligible for 401(k) plans, enables relatives who work in a family business to earn their own retirement benefits, and repeals unreasonable limits on benefits for certain disabled and low- and middle-income union and state and local government employees.

multiemployer in Senate only (Section 415)

2. <u>Expanded IRAs -- To Increase Pension Coverage and Portability</u>: Deductible IRAs are available only to families who have pension coverage if household income is under $50,000, and can be withdrawn penalty-free only after age 59½. The Retirement Savings and Security Act makes IRAs more attractive and expands eligibility to *20 million more families*:

Both H+S have spousal IRAs only

- **Allows Withdrawals for Education and Training, First Home Purchases, Major Medical Expenses, and During Long-Term Unemployment:** Allows penalty-free IRA withdrawals for these major life expenses to encourage more families to save.

- **Doubles Income Eligibility:** The Act doubles the income limits from $50,000 to $100,000 for married couples, and from $35,000 to $70,000 for single taxpayers for a deductible IRA where a family member has pension coverage. More middle class families -- especially those with two earners -- would be eligible for this expanded IRA that reduces taxes by up to $1,120 a year.

3. <u>Increases Pension Portability</u>: Workers who change jobs and want to take their retirement savings with them and keep saving currently face a multi-faceted obstacle course. The President's plan could help *over 5 million workers each year* who have an employer-sponsored pension plan and who change jobs:

In... on No...

- **Takes Away 1-Year Wait To Save At a New Job:** Millions of workers are forced to wait 1 year before they can enter their new employer's pension plan. The Retirement Savings and Security Act changes a law that encourages private employers to impose a 1-year waiting requirement, and eliminates the waiting period for new federal employees to make pre-tax contributions to the Thrift Savings Plan.

- **Green Light for Employers to Accept Rollovers:** Today, 50% of workers in 401(k) plans are in plans that do not accept rollovers from new employees. The Treasury will issue new rules to make it easier for employers to accept rollovers into their plans. Regulatory Change

- **Expanded IRAs and New Small Business 401(k) Plan Will Increase Portability:** Expanded IRAs and the new small business 401(k) plan are both fully portable.

Senate only

- **Ensures that Workers Receive Benefits After They Change Jobs or the Employer Folds:** Ensures workers get the benefits they earned, even if they have long since left the job or the employer is no longer in business, by using the PBGC as a clearinghouse for terminated plans.

H+S

- **Secures Portability for Veterans:** Changes tax rules to ensure that veterans who serve their nation are not penalized and can continue their pension coverage when they return from service.

H+S

- **Guarantees Benefits for Workers on the Move:** Reduces the vesting period from 10 to 5 years for multiemployer plans -- which cover union workers such as construction workers who frequently change jobs -- to ensure they don't lose their benefits if they've worked for 5 years.

4. <u>Enhances Pension Protection and Security</u>: The Retirement Protection Act, enacted in 1994 at the President's request, has reduced pension underfunding for the first time in a decade, protecting the benefits of 40 million workers and retirees in traditional pension plans. In 1995, the Labor Department launched an initiative to protect savings in 401(k) plans from misuse, recovering to date over $7 million for approximately 9,000 workers. The Retirement Savings and Security Act further enhances pension security:

Neither bill

- **Requires Prompt Action on Misuse of Funds:** Requires plan administrators and accountants to report promptly serious misuse of pension funds, with fines of up to $100,000. (Aud.+ Bill)

H+S

- **Protects Government Employees' Savings from Orange County-Style Fiascos:** Requires state and local government pension plans be held in trust so that employees do not lose their savings if the government declares bankruptcy, as Orange County recently did.

Senate only

- **Strengthens Protection of 9 Million Union Workers' Savings:** Doubles the maximum level of annual benefits guaranteed under multiemployer plans. For 30-year workers, the level would be increased from $5,850 -- the level set in 1980 -- to $12,870.

- **Enhances Pension Protection for Survivors of Civil Service and Railroad Pension Systems Participants, Primarily Women and Children:** Provides survivors of Civil Service Retirement System participants who die prior to receiving benefits with the option to receive an annuity, ensures that court orders concerning refunds of CSRS contributions are obeyed, and that surviving spouses and dependents of railroad workers receive benefits fully comparable to Social Security benefits. Senate has Civil Service provision + Sample QDROs (divorce)

5. <u>Prevents Pension Raiding</u>: In the 1980s, companies raided more than $20 billion from over 2,000 pension plans covering 2.5 million workers and retirees. Legislation in 1990 curbed pension raiding by imposing a stiff excise tax of up to 50% on these pension reversions.

Neither

- **Oppose Proposals that Allow Corporate Pension Raids:** The Administration will continue to oppose any legislation that encourages pension reversions, such as the one in the GOP budget.

Neither

- **Report on Pension Reversions:** To ensure that current rules continue to prevent the abuse common in the 1980s, the Retirement Savings and Security Act requires the Secretary of Labor to report regularly on activity in this area.

PRESIDENT CLINTON'S RETIREMENT SAVINGS AND SECURITY ACT

Millions of Americans do not have adequate retirement savings and are worried about their retirement and ing a burden on their children. The Retirement Savings and Security Act would empower more nericans to save for their retirement by expanding pension coverage, portability, and protections.

- **Expands Pensions** to help the 51 million working Americans -- nearly half of private-sector workers -- not currently covered by an employer-provided plan save for their retirement.
- **Increases Portability** by removing the obstacle course facing many workers when they change or lose their job and want to bring their retirement savings with them and keep saving.
- **Enhances Protections** so hard-working Americans do not have to worry whether their retirement savings will be there when they need them.

THE RETIREMENT SAVINGS AND SECURITY ACT MEETS THESE CHALLENGES WITH A 5-PART PLAN: House + Senate bills include SIMPLE not NEST: / No 1% mandatory employer contribution (non-match)

1. <u>New Small Business 401(k) Plan -- To Expand Pension Coverage:</u> While 76% of workers in large businesses have employer-provided pensions, only 24% of workers in small businesses do. The Retirement Savings and Security Act offers small businesses a simple small business "401(k) plan," called ~~the N~~EST, that could expand pension coverage to up to *10 million workers*:

   $6,000 in SIMPLE

   - **~~$5,000~~ Tax-Free Contributions.** Workers could save up to $5,000 a year tax-free through automatic payroll deductions.

   - **Employers Contribute 3% of Salary or 1% Plus a Match of Up To 5% of Salary.**

   - **One-Page Form.** Cuts through the red tape with a simple, one-page form without complicated employer filing, calculations, or testing.

   - **100% Portable.** All contributions would be immediately vested and fully portable.

   The Retirement Savings and Security Act expands coverage in many other ways ~~as~~ yes well: it simplifies 401(k) plans for *all* businesses as recommended by Vice President Gore's Reinventing Government initiative, makes the 9 million employees of non-profit organizations eligible for 401(k) plans, enables relatives who work in a family business to earn their own retirement benefits, and repeals unreasonable limits on benefits for certain disabled and low- and middle-income union and state and local government employees. (Section 415 - did for public employees but not multiemployers) H + S

2. <u>Expanded IRAs -- To Increase Pension Coverage and Portability</u>: Deductible IRAs are available only to families who have pension coverage if household income is under $50,000, and can be withdrawn penalty-free only after age 59½. The Retirement Savings and Security Act makes IRAs more attractive and expands eligibility to *20 million more families*:

   - **Allows Withdrawals for Education and Training, First Home Purchases, Major Medical Expenses, and During Long-Term Unemployment:** Allows penalty-free IRA withdrawals for these major life expenses to encourage more families to save.

   - **Doubles Income Eligibility:** The Act doubles the income limits from $50,000 to $100,000 for married couples, and from $35,000 to $70,000 for single taxpayers for a deductible IRA where a family member has pension coverage. More middle class families -- especially those with two earners -- would be eligible for this expanded IRA that reduces taxes by up to $1,120 a year.

Both ~~[illegible]~~ House & Senate have spousal IRAs on 44

3. **Increases Pension Portability:** Workers who change jobs and want to take their retirement savings witl them and keep saving currently face a multi-faceted obstacle course. The President's plan could help *over : million workers each year* who have an employer-sponsored pension plan and who change jobs:

- **Takes Away 1-Year Wait To Save At a New Job:** Millions of workers are forced to wait 1 year before they car enter their new employer's pension plan. The Retirement Savings and Security Act changes a law that encourages private employers to impose a 1-year waiting requirement, and eliminates the waiting period for new federal employees to make pre-tax contributions to the Thrift Savings Plan. In managers amdt But not the TSP prop

- **Green Light for Employers to Accept Rollovers:** Today, 50% of workers in 401(k) plans are in plans that do nc accept rollovers from new employees. The Treasury will issue new rules to make it easier for employers to accept rollovers into their plans. Regulatory Change

- **Expanded IRAs and New Small Business 401(k) Plan Will Increase Portability:** Expanded IRAs and the new small business 401(k) plan are both fully portable.

- **Ensures that Workers Receive Benefits After They Change Jobs or the Employer Folds:** Ensures workers gei the benefits they earned, even if they have long since left the job or the employer is no longer in business, by using the PBGC as a clearinghouse for terminated plans. Not in H or S, but in managers amdt

- **Secures Portability for Veterans:** Changes tax rules to ensure that veterans who serve their nation are not penaliz and can continue their pension coverage when they return from service. In both House + Senate bills

- **Guarantees Benefits for Workers on the Move:** Reduces the vesting period from 10 to 5 years for multiemploye plans -- which cover union workers such as construction workers who frequently change jobs -- to ensure they don' lose their benefits if they've worked for 5 years. In both H + S bills

4. **Enhances Pension Protection and Security:** The Retirement Protection Act, enacted in 1994 at the President's request, has reduced pension underfunding for the first time in a decade, protecting the benefits o 40 million workers and retirees in traditional pension plans. In 1995, the Labor Department launched an initiative to protect savings in 401(k) plans from misuse, recovering to date over $7 million for approximatel 9,000 workers. The Retirement Savings and Security Act further enhances pension security:

- **Requires Prompt Action on Misuse of Funds:** Requires plan administrators and accountants to report promptly serious misuse of pension funds, with fines of up to $100,000. Audit bill -- not anywhere

- **Protects Government Employees' Savings from Orange County-Style Fiascos:** Requires state and local government pension plans be held in trust so that employees do not lose their savings if the government declares bankruptcy, as Orange County recently did. In both House + Senate bills (Section 457 in trust

- **Strengthens Protection of 9 Million Union Workers' Savings:** Doubles the maximum level of annual benefits guaranteed under multiemployer plans. For 30-year workers, the level would be increased from $5,850 -- the level set in 1980 -- to $12,870. In managers amdt.

- **Enhances Pension Protection for Survivors of Civil Service and Railroad Pension Systems Participants, Primarily Women and Children:** Provides survivors of Civil Service Retirement System participants who die pric to recieving benefits with the option to receive an annuity, ensures that court orders concerning refunds of CSRS contributions are obeyed, and that surviving spouses and dependents of railroad workers receive benefits fully comparable to Social Security benefits. 1. Model QDROs in Senate bill (divorce) 2+3 Civil Service + RR in managers amdts.] In managers amdt.

5. **Prevents Pension Raiding:** In the 1980s, companies raided more than $20 billion from over 2,000 pensio plans covering 2.5 million workers and retirees. Legislation in 1990 curbed pension raiding by imposing a st excise tax of up to 50% on these pension reversions.

- **Oppose Proposals that Allow Corporate Pension Raids:** The Administration will continue to oppose any legislati that encourages pension reversions, such as the one in the GOP budget.

- **Report on Pension Reversions:** To ensure that current rules continue to prevent the abuse common in the 1980s, t Retirement Savings and Security Act requires the Secretary of Labor to report regularly on activity in this area.

REFORMULATE PUERTO RICO AND POSSESSIONS TAX CREDIT (SECTION 936)

Current Law

Domestic corporations with business operations in U.S. possessions (including, for this purpose, Puerto Rico and the U.S. Virgin Islands) may elect under Code section 936 generally to eliminate the U.S. tax on certain income which is related to their possession-based operations. The section 936 credit may offset the U.S. tax on the following types of income: (1) foreign source income arising from the active conduct of a trade or business within a U.S. possession or from the sale or exchange of substantially all of the assets used by the taxpayer in the active conduct of such trade or business, or (2) income from certain investments in the possessions or in certain Caribbean Basin countries ("qualified possession source investment income", or "QPSII"). The credit spares the electing corporation U.S. tax whether or not it pays income tax to the possession.

Limitations on the active-business element of the credit were enacted in 1993. Section 936 companies may elect either a reduced percentage of the profits-based credit as allowed under prior law (60 percent in 1994, phasing down to 40 percent beginning in 1998), or a limitation based on the company's economic activity in the possessions (measured by wages and other compensation, depreciation, and certain taxes paid).

Reasons for Change

The Administration proposed to reformulate the credit in 1993 to make it a more efficient incentive for job creation and economic activity in Puerto Rico; the amendments enacted in 1993 moved part way toward the Administration's proposals. The Administration continues to believe that any credit should provide an incentive for increased economic activity in the possessions rather than merely an incentive to attribute profits there.

Proposal

To provide a more efficient tax incentive for the economic development of Puerto Rico and other U.S. possessions, and to continue the effort toward this goal that was begun in the 1993 Act, the proposal would modify current law to (1) phase-out the profits-based branch of the active-business portion of the credit over five years, beginning in 1997, and (2) allow excess amounts of economic-activity limitation to be carried forward for up to 5 years, effective for taxable years beginning after the date of enactment. The proposal would retain the economic-activity limitation on the active-business portion of the credit, as well as the passive-income portion of the credit for taxes otherwise payable on QPSII, as under present law.

From Ellen Seidman

Number of private wage and salary workers earning less than $40,000 annually and participating in a 401(k) plan

Total	13.0M
Number who also participate in another employer pension plan	4.1M
Number who participate only in a 401(k) plan	8.9M

Gene - ~~Re pen~~ pensions.
Did you speak with Larry Stein about the E/o contribution - at a minimum for 401(k) plans if not for the small business plans? The issue is still open.
- Pauline

Source: Employee Benefits Supplement to the April 1996 Current Population Survey.

SMALL BUSINESS BILL AND PENSIONS

July 9, 1996 7:00 pm

POTUS PROPOSALS IN HOUSE AND SENATE:

Coverage:

- Small business plan, but it's the SIMPLE rather than the NEST.
  - Employer contributions different from NEST: not as generous match
  - Safeharbor provisions (i.e. requirements must meet to avoid nondiscrimination rules) are weaker than in NEST *and apply to 401(k) plans as well. There is no mandatory 1% non-match employer contribution.*
- Simplifies 401(k)s
- 401(k)s for non-profits
- Repeal limits on benefits for public employess but not multiemployer (Section 415) (multiemployer included in manager's amendment at the last minute)
- Repeals family aggregation limits

IRAs -- none of POTUS expansions; includes spousal IRAs

Portability:

- Veterans technical corrections
- Reduce multiemployer vesting from 10 to 5 years

Pension Security:

- Puts public pensions in trust (Section 457 in trust) Orange County provision

IN HOUSE AND SENATE BUT NOT POTUS BILL:

- 3-year waiver of 15% tax on large (excess of $155,000) distributions (revenue raiser)
- Repeal of the $5,000 death benefits exclusion. This benefit is included in many collective bargaining agreements (Raises $293 million through 2002)
- Spousal IRAs ($2,000) (Costs $1 billion through 2002)
- Repeals tax benefits for certain ESOPs (Raises $1 billion through 2002; also in vetoed reconciliation bill)
- Model QDROs for divorce in Senate bill (we had planned to do it without legislation)
- New joint and survivor option in Senate bill only (Mosely-Braun)

IN MANAGERS AMENDMENT

- Repeal limits on benefits for multiemployer plans, not just public employees (Sec.415)
- Portability:
  - Elimination of 1-year wait for 401(k)s (changing effective date to 1/1/99)
  - PBGC missing participants clearinghouse
- Increase in the multiemployer guarantee
- Makes model QDROs "sample" only (Treasury supports)
- Labor Committee's ERISA provision overturning Harris Trust SCOTUS decision (DOL and employers support, AFL-CIO and AARP oppose)
- Mosley-Braun civil service provisions from President's bill

POTUS PROPOSALS NOT IN HOUSE OR SENATE BILLS OR IN MANAGERS AMDT:

- Strong safeharbors from nondiscrimination rules (i.e. requirements must meet to avoid nondiscrimination rules) They do not have a 1% mandatory non-match employer contribution for both the small business plans and 401(k) plans.
- NEST small business plan rather than the SIMPLE:
  - Their employer contributions less generous than NEST
  - Their safeharbor provisions less protective than NEST
- Eliminating the 1-year wait for TSP
- Our regulatory proposals to encourage acceptance of rollovers
- IRA expansion
- Audit bill
- No reporting on reversions

DEPARTMENT OF THE TREASURY
WASHINGTON

ASSISTANT SECRETARY

June 17, 1996

MEMORANDUM FOR SECRETARY ROBERT E. RUBIN
DEPUTY SECRETARY LARRY SUMMERS

FROM: DONALD C. LUBICK
ACTING ASSISTANT SECRETARY (TAX POLICY)

SUBJECT: SENATE FINANCE COMMITTEE ACTION ON SMALL BUSINESS JOB PROTECTION ACT OF 1996

On June 12, 1996, the Senate Finance Committee agreed by unanimous voice vote to report out an amended tax title to the minimum-wage legislation, H.R. 3448, the Small Business Job Protection Act of 1996. It contains a gross tax cut of about $15 billion and will add about $7.7 billion to the deficit (1996-2002) as compared to the President's budget. The $7.7 billion dollar figure represents the excess of pay-fors also contained in our budget over tax cuts also contained in our budget (treating Section 936 proposal as not being a pay-for in our budget). Of course, we support many of the provisions that were not in our budget (e.g., extension of expiring provisions, S Corporation reform, prepaid tuition clarification).[1]

The bill includes (i) tax initiatives with the general theme of labor and small business; (ii) expiring tax provisions; (iii) a variety of revenue offsets; (iv) a variety of special-interest provisions and member items; and (v) technical corrections. Many of these proposals were derived from the vetoed Balanced Budget Act (BBA). The bill was voted out on a bipartisan basis, notwithstanding a variety of objectionable provisions. The members agreed in advance not to offer any amendments, although amendments will probably resurface during the Senate floor debate.

---

[1] On June 12, 1996, the Finance Committee also ordered reported H.R. 3286, "The Adoption Promotion and Stability Act." It provides for a $5000 adoption tax credit, similar to the legislation that has already passed the House and which the Administration supported. (Differences in the Finance Committee version of the adoption tax credit include increasing the credit to $6000 for special-needs adoptions and sunsetting the credit for non-special needs adoptions after December 31, 2000.) The two pay-fors in this legislation -- reform of the income-forecast method of accounting and repealing the special bad-debt deduction for thrift institutions -- are also included in the President's FY 1997 budget. Thus, this legislation -- which is on a separate track from the minimum-wage legislation -- adds about an additional $1.7 billion to the deficit, relative to the President's budget.

We will be required to prepare a Statement of Administrative Policy (SAP) shortly and should meet to discuss what our positions should be. In addition to the general budgetary concerns and our views as to some of the specific provisions, we should discuss whether we should take any specific action on spousal IRAs, the expiring provisions -- particularly Section 127 educational assistance (the Labor Department would like us to do more on the small business credit) and the R&D credit (we may have to take a position on the gap) -- and the FSC/software issue, which has not been addressed in this bill.

Here is a listing of the provisions. The ones that merit the most discussion are highlighted.

<u>Tax Cuts</u>

- Small-business expensing -- Like the House bill, the Finance bill increases the amount of tangible depreciable property that small businesses can expense from $17,500 to $25,000 by the year 2003. The President's budget contains a similar proposal, except that it would have been fully phased in by 2002.

- **Spousal IRAs -- We prefer our IRA expansion proposal, which will be more cost-effective and does not include spousal IRAs. The Administration has taken no official position on this provision, though the Secretary expressed mild concern at a 1995 hearing about the distributional impact and the revenue cost. Still, it is hard to get in the way of this one.**

- **Pension Simplification -- The Administration supports many of the pension simplification provisions of the bill which are the same as in the President's proposal and similar to the House-passed bill. The Administration prefers its pension package because it does more to encourage retirement savings by middle- and lower-wage workers, such as providing more meaningful employer contributions under the simplified small business plan. The bill allows owners to benefit themselves at a lesser cost of providing benefits to the rank and file. The Administration is also concerned about the bill's three-year waiver of the excise tax on very large distributions.**

- Employment tax status of fishing crews -- The Administration has not opposed this provision, which liberalizes the current exemption for fishing crews of less than 10 members. Unlike the House bill, it does not provide specific retroactive relief, and also does not include the House revenue offset (a new reporting requirement for cash sales of fish in excess of $600). This provision is important to Democratic Members of the Massachusetts delegation, including Reps. Barney Frank and Richard Neal.

- Liberalize involuntary conversion rules for tax deferral through replacement of property damaged as a result of Presidentially declared disasters -- The Administration is concerned that this provision, which allows gain to be deferred regardless of whether there is any connection between pre-disaster activities and post-disaster activities, is an inappropriate departure from long-standing tax-policy principles. Although the provision applies to all Presidentially declared disasters after December 31, 1994 , it has been promoted as a benefit for Oklahoma City bombing victims. A better approach would be the principal residence provision included in OBRA 93 that simply allowed more time for the rollover.

- Liberalize treatment of leasehold improvements -- The Administration does not oppose this provision, which was included in the BBA.

- Liberalize requirements for private-activity tax-exempt bonds for first-time farmers -- The Administration does not oppose these modifications, which include increasing the maximum size limit of land eligible for the bonds and relaxing related-party rules.

- **Liberalize safe-harbor provisions for worker classifications as independent contractors -- We oppose most of the provisions and fear that the result may encourage shifting of workers to independent contractor status, with adverse effects not only on tax compliance, but availability of social protection reserved for employees (workers' compensation, overtime, unemployment insurance, etc.).**

- Subchapter S simplification proposals -- The Administration has supported most of these simplification items, which are important to small business. We oppose two late additions to the package; one that would allow ESOPs to be S corporation shareholders and another to allow S corporations to be banks.

- **State Prepaid Tuition Plans -- A provision which we support and on which we have assisted. It would solve our prepaid tuition problems.**

<u>Extension of Expired Provisions</u>

- Targeted Jobs Tax Credit -- As in the BBA and the House bill, the credit is renamed the Work Opportunity Tax Credit and modified, including a reduction in the credit rate from 40 percent to 35 percent. The Administration generally has not opposed such a provision in the BBA. Treasury staff have developed a consensus package of recommendations for refinements to the Work Opportunity Tax Credit.

- **Employer-Provided Educational Assistance (Section 127) -- The $5,250 exclusion for employer-provided educational assistance, which expired after December 31, 1994, is reinstated retroactively and extended until December 31, 1996. Unlike the House bill, the Finance bill would maintain the incentive for post-graduate education. We strongly support permanent extension of section 127. Senator Moynihan does too, although he seems unwilling to make a fuss about it. The Administration has also announced its support for a 10% tax credit for educational assistance provided under section 127 plans for small businesses with** gross receipts of $10 million or less. It has not generated much interest on the Hill. The Labor Department thinks we should have done more.

- R&E credit -- The credit, which expired June 30, 1995, is reinstated prospectively only, through June 30, 1997, and is modified in certain respects. The Administration strongly supports the R&E credit, and would prefer a permanent extension. The gap issue is a sensitive one.

- Orphan drug credit -- The credit, which expired December 31, 1994, is reinstated prospectively only, through June 30, 1997. The Administration supports this credit.

- Contributions of appreciated stock to private foundations -- This provision, which expired December 31, 1994, would be reinstated, prospectively only, through June 30, 1997. The Administration supports this incentive.

- Section 29 nonconventional fuels credit -- An additional year would be provided during which qualifying biomass and coal facilities could be placed in service and receive the credit. The Administration has opposed this extension as being no longer warranted.

Revenue Offsets

- Repeal of Puerto Rico and possessions tax credit (section 936) --The Finance Committee bill makes two modifications to the House bill. First, it extends permanently the grandfather of the economic-activity credit, although with a one-third reduction in the wages element of the credit after the House's 10-year grandfather period. This provides a more generous grandfather for the existing companies that contribute toward real economic activity in Puerto Rico, but provides no incentive for new or expanded investment in Puerto Rico after 1995. Second, the Senate bill extends the QPSII termination date by six months, until July 1, 1996. This addresses the retroactive taxation objection, but fails to provide a reasonable transition period for the Puerto Rican banking system. We cannot support this provision on account of these two defects and the lack of a spending element.

- Repeal of the 50% interest exclusion for financial institution loans to ESOPs -- The Administration has not taken an official public position on this provision, which was included in the BBA, but is generally opposed to the repeal of this interest exclusion, which is the only ESOP tax incentive that requires majority ownership. The Labor Department strongly opposes the repeal.

- Disallow exclusion of punitive damages received on account of personal injury or sickness -- The Finance provision is much narrower than the House bill, which would disallow the section 104(a)(2) exclusion for nonphysical damages, such as emotional distress or discrimination. The Administration has never taken an official public position on the proposal, although we do not have a problem with it. Case law will likely reach this result in any event.

- Repeal interest allocation exception for certain nonfinancial corporations – This proposal is also contained in the President's FY 1997 budget.

- Reinstate airport and airway trust fund excise taxes through December 31, 1996 -- The Administration's FY 1997 budget proposed extending the taxes through September 30, 2006. The Finance bill also includes new exemptions for air ambulances and helicopters used in energy development. We oppose these new exemptions.

- Expatriation tax proposal -- The Administration supports this version.

- Modify basis adjustment rules under section 1033 relating to involuntary conversions -- The proposal was also contained in the President's FY 1997 budget.

- Repeal exemption for withholding on gambling winnings from bingo and keno where proceeds exceed $5000 -- The proposal was also contained in the President's FY 1997 budget.

- Treatment of certain insurance on retired lives -- We do not oppose this provision, which achieves greater conformity between annual statements and tax treatment of assets held in a segregated account.

<u>Other Special-Interest Provisions</u>

- Provide 15-year depreciation for gas station/convenience stores -- The Administration has opposed this special-interest giveaway to retailers and food service establishments that sell gasoline.

- FICA tip credit changes -- As in the House bill, the provision would apply the existing income-tax credit to taxes paid on tips not timely reported and extend the credit to tips received by individuals delivering food and beverages. The Administration has opposed these special-interest provisions that reward taxpayers who failed to comply with the law.

- Treatment of dues paid to agricultural or horticultural organizations -- As in the House bill, the proposal would exempt from unrelated business taxable income (UBTI) dues payments of up to $100 that an agricultural or horticultural organization receives from its associate members. The Administration has not supported this special-interest provision. In addition, we have already provided some measure of administrative relief.

- Treatment of newspaper carriers and distributors as independent contractors -- In the veto message to the BBA, this provision was identified as a special-interest provision benefitting certain newspaper companies.

- Tax relief for fishing vessels and canneries that provide meals to employees -- We do not support this provision, which singles out one industry for special treatment.

- Lower the rate of tax on certain hard ciders -- The Administration testified in opposition to this proposal last summer, on grounds that such a change should be made only in the context of a general review of alcoholic beverage excise tax rates.

- Liberalize tax treatment of certain length-of-service for volunteer public safety workers -- In 1995, the Administration testified in opposition to this type of targeted relief.

- Suspend imposition of diesel fuel on motorboats -- The Administration opposes this provision.

- Treatment of Financial Asset Securitization Investment Trusts (FASITs) -- We have not supported this provision, which would facilitate the securitization of debt obligations such as credit card receivables, home equity loans and auto loans. It may create significant revenue loss outside the budget window; in addition, there are unresolved technical issues.

- Phase out luxury tax -- The Administration opposed this provision in the BBA, and proposed a permanent extension in its FY1997 budget.

- Election to avoid tax-exempt bond penalties for local furnishers of electricity and gas -- This special-interest provision was included in the BBA and is supported by Chairman Roth on behalf of a Delaware-based gas utility.

- Tax-free contributions in aid of construction (CIACs) -- The bill restores the pre-1986 treatment of CIACs for water utilities, paid for by stretching out the depreciation period for these utilities. We do not oppose the provision.

- Exempt Alaska from diesel-dyeing requirement while Alaska is exempt from similar dyeing requirements under the Clean Air Act -- The Administration testified in support of this change in 1995.

- Common paymaster provision -- We do not oppose this provision, which provides relief from FICA taxes for medical practice plans related to State university medical schools by treating the university and the practice plan as a single employer.

- Exempt imported recycled halons from the excise tax on ozone-depleting chemicals -- The Administration supports this provision with modifications.

- Exempt chemicals used in metered-dose inhalers from the excise tax on ozone-depleting chemicals -- The Administration testified in opposition to this proposal last summer, on grounds that these chemicals already enjoy a substantial advantage over other ozone-depleting chemicals.

- Authorize tax-exempt bonds for purchase of Alaska Power Authority -- The President's budget also contains this provision.

- Allow for tax-free conversion of common trust funds to mutual funds -- This provision was included in the list of special-interest provisions in the President's veto message of the BBA. On policy grounds, however, we do not oppose it.

<u>Technical Corrections</u>

Most of the technical corrections were developed on a consensus basis over the past several years and are unobjectionable. The Finance bill keeps several new special-interest provisions that were first introduced in Chairman Archer's mark of the House bill, however, that were not developed on a consensus basis and that appear to benefit special interests and are not really technical corrections (thus abusing the process since technical corrections do not have to be paid for).

<u>Items In House-Passed Bill but Omitted from Finance Bill</u>

- Repeal provision to tax excess passive assets for controlled foreign subsidiaries (section 956A) -- The Administration strongly opposes the repeal of this provision, which Treasury proposed and Congress enacted in 1993. This opposition was mentioned in the President's veto message of the BBA.

- Provide that certain charitable risk pools would qualify as charitable organizations under section 501(c)(3)

- Extension of FUTA exemption for alien agricultural workers

Small Business Bills

POTUS PROPOSALS IN HOUSE AND SENATE:

Coverage:

- Small business plan, but it's the SIMPLE rather than the NEST.
  - Employer contributions different from NEST: not as generous match
  - Safeharbor provisions (i.e. requirements must meet to avoid nondiscrimination rules) are weaker than in NEST *and apply to 401(k) plans as well. There is no mandatory 1% non-match employer contribution.*
- Simplifies 401(k)s
- 401(k)s for non-profits
- Repeal limits on benefits for public employess but not multiemployer (Section 415)
- Repeals family aggregation limits

IRAs -- none of POTUS expansions; includes spousal IRAs

Portability:

- Veterans technical corrections
- Reduce multiemployer vesting from 10 to 5 years

Pension Security:

- Puts public pensions in :ust (Section 457 in trust) Orange County provision

IN HOUSE AND SENATE BUT NOT POTUS BILL:

- 3-year waiver of 15% tax on large (excess of $155,000) distributions (revenue raiser)
- Repeal of the $5,000 death benefits exclusion. This benefit is included in many collective bargaining agreements (Raises $293 million through 2002)
- Spousal IRAs ($2,000) (Costs $1 billion through 2002)
- Repeals tax benefits for certain ESOPs (Raises $1 billion through 2002; also in vetoed reconciliation bill)
- Model QDROs for divorce (we had planned to do it without legislation)

IN MANAGERS AMENDMENT (reportedly; ***Stein is still trying to add some items***):

- Portability:
  - Elimination of 1-year wait for 401(k)s
  - PBGC missing persons clearinghouse
  - Increase in the multiemployer guarantee
  - Makes model QDROs "sample" only (Treasury supports)
- Mosley-Braun civil service and RR provisions

POTUS PROPOSALS NOT IN HOUSE OR SENATE BILLS OR IN MANAGERS AMDT:

- Strong safeharbors from nondiscrimination rules (i.e. requirements must meet to avoid nondiscrimination rules) They do not have a 1% mandatory non-match employer contribution for both the small business plans and 401(k) plans.
- NEST small business plan rather than the SIMPLE:
  - Their employer contributions less generous than NEST
  - Their safeharbor provisions less protective than NEST
- Repeal of limits on benefits for multiemployer plans (Section 415; they just do public sector plans)
- Eliminating the 1-year wait for TSP
- Our regulatory proposals to encourage acceptance of rollovers
- IRA expansion
- Audit bill
- No reporting on reversions

Small Business Bill

Still circulating 7/8/9

To: Judy Schub 326-4016

FR: Kevin — FYI

July 3, 1996 (2:00 p.m.)

POSSIBLE MANAGER'S AMENDMENT

Small Business Provisions

1. Agricultural dues -- apply provision in the bill back to 1/1/87.
2. Fishermen de minimis cash payments -- apply provision in the bill back to 1/1/84.
3. Worker classification (additional items):
   a. Future change in status does not preclude section 530 safeharbor for previous years.
   b. The relationship between the parties (not merely the worker's duties) must be considered re section 530 (clarification of "substantially similar position").

Pension Simplification Provisions

1. Drop provision in the bill eliminating waiting period after pension election.
2. Apply PBGC missing participant program to defined contribution plans on a voluntary basis.
3. Alternative nondiscrimination rules for early participation (effective 1/1/99).
4. Add a new joint and survivor benefit election (prospective -- add when plans are amended in the future; no additional cost to employers).
5. Inflation increase to PBGC benefit guarantee for multi-employer plans (suspend benefit increase if surplus declines more than 50%).
6. Federal employees: [open for response from Govt Affairs Comm.]
   a. Employee contributions to federal retirement plans may be subject to divorce court order.
   b. Survivor protection for spouses of former federal employees.
7. ? Labor Committee's ERISA provision re Harris Trust decision (clarify that no relief from criminal fraud).
8. Church pension plan simplification:
   a. Allow combined pension plan coverage for self-employed clergy (so-called "mobile ministers").
   b. Allow pre-ERISA pension plans to use the new definition of highly compensated employee in the bill; authorize Treasury (but do not require) to design a nondiscrimination safeharbor for church plans.
   c. Allow payroll deduction of pension contributions for clergy on foreign missions.

Expired Provisions

1. Educational assistance -- extend through 12/31/97 (adds 1 year).
2. R&E credit -- extend through 12/31/97 (adds 6 months).
3. Orphan drug credit -- extend through 12/31/97 (adds 6 months).
4. Stock contributions to private foundations -- extend through 12/31/97 (adds 6 months).
5. Section 29:
   a. Extend placed in service date to 12/31/98 (adds 1 year).
   b. Suspend unrelated party rule for fuel used to generate electricity (date of enactment through 12/31/98). [NOTE: This may be a rifleshot.]
6. Diesel tax for motorboats -- suspend thru 12/31/97 (adds 6 months).
7. Publicly traded partnerships -- extend through 12/31/99 (adds 2 years).

Other Provisions

1. Allow certain teaching hospitals to provide tax-free academic housing to faculty and medical and nursing students.

Revenue Offsets

1. Repeal of 50% exclusion for interest on ESOP loans -- move effective date for binding contracts to date of enactment.
2. Repeal of Ford Credit interest allocation rule -- delay effective date for one year.
3. ? Expatriates -- add estate tax change with treaty override.
4. ? Airport taxes -- extend through ??? (adds ?? months).
5. New item: Allow conversion of scholarship funding corporations (23) to taxable corporations.
6. New item: Apply math/clerical error procedure for filing status, dependency exemptions, and dependent care credit when correct taxpayer identification numbers are not provided.

for POTUS budget 7$1B savings

Technicals to Senate Bill

1. Correct drafting error re sale by a tax-exempt entity of stock in a C corporation that was formerly a S corporation.
2. Correct drafting error re new alternative R&E credit.
3. Delay effective date for two excise tax provisions in the bill (luxury tax and motorboat diesel tax) to 7 days after date of enactment (instead of 7/1/96).

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
LEGISLATIVE AFFAIRS

PHONE: 395-4790 / FAX: 395-3729

TO: Gene Sperling / Jason Goldberg

FROM:

____ CHUCK KIEFFER
____ CHUCK KONIGSBERG
____ LISA KOUNTOUPES
✓ ALICE SHUFFIELD
____ KATE DONOVAN
____ NANCY BRANDEL

comments: The Draft SAP on Small Business bill follows. The bill goes to the Senate floor today for debate, and tomorrow for the vote. We plan to send the President's 6/28 letter on minimum wage WITH the SAP.

Ellen Seidman signed off, but just wanted to make sure you're aware.

Alice

FAX #: 6-2878
PAGES: ____
(includes cover page)
PHONE NUMBER: ____

DRAFT -- NOT FOR RELEASE

July 8, 1996
(Senate)

H.R. 3448 - Small Business Job Protection Act
(Archer (R) Texas)

The Administration, while supporting Senate passage of a number of provisions of H.R. 3448 as amended by the Finance Committee, will seek further amendments to the bill. And, as stated in the President's June 28th letter to the Senate, a copy of which is attached, if H.R. 3448 is presented to the President with the minimum wage provisions of the Republican leadership amendment, the President will veto the bill.

The Administration strongly opposes section 1601 of the bill, which would repeal the tax credit related to corporate investments in Puerto Rico while allowing several grandfather rules for existing companies. The Administration urges the Senate to delete this provision and adopt instead the proposal to reform the credit contained in the President's FY 1997 Budget. The Administration's proposal provides tax benefits for new and expanded operations based directly on real economic activity in these underdeveloped areas. The projected revenue savings from the reform of this credit would be used for social and employment training programs in Puerto Rico. Unlike section 1601, the final legislative language concerning the credit should contain effective mechanisms to promote job creation in the islands.

The Administration will also work with Congress to adopt other amendments as described below.

Provisions Supported by the Administration and Additional Recommended Amendments

The Administration supports many of the revenue provisions of H.R. 3448, which are consistent with Administration proposals to strengthen small businesses, simplify pension laws, reinstate incentives for research and development, and improve incentives for education and work opportunities.

In particular:

- Small Business Expensing. The Administration strongly supports the bill's increase from $17,500 to $25,000 for the amount of tangible personal property that small businesses can expense. The President supported such an increase in 1993 and in his FY 1997 Budget, although with a faster phase-in.

- Employer-Provided Educational Assistance. The Administration supports the temporary extension of the income exclusion for employer-provided educational assistance, including the exclusion for post-graduate level education. The Administration will work with Congress to provide a permanent extension of the exclusion. The Administration also supports a 10 percent tax credit for educational assistance provided under section 127 plans for small businesses with annual gross receipts of $10 million or less.

- Research Tax Credit. The Administration strongly supports full reinstatement of the research tax credit back to its June 30, 1995, expiration date. The Administration will work with Congress to make the credit permanent. The Administration continues to believe that full, permanent reinstatement should take priority over modifications to the credit such as those contained in H.R. 3448.

- Orphan Drug Credit. The Administration strongly supports full reinstatement of the orphan drug credit and will work with Congress to make the credit permanent.

- Gifts of Appreciated Stock to Private Foundations. The Administration strongly supports this provision and will work with Congress to make it permanent.

- Work Opportunity Tax Credit. The provision for a new Work Opportunity Tax Credit addresses many of the criticisms of the prior Targeted Jobs Tax Credit, particularly increasing the period of retention for eligible workers. The Administration will work with Congress to improve the scope and effectiveness of the new credit.

- Pension Simplification. Many provisions of H.R. 3448 were included in the President's pension simplification proposal announced in June 1995 at the White House Conference on Small Business. The Administration is concerned, however, that the safe harbor provisions applicable to both SIMPLE and 401(k) plans do not ensure that middle and lower-wage workers will benefit from the provision of tax-advantaged retirement savings plans. The Administration will work with Congress to modify these safe harbors so that employers taking advantage of them are required to provide meaningful coverage to these workers. The Administration is also concerned that the three-year waiver of the excise tax on very large retirement distributions would add complexity and could actually encourage plan sponsors to terminate plans.

- Subchapter S. The Administration also strongly supports most of the reforms in the bill relating to Subchapter S (closely held) corporations, and will work with Congress to provide further reforms and to ensure that reforms are appropriately targeted to the intended beneficiaries.

- Technical Corrections. The Administration supports the long-overdue enactment of technical corrections to recent tax legislation and will work with Congress to achieve a consensus package of technical corrections.

Objectionable Provisions

- Classification of Workers for Employment Tax Purposes. The Administration has concerns about certain changes proposed to section 530 of the Revenue Act of 1978, which provides "safe harbors" under which an employer has a reasonable basis for treating a worker as an independent contractor rather than as an employee for employment tax purposes. The most important concerns are with proposed changes that would: (1) shift the burden of proof to the Internal Revenue Service with respect to the application of section 530; and (2) replace the safe harbor for reasonable reliance on a long-standing practice of a significant segment of the industry with a rigid numerical test.

- Special-Interest Provisions. The Administration opposes the inclusion in H.R. 3448 of numerous special-interest provisions.

Revenue Offsets

The Administration has serious concerns with the offset provision in H.R. 3448 that would repeal tax benefits for certain employee stock ownership plans that provide meaningful employee ownership. Several of the offsets -- relating to interest allocations for nonfinancial corporations, tax treatment of expatriates, basis adjustment rules under section 1033, withholding on certain gambling winnings, and reinstatement of airport and airway trust fund excise taxes -- are included in the President's balanced budget proposal. These offsets should be reserved for deficit reduction and meeting balanced budget goals. In working with the Congress to develop an improved bill that is consistent with the Administration's recommended amendments, appropriate offsets will be sought.

Proposals Not Addressed in H.R. 3448

In the context of an overall balanced budget plan, the Administration will work with Congress to provide other incentives previously proposed by the Administration but omitted from this bill. Such incentives include the $10,000 deduction for postsecondary tuition and training expenses, the $1,500 tax credit for postsecondary tuition, and incentives to revitalize economically distressed areas by cleaning up abandoned, contaminated properties, and creating new Empowerment Zones and Enterprise Communities.

The Administration would also support an amendment to the Foreign Sales Corporation statute as it applies to licenses of software, and will work with Congress to develop an acceptable package, including appropriate revenue offsets.

Pay-As-You-Go Scoring

H.R. 3448 would affect receipts; therefore, it is subject to the "pay-as-you-go" requirements of the Omnibus Budget Reconciliation Act of 1990. OMB's scoring of this legislation is under development.

* * * * * * *

(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy (SAP) was developed by the Legislative Reference Division (Jones) in consultation with the Departments of the Treasury (Thornton, Judson), Education (Kristy), Transportation (Herlihy), the Interior (Markell), and Labor (Green), Small Business Administration (Nixon), Social Security Administration (Camilleri), the Interagency Working Group on Puerto Rico (Farrow), White House Counsel (Kagan), National Economic Council (Seidman), Council of Economic Advisors (Mazur), EP (Lyon), HRD (Matlack, Kitti, Menchik, Noe), HTFD (Rhinesmith, Meyers, Turco), NRD (Kodl), BRCD (Fairhall), and BASD (Barth).

HUD, Pension Benefit Guaranty Corporation, SEC, WH Legislative Affairs, and OMB/GC did not respond to our request for comments.

OMB/LA Clearance:

The House passed Title I (tax provisions) of H.R. 3448 on May 22nd by a vote of 414-10. The House passed H.R. 1227 (minimum wage, etc.) on May 23rd by a vote of 281-44. H.R. 1227 was subsequently attached to H.R. 3448 as Title II.

The Senate Finance Committee reported H.R. 3448 on June 18, 1996 with amendments. The most significant provisions of the reported bill are described below. Pursuant to a unanimous consent agreement, the Senate will consider H.R. 3448 on July 8th and vote on it on July 9th.

Administration Position to Date

The Administration has taken no position the Senate version of H.R. 3448. On June 28th, the President, in a letter to the Senate leadership (attached to this SAP) stated that he would veto any legislation containing the Republican leadership's minimum wage amendment.

A SAP sent to the House on May 22nd "support[ed] House passage of several provisions of H.R. 3448," indicated an intention to seek further amendments, and expressed strong opposition to two provisions, one of which was deleted.

On March 21st, Secretary Reich wrote to the House Committee on Economic and Educational Opportunity that the Department had "serious concerns" with H.R. 1227. The concerns related to the provision that relieves the employer from the requirement to pay employees minimum wage or overtime compensation for the time an employee spends commuting to and from work in an employer's vehicle. The Secretary stated the Department had recently clarified that issue and that the proposed legislation was unnecessary.

Description of Major Provisions of H.R. 3448

Title I. Small Business and Other Tax Provisions

Title I of the Senate-reported version of H.R. 3448 is similar to the House-passed bill. The major tax provisions of the Senate bill are described below.

-- Tax Relief Provisions Similar to the House-passed H.R. 3448

- Increases from $17,500 to $25,000 the portion of the cost of tangible depreciable property a small business can write off annually as an expense. The increase is phased in over seven years. The increase would phase in on a different schedule than the House bill, beginning in 1997 rather than in 1996.

- Temporarily extends the exclusion from taxable income for employer-provided educational assistance programs to taxable years beginning after December 31, 1994, and before January 1, 1998. Like current law, but unlike the House-passed bill, this extension would apply to graduate-level courses.

- Makes numerous changes to tax law affecting pensions, including creating a new pension plan for small businesses that has fewer requirements than existing arrangements and allowing State and local governments and tax exempt organizations to establish 401(k) plans.

- Replaces the Targeted Jobs Tax Credit with a new Work Opportunity Tax Credit available to employers hiring individuals who are high-risk youth, qualified ex-felons, summer youth employees, AFDC (or successor program) recipients, qualified veterans, referrals from a vocational rehabilitation program, and certain qualified food stamp recipients between the ages of 18-24. All but the last group were eligible for credit under the House-passed bill. The Senate bill also requires a slightly shorter minimum employment period (at least 180 days or 375 hours) than the House bill's requirement (180 days or 500 hours).

- Makes a number of changes to the tax code concerning Subchapter S (closely-held) corporations -- e.g., increasing the number of stockholders such corporations can have and allowing Subchapter S entities to have subsidiaries.

-- Tax Relief Provisions Not Contained in the House Version

- Several tax relief provisions that expired in 1995 are extended for varying periods of time and, in some cases, are modified. These provisions include: the research and experimentation (R&E) tax credit; the orphan drug credit; the favored tax treatment for gifts of appreciated stock made to private foundations; and the non-conventional fuels tax credit. The extension of the R&E tax credit begins on July 1, 1996, and is not retroactive to its June 30, 1995 expiration date.

- Provides for deductible contributions to an individual retirement account by a non-working spouse.

-- Revenue Offsets Similar to House Version

- Phases-out the tax credit (Sec. 936) to U.S. businesses with operations in U.S. possessions and terminates the tax credit for investment in the possessions and in certain Caribbean Basin countries. Differs from House-passed version in several respects; including the rate of the phaseout and the grandfathering of firms that receive the tax credit based on the number of jobs created.

- Repeals the tax exclusion of 50 percent of the interest income received on a loan to a qualified employee stock ownership plan to acquire the stock of the employer or for refinancing such a loan. Similar to House version except for effective date.

- Makes punitive damages received for non-physical injury or illness, such as damages awarded for discrimination, taxable. Under current law all damages are excluded from income. The House-passed version would also tax other non-economic damages.

-- Revenue Offsets Not Included in House Version

- Extends the Airport and Airway Trust Fund excise taxes for the period beginning seven days after the enactment of H.R. 3448 and ending after Dec. 31, 1996. These taxes include taxes on: domestic passenger tickets; domestic freight waybills; international departures; jet fuel used in non-commercial aviation; and gasoline used in non-commercial aviation. An exemption is provided for certain emergency medical helicopters and for fixed-wing aircraft exclusively dedicated to acute care emergency transportation.

- Revises the rules aimed at stemming tax avoidance though expatriation by treating, for tax purposes, all assets as having been sold at the time U.S. citizenship is given up and taxing the imputed gains on those assets.

- Phases-out and extends, through Dec. 31, 2002, the current 10 percent luxury tax on automobiles costing more than $34,000.

- Allows certain people engaged in the local furnishing of electricity and gas to elect not to be eligible for future tax-exempt financing without incurring the present-law loss of interest deductions and loss of tax exemption.

-- Major Objectionable Provisions of House Version Not Included in Senate Bill

- The Senate-reported version of H.R. 3448 does not include the repeal of the taxation of U.S. shareholder earnings attributed to "excessive passive assets" (i.e., greater than 30 percent of all assets) held by a foreign corporation.

Title II. Payment of Wages

The major provisions of Title II, which are identical in the House-passed and Senate-reported versions of H.R. 3448:

- Increase the minimum wage by $.50 an hour to $4.75 beginning on July 1, 1996, and by an additional $.40 an hour to $5.15 beginning on July 1, 1997. In February 1995, the President transmitted to Congress a bill that proposed to increase the minimum wage by $.45 an hour beginning on July 4, 1995, and by an additional $.45 and hour beginning on July 4, 1996.

- Establish a permanent fixed sub-minimum wage -- at the flat rate of $4.25 an hour -- for youth under 20 years of age in their first 90 days of employment with any employer with no training requirements.

- Exempt from minimum wage and overtime requirements certain computer professionals who are compensated at a rate of not less than $27.63 per hour.

- Eliminate the requirement that employers of tipped employees (e.g., waiters and waitresses) pay at least 50% of the statutory minimum wage in cash and replace it with a provision which locks the cash wage at the current standard of $2.13 even after the statutory minimum wage goes up. By replacing the current index formula with this fixed rate, this amendment would deny these employees any benefit from future increases in the minimum wage.

- Clarify that employers are not required to pay employees minimum wage or overtime compensation for the time an employee spends commuting to and from work in an employer's vehicle if: (1) the travel is within the normal commuting area for the employer's business; and (2) the use of the vehicle is subject of an agreement between the employer and the employee or representative of such employee.

Pay-As-You-Go Scoring

According to BASD (Barth), H.R. 3448 would affect receipts, and, therefore, is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. Treasury has not yet scored the revenue provisions of the bill. The Joint Committee on Taxation scored the Senate bill as having a net effect of increasing revenue by $47 million over FY 1996-FY 2000 and by $58 million over FY 1996-FY 2005. For the years covered by the statutory pay-as-you-go requirements, CBO/JCT scored the bills as increasing receipts by $258 million in FY 1996, increasing receipts by $405 million in FY 1997, and reducing receipts by $375 million in FY 1998.

LEGISLATIVE REFERENCE DIVISION
July 8, 1996 - 12:00 PM

For Gene 7 pp

DRAFT -- NOT FOR RELEASE

July 3, 1996
(Senate)

H.R. 3448 - Small Business Job Protection Act
(Archer (R) Texas)

The Administration, while supporting Senate passage of a number of provisions of H.R. 3448 as amended by the Finance Committee, will seek further amendments to the bill. And, as stated in the President's June 28th letter to the Senate, a copy of which is attached, if H.R. 3448 is presented to the President with the minimum wage provisions of the Republican leadership amendment, the President will veto the bill.

The Administration strongly opposes section 1601 of the bill, which would repeal the tax credit related to corporate investments in Puerto Rico while allowing several grandfather rules for existing companies. The Administration urges the Senate to delete this provision and adopt instead the proposal to reform the credit contained in the President's FY 1997 Budget. The Administration's proposal provides tax benefits for new and expanded operations based directly on real economic activity in these underdeveloped areas. The projected revenue savings from the reform of this credit would be used for social and employment training programs in Puerto Rico. Unlike section 1601, the final legislative language concerning the credit should contain effective mechanisms to promote job creation in the islands.

The Administration will also work with Congress to adopt other amendments as described below.

Provisions Supported by the Administration and Additional Recommended Amendments

The Administration supports many of the revenue provisions of H.R. 3448, which are consistent with Administration proposals to strengthen small businesses, simplify pension laws, reinstate incentives for research and development, and improve incentives for education and work opportunities.

In particular:

- Small Business Expensing. The Administration strongly supports the bill's increase from \$17,500 to \$25,000 for the amount of tangible personal property that small businesses can expense. The President supported such an increase in 1993 and in his FY 1997 Budget, although with a faster phase-in.

- Employer-Provided Educational Assistance. The Administration supports the temporary extension of the income exclusion for employer-provided educational assistance, including the exclusion for post-graduate level education. The Administration will work with Congress to provide a permanent extension of the exclusion. The Administration also supports a 10 percent tax credit for educational assistance provided under section 127 plans for small businesses with annual gross receipts of $10 million or less.

- Research Tax Credit. The Administration strongly supports full reinstatement of the research tax credit back to its June 30, 1995, expiration date. The Administration will work with Congress to make the credit permanent. The Administration continues to believe that full, permanent reinstatement should take priority over modifications to the credit such as those contained in H.R. 3448.

- Orphan Drug Credit. The Administration strongly supports full reinstatement of the orphan drug credit and will work with Congress to make the credit permanent.

- Gifts of Appreciated Stock to Private Foundations. The Administration strongly supports this provision and will work with Congress to make it permanent.

- Work Opportunity Tax Credit. The provision for a new Work Opportunity Tax Credit addresses many of the criticisms of the prior Targeted Jobs Tax Credit, particularly increasing the period of retention for eligible workers. The Administration will work with Congress to improve the scope and effectiveness of the new credit.

- Pension Simplification. Many provisions of H.R. 3448 were ~~included~~ proposed by the POTUS in the President's pension simplification proposal announced in June 1995 at the White House Conference on Small Business. The Administration is concerned, however, that the safe harbor provisions applicable to both SIMPLE and 401(k) plans do not ensure that middle and lower-wage workers will benefit from the provision of tax-advantaged retirement savings plans. The Administration will work with Congress to modify these safe harbors so that employers taking advantage of them are required to provide meaningful coverage to these workers. The Administration is also concerned that the three-year waiver of the excise tax on very large retirement distributions would add complexity and could actually encourage plan sponsors to terminate plans.

  What about other Admin proposals not in it?

- Subchapter S. The Administration also strongly supports most of the reforms in the bill relating to Subchapter S (closely held) corporations, and will work with Congress to provide further reforms and to ensure that reforms are appropriately targeted to the intended beneficiaries.

- Technical Corrections. The Administration supports the long-overdue enactment of technical corrections to recent tax legislation and will work with Congress to achieve a consensus package of technical corrections.

Other Objectionable Provisions

- Classification of Workers for Employment Tax Purposes. The Administration has concerns about certain changes proposed to section 530 of the Revenue Act of 1978, which provides "safe harbors" under which an employer has a reasonable basis for treating a worker as an independent contractor rather than as an employee for employment tax purposes. The most important concerns are with proposed changes that would: (1) shift the burden of proof to the Internal Revenue Service with respect to the application of section 530; and (2) replace the safe harbor for reasonable reliance on a long-standing practice of a significant segment of the industry with a rigid numerical test.

- Special-Interest Provisions. The Administration opposes the inclusion in H.R. 3448 of numerous special-interest provisions.

Revenue Offsets

The Administration has serious concerns with the offset provision in H.R. 3448 that would repeal tax benefits for certain employee stock ownership plans that provide meaningful employee ownership. Several of the offsets -- relating to interest allocations for nonfinancial corporations, tax treatment of expatriates, basis adjustment rules under section 1033, withholding on certain gambling winnings, and reinstatement of airport and airway trust fund excise taxes -- are included in the President's balanced budget proposal. These offsets should be reserved for deficit reduction and meeting balanced budget goals. In working with the Congress to develop an improved bill that is consistent with the Administration's recommended amendments, appropriate offsets will be sought.

Proposals Not Addressed in H.R. 3448

The Administration will work with Congress to provide other incentives previously proposed by the Administration but omitted from this bill, such as the $10,000 deduction for postsecondary tuition and training expenses, the $1,500 tax credit for postsecondary tuition, and incentives to revitalize economically distressed areas, including incentives to clean up abandoned, contaminated properties, and to create new Empowerment Zones and Enterprise Communities.

The Administration would also support an amendment to the Foreign Sales Corporation statute as it applies to licenses of software, and will work with Congress to develop an acceptable package, including appropriate revenue offsets.

Pay-As-You-Go Scoring

H.R. 3448 would affect receipts; therefore, it is subject to the "pay-as-you-go" requirements of the Omnibus Budget Reconciliation Act of 1990. OMB's scoring of this legislation is under development.

* * * * * * *

(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy (SAP) was developed by the Legislative Reference Division (Jones) in consultation with the Departments of the Treasury (Thornton, Judson), Education (Kristy), Transportation (Herlihy), the Interior (Markell), and Labor (Green), Small Business Administration (Nixon), Social Security Administration (Camilleri), the Interagency Working Group on Puerto Rico (Farrow), White House Counsel (Kagan), National Economic Council (Seidman), Council of Economic Advisors (Mazur), EP (Lyon), HRD (Matlack, Kitti, Menchik, Noe), HTFD (Rhinesmith, Meyers, Turco), NRD (Kodl), BRCD (Fairhall), and BASD (Barth).

HUD, Pension Benefit Guaranty Corporation, SEC, WH Legislative Affairs, and OMB/GC did not respond to our request for comments.

OMB/LA Clearance:

The House passed Title I (tax provisions) of H.R. 3448 on May 22nd by a vote of 414-10. The House passed H.R. 1227 (minimum wage, etc.) on May 23rd by a vote of 281-44. H.R. 1227 was subsequently attached to H.R. 3448 as Title II.

The Senate Finance Committee reported H.R. 3448 on June 18, 1996 with amendments. The most significant provisions of the reported bill are described below. Pursuant to a unanimous consent agreement, the Senate will consider H.R. 3448 on July 8th and vote on it on July 9th.

Administration Position to Date

The Administration has taken no position the Senate version of H.R. 3448. On June 28th, the President, in a letter to the Senate leadership (attached to this SAP) stated that he would veto any legislation containing the Republican leadership's minimum wage amendment.

A SAP sent to the House on May 22nd "support[ed] House passage of several provisions of H.R. 3448," indicated an intention to seek further amendments, and expressed strong opposition to two provisions, one of which was deleted.

On March 21st, Secretary Reich wrote to the House Committee on Economic and Educational Opportunity that the Department had "serious concerns" with H.R. 1227. The concerns related to the provision that relieves the employer from the requirement to pay employees minimum wage or overtime compensation for the time an employee spends commuting to and from work in an employer's vehicle. The Secretary stated the Department had recently clarified that issue and that the proposed legislation was unnecessary.

Description of Major Provisions of H.R. 3448

Title I. Small Business and Other Tax Provisions

Title I of the Senate-reported version of H.R. 3448 is similar to the House-passed bill. The major tax provisions of the Senate bill are described below.

-- Tax Relief Provisions Similar to the House-passed H.R. 3448

- Increases from $17,500 to $25,000 the portion of the cost of tangible depreciable property a small business can write off annually as an expense. The increase is phased in over seven years. The increase would phase in on a different schedule than the House bill, beginning in 1997 rather than in 1996.

- Temporarily extends the exclusion from taxable income for employer-provided educational assistance programs to taxable years beginning after December 31, 1994, and before January 1, 1998. Like current law, but unlike the House-passed bill, this extension would apply to graduate-level courses.

- Makes numerous changes to tax law affecting pensions, including creating a new pension plan for small businesses that has fewer requirements than existing arrangements and allowing State and local governments and tax exempt organizations to establish 401(k) plans.

- Replaces the Targeted Jobs Tax Credit with a new Work Opportunity Tax Credit available to employers hiring individuals who are high-risk youth, qualified ex-felons, summer youth employees, AFDC (or successor program) recipients, qualified veterans, referrals from a vocational rehabilitation program, and certain qualified food stamp recipients between the ages of 18-24. All but the last group were eligible for credit under the House-passed bill. The Senate bill also requires a slightly shorter minimum employment period (at least 180 days or 375 hours) than the House bill's requirement (180 days or 500 hours).

- Makes a number of changes to the tax code concerning Subchapter S (closely-held) corporations -- e.g., increasing the number of stockholders such corporations can have and allowing Subchapter S entities to have subsidiaries.

-- Tax Relief Provisions Not Contained in the House Version

- Several tax relief provisions that expired in 1995 are extended for varying periods of time and, in some cases, are modified. These provisions include: the research and experimentation (R&E) tax credit; the orphan drug credit; the favored tax treatment for gifts of appreciated stock made to private foundations; and the non-conventional fuels tax credit. The extension of the R&E tax credit begins on July 1, 1996, and is not retroactive to its June 30, 1995 expiration date.

- Provides for deductible contributions to an individual retirement account by a non-working spouse.

-- Revenue Offsets Similar to House Version

- Phases-out the tax credit (Sec. 936) to U.S. businesses with operations in U.S. possessions and terminates the tax credit for investment in the possessions and in certain Caribbean Basin countries. Differs from House-passed version in several respects; including the rate of the phaseout and the grandfathering of firms that receive the tax credit based on the number of jobs created.

- Repeals the tax exclusion of 50 percent of the interest income received on a loan to a qualified employee stock ownership plan to acquire the stock of the employer or for refinancing such a loan. Similar to House version except for effective date.

- Makes punitive damages received for non-physical injury or illness, such as damages awarded for discrimination, taxable. Under current law all damages are excluded from income. The House-passed version would also tax other non-economic damages.

-- Revenue Offsets Not Included in House Version

- Extends the Airport and Airway Trust Fund excise taxes for the period beginning seven days after the enactment of H.R. 3448 and ending after Dec. 31, 1996. These taxes include taxes on: domestic passenger tickets; domestic freight waybills; international departures; jet fuel used in non-commercial aviation; and gasoline used in non-commercial aviation. An exemption is provided for certain emergency medical helicopters and for fixed-wing aircraft exclusively dedicated to acute care emergency transportation.

- Revises the rules aimed at stemming tax avoidance though expatriation by treating, for tax purposes, all assets as having been sold at the time U.S. citizenship is given up and taxing the imputed gains on those assets.

- Phases-out and extends, through Dec. 31, 2002, the current 10 percent luxury tax on automobiles costing more than $34,000.

- Allows certain people engaged in the local furnishing of electricity and gas to elect not to be eligible for future tax-exempt financing without incurring the present-law loss of interest deductions and loss of tax exemption.

-- Major Objectionable Provisions of House Version Not Included in Senate Bill

- The Senate-reported version of H.R. 3448 does not include the repeal of the taxation of U.S. shareholder earnings attributed to "excessive passive assets" (i.e., greater than 30 percent of all assets) held by a foreign corporation.

Title II, Payment of Wages

The major provisions of Title II, which are identical in the House-passed and Senate-reported versions of H.R. 3448:

- Increase the minimum wage by $.50 an hour to $4.75 beginning on July 1, 1996, and by an additional $.40 an hour to $5.15 beginning on July 1, 1997. In February 1995, the President transmitted to Congress a bill that proposed to increase the minimum wage by $.45 an hour beginning on July 4, 1995, and by an additional $.45 and hour beginning on July 4, 1996.

- Establish a permanent fixed sub-minimum wage -- at the flat rate of $4.25 an hour -- for youth under 20 years of age in their first 90 days of employment with any employer with no training requirements.

- Exempt from minimum wage and overtime requirements certain computer professionals who are compensated at a rate of not less than $27.63 per hour.

- Eliminate the requirement that employers of tipped employees (e.g., waiters and waitresses) pay at least 50% of the statutory minimum wage in cash and replace it with a provision which locks the cash wage at the current standard of $2.13 even after the statutory minimum wage goes up. By replacing the current index formula with this fixed rate, this amendment would deny these employees any benefit from future increases in the minimum wage.

- Clarify that employers are not required to pay employees minimum wage or overtime compensation for the time an employee spends commuting to and from work in an employer's vehicle if: (1) the travel is within the normal commuting area for the employer's business; and (2) the use of the vehicle is subject of an agreement between the employer and the employee or representative of such employee.

Pay-As-You-Go Scoring

According to BASD (Barth), H.R. 3448 would affect receipts, and, therefore, is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. Treasury has not yet scored the revenue provisions of the bill. The Joint Committee on Taxation scored the Senate bill as having a net effect of increasing revenue by $47 million over FY 1996-FY 2000 and by $58 million over FY 1996-FY 2005. For the years covered by the statutory pay-as-you-go requirements, CBO/JCT scored the bills as increasing receipts by $258 million in FY 1996, increasing receipts by $405 million in FY 1997, and reducing receipts by $375 million in FY 1998.

LEGISLATIVE REFERENCE DIVISION
July 3, 1996 - 12:00 PM

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
LEGISLATIVE AFFAIRS

PHONE: 395-4790 / FAX: 395-3729

TO: John Hilley, Martha Foley/John Angell, Laura Tyson/Gene Sperling

cc: Elisa Millsap, Dena Weinstein, Jason Goldberg

FROM:

____ CHUCK KIEFFER ____ CHUCK KONIGSBERG

____ LISA KOUNTOUPES X ALICE SHUFFIELD

____ KATE DONOVAN ____ NANCY BRANDEL

comments:

The SAP for H.R. 3448, the Small Business Job Protection Act, follows. The Senate begins consideration of the bill on Monday, July 8th. We aim to send the SAP up tonight since many will be out on Friday. I will contact your office around 5:00 to see if you have any comments.

THANKS!

FAX #: ____ PAGES: ____ (includes cover page)

PHONE NUMBER: ____

DRAFT -- NOT FOR RELEASE

July 3, 1996
(Senate)

H.R. 3448 - Small Business Job Protection Act
(Archer (R) Texas)

The Administration, while supporting Senate passage of a number of provisions of H.R. 3448 as amended by the Finance Committee, will seek further amendments to the bill. And, as stated in the President's June 28th letter to the Senate, a copy of which is attached, if H.R. 3448 is presented to the President with the minimum wage provisions of the Republican leadership amendment, the President will veto the bill.

The Administration strongly opposes section 1601 of the bill, which would repeal the tax credit related to corporate investments in Puerto Rico while allowing several grandfather rules for existing companies. The Administration urges the Senate to delete this provision and adopt instead the proposal to reform the credit contained in the President's FY 1997 Budget. The Administration's proposal provides tax benefits for new and expanded operations based directly on real economic activity in these underdeveloped areas. The projected revenue savings from the reform of this credit would be used for social and employment training programs in Puerto Rico. Unlike section 1601, the final legislative language concerning the credit should contain effective mechanisms to promote job creation in the islands.

The Administration will also work with Congress to adopt other amendments as described below.

Provisions Supported by the Administration and Additional Recommended Amendments

The Administration supports many of the revenue provisions of H.R. 3448, which are consistent with Administration proposals to strengthen small businesses, simplify pension laws, reinstate incentives for research and development, and improve incentives for education and work opportunities.

In particular:

- Small Business Expensing. The Administration strongly supports the bill's increase from $17,500 to $25,000 for the amount of tangible personal property that small businesses can expense. The President supported such an increase in 1993 and in his FY 1997 Budget, although with a faster phase-in.

- Employer-Provided Educational Assistance. The Administration supports the temporary extension of the income exclusion for employer-provided educational assistance, including the exclusion for post-graduate level education. The Administration will work with Congress to provide a permanent extension of the exclusion. The Administration also supports a 10 percent tax credit for educational assistance provided under section 127 plans for small businesses with annual gross receipts of $10 million or less.

- Research Tax Credit. The Administration strongly supports full reinstatement of the research tax credit back to its June 30, 1995, expiration date. The Administration will work with Congress to make the credit permanent. The Administration continues to believe that full, permanent reinstatement should take priority over modifications to the credit such as those contained in H.R. 3448.

- Orphan Drug Credit. The Administration strongly supports full reinstatement of the orphan drug credit and will work with Congress to make the credit permanent.

- Gifts of Appreciated Stock to Private Foundations. The Administration strongly supports this provision and will work with Congress to make it permanent.

- Work Opportunity Tax Credit. The provision for a new Work Opportunity Tax Credit addresses many of the criticisms of the prior Targeted Jobs Tax Credit, particularly increasing the period of retention for eligible workers. The Administration will work with Congress to improve the scope and effectiveness of the new credit.

- Pension Simplification. Many provisions of H.R. 3448 were included in the President's pension simplification proposal announced in June 1995 at the White House Conference on Small Business. The Administration is concerned, however, that the safe harbor provisions applicable to both SIMPLE and 401(k) plans do not ensure that middle and lower-wage workers will benefit from the provision of tax-advantaged retirement savings plans. The Administration will work with Congress to modify these safe harbors so that employers taking advantage of them are required to provide meaningful coverage to these workers. The Administration is also concerned that the three-year waiver of the excise tax on very large retirement distributions would add complexity and could actually encourage plan sponsors to terminate plans.

- Subchapter S. The Administration also strongly supports most of the reforms in the bill relating to Subchapter S (closely held) corporations, and will work with Congress to provide further reforms and to ensure that reforms are appropriately targeted to the intended beneficiaries.

- Technical Corrections. The Administration supports the long-overdue enactment of technical corrections to recent tax legislation and will work with Congress to achieve a consensus package of technical corrections.

Other Objectionable Provisions

- Classification of Workers for Employment Tax Purposes. The Administration has concerns about certain changes proposed to section 530 of the Revenue Act of 1978, which provides "safe harbors" under which an employer has a reasonable basis for treating a worker as an independent contractor rather than as an employee for employment tax purposes. The most important concerns are with proposed changes that would: (1) shift the burden of proof to the Internal Revenue Service with respect to the application of section 530; and (2) replace the safe harbor for reasonable reliance on a long-standing practice of a significant segment of the industry with a rigid numerical test.

- Special-Interest Provisions. The Administration opposes the inclusion in H.R. 3448 of numerous special-interest provisions.

Revenue Offsets

The Administration has serious concerns with the offset provision in H.R. 3448 that would repeal tax benefits for certain employee stock ownership plans that provide meaningful employee ownership. Several of the offsets -- relating to interest allocations for nonfinancial corporations, tax treatment of expatriates, basis adjustment rules under section 1033, withholding on certain gambling winnings, and reinstatement of airport and airway trust fund excise taxes -- are included in the President's balanced budget proposal. These offsets should be reserved for deficit reduction and meeting balanced budget goals. In working with the Congress to develop an improved bill that is consistent with the Administration's recommended amendments, appropriate offsets will be sought.

Proposals Not Addressed in H.R. 3448

The Administration will work with Congress to provide other incentives previously proposed by the Administration but omitted from this bill, such as the $10,000 deduction for postsecondary tuition and training expenses, the $1,500 tax credit for postsecondary tuition, and incentives to revitalize economically distressed areas, including incentives to clean up abandoned, contaminated properties, and to create new Empowerment Zones and Enterprise Communities.

The Administration would also support an amendment to the Foreign Sales Corporation statute as it applies to licenses of software, and will work with Congress to develop an acceptable package, including appropriate revenue offsets.

Pay-As-You-Go Scoring

H.R. 3448 would affect receipts; therefore, it is subject to the "pay-as-you-go" requirements of the Omnibus Budget Reconciliation Act of 1990. OMB's scoring of this legislation is under development.

* * * * * * *

(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy (SAP) was developed by the Legislative Reference Division (Jones) in consultation with the Departments of the Treasury (Thornton, Judson), Education (Kristy), Transportation (Herlihy), the Interior (Markell), and Labor (Green), Small Business Administration (Nixon), Social Security Administration (Camilleri), the Interagency Working Group on Puerto Rico (Farrow), White House Counsel (Kagan), National Economic Council (Seidman), Council of Economic Advisors (Mazur), EP (Lyon), HRD (Matlack, Kitti, Menchik, Noe), HTFD (Rhinesmith, Meyers, Turco), NRD (Kodl), BRCD (Fairhall), and BASD (Barth).

HUD, Pension Benefit Guaranty Corporation, SEC, WH Legislative Affairs, and OMB/GC did not respond to our request for comments.

OMB/LA Clearance:

The House passed Title I (tax provisions) of H.R. 3448 on May 22nd by a vote of 414-10. The House passed H.R. 1227 (minimum wage, etc.) on May 23rd by a vote of 281-44. H.R. 1227 was subsequently attached to H.R. 3448 as Title II.

The Senate Finance Committee reported H.R. 3448 on June 18, 1996 with amendments. The most significant provisions of the reported bill are described below. Pursuant to a unanimous consent agreement, the Senate will consider H.R. 3448 on July 8th and vote on it on July 9th.

<u>Administration Position to Date</u>

The Administration has taken no position the Senate version of H.R. 3448. On June 28th, the President, in a letter to the Senate leadership (attached to this SAP) stated that he would veto any legislation containing the Republican leadership's minimum wage amendment.

A SAP sent to the House on May 22nd "support[ed] House passage of several provisions of H.R. 3448," indicated an intention to seek further amendments, and expressed strong opposition to two provisions, one of which was deleted.

On March 21st, Secretary Reich wrote to the House Committee on Economic and Educational Opportunity that the Department had "serious concerns" with H.R. 1227. The concerns related to the provision that relieves the employer from the requirement to pay employees minimum wage or overtime compensation for the time an employee spends commuting to and from work in an employer's vehicle. The Secretary stated the Department had recently clarified that issue and that the proposed legislation was unnecessary.

Description of Major Provisions of H.R. 3448

Title I. Small Business and Other Tax Provisions

Title I of the Senate-reported version of H.R. 3448 is similar to the House-passed bill. The major tax provisions of the Senate bill are described below.

-- Tax Relief Provisions Similar to the House-passed H.R. 3448

- Increases from $17,500 to $25,000 the portion of the cost of tangible depreciable property a small business can write off annually as an expense. The increase is phased in over seven years. The increase would phase in on a different schedule than the House bill, beginning in 1997 rather than in 1996.

- Temporarily extends the exclusion from taxable income for employer-provided educational assistance programs to taxable years beginning after December 31, 1994, and before January 1, 1998. Like current law, but unlike the House-passed bill, this extension would apply to graduate-level courses.

- Makes numerous changes to tax law affecting pensions, including creating a new pension plan for small businesses that has fewer requirements than existing arrangements and allowing State and local governments and tax exempt organizations to establish 401(k) plans.

- Replaces the Targeted Jobs Tax Credit with a new Work Opportunity Tax Credit available to employers hiring individuals who are high-risk youth, qualified ex-felons, summer youth employees, AFDC (or successor program) recipients, qualified veterans, referrals from a vocational rehabilitation program, and certain qualified food stamp recipients between the ages of 18-24. All but the last group were eligible for credit under the House-passed bill. The Senate bill also requires a slightly shorter minimum employment period (at least 180 days or 375 hours) than the House bill's requirement (180 days or 500 hours).

- Makes a number of changes to the tax code concerning Subchapter S (closely-held) corporations -- e.g., increasing the number of stockholders such corporations can have and allowing Subchapter S entities to have subsidiaries.

-- Tax Relief Provisions Not Contained in the House Version

- Several tax relief provisions that expired in 1995 are extended for varying periods of time and, in some cases, are modified. These provisions include: the research and experimentation (R&E) tax credit; the orphan drug credit; the favored tax treatment for gifts of appreciated stock made to private foundations; and the non-conventional fuels tax credit. The extension of the R&E tax credit begins on July 1, 1996, and is not retroactive to its June 30, 1995 expiration date.

- Provides for deductible contributions to an individual retirement account by a non-working spouse.

-- Revenue Offsets Similar to House Version

- Phases-out the tax credit (Sec. 936) to U.S. businesses with operations in U.S. possessions and terminates the tax credit for investment in the possessions and in certain Caribbean Basin countries. Differs from House-passed version in several respects; including the rate of the phaseout and the grandfathering of firms that receive the tax credit based on the number of jobs created.

- Repeals the tax exclusion of 50 percent of the interest income received on a loan to a qualified employee stock ownership plan to acquire the stock of the employer or for refinancing such a loan. Similar to House version except for effective date.

- Makes punitive damages received for non-physical injury or illness, such as damages awarded for discrimination, taxable. Under current law all damages are excluded from income. The House-passed version would also tax other non-economic damages.

-- Revenue Offsets Not Included in House Version

- Extends the Airport and Airway Trust Fund excise taxes for the period beginning seven days after the enactment of H.R. 3448 and ending after Dec. 31, 1996. These taxes include taxes on: domestic passenger tickets; domestic freight waybills; international departures; jet fuel used in non-commercial aviation; and gasoline used in non-commercial aviation. An exemption is provided for certain emergency medical helicopters and for fixed-wing aircraft exclusively dedicated to acute care emergency transportation.

- Revises the rules aimed at stemming tax avoidance though expatriation by treating, for tax purposes, all assets as having been sold at the time U.S. citizenship is given up and taxing the imputed gains on those assets.

- Phases-out and extends, through Dec. 31, 2002, the current 10 percent luxury tax on automobiles costing more than $34,000.

- Allows certain people engaged in the local furnishing of electricity and gas to elect not to be eligible for future tax-exempt financing without incurring the present-law loss of interest deductions and loss of tax exemption.

-- Major Objectionable Provisions of House Version Not Included in Senate Bill

- The Senate-reported version of H.R. 3448 does not include the repeal of the taxation of U.S. shareholder earnings attributed to "excessive passive assets" (i.e., greater than 30 percent of all assets) held by a foreign corporation.

Title II. Payment of Wages

The major provisions of Title II, which are identical in the House-passed and Senate-reported versions of H.R. 3448:

- Increase the minimum wage by $.50 an hour to $4.75 beginning on July 1, 1996, and by an additional $.40 an hour to $5.15 beginning on July 1, 1997. In February 1995, the President transmitted to Congress a bill that proposed to increase the minimum wage by $.45 an hour beginning on July 4, 1995, and by an additional $.45 and hour beginning on July 4, 1996.

- Establish a permanent fixed sub-minimum wage -- at the flat rate of $4.25 an hour -- for youth under 20 years of age in their first 90 days of employment with any employer with no training requirements.

- Exempt from minimum wage and overtime requirements certain computer professionals who are compensated at a rate of not less than $27.63 per hour.

- Eliminate the requirement that employers of tipped employees (e.g., waiters and waitresses) pay at least 50% of the statutory minimum wage in cash and replace it with a provision which locks the cash wage at the current standard of $2.13 even after the statutory minimum wage goes up. By replacing the current index formula with this fixed rate, this amendment would deny these employees any benefit from future increases in the minimum wage.

- Clarify that employers are not required to pay employees minimum wage or overtime compensation for the time an employee spends commuting to and from work in an employer's vehicle if: (1) the travel is within the normal commuting area for the employer's business; and (2) the use of the vehicle is subject of an agreement between the employer and the employee or representative of such employee.

Pay-As-You-Go Scoring

According to BASD (Barth), H.R. 3448 would affect receipts, and, therefore, is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. Treasury has not yet scored the revenue provisions of the bill. The Joint Committee on Taxation scored the Senate bill as having a net effect of increasing revenue by $47 million over FY 1996-FY 2000 and by $58 million over FY 1996-FY 2005. For the years covered by the statutory pay-as-you-go requirements, CBO/JCT scored the bills as increasing receipts by $258 million in FY 1996, increasing receipts by $405 million in FY 1997, and reducing receipts by $375 million in FY 1998.

LEGISLATIVE REFERENCE DIVISION
July 3, 1996 - 12:00 PM

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

02-Jul-1996 10:21am

TO: (See Below)

FROM: Ronald E. Jones
Office of Mgmt and Budget, LRD

SUBJECT: LRM #:4919 TREASURY Proposed Statement of Administ

EXECUTIVE OFFICE OF THE PRESIDENT — LRM
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503 — FILE
07/02/96
LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
FROM: James JUKES (for)
Assistant Director for Legislative Reference
OMB CONTACT: Ronald JONES 395-3386

Legislative Assistant's line (for simple responses): 395-345

SUBJECT: TREASURY Proposed Statement of Administration Policy RE: HR3448, Small Business Job Protection Act

DEADLINE: 4:00PM Tuesday, July 02,1996

In accordance with OMB Circular A-19, OMB requests the views your agency on the above subject before advising on its relationship to the program of the President.

Please advise us if this item will affect direct spending or receipts for purposes of the the Pay-As-You-Go provisions of Title XIII of the Omnibus Budget Reconciliation Act of 19

COMMENTS: A hard copy of this LRM has also been sent to all non-EOP reviewers by fax.

7-AGRICULTURE - Marvin Shapiro - 2027201516
25-COMMERCE - Michael A. Levitt - 2024823151

18-Council of Economic Advisers - Liaison Officer (vacant) - 3955084
30-EDUCATION - Jack Kristy - 2024018313
54-HUD - Vacant - 2027081793
59-INTERIOR - Jane Lyder - 2022086706
62-LABOR - Robert A. Shapiro - 2022198201
76-National Economic Council - Sonyia Matthews - 2024562174
97-Pension Benefit Guaranty Corporation - Gail Sevin - 2023
108-Securities and Exchange Commission - Kaye F. Williams - 2029420014
107-Small Business Administration - Mary Kristine Swedin - 2022056700
110-Social Security Administration - Judy Chesser - 2024827
117-TRANSPORTATION - Tom Herlihy - 2023664687
118-TREASURY - Richard S. Carro - 2026221146

DRAFT -- NOT FOR RELEASE \d
(Senate)

H.R. 3448 - Small Business Job Protection Act
(Archer (R) Texas)

The Administration, while supporting Senate passage of a number of provisions of H.R. 3448, as amended by the Finance Committee, will seek further amendments to the bill. And, as stated in the President's June 28th letter to the Senate, if H.R. 3448 is presented to the President with the minimum wage provisions of the Republican leadership amendment, the President will veto the bill.

U.S. Possessions (e.g.,

The Administration also strongly opposes section 1601, which would repeal the tax credit related to economic investments in Puerto Rico, with various grandfather rules for existing companies. The Administration urges the Senate to delete this provision and replace it with its proposal to reform the credit ~~so that it~~ provides benefits for new and expanded operations based on real economic activity in these underdeveloped areas, and uses the projected revenue savings for social and employment and training program needs in Puerto Rico. It is important that legislation concerning the credit ~~contains~~ incorporates effective mechanisms to promote job creation in the islands.

contain in the FY9- b.. The Admin prop.

The Administration will also work with Congress to adopt other amendments as described below.

Provisions Supported by the Administration and Additional Recommended Amendments

The Administration supports many of the revenue provisions of H.R. 3448, which are consistent with Administration proposals to strengthen small businesses, simplify pension laws, reinstate incentives for research and development, and improve incentives for education and work opportunities.

In particular:

- Small Business Expensing. The Administration strongly supports the bill?s increase from $17,500 to $25,000 in the amount of tangible personal property that small businesses can expense. The President proposed such an increase in 1993 and in his FY 1997 Budget, although with a faster phase-in.

- Employer-Provided Educational Assistance. The Administration supports the temporary extension of the exclusion for employer-provided educational assistance, including the exclusion for post-graduate level education. The Administration will work with Congress to provide a permanent extension of the exclusion. The Administration also believes there should be a 10 percent tax credit for educational assistance provided under section 127 plans for small businesses with gross receipts of $10 million or less.

shouldn't Admin also support covering ~~[illegible]~~ the "gap" period

- Research Tax Credit. The Administration strongly supports full reinstatement of the research tax credit and will work with Congress to make the credit permanent. The Administration continues to believe that full, permanent reinstatement should take priority over modifications to the credit such as those contained in H.R. 3448.

- Orphan Drug Credit. The Administration strongly supports full reinstatement of the orphan drug credit and will work with Congress to make the credit permanent.

- Gifts of Appreciated Stock to Private Foundations. The Administration strongly supports this provision and will work with Congress to make it permanent.

for eligible workers

- Work Opportunity Tax Credit. The provision in H.R. 3448 for a new Work Opportunity Tax Credit addresses many of the criticisms of the ~~prior~~ Targeted Jobs Tax Credit, particularly increasing the period of retention. The Administration will work with Congress to improve the scope and effectiveness of the new credit.

- Pension Simplification. Many provisions of H.R. 3448 were included in the President?s pension simplification proposal announced in June 1995 at the White House Conference on Small Business. More can be done, however, to encourage retirement savings by middle and lower-wage workers, such pension

as providing more meaningful employer contributions under the simplified small business plan. The Administration hopes to work with Congress in a bipartisan fashion to simplify ~~the~~ law, expand coverage, increase security, and promote portability.

- <u>Subchapter S</u>. The Administration also strongly supports most of the Subchapter S reform package in the bill, and will work with Congress to provide further reforms and to ensure that reforms are appropriately targeted to the intended beneficiaries.

- <u>Technical Corrections</u>. The Administration supports the long-overdue enactment of technical corrections to recent tax legislation and would like to work with Congress to achieve a consensus package of technical corrections.

<u>Other Objectionable Provisions</u>

- <u>Classification of Workers Under Section 530 of the Revenue Act of 1978</u>. The Administration has concerns about certain of the changes proposed in H.R. 3448. The most important concerns are with provisions that would: (1) shift the burden of proof to the Internal Revenue Service with respect to the application of section 530; and (2) provide that the "significant segment" requirement is met through a reasonable showing of the practice of more than 25 percent of the industry. [Need more plain English here.]

- <u>Special-Interest Provisions</u>. The Administration opposes the inclusion in H.R. 3448 of numerous special-interest provisions.

<u>Revenue Offsets</u>

The Administration has serious concerns with the offset provision in H.R. 3448 that would repeal tax benefits for certain employee stock ownership plans that provide meaningful employee ownership. Several of the offsets -- relating to interest allocations for nonfinancial corporations, tax treatment of expatriates, basis adjustment rules under section 1033, withholding on certain gambling winnings, and reinstatement of airport and airway trust fund excise taxes -- are included in the President's balanced budget proposal and should be reserved for deficit reduction and meeting balanced budget goals. In working with the Congress to develop an improved bill that is consistent with the Administration?s recommended amendments, appropriate offsets will be sought.

<u>Administration Proposals Not Addressed in H.R. 3448</u>

The Administration will work with Congress to provide other incentives previously proposed by the Administration but omitted from this bill, such as the $10,000 tuition and training deduction, the $1,500 tuition tax credit, and incentives to revitalize economically distressed areas, including incentives to clean up abandoned, contaminated properties, and to create new Empowerment Zones and Enterprise Communities.

[The Administration would also support an amendment to the Foreign Sales Corporation statute as it applies to licenses of software, and will work with Congress to develop an acceptable package, including appropriate revenue offsets.]

Pay-As-You-Go Scoring

H.R. 3448 would affect receipts; therefore, it is subject to the ?pay-as-you-go? requirements of the Omnibus Budget Reconciliation Act of 1990. OMB?s scoring of this legislation is under development.

* * * * * * *

Distribution:

TO: usdaobpaleg@obpa.usda.gov@INET
TO: COMMERCE LRM@1=US@2=ATTMAIL@3=GOV+COMM.BAN@4=LEG@5=OGC@
TO: Remote Addressee
TO: OGC LEGISLATION@1=US@2=ATTMAIL@3=DOED@MRX@EOPMRX
TO: HUD-LRM@1=US@2=TELEMAIL@3=GOV+HUD@5=HQEMAIL@MRX@EOPMRX
TO: OCL@1=US@2=ATTMAIL@3=GOV+IOS@5=IOS@MRX@EOPMRX
TO: DOLSOL LLC@5=DOL@2=TELEMAIL@1=US@MRX@EOPMRX
TO: Sonyia Matthews
TO: Remote Addressee
TO: Remote Addressee
TO: CLA@1=US@2=TELEMAIL@3=GOV+SBA@5=CLA@*ID\CLA@MRX@EOPMRX
TO: 1=US@2=ATTMAIL@3=GOV+SSA@5=SSA@6=LRM@7=SSA@MRX@EOPMRX
TO: DOT LRM@1=US@2=ATTMAIL@3=GOV+DOT@4=QMAIL@5=HQ@MRX@EOPMR
TO: LLR TREASURY@1=US@2=TELEMAIL@3=GOV+TREAS@MRX@EOPMRX

CC: Joseph Minarik
CC: Ellen S. Seidman
CC: Rahm Emanuel
CC: Mark J. Mazur
CC: Robert G. Damus
CC: Tracey E. Thornton
CC: Alice E. Shuffield
CC: Lisa Kountoupes
CC: Charles E. Kieffer
CC: Charles S. Konigsberg
CC: Justine F. Rodriguez
CC: T J Glauthier
CC: Elena Kagan
CC: Kenneth S. Apfel
CC: Schmidt_MT
CC: Paul R. Dimond
CC: Barry B. Anderson
CC: Justine F. Rodriguez

FR: Marty Slate

Pension Raid Legislation

- The House Bill would have allowed the removal of so-called "surplus" pension assets for any reason.
  - This was projected to come to $30 billion over 5 years.
- The Senate rejected pension reversion legislation.
- The Conference Committee passed a bill raising the threshold for removing money and allowing withdrawals to be used only for other ERISA benefits.
  - The most significant such benefit was health expenses for current employees. Other items included educational and dependent care assistance and disability benefits.
  - Removals were projected to come to $15 to $18 billion over 5 years.
- When asked whether removal for other ERISA purposes represented good policy, we said:

  "Money previously earmarked for retirement, rather than general corporate funds, will be used to pay for other corporate obligations. This is like robbing Peter to pay Paul. The proposal allows companies to use pension money to free up corporate resources for any other purpose, in effect making pensions a corporate piggy bank."

June 28, 1996

THE WHITE HOUSE

WASHINGTON

June 23, 1996

TO: LAURA TYSON
DAN TARULLO
GENE SPERLING

FROM: MARK MAZUR Mark

SUBJECT: SENATOR DORGAN'S "RUNAWAY PLANTS" PROPOSAL

Dan Tarullo asked about Senator Dorgan's legislative proposal on "runaway plants". This proposal would remove a tax advantage from firms that use foreign manufacturing plants to supply goods to the U.S. market. It is based on the notion that the Tax Code should be used actively to encourage the location of manufacturing facilities in the United States. (Since this proposal is in the Democratic Leadership's "Families First" Agenda, it seemed appropriate to address this memo to all of you.)

Background -- Current Law. In general, under current law, income earned by foreign subsidiaries of U.S. multinationals is not subject to tax until that income is repatriated to the U.S. parent firm, usually in the form of dividends. The income tax liability is thus "deferred" until the income is paid out to the United States-based parent firm. When this payment occurs, a foreign tax credit is available, to offset the U.S. tax liability dollar-for-dollar with taxes paid on this income by the foreign subsidiary to other jurisdictions. If the foreign subsidiary is located in a country with higher tax rates than the United States, the foreign tax credit is often large enough to completely offset any U.S. income tax liability owed. If the foreign subsidiary is located in a country with lower tax rates than the U.S. (including so-called "tax haven" countries), the foreign tax credit will not completely offset the U.S. tax liability and some U.S. income tax will be paid on this income.

One exception to the general rule of tax deferral is "Subpart F" income attributed to foreign subsidiaries (e.g., insurance income, income earned from complying with an international boycott, and bribes paid by foreign subsidiaries). Subpart F income is taxed to the parent firm as earned by the foreign subsidiary, though a foreign tax credit is allowed for taxes paid to other jurisdictions (as for repatriated earnings).

Background -- Senator Dorgan's Proposal. Senator Dorgan proposes to create a new category of Subpart F income, taxed in the U.S. as earned by foreign subsidiaries of U.S.-based multinationals. This new category of income would consist of all income earned on property (including goods, components, and intangible property) produced abroad by a foreign subsidiary of a U.S. firm and imported into the United States. This class of income -- called "imported property income" -- would include income generated by property directly imported by the foreign subsidiary into the United States and also property sold to an unrelated party if it was reasonable to assume that it would be ultimately imported into the U.S. The proposal would also create a separate foreign tax credit limitation applicable only to imported property income, so that foreign tax credits generated by other income could not be used to offset U.S. income tax liability on this form of income.

The enforcement problems this proposal would pose if enacted are enormous. First, the tax authority would have to distinguish between property imported to the U.S. (directly and indirectly) that is produced by a foreign subsidiary of a U.S.-based multinational and property that never enters the U.S. or that is produced by a foreign company having no parent-subsidiary relationship to a U.S. firm. Second, the tax authority would have to determine the amount of income "earned" on this imported property. Both tasks would be difficult.

Analysis. The proposal is based on the notion that U.S. jobs are best protected by imposing a barrier to firms' efficient worldwide location of production facilities. Since location decisions involve a host of non-tax reasons (e.g., labor costs, proximity to markets, availability of raw materials, adequacy of infrastructure), the imposition of an added tax cost could lead to suboptimal (in terms of production cost) location decisions. The proposal also could distort location decisions in unintended ways. For example, the U.S.-owned foreign firm that was taxed on its imported property income could see its market share taken by a foreign firm that had no direct equity relationship to a U.S. firm and incurred no U.S. income tax cost. While no detailed analysis has been done to indicate which industries wold be most affected by this proposal, it could have disproportionate effects on high-technology industries such as pharmaceuticals, computers, and electronic components, that have production facilities abroad but maintain headquarters operations in the U.S.

In the long run, proposals to discourage imports tend not to increase domestic employment, earnings, or standards of living. To the extent that an import reduction is offset by a decline in exports, the mix of employment may change, but not the aggregate amount. Moreover, the aggregate level of unemployment is generally thought to reflect domestic macroeconomic fundamentals, not the level of imports or exports. The proposal is unlikely to affect fundamental economic variables (such as inflation and aggregate demand) and therefore is unlikely to have a permanent effect on employment and earning levels. If the proposal were perceived by U.S. trading partners as protectionist, it could lead to trade repercussions that would tend to lower domestic living standards by limiting efforts to extend free trade.

The formidable administrative problems posed by this proposal should not be taken lightly. Treasury has been aware of proposals along these lines for a decade or so. To this point, they have been unable to convince themselves that such proposals would be enforceable given the current state of international commerce. Transfer pricing rules (needed to allocate income between parent and subsidiary firms) are already among the most complex sections of the Tax Code. The proposal would place even more pressure on these rules, leading to increased conflict between taxpayers and the Internal Revenue Service. Such a step seems counterproductive.

Recommendation. The Administration probably should not support tax proposals of this type. First, in the long run, proposals of this type will have little or no positive effect on domestic employment and earnings or living standards. Second, this proposal is almost certainly unadministrable and would contribute to the public's concern that the Tax Code is too complex and unworkable. Third, the proposal appears protectionist and could undermine the Administration's support for free trade expansions. Fourth, supporting this proposal could distract effort from the defense of Section 956A (a provision that addresses excessive accumulation of passive assets abroad). The Administration proposed Section 956A in 1993, and it was enacted; Congress is now proposing to repeal it. For all these reasons, any effort expended to support Senator Dorgan's "runaway plant" proposal likely could be better spent elsewhere.

CC: TO'D, MW

DEPARTMENT OF THE TREASURY
OFFICE OF TAX LEGISLATIVE COUNSEL

1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Number of pages: 7 DATE: 6/12/96
INCLUDING COVER SHEET....

TO: Mark Mazur | 395-6809 |
Name | FAX number | Confirmation number

FROM: Mike Thornton | 622-1336
Name | Phone number

Sender's FAX number: 202/622-1772 Location: Room 4206MT

Sender's Confirmation Number: 202/622-2649

Comments/Special Instructions: As agreed to by Senate Finance Committee today.

UNCLASSIFIED

#96-2 150
VERY PRELIMINARY
12-Jun-96

ESTIMATED BUDGET EFFECTS OF MODIFIED CHAIRMAN'S MARK OF A COMMITTEE AMENDMENT TO THE REVENUE PROVISIONS OF H.R. 3448, THE "SMALL BUSINESS JOB PROTECTION ACT OF 1996," SCHEDULED FOR FINANCE COMMITTEE MARKUP ON JUNE 12, 1996

Fiscal Years 1996 - 2005

[Millions of Dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	1996-00	2001-05	1996-05
I. Small Business and Other Tax Provisions														
A. Small Business Provisions														
1. Increase in expensing limitation for small businesses to $18,000 for 1997, $18,500 for 1998, $19,000 for 1999, $20,000 for 2000, $24,000 for 2001, $24,000 for 2002, $25,000 for 2003 and thereafter	tyba 12/31/96	---	-66	-175	-256	-327	-759	-935	-1,029	-977	-928	-824	-4,628	-5,453
2. Provide 15-year depreciation for gas station/convenience stores	ppiso/a/b DOE	-7	-24	-37	-45	-50	-53	-53	-55	-61	-42	-163	-264	-427
3. FICA tip credit														
a. Provided for off-premises employees	1/1/97	---	-6	-14	-15	-16	-17	-18	-18	-19	-20	-51	-92	-143
b. Clarification of effective date	[1]							*Negligible Revenue Effect*						
4. Treatment of certain dues paid to agricultural or horticultural organizations	tyba 12/31/94							*Negligible Revenue Effect*						
5. Fishermen -- clarify exemption from FICA taxes and provide that exemption applies even if crew member receives de minimis amounts of cash payments	rpa 12/31/94	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	-1	-1	-2
6. Change related party and maximum size-requirements for first-time farmer industrial development bonds	bia DOE	---	-1	-6	-12	-17	-21	-26	-30	-34	-37	-35	-148	-183
7. Clarify that newspaper carriers and distributors are independent contractors	spa 12/31/95							*Negligible Revenue Effect*						
8. Provide involuntary conversion treatment for Oklahoma City bombing victims	DDA 12/31/94	-6	-14	-10	-10	-10	-10	-10	-10	-10	-10	-50	-50	-100
9. Leasehold improvements provision	fida 6/12/96	-12	-22	-19	-16	-13	-11	-7	-4	-2	1	-82	-23	-105
10. 100% meals deduction for Alaska seafood processors	tyba 12/31/96	---	-1	-2	-2	-2	-2	-2	-2	-2	-2	-7	-11	-18
11. Modification of excise taxation on hard cider	1/1/97	---	-1	-1	-1	-1	-1	-1	-1	-2	-2	-4	-7	-11
12. Clarification of section 530 worker classification safe harbor	spa 12/31/96							*Negligible Revenue Effect*						
Subtotal of Small Business Provisions		-25	-135	-264	-357	-436	-874	-1,052	-1,148	-1,107	-1,040	-1,217	-5,224	-6,442
B. Provisions Relating to S Corporations														
1. Increase number of eligible shareholders	tyba 12/31/96	---	-5	-14	-16	-20	-22	-25	-28	-31	-35	-55	-141	-196
2. Permit certain trusts to hold stock in S corporations	tyba 12/31/96	---	-2	-2	-2	-2	-2	-2	-2	-3	-3	-8	-12	-20
3. Extend holding period for certain trusts	tyba 12/31/96	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[4]	[5]	[6]
4. Financial institutions permitted to hold safe-harbor debt	tyba 12/31/96	---	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	-1

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	1996-00	2001-05	1996-05
5. Authority to validate certain invalid elections	tyba 12/31/82	---	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	-1
6. Allow interim closing of the books	tyba 12/31/96	Negligible Revenue Effect												
7. Expand post-termination period and amend subchapter S audit procedures	tyba 12/31/96	---	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	-1
8. S corporations permitted to hold S or C subsidiaries	tyba 12/31/96	---	-5	-9	-11	-13	-15	-17	-20	-23	-26	-38	-101	-139
9. Treatment of distributions during loss years	tyba 12/31/96	---	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	-1
10. Treatment of S corporations as shareholders in C corporations	tyba 12/31/96	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[4]	[5]	[6]
11. Elimination of certain earnings and profits of S corporations	tyba 12/31/96	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[4]	[5]	[6]
12. Treatment of certain losses carried over under at-risk rules	tyba 12/31/96	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[4]	[5]	[6]
13. Adjustments to basis of inherited S stock	dda DOE	---	[7]	[7]	[7]	[7]	[7]	[7]	[7]	[7]	[7]	[7]	[7]	[7]
14. Treatment of certain real estate held by an S corporation	tyba 12/31/96	---	-1	-1	-2	-2	-2	-2	-2	-2	-2	-6	-10	-16
15. Transition rule for elections after termination	tyba 12/31/96	---	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[3]	[4]	[5]	[6]
16. Treat financial institutions that do not use the reserve method as eligible corporations	tyba 12/31/96	---	-1	-3	-5	-6	-8	-10	-12	-14	-15	-15	-59	-74
17. Interaction of subchapter S changes	---	---	-3	-26	-32	-37	-38	-39	-40	-40	-40	-98	-197	-295
18. Permit tax-exempts to be subchapter S shareholders with UBTI inclusion and ESOP benefit restriction	tyba 12/31/97	---	---	-3	-9	-11	-13	-15	-17	-19	-21	-23	-85	-108
Subtotal of Provisions Relating to S Corporations		---	-32	-73	-82	-106	-115	-125	-136	-147	-157	-303	-680	-987
II. Pension Simplification Provisions														
A. Simplified Distribution Rules														
1. Repeal of 5-year income averaging for lump-sum distributions	tyba 12/31/99	---	74	77	108	78	70	44	17	15	---	337	145	482
2. Repeal of $5,000 exclusion of employees' death benefits	dda DOE	---	28	49	52	54	55	56	56	57	57	183	280	463
3. Simplified method for taxing annuity distributions under certain employer plans	asda 90 da DOE	---	22	28	28	29	29	29	30	30	31	107	149	256
4. Minimum required distributions	yba 12/31/96	---	-1	-4	-4	-4	-4	-4	-4	-4	-4	-13	-20	-33
B. Increased Access to Retirement Savings Plans -														
1. Establish SIMPLE pension plan as modified, but repeal salary reduction SEPs	yba 12/31/96	---	-50	-76	-79	-81	-84	-87	-91	-94	-97	-285	-453	-735
2. Tax-exempt organizations eligible under section 401(k)	yba 12/31/96	---	-8	-22	-24	-25	-26	-28	-29	-30	-31	-79	-144	-223
3. Increase availability of spousal IRAs	yba 12/31/96	---	-57	-168	-184	-195	-206	-219	-233	-248	-264	-604	-1,170	-1,774
C. Nondiscrimination Provisions														
1. Simplified definition of highly compensated employees [8]	yba 12/31/96	---	[9]	[9]	Considered in Other Provisions									
2. Repeal of family aggregation rules [8]	yba 12/31/96	---	[10]	[10]	Considered in Other Provisions									
3. Modification of additional participation requirements	yba 12/31/96	Negligible Revenue Effect												
4. Safe-harbor nondiscrimination rules for qualified cash or deferred arrangements and matching contributions [11]	yba 12/31/98	---	---	---	-39	-155	-160	-164	-169	-174	-179	-195	-847	-1,042
5. Definition of compensation for section 415 purposes	yba 12/31/97	---	---	-1	-1	-2	-2	-2	-2	-2	-3	-4	-11	-15

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	1996-00	2001-05	1996-05
D. Miscellaneous Provisions														
1. Plans covering self employed individuals	yba 12/31/96	Negligible Revenue Effect												
2. Elimination of special vesting rule for multiemployer plans	yba 12/31/96	---	[2]	-1	-1	-1	-1	-1	-1	-1	-1	-3	-5	-8
3. Distributions under rural cooperative plans	DOE	Negligible Revenue Effect												
4. Treatment of governmental plans under section 415	yba 12/31/94	Negligible Revenue Effect												
5. Uniform retirement age [8]	yba 12/31/96	---	[10]	[10]	Considered in Other Provisions									
6. Contributions on behalf of disabled employees	yba 12/31/96	Negligible Revenue Effect												
7. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations	tyba 12/31/96	---	[2]	-1	-1	-1	-2	-2	-2	-2	-2	-3	-10	-13
8. Require section 457 plan assets to be held in trust	DOE	---	-7	-21	-24	-25	-25	-26	-27	-28	-29	-77	-135	-212
9. Correction of GATT interest and mortality rate provisions in the Retirement Protection Act	[12]	---	-4	-4	-4	---	---	---	---	---	---	-12	---	-12
10. Multiple salary reduction agreements permitted under section 403(b)	tyba 12/31/95	Negligible Revenue Effect												
11. Application of elective deferral limit to section 403(b) plans	tyba 12/31/95	Negligible Revenue Effect												
12. Treatment of Indian tribal governments under section 403(b)	cpbo/a 12/31/96	Negligible Revenue Effect												
13. Repeal of combined plan limit	lyba 12/31/99	---	---	---	---	-72	-195	-201	-207	-213	-219	-72	-1,035	-1,107
14. 3-year waiver of excess distribution tax	1/1/97	---	42	44	47	32	---	---	---	---	---	165	---	165
15. Increase section 4975 excise tax on prohibited transactions from 5% to 10%	ptoa DOE	---	2	4	4	4	4	4	4	4	4	14	20	34
16. Modify notice required of right to qualified joint and survivor annuity	pyba 12/31/96	Negligible Revenue Effect												
17. Treatment of leased employees	yba 12/31/96	Negligible Revenue Effect												
18. Uniform penalty provision to apply to certain pension reporting requirements	1/1/97	No Revenue Effect												
19. Clarify that SECA does not apply to certain parsonage allowance income	ybbo/a 12/31/94	Negligible Revenue Effect												
20. Direct IRS to develop model forms for qualified domestic relations orders ("QDRO") and spousal consent provisions	DOE	Negligible Revenue Effect												
21. Date of adoption of plan amendments	DOE	No Revenue Effect												
22. Exempt volunteer firefighters from section 457 rule (benefits limited to $3,000 per year)	bro/a 1/1/97	---	-2	-5	-7	-9	-11	-13	-16	-18	-20	-23	-78	-101
Subtotal of Pension Simplification Provisions		---	34	-106	-129	-373	-558	-616	-674	-709	-757	-564	-3,314	-3,878
III. Extension of Certain Expiring Provisions														
1. Extend the work opportunity tax credit, with modifications through 9/30/97 [13]	10/1/96	---	-113	-138	-80	-32	-12	-2	---	---	---	-363	-14	-377
2. Employer-provided educational assistance; sunset after 12/31/96	1/1/95	-136	-740	---	---	---	---	---	---	---	---	-876	---	-876
3. R&E credit, with modifications through 6/30/97	7/1/96	-202	-745	-468	-232	-165	-89	-20	---	---	---	-1,813	-109	-1,922
4. Orphan drug tax credit through 6/30/97 with section 39 benefits	7/1/96	-6	-18	-1	-1	-1	-1	[2]	[2]	[2]	[2]	-26	-2	-28
5. Contribution of appreciated stock to private foundations through 6/30/97	7/1/96	-14	-86	-11	-4	---	---	---	---	---	---	-115	---	-115

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	1996-00	2001-05	1996-05
6 Extend section 29 binding contract date to 6 months after date of enactment and placed-in service date to 1/1/98 for biomass and coal	DOE	---	-8	-32	-51	-51	-40	-35	-36	-37	-38	-142	-187	-329
7 Suspend excise tax on motorboat diesel through 6/30/97	7/1/96	-8	-26	---	---	—	---	---	---	—	---	-34	---	-34
Subtotal of Certain Expiring Provisions		-366	-1,736	-651	-388	-249	-142	-57	-38	-37	-38	-3,369	-312	-3,681
IV. Revenue Offsets														
1 Possessions tax credit: Wage credit companies - 6 years of present law, thereafter subject to income cap and, after 10 years, wage credit percentage lowered to 40%; Income companies - 2 years of present law followed by 8 years subject to income cap; QPSII - repealed later of taxable years beginning after 12/31/95 or earnings after 6/30/96	tyba 12/31/95	190	595	540	530	475	500	685	1,075	1,295	1,555	2,330	5,110	7,440
2. Repeal 50% interest income exclusion for financial institution loans to ESOPs [14]	lma DOE	10	64	105	144	182	220	256	292	327	360	505	1,455	1,960
3. Provide that punitive damages are not excludable from income	ara 6/30/96	---	5	7	7	7	8	8	8	8	8	26	40	66
4. Provide for flow through treatment for Financial Asset Securitization Investment Trusts (FASITs)	DOE	—	36	18	9	3	-2	-7	-12	-17	-22	66	-60	6
5. Phase out and extend luxury automobile excise tax through 12/31/02	sma 6/30/96	-10	-58	-105	-132	124	183	140	32	—	---	-180	355	175
6. Modify two county tax-exempt bond rule for local furnishers of electricity or gas; prohibit new local furnishers (with current service areas grandfathered)	DOE	---	[15]	5	1	-1	3	4	8	16	22	5	53	58
7. Eliminate interest allocation exception for certain nonfinancial corporations	tyba 12/31/95	35	99	107	123	141	163	187	201	215	228	505	994	1,499
8. Reinstate Airport and Airway Trust Fund excise taxes through 12/31/96, with exemption for fixed-wing emergency medical aircraft	tp7data DOE	393	1,530	—	---	---	—	—	—	---	---	1,923	---	1,923
9 Tax free treatment of contributions in aid of construction for water utilities; change depreciation for water utilities	[16]	---	-21	-9	-3	11	24	35	45	55	64	-22	223	201
10 Revision of expatriation tax rules	2/6/95	15	37	63	97	139	181	216	247	275	298	351	1,217	1,568
Subtotal of Revenue Offsets		633	2,287	731	776	1,081	1,280	1,524	1,886	2,174	2,513	5,509	9,387	14,896
V. Technical Corrections		14	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	14	[3]	14
SUBTOTAL OF SECTIONS I., II., III., IV., AND V.		256	418	-363	-170	-83	-409	-325	-99	175	521	70	-143	-78
VI. Other Provisions														
A. Miscellaneous Provisions														
1 Exempt from diesel dyeing requirement any States exempt from Clean Air Act dyeing requirement	fcqa DOE	[2]	-1	-1	-1	-1	-1	-1	-1	-1	-1	-3	-3	-6

2,330
500
685
5,515
96 2002

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	1996-00	2001-05	1996-05
2. Application of common paymaster rules to certain agency accounts at State universities [17]	rpa 12/31/96	--	-1	-2	-2	-2	-2	-2	-2	-2	-2	-7	-10	-17
3. Exempt imported recycled halons from ozone-depleting chemicals tax	cia 12/31/96	---	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-5	-9
4. Authorize tax-exempt bonds for purchase of Alaska Power Authority	bia DOE	---	-1	-1	-1	-1	-1	-1	-1	-1	-1	-4	-5	-9
5. Allow for tax-free conversion of common trust funds to mutual funds	ta 12/31/95	-4	-9	-8	-8	-9	-8	-8	-9	-9	-9	-37	-43	-80
6. Clarify that State prepaid tuition plans are tax-exempt entities; clarify OID rules	tyba 12/31/95	*Negligible Revenue Effect*												
7. Suspend excise tax on ozone depleting chemicals used in metered dose inhalers	DOE + 7 days	---	-12	-8	-8	-2	---	---	---	---	---	-30	---	-30
Subtotal of Miscellaneous Provisions		[2]	-25	-21	-21	-18	-13	-13	-14	-14	-14	-85	-68	-151
B. Revenue Offsets														
1. Modify basis adjustment rules under section 1033	DOE	---	1	5	9	14	20	29	37	46	56	29	188	217
2. Repeal exemption for withholding on gambling winnings from bingo and keno where proceeds exceed $5,000	DOE	3	12	6	6	6	7	7	7	7	8	33	36	69
3. Treatment of certain insurance on retired lives	tyba 12/31/95	---	2	1	-2	5	2	[2]	10	-5	2	6	9	14
Subtotal of Revenue Offsets		3	15	12	13	25	29	36	54	48	66	68	232	300
SUBTOTAL OF SECTION VI.		3	-10	-9	-9	10	16	23	40	34	52	-17	166	149
NET TOTAL		258	408	-372	-178	-73	-383	-302	-68	208	573	83	23	74

Joint Committee on Taxation

NOTE. Details may not add to totals due to rounding.

Legend for "Effective" column:
ara = amounts received after
asda = annuity starting date after
bia = bonds issued after
bro/a = benefits received on or after
cia = chemicals imported after
cpbo/a = contracts purchased before, on, or after
dda = decedents dying after
DDA = disasters declared after
DOE = date of enactment
fcqa = first calendar quarter after
lida = leasehold improvements disposed of after
lma = loans made after
lyba = limitation years beginning after
ppiso/a/b = property placed in service on, after, or before
ptoa = prohibited transactions occurring after
ptoe = prohibited transactions occurring after
pyba = plan years beginning after
rpa = remuneration paid after
sma = sales made after
spa = services performed after
ta = transfers after
tyba = taxable years beginning after
tyea = taxable years ending after
tp7data DOE = tickets purchased 7 days after date of enactment for travel 7 days after date of enactment
yba = years beginning after
ybbo/a = years beginning before, on, or after
90 da DOE = 90 days after date of enactment

[Footnotes for Table #96 2 150 appear on the following page]

Footnotes for Table #96-2 150:

[1] Effective as if included in the Omnibus Reconciliation Act of 1993.
[2] Loss of less than $500,000
[3] Loss of less than $5 million
[4] Loss of less than $15 million.
[5] Loss of less than $20 million.
[6] Loss of less than $30 million.
[7] Gain of less than $1 million.
[8] Revenue effect after 1/1/99 included in the revenue estimate for the safe harbor provision due to interactions between this provision and item III.C.4.
[9] Loss of less than $10 million.
[10] Negligible revenue effect.
[11] This provision considers interaction effects of SIMPLE retirement plan provisions (Items III.C.1, III.C.2, and III.D.5)
[12] Effective as if included in the General Agreement on Tariffs and Trade of 1994.
[13] Credit rate at 35% on first $6,000 of income; eligible workers expanded to include welfare cash recipients, veteran foodstamp recipients, and 18 - 24 year olds living in a household receiving food stamps for a period of at least 3 months on the date of hire; 375 hour work requirement.
[14] The repeal would not apply to loans made pursuant to a binding contract entered into before 6/10/96.
[15] Gain of less than $500,000.
[16] Effective for amounts received after 6/12/96 and property placed in service after 6/12/96 with the exception of certain property subject to a binding contract before 6/10/96.
[17] Estimates provided by the Congressional Budget Office.

THE WHITE HOUSE

WASHINGTON

May 13, 1996

TO: LAURA TYSON

FROM: MARK MAZUR

SUBJECT: TAX BILL IN WAYS AND MEANS COMMITTEE

On Tuesday, May 14, the House Ways and Means Committee is scheduled to "mark up" (consider for Committee passage) a tax bill focusing on provisions that would benefit "small business". I believe that all of these provisions were included in the Balanced Budget Act that was vetoed last year (though some may have different effective dates or phase-in schedules). Attached is a preliminary revenue table that is should provide the starting point for the Committee's deliberations (though the Committee Chairman could change the provisions before they begin) .

Treasury met with Leon Panetta earlier today (Monday) to discuss a strategy (I didn't get invited, and I'm not sure if anyone from NEC attended). The basic plan is to state that these tax items should not be attached to legislation that would raise the minimum wage. In addition, Treasury has been working with some Democrat Members to ensure that a number of politically popular amendments are brought up (e.g., extend the R&E tax credit, extend foreign sales corporation treatment to software companies, loosen constraints on the home office deduction). The idea is to have the Republican Members either vote down these popular items or to load up the bill so much that it turns into a big tax bill and collapses.

Background: The revenue-losing provisions include the following:
(1) Increased expensing of equipment for smaller businesses (gradually increasing from the current $17,500 that can be expensed each year to $25,000 in 2003 and later years); the Administration proposed an increase to $25,000 in 1993, but the amount was reduced due to revenue concerns.
(2) Pension simplification provisions (similar to, but less desirable on policy grounds than, the Administration's pension simplification proposals).
(3) Extend the Section 127 exclusion for employer-provided education benefits through December 31, 1996, but do not allow the exclusion for post-graduate classes.
(4) Loosen rules on the use of Subchapter S Corporations (these are limited-liability entities taxed like partnerships where losses flow through to owners and there is no separate corporate-level tax).

(5) Rename the targeted jobs tax credit (TJTC) the "work opportunity tax credit", make modifications ~~to reduce its generosity~~ and increase its effectiveness, and extend it through June 30, 1997.

In general, the Administration is unlikely to quarrel too much with these provisions. Some of these items are in the Administration's budget and others are similar to proposals the Administration has supported in the past. The pension simplification provisions are more generous to owners and higher-income workers than the Administration's proposals. The Section 127 proposal's restriction to undergraduate coursework is probably undesirable. Extending the TJTC under a new name is probably unwise policy (since there is little evidence the TJTC could ever pass a cost/benefit test), but the Administration is unlikely to oppose something that is intended to promote the hiring of low-skilled workers. Bad policy

The revenue-raising provisions are likely to be more controversial. They include:
(1) Phased-out repeal of Section 936 credit for businesses operating in U.S. possessions (e.g., Puerto Rico). ($3.8 billion over 7 years) The Administration proposed a reformulation of this tax credit in the FY 1997 Budget that retains a tax incentive for increased economic activity (e.g., hire workers, build plants, purchase equipment) but that substantially reduces the incentive to simply allocate income to Puerto Rico. Recent regulations issued by Treasury should help lessen the abuse potential for the existing credit and complete repeal is almost certainly overkill (especially since the Congress does not put any other economic development incentive in its place). Treasury will strongly oppose this provision. overkill
(2) Repeal a 50 percent interest exclusion for loans made by financial institutions to employee stock ownership plans (ESOPS) ($1 billion over 7 years). Repeal is probably acceptable policy, though the Administration tends to favor tax provisions for ESOPS (on the grounds that they promote employee participation in firms and, hence, help increase productivity). ESOP?
(3) Reduce income exclusion for damages paid on account of sickness or injury by including in income payments for punitive and non-physical damages. Inclusion of punitive damages is probably good tax policy since these payments are a form of income. Inclusion of non-physical damages is probably too blunt a provision, since payments that compensate a person for actual harm are not income and should not be subject to an income tax.
(4) Reform the income forecast method that applies mostly to movies and recordings. The provision would speed up tax payments from this income (by requiring faster recognition of income earned).

The Administration stated its positions on many of these provisions last year in the context of the Balanced Budget Act. Treasury intends to stay with the same positions. Moreover, if the Democrat Members are successful in their amendment strategy, the bill should cause the Republicans some problems at markup. The Administration's problems may arise if the President is presented with this bill as part of a package that includes an increase in the minimum wage. At that point, we will have to do some serious thinking about the costs and benefits of the overall bill. However, it is premature to get into that at this time.

cc: TO'D

002

10-May-96 5:02pm

#96-1 120
VERY PRELIMINARY
10-May-96

ESTIMATED REVENUE EFFECTS OF A TAX PACKAGE SCHEDULED FOR MARKUP BY THE COMMITTEE ON WAYS AND MEANS ON TUESDAY, MAY 14, 1996

Fiscal Years 1996-2002

[Millions of Dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	1996-00	1996-02
1. Small business incentives - increase in expensing limitation for small businesses to $19,000 for 1996, $19,000 for 1997, $20,000 for 1998, $21,000 for 1999, $22,000 for 2000, $23,000 for 2001, $24,000 for 2002, and $25,000 for 2003 and thereafter	tyba 12/31/95	-193	-313	-304	-459	-566	-579	-591	-1,836	-3,006
2. Pension simplification provisions	various	---	157	47	-59	-329	-382	-423	-175	-989
3. Employer-provided educational assistance; applies to undergraduate education only after 1995; sunset after 12/31/96	1/1/95	-136	-608	---	---	---	---	---	-744	-744
4. Subchapter S corporations reform package	various	-3	-31	-67	-78	-89	-94	-100	-250	-462
5. Extend the work opportunity tax credit, with modifications through 6/30/97 [1]	7/1/96	-33	-90	-91	-48	-19	-6	-1	-281	-288
6. Provide FICA tip credit for off-premises employees	1/1/97	---	-6	-14	-15	-16	-17	-18	-51	-85
7. Permanent extension of FUTA exemption for alien agricultural workers [2]	1/1/95	-5	-3	-3	-3	-3	-3	-3	-17	-23
8. Phased-in repeal of section 936: Wage credit companies - 6 years of present law, followed by 4-year phaseout with modified base period; Income companies - 2 years of present law followed by 8-year phaseout with modified base period; QPSII - repealed 1/1/96	tyba 12/31/95	255	605	552	596	498	516	746	2,506	3,766

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	1996-00	1996-02
9. Repeal 50% interest income exclusion for financial institution loans to ESOPs	lma 10/13/95	27	69	109	149	187	224	261	541	1,026
10. Modify exclusion of damages received on account of personal injury or sickness	ama 12/31/95	34	51	55	59	61	64	68	260	392
11. Corporate accounting - reform of income forecast method	ppisa 9/13/95	32	69	29	13	14	16	19	157	192
12. Apply look-through rule for purposes of characterizing certain subpart F insurance income as UBIT	gira 12/31/95	7	23	24	27	30	32	34	111	177
13. Repeal advance refunds of diesel fuel tax for diesel cars and light trucks	vpoa DOE	3	17	19	19	19	19	19	76	114
14. FICA tip credit technical clarification	---	---	---	---	---	---	---	---	---	---
15. Luxury excise tax and other technical corrections	---	14	---	---	---	---	---	---	14	14
NET TOTAL		2	-60	356	201	-213	-210	11	311	84

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column: ama = awards made after
da = distributions after
gira = gross income received after
lma = loans made after
ppisa = property placed in service after
tyba = taxable years beginning after
vpoa DOE = vehicles purchased on or after date of enactment

[1] Credit rate at 35% on first $6,000 of income; eligible workers expanded to include welfare cash recipients and veteran foodstamp recipients; 500 hour work requirement; can not claim credit until 1997.
[2] Estimates provided by the Congressional Budget Office (CBO).
[3] Loss of less than $500,000.

10-May-96 5:02pm

#96-1 120
VERY PRELIMINARY
10-May-96

ESTIMATED REVENUE EFFECTS OF A TAX PACKAGE SCHEDULED FOR MARKUP BY THE COMMITTEE ON WAYS AND MEANS ON TUESDAY, MAY 14, 1996

Fiscal Years 1996-2002

[Millions of Dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	1996-00	1996-02
1. Small business incentives - increase in expensing limitation for small businesses to $19,000 for 1996, $19,000 for 1997, $20,000 for 1998, $21,000 for 1999, $22,000 for 2000, $23,000 for 2001, $24,000 for 2002, and $25,000 for 2003 and thereafter	tyba 12/31/95	-193	-313	-304	-459	-566	-579	-591	-1,836	-3,006
2. Pension simplification provisions	various	---	157	47	-59	-329	-382	-423	-175	-989
3. Employer-provided educational assistance; applies to undergraduate education only after 1995; sunset after 12/31/96	1/1/95	-136	-608	---	---	---	---	---	-744	-744
4. Subchapter S corporations reform package	various	-3	-31	-67	-78	-89	-94	-100	-250	-462
5. Extend the work opportunity tax credit, with modifications through 6/30/97 [1]	7/1/96	-33	-90	-91	-48	-19	-6	-1	-281	-288
6. Provide FICA tip credit for off-premises employees	1/1/97	---	-6	-14	-15	-16	-17	-18	-51	-85
7. Permanent extension of FUTA exemption for alien agricultural workers [2]	1/1/95	-5	-3	-3	-3	-3	-3	-3	-17	-23
8. Phased-in repeal of section 936: Wage credit companies - 6 years of present law, followed by 4-year phaseout with modified base period; Income companies - 2 years of present law followed by 8-year phaseout with modified base period; QPSII - repealed 1/1/96	tyba 12/31/95	255	605	552	596	498	516	746	2,506	3,766

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	1996-00	1996-02
9. Repeal 50% interest income exclusion for financial institution loans to ESOPs	lma 10/13/95	27	69	109	149	187	224	261	541	1,026
10. Modify exclusion of damages received on account of personal injury or sickness	ama 12/31/95	34	51	55	59	61	64	68	260	392
11. Corporate accounting - reform of income forecast method	ppisa 9/13/95	32	69	29	13	14	16	19	157	192
12. Apply look-through rule for purposes of characterizing certain subpart F insurance income as UBIT	gira 12/31/95	7	23	24	27	30	32	34	111	177
13. Repeal advance refunds of diesel fuel tax for diesel cars and light trucks	vpoa DOE	3	17	19	19	19	19	19	76	114
14. FICA tip credit technical clarification	---	---	---	---	---	---	---	---	---	---
15. Luxury excise tax and other technical corrections	---	14	---	---	---	---	---	---	14	14
NET TOTAL		2	-60	356	201	-213	-210	11	311	84

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column:
- ama = awards made after
- da = distributions after
- gira = gross income received after
- lma = loans made after
- ppisa = property placed in service after
- tyba = taxable years beginning after
- vpoa DOE = vehicles purchased on or after date of enactment

[1] Credit rate at 35% on first $6,000 of income; eligible workers expanded to include welfare cash recipients and veteran foodstamp recipients; 500 hour work requirement; can not claim credit until 1997.
[2] Estimates provided by the Congressional Budget Office (CBO).
[3] Loss of less than $500,000.

NEWS

FROM THE COMMITTEE ON WAYS AND MEANS

FOR IMMEDIATE RELEASE
May 10, 1996

CONTACT: Ari Fleischer or Scott Brenner
(202) 225-8933

News Advisory

Archer Announces Mark-up for Tuesday, May 14

Small Business Job Protection Act of 1996 to be Considered

Washington - Congressman Bill Archer, Chairman of the House Committee on Ways and Means, announced today that the Committee will mark-up the Job Protection Act of 1996 on **Tuesday, May 14th at 1:00pm in Room 1100 of the Longworth House Office Building.**

"As Congress considers minimum wage legislation that will lead directly to the loss of entry level, low-wage jobs," Archer said, "it's vital we take action to minimize those job losses. The Small Business Job Protection Act will help low wage workers by providing them and their companies with incentives to increase productivity, opportunity, and growth. The Small Business Job Protection Act will help small businesses resist the inevitable job losses that will occur if the minimum wage is increased."

-30-

10-May-96 5:02pm

#96-1 120
VERY PRELIMINARY
10-May-96

ESTIMATED REVENUE EFFECTS OF A TAX PACKAGE SCHEDULED FOR MARKUP BY THE COMMITTEE ON WAYS AND MEANS ON TUESDAY, MAY 14, 1996

Fiscal Years 1996-2002

[Millions of Dollars]

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	1996-00	1996-02
1. Small business incentives - increase in expensing limitation for small businesses to $19,000 for 1996, $19,000 for 1997, $20,000 for 1998, $21,000 for 1999, $22,000 for 2000, $23,000 for 2001, $24,000 for 2002, and $25,000 for 2003 and thereafter	tyba 12/31/95	-193	-313	-304	-459	-566	-579	-591	-1,836	-3,006
2. Pension simplification provisions	various	---	157	47	-59	-329	-382	-423	-175	-989
3. Employer-provided educational assistance; applies to undergraduate education only after 1995; sunset after 12/31/96	1/1/95	-136	-608	---	---	---	---	---	-744	-744
4. Subchapter S corporations reform package	various	-3	-31	-67	-78	-89	-94	-100	-250	-462
5. Extend the work opportunity tax credit, with modifications through 6/30/97 [1]	7/1/96	-33	-90	-91	-48	-19	-6	-1	-281	-288
6. Provide FICA tip credit for off-premises employees	1/1/97	---	-6	-14	-15	-16	-17	-18	-51	-85
7. Permanent extension of FUTA exemption for alien agricultural workers [2]	1/1/95	-5	-3	-3	-3	-3	-3	-3	-17	-23
8. Phased-in repeal of section 936: Wage credit companies - 6 years of present law, followed by 4-year phaseout with modified base period; Income companies - 2 years of present law followed by 8-year phaseout with modified base period; QPSII - repealed 1/1/96	tyba 12/31/95	255	605	552	596	498	516	746	2,506	3,766

Provision	Effective	1996	1997	1998	1999	2000	2001	2002	1996-00	1996-02
9. Repeal 50% interest income exclusion for financial institution loans to ESOPs............................	lma 10/13/95	27	69	109	149	187	224	261	541	1,026
10. Modify exclusion of damages received on account of personal injury or sickness	ama 12/31/95	34	51	55	59	61	64	68	260	392
11. Corporate accounting - reform of income forecast method..	ppisa 9/13/95	32	69	29	13	14	16	19	157	192
12. Apply look-through rule for purposes of characterizing certain subpart F insurance income as UBIT...	gira 12/31/95	7	23	24	27	30	32	34	111	177
13. Repeal advance refunds of diesel fuel tax for diesel cars and light trucks...	vpoa DOE	3	17	19	19	19	19	19	76	114
14. FICA tip credit technical clarification............................	---	---	---	---	---	---	---	---	---	---
15. Luxury excise tax and other technical corrections..	---	14	---	---	---	---	---	---	14	14
NET TOTAL		2	-60	356	201	-213	-210	11	311	84

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column: ama = awards made after
da = distributions after
gira = gross income received after
lma = loans made after
ppisa = property placed in service after
tyba = taxable years beginning after
vpoa DOE = vehicles purchased on or after date of enactment

[1] Credit rate at 35% on first $6,000 of income; eligible workers expanded to include welfare cash recipients and veteran foodstamp recipients; 500 hour work requirement; can not claim credit until 1997.
[2] Estimates provided by the Congressional Budget Office (CBO).
[3] Loss of less than $500,000.

THE WHITE HOUSE

WASHINGTON

May 9, 1996

TO: LAURA TYSON

FROM: MARK MAZUR

SUBJECT: SECTION 936 REGULATIONS ISSUED BY TREASURY

On Thursday, May 9, the Federal Register contained a set of regulations on Section 936 (the Possessions Tax Credit that primarily affects U.S. businesses with operations in Puerto Rico). These regulations replaced a set issued in the early 1980's. While providing necessary clarification for affected taxpayers, the regulations may nonetheless be viewed as controversial by those taxpayers whose claims for tax benefits are limited by their application. Here are some notes on these regulations that may be helpful.

- The new regulations update the rules under which Section 936 tax benefits are claimed. In part, these regulations recognize changes in business practices that have occurred since the previous regulations were released over a decade ago.

- Two items in the regulations are intended to address potential abuses and merit special attention:
  - The first is a provision that prevents firms from sourcing more than 100 percent of the profits from a particular product to the possession (e.g., Puerto Rico), thereby creating a tax loss for the U.S. affiliate.
  - The second is a provision limiting the choices Section 936 taxpayers have regarding transfer prices. This constraint states that taxpayers may use "arm's length" prices only for "exactly comparable" products. In other transfer pricing areas, taxpayers are given more latitude in using "arm's length" prices and need only meet a standard of "similar" products.

- The new regulations were proposed in 1994. At this time, taxpayers had the opportunity to comment on the regulations, and many did. Since 1994, Treasury and the IRS have evaluated the comments and determined how to proceed. In particular (and importantly) the IRS replaced a complete ban on "arm's length" pricing contained in the temporary regulations with the more limited constraint described above.

Treasury has undertaken outreach efforts to alert interested parties about these regulations (the Governor of Puerto Rico, three representatives in Congress who have a long-standing interest in Section 936 matters, the mayor of San Juan, etc.). This is an unusual step, but Treasury believes the heightened concern over Section 936 issues warrants this action.

Inside the White House, Harold Ickes and Marcia Hale have been informed about these regulations. My understanding is that Harold Ickes was not very happy about the lack of advance notice regarding the release of the regulations.

Please let me know if you wish to discuss this further.

cc: TO'D