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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	re: Rally for an increase in the minimum wage (Personal) [partial] (1 page)	03/07/2000	b(6)

COLLECTION:

Clinton Presidential Records
National Economic Council
Gene Sperling
OA/Box Number: 20717

FOLDER TITLE:

[Minimum Wage 10/00] [1]

2016-0531-F
jm1820

RESTRICTION CODES

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

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

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

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

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
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b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

MINIMUM WAGE

11/99--

THE WHITE HOUSE

WASHINGTON

March 7, 2000

MEET-AND-GREET FOLLOWED BY RALLY FOR AN INCREASE IN THE MINIMUM WAGE

DATE:	March 8, 2000
TIME:	10:05 a.m. – 11:00 a.m.
LOCATION:	Lawn Behind the Oval Office
FROM:	Gene Sperling

I. PURPOSE

To call on Congress to pass clean, straightforward legislation to raise the minimum wage by $1 over two years.

II. BACKGROUND

Substance:

The following bullets come from the draft Executive Summary of the CEA's report on the minimum wage.

- **A higher minimum wage will help more than 10 million Americans -- mostly adult workers trying to support their families.** According to data from the Bureau of Labor Statistics, more than 10 million hourly paid workers earn between $5.15 and $6.14 and would directly benefit from this pay raise. Over two-thirds (70%) of the workers who would benefit are adults, age 20 or over, and three-fifths (59%) are women, many of whom are trying to raise the family on $5.15. Almost half (46%) worked full-time. And the average minimum-wage worker is estimated to bring home half his or her household's earnings.

- **Valuing work: restoring the value of the minimum wage.** Your proposal to increase the minimum wage by $1 -- combined with the previous 90-cent increase -- simply restores the real value of the minimum wage to what it was in 1982. During President Reagan's eight years in office, the minimum wage remained unchanged at $3.35 and the real value of the minimum wage *fell* by 33 percent. This increase -- in percentage terms -- is in line with previous ones that helped low-wage workers without adversely affecting the economy: both this proposal and the last one combine to increase the minimum wage by about 20 percent.

Withdrawal/Redaction Marker
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(b)(6)

The Costas family lives in a 12 ft. by 70 ft. trailer, and in Cheryl's words, "Things get very crowded at times." She says a raise in the minimum wage would make a big difference for herself and family.

[001]

III. PARTICIPANTS

Meet-and-Greet in Oval Office:

Total = 25-30 people

- **YOU**
- Rep. Dick Gephardt
- Rep. David Bonior
- Senator Ted Kennedy [probably will attend]
- any other Members of Congress who attend the event
- John Podesta
- Sec. Lawrence Summers
- Gene Sperling
- Mary Beth Cahill
- Dep. Secretary Ed Montgomery of the Dept. of Labor
- Cheryl Costas, real person

Event on Lawn Behind Oval Office:

On Stage:

- **YOU**
- John Podesta
- Sen. Kennedy [probably will attend]
- Rep. Gephardt
- Rep. Bonior
- Cheryl Costas, real person
- All Members of Congress in attendance who can fit (overflow will flank the stage on either side)

Audience:

Total = 150

- **Helping ensure parents can raise their children out of poverty.** In 1993, you expanded the Earned Income Tax Credit (EITC), helping to lift hundreds of thousands of working families out of poverty. Today, with the previous minimum wage increase and the expanded EITC, parents who work full-time do not have to raise their children in poverty. A working parent with two children earning the minimum wage in 1993 made $10,559 with the EITC (in 1998 inflation-adjusted dollars) – well below the poverty line. With the 1993 increase in the EITC and the 90 cent increase in the minimum wage in 1996 and 1997, a similarly situated family in 1998 was above the poverty line – making $13,268 – a 26 percent inflation-adjusted increase in their standard of living.

- **The impact from last minimum wage increase is clear: 10 million workers got a raise and there is no evidence jobs were lost.** The last minimum wage, which went into effect in October 1996, provided a pay raise to 10 million workers. Since then the economy has created more than 10 million new jobs and the unemployment rate has fallen from 5.2 percent to 4.1 percent – near the lowest level in 30 years. For teenagers, African-Americans, and women, unemployment is down and employment is up.

- **Minimum wage contributes to welfare roll reductions.** The welfare rolls have fallen by 39 percent since the minimum wage increased in 1996. A study by the Council of Economic Advisers released in August, "The Effects of Welfare Policy and the Economic Expansion on Welfare Caseloads: an Update," found that the increase in the minimum wage contributed 10 to 16 percent of this reduction.

- **Yet more evidence that moderate minimum wage increases do not hurt jobs.** A Card-Krueger study of June 1999 studied the relative effects of minimum wage increases in New Jersey and Eastern Pennsylvania. It finds that, if anything, a higher minimum wage increased employment by increasing the labor supply.

<u>Real Person</u>: **Cheryl Costas**

Cheryl is a checkout clerk at the Colton Alba Grocery and Gas, in her hometown of Colton Alba, Pennsylvania. She is 37 years old, married, and has 4 children ranging in the age of 5 to 15. She just recently received a raise from $5.15 to $5.50 per hour.

She has worked at the grocery store since October 1999, and before that she worked at the Dandy Mini-Mart earning the minimum wage. She is also receiving both federal and state grants to go to school full time at Mansfield University, and would like to get her degree in criminal justice. She just recently cut back her hours to 16-20 hours a week to devote more time to school, but previously worked 36-40 hours at the grocery store.

Until last year, Cheryl was the sole wage earner for her family. Her husband has been on disability since 1997 as a result of a back injury while working for the town roads department. In 1999, he began receiving $925 in social security payments each month.

- Sec. Lawrence Summers
- Gene Sperling
- Mary Beth Cahill
- Dep. Secretary Ed Montgomery of the Dept. of Labor
- Representatives of AFL-CIO
- Representative of civil rights organizations
- Representatives of a coalition of church-based groups that recently endorsed a raise in the minimum wage
- Representatives of pay equity groups

IV. SEQUENCE OF EVENTS

-- **YOU** greet guests in Oval Office for meet-and-greet
-- All proceed to event area behind the Oval Office
-- Off-stage announcement of **YOU**, other speakers and Members of Congress
-- Podesta welcomes guests and introduces Cheryl Costas
-- Cheryl Costas tells her story then introduces **YOU**
-- **YOU** deliver remarks then introduce Rep. Gephardt
-- Rep. Gephardt delivers remarks then introduces Sen. Kennedy
-- Sen. Kennedy makes remarks and introduces Rep. Bonior
-- **YOU** close event and depart

V. PRESS COVERAGE

Open press.

VI. REMARKS

Provided by speechwriting.

poverty

Main Page

U.S. Government is Among Nation's Largest Wage Abusers; Many Federal Contract Workers Earn Below the Poverty Level

As Local Living Wage Movement Takes Off, Grassroots Leaders Call on Federal Government to Follow Suit

Washington, D.C. -- With an estimated 162,000 federal contract jobs paying below a living wage, the U.S. Government is the among the largest abusers of low-wage workers, according to a report by the Economic Policy Institute (EPI) released today by ACORN, the Association of Community Organizations for Reform Now.

While cities across the country have passed living wage ordinances that require their contractors to pay their employees a living wage, the federal government does not. Living wage standards were developed on the principle that anyone who works full-time should be able to support his or her family above the poverty line -- $17,050 a year for a family of four, or $8.20 per hour.

To coincide with the federal contract worker data, ACORN, in conjunction with the National Campaign for Jobs and Income Support, announced today the first-ever national effort to secure living wage legislation at the federal level. Fifty cities around the country will participate in today's National Day of Action for a Federal Living Wage, organized by ACORN to build support for federal legislation through meetings with members of Congress, demonstrations against low wage contractors, op-eds, press conferences, radio appearances and other actvities.

"We've all heard plenty about 'unprecedented prosperity.' Yet while this country continues to enjoy a major economic boom, it does so on the backs of the working poor. Our limited public dollars should not be subsidizing poverty-wage work," said Denise Dixon, a Chicago ACORN member at today's event launching a national campaign to build support for federal living wage legislation.

The decision to take the living wage campaign national was based on the remarkable success of local living wage campaigns in recent years. More than 50 cities have passed ordinances since 1994, and 75 additional cities are currently considering living wage legislation.

While the living wage movement is exploding at the local level, the federal government remains significantly behind.

According to the study:

• In FY99, 11 percent of the 1.4 million federal contract jobs for work performed in the United States were paid below a living wage (with the largest concentration of such jobs in California, Texas, Maryland, Virginia, and the District of Columbia).

• These workers are found in jobs such as maintenance, security, laundry, food service, parking attendants and clerical.

• Workers in private industries which contract with the government fare worse with respect to wages and benefits than direct federal employees.

• Those suffering the most from substandard wages are adult women working full time.

Representative Luis Guiterrez (D-IL) has introduced legislation that would directly address low wage federal contracts. The Federal Living Wage Responsibility Act (H.R. 4353) would require that all firms that hold federal contracts or subcontracts worth at least $10,000 pay all employees working on that contract a living wage at least equivalent to the federal poverty level for a family of four (currently $8.20 an hour). The bill exempts small business and most nonprofits. Senator Wellstone will introduce similar legislation in the Senate.

"The nationwide campaign for a living wage is one of the most exciting and important grassroots movements for economic justice in America today. Living wage campaigns all across the country have won a series of successes at the city, county, and state level, but now it's time to focus our sites on a federal living wage," said Senator Wellstone.

Representative Gutierrez has also vowed to "hit the ground running" with his bill when Congress reconvenes in January. "The current prosperity in the private sector, coupled with unprecedented surpluses in the public sector, makes it difficult to understand how any company - particularly one that has been awarded a generous government contract -- would even consider sending employees home with paychecks to low to keep their families out of poverty. And it makes it impossible to understand how our government could tolerate it."

When subsidized employers are allowed to pay less than a living wage, taxpayers end up footing a double bill: the initial subsidy, and then the food stamps, emergency medical, housing, and other services low wage workers require to support themselves and their families.

"Public dollars should be leveraged for the public good -- reserved for those private sector employers who demonstrate a commitment to providing decent, family-supporting jobs in our local communities," said Deepak Bhargava of the National Campaign for Jobs and Income Support.

Low income families are hit hardest by economic realities such as the failure of the minimum wage to keep pace with inflation (it now buys less than it did in the 1960's); the skyrocketing cost of housing and child care; a lack of health care insurance; and the growing income gap between the rich and the poor. Despite progress in recent years, both male and female low wage workers earn less today in real dollars than they did in 1979.

Living wage campaigns have arisen in response to all these pressures. Many of the local ordinances cover employers who hold large city or county service contracts or receive substantial financial assistance from the city in the form of grants, loans, bond financing, tax abatements, or other economic development subsidies.

ACORN, is the nation's largest grassroots organization of low and moderate income people with over 100,000 members in over 30 cities. Over the past five years, ACORN chapters have been involved in over fifteen living wage campaigns, leading to victories in St. Louis, St. Paul, Minneapolis, Boston, Oakland, Denver, Chicago and Cook County, IL, and Detroit. ACORN also has established the Living Wage Resource Center to track the living wage movement and provide support to the new campaigns that are cropping up everywhere.

Economic Policy Institute Briefing Paper
1660 L Street, NW • Suite 1200 • Washington, D.C. 20036 • 202/775-8810 • http://epinet.org

THE FORGOTTEN WORKFORCE

More Than One in 10 Federal Contract Workers Earn Less Than a Living Wage

by Chauna Brocht

The living wage movement was born out of frustration with Congress' failure to enact a minimum wage that lifts families out of poverty.[1] Initially, living wage activists focused their efforts on passing ordinances at the local level to ensure that the workers employed with government funds were paid above a poverty-level wage. After claiming victories in over 50 localities around the country, the living wage movement is now turning its attention to a group of workers laboring behind the scenes of federal government: those people who work on federal contracts yet earn only poverty-level wages. Recent legislation introduced in Congress would require businesses to pay workers employed on federal contracts a living wage, that is, the amount a full-time worker would need to earn to support a family of four at the poverty line (i.e., $17,050 a year or $8.20 an hour in 2000).

This examination of federal living wage legislation finds that:

- According to data from fiscal year 1999, an estimated 162,000 federal contract workers earn less than $8.20 an hour[2] and thus would potentially be covered by proposed living wage legislation. These workers represent 11% of the total 1.4 million federal contract workers in the United States. An additional 59,000 workers earning as much as a dollar an hour more than the poverty-level wage could also benefit from the spillover effect of living wage legislation. Note that, because the federal government does not collect data on federal contract workers, this study uses data from the General Services Administration to estimate the number of these workers earning less than $8.20 an hour.
- The majority of federal contractors paying poverty-level wages are defense contractors (62%). Most contractors are large businesses (59%), not small businesses or nonprofit organizations.

- Private-sector workers earning less than a living wage are mostly female, adult, full-time workers, and they are disproportionately minorities.
- In 1999, only 32% of federal contract workers were covered by some sort of law requiring that they be paid at least a prevailing wage, which is usually defined as the median wage for each occupation and industry. But even this minority of covered workers are not guaranteed a living wage under current laws. For example, the Department of Labor has set its minimum pay rate at a level below $8.20 an hour for the workers covered by the Service Contract Act in 201 job classifications.

Most federal contract workers employed by private business do not enjoy wages and benefits comparable to their counterparts in the federal workforce. In fact, the federal government currently does nothing to ensure that contract workers employed with federal funds are paid a living wage.

Recent legislation introduced by Rep. Luis Gutierrez (D-Ill.)[3] would require businesses to pay workers employed on federal contracts a living wage, defined as $8.20 an hour.[4] If federal living wage legislation is expanded to include direct federal employees, and additional 274,000 federal workers would also receive a wage increase.

The lack of data on federal contract workers and who these workers are makes providing a provile of these low-wage earners difficult. Further research, such as a survey of contracting firms, is needed in order to know more about these workers and their economic circumstances.

What is a living wage law?

Living wage ordinances are based on the principle that anyone who works full time should be able to support a family above the poverty line. The rationale behind the ordinance is that local governments, which are responsible for developing anti-poverty programs, should not contract with or subsidize employers who pay poverty-level wages.

A living wage ordinance requires certain employers to pay wages that are above federal or state minimum wage levels. Only a specific set of workers are covered by living wage ordinances, usually workers employed by businesses that have a contract with a city or county government, or who receive economic development subsidies from the locality. Living wage ordinances have been enacted in over 50 localities around the country (**Table 1**).

The living wage level is usually set between 100% and 130% of the wage a full-time worker would need to earn to support a family of three or four above the federal poverty line. The wage rates specified by living wage ordinances range from a low of $6.25 in Milwaukee, Wis. to a high of $12.00 in Santa Cruz, Calif. In addition to setting wage levels, many ordinances also have provisions regarding benefits (such as health insurance and paid vacation), labor relations, and hiring practices.

The living wage of $8.20 an hour in the legislation introduced by Rep. Gutierrez is based on the wage a full-time worker would need to earn in order to support a family of four above the poverty line ($17,050 annually in 2000). This proposed legislation would apply only to workers employed on contracts for goods or services and would not cover direct federal employees. The proposed legislation also excludes workers employed by small businesses or nonprofits; this exclusion would reduce the number of covered workers to about 122,000.

TABLE 1
Localities with living wage ordinances

Alexandria, Va.	Milwaukee City, Wis.
Baltimore, Md.	Milwaukee County, Wis.
Berkley, Calif.	Milwaukee School Board, Wis.
Boston, Mass.	Minneapolis, Minn.
Buffalo, N.Y.	Multnomah County, Ore.
Cambridge, Mass.	New Haven, Conn.
Chicago, Ill	New York, N.Y.
Cleveland, Ohio	Oakland, Calif.
Cook County, Ill.	Omaha, Neb.
Corvallis, Ore.	Pasadena, Calif.
Dane County, Wis.	Portland, Ore.
Denver, Colo.	San Antonio, Texas
Des Moines, Iowa	San Fernando, Calif.
Detroit, Mich.	San Francisco, Calif.
Duluth, Minn.	San Jose, Calif.
Durham, N.C.	Santa Clara County, Calif.
Eau Claire County, Wis.	Santa Cruz, Calif.
Gary, Ind.	Somerville, Mass.
Hartford, Conn.	St. Louis, Mo.
Hayward, Calif.	St. Paul, Minn.
Hudson County, N.J.	Toledo, Ohio
Jersey City, N.J.	Tucson, Ariz.
Kankakee County, Ill.	Warren, Mich.
Los Angeles City, Calif.	West Hollywood, Calif.
Los Angeles County, Calif.	Ypsilanti City, Mich.
Madison, Wis.	Ypsilanti Township, Mich.
Miami-Dade County, Fla.	

Source: Political Economy Research Institute, University of Massachusetts

The wages and benefits of private sector and federal workers

The federal government saves money by contracting work to employers who pay less than a living wage. Even the federal government jobs at the low end of the pay scale have historically paid better and have had more generous benefits than comparable private sector jobs. As a result, workers who work indirectly for the federal government through contracts with private industry are not likely to receive wages and benefits comparable to federal workers.

As **Table 2** shows, fewer federal workers are paid poverty-level wages than private sector workers — 9% of the federal workforce earns less than $8.20 an hour, compared to 28% of workers in the private sector. This disparity is due partly to wage standards such as the Service Contract Act and the Davis-Bacon Act, which help protect federal contract workers. But even with this existing legislation, 11% of the federal contract workforce earns less than $8.20 an hour.

Even so, the direct federal workers who do earn poverty-level wages are still more likely than their private sector counterparts (including federal contract workers) to have health insurance and pensions

TABLE 2
Federal and private sector workers earning less than $8.20 an hour, 1999

	Federal employees	Private sector employees
Number of workers	3,040,220	95,272,250
Number of workers earning less than $8.20	273,620	26,676,230
Share of workers earning less than $8.20	9%	28%
Share of workers earning less than $8.20 with employer-provided health Insurance	43%	30%
Share of workers earning less than $8.20 with employer-provided pension	43%	19%

Source: EPI analysis of Current Population Survey data

through their employer. Table 2 shows that 43% of these federal workers receive health insurance and pension coverage through their jobs. By contrast, only 30% of low-wage private sector workers receive health insurance through their employer, and just 19% receive employer-provided pension coverage.

Characteristics and location of poverty-level workers

Table 3 shows the demographic characteristics of private sector workers (including federal contract workers) earning less than a living wage. The table shows that these workers are mostly female, adult, full-time workers, and they are disproportionately minorities.

Women represent 59% of workers earning less than $8.20 an hour, even though they make up only 46% of the private sector workforce. Blacks and Hispanics are also over-represented. Blacks are 11% of the private-sector workforce but 16% of those earning less than $8.20; Hispanics are 12% of the private sector workforce but 19% of those earning less than a living wage.

An overwhelming majority (88%) of workers earning less than $8.20 an hour are adults aged 20 and older. About 68% are employed full time. Only a small 6% of these workers are union members.

Table 4 shows the distribution of low-wage federal contract jobs across the 50 states and the District of Columbia. Five states have a particularly high concentration of these jobs: California (15.6% of all low-paying federal contract jobs); Virginia (10.3%); Maryland (5.8%); Texas (5.1%); and the District of Columbia (4.3%).

Low-wage federal contract jobs by industry

In 1999, the federal government contracted for $199 billion worth of goods and services (General Services Administration 2000) — roughly 25% of these federal contracts were for the purchase of supplies and equipment, and 75% were for the purchase of services (including research and development).

Table 5 shows the distribution of jobs paying less than $8.20 an hour by industry.[5] The share of low-

TABLE 3
Characteristics of private sector workers, 1999

	Workers earning less than $8.20	All workers
Employment	26,676,230	94,775,090
Share of all workers	28.1%	100.00%
Sex		
Male	41.4%	53.7%
Female	58.6	46.3
Race		
White	60.6%	72.7%
Black	15.5	11.2
Hispanic	19.4	11.6
Other	4.5	4.5
Age		
16 - 19	12.2%	4.3%
20 - 24	22.5	12.1
25 and over	65.4	83.6
Work hours		
Full time (35+)	67.9%	84.1%
Part time		
20-34 hours	22.9%	11.7%
1-19 hours	8.9	4.1
Unionization		
Union	5.5%	10.5%
Nonunion	94.5	89.5

Source: EPI analysis of Current Population Survey data.

wage federal contract jobs in each industry is determined by the total dollar value of the contracts in the industry and the share of low-wage workers in that industry.[6]

Over 62% of jobs paying below $8.20 were in service-producing industries.[7] Among service-producing industries, most federally contracted low-wage jobs were in business, auto, and repair services and professional services. Low-wage occupations in the professional services industry include file clerks, welfare service aides, and teachers aides. Janitors are an example of a low-wage occupation in the business, auto, and repair services industry.

A third of the low-wage contract jobs were in goods-producing industries, such as manufacturing; examples of low-wage manufacturing occupations include hand packers and hand cutters. About 3% of low-wage contract jobs were in construction industries (3%)[8]; painters are an example of workers in this industry who might earn less than a living wage.

TABLE 4
Distribution of federal contract jobs paying less than a living wage, by state, 1999

	Number	Share of total
Northeast	22,010	13.5%
Connecticut	3,590	2.2
Maine	820	0.5
Massachusetts	4,980	3.1
New Hampshire	300	0.2
New Jersey	2,900	1.8
New York	4,260	2.6
Pennsylvania	4,730	2.9
Rhode Island	240	0.1
Vermont	180	0.1
Midwest	16,630	10.2%
Illinois	2,480	1.5
Indiana	1,670	1.0
Iowa	560	0.3
Kansas	590	0.4
Michigan	1,270	0.8
Minnesota	1,510	0.9
Missouri	3,860	2.4
Nebraska	320	0.2
North Dakota	130	0.1
Ohio	3,000	1.8
South Dakota	240	0.1
Wisconsin	1,010	0.6
South	66,980	41.2%
Alabama	3,200	2.0
Arkansas	150	0.1
Delaware	270	0.2
District of Columbia	6,970	4.3
Florida	5,410	3.3
Georgia	2,530	1.6
Kentucky	600	0.4
Louisiana	2,060	1.3
Maryland	9,480	5.8
South *(cont.)*		
Mississippi	830	0.5
North Carolina	1,460	0.9
Oklahoma	730	0.4
South Carolina	2,390	1.5
Tennessee	5,530	3.4
Texas	8,340	5.1
Virginia	16,690	10.3
West Virginia	330	0.2
West	44,600	27.4%
Alaska	330	0.2
Arizona	5,070	3.1
California	25,280	15.6
Colorado	2,430	1.5
Hawaii	390	0.2
Idaho	760	0.5
Montana	790	0.5
Nevada	830	0.5
New Mexico	4,240	2.6
Oregon	470	0.3
Utah	860	0.5
Washington	3,060	1.9
Wyoming	90	0.1
US territories	1,080	0.7%
Guam	150	0.1
Puerto Rico	530	0.3
Other U.S. territories	400	0.2
Not indicated	11,230	7%
U.S.	162,530	100%

Source: EPI analysis of Current Population Survey and Federal Procurement Data System data

Employers paying less than the living wage

Federal agencies contract for goods and services from private sector companies, nonprofits, and state and local governments. In this section we report the types of contractors that directly employ these low-paid federal contract workers and the federal agencies for whom these workers indirectly work.

Table 6 shows the federal agencies that contract with businesses that pay workers less than $8.20 an hour. The share of low-wage federal contract jobs contracted by each agency is determined by the total dollar amount of the contracts and the share of low-wage workers in the industries.[9]

Over 100,000 (62%) of low-wage federal contract jobs are through the Department of Defense.[10]

TABLE 5
Federal contract jobs paying below a living wage, by industry, 1999

	Less than $8.20		$8.21 - $9.20	
	Number	Share	Number	Share
Goods producing	54,250	33.4%	23,640	40.3%
Agriculture	650	0.4	100	0.17
Forestry and fisheries	n/a	n/a	n/a	n/a
Mining	n/a	n/a	n/a	n/a
Manufacturing nondurable goods	5,570	3.4	1,790	3.05
Manufacturing durable goods	48,030	29.6	21,760	37.08
Construction	4,880	3.0%	1,700	2.9%
Service producing	101,350	62.4%	32,510	55.4%
Transportation	2,080	1.3	890	1.52
Communications	680	0.4	350	0.60
Utilities and sanitary services	230	0.1	100	0.17
Wholesale trade	7,520	4.6	2,790	4.75
Retail trade	1,910	1.2	260	0.44
Finance, insurance, and real estate	1,750	1.1	780	1.33
Personal services	910	0.6	140	0.24
Business, auto, and repair services	21,530	13.2	5,700	9.71
Entertainment and recreation services	230	0.1	40	0.07
Hospitals	480	0.3	180	0.31
Medical services (exc. hospitals)	860	0.5	240	0.41
Educational services	6,620	4.1	1,870	3.19
Social services	1,150	0.7	200	0.34
Other professional services	49,420	30.4	17,510	29.84
Public administration	320	0.2	140	0.24
Nonclassifiable establishments	2,050	1.3%	840	1.4%
Total	162,530	100%	58,690	100%

Source: EPI analysis of Current Population Survey and Federal Procurement Data System data

The civilian agencies with the largest number of low-paid contract jobs are the Department of Energy (19,100 jobs), the National Air and Space Administration (7,810), the Department of Health and Human Services (7,460), the General Services Administration (3,970), and the Department of the Treasury (3,500). These agencies all have a slightly higher share of low-wage jobs compared to the share of contracts through their agency. For instance, the Department of Health and Human services accounts for 2.5% of federal funds spent on contracts, but accounts for 4.6% of jobs that pay below $8.20 and hour.

Table 7 lists the types of contractors paying below a living wage. A majority (59%) of these jobs are in large businesses. The next largest share (18%) of jobs are within the small business sector,[11] followed by nonprofits (7%), and state and local governments (7%). If small businesses and nonprofits are exempted from the law, then the number of workers who would receive the wage increase is reduced to 122,000, or by about 25%.

TABLE 6
Federal contract jobs paying below a living wage, by contracting agency,* 1999

	Less than $8.20		$8.21 - $9 20	
	Number	Share	Number	Share
Department of Defense	100,500	62%	38,140	65.0%
Civilian agencies	61,170	37.6%	20,380	34.7%
Agriculture	2,940	1.8	960	1.6
Commerce	920	0.6	270	0.5
Education	1,130	0.7	350	0.6
Energy	19,100	11.8	6,400	10.9
Environmental Protection Agency	830	0.5	280	0.5
Executive Office of the President	720	0.4	250	0.4
Federal Emergency Management Agency	360	0.2	140	0.2
General Services Administration	3,970	2.4	1,370	2.3
Health and Human Services	7,460	4 6	2,240	3.8
Housing and Urban Development	610	0 4	210	0.4
Interior	610	0.4	180	0.3
Justice	2,870	1.8	920	1.6
Labor	1,840	1.1	510	0.9
National Air and Space Administration	7,810	4.8	2,940	5.0
National Science Foundation	280	0.2	100	0.2
Nuclear Regulatory Commission	70	0.0	20	0.0
Office of Personnel Management	100	0.1	30	0.1
Smithsonian Institution	60	0.0	20	0.0
Social Security Administration	500	0.3	140	0.2
State	1,030	0.6	330	0.6
Transportation	2,560	1.6	940	1.6
Treasury	3,500	2.2	1,160	2.0
Veteran's Affairs	1,870	1.2	600	1 0
Total	162,530	100%	58,690	100%

* Agencies with more than 50 jobs paying less than $8.20 an hour.

Source: EPI analysis of Current Population Survey and Federal Procurement Data System data.

The failure of current wage standards

Living wage ordinances were first created because local governments had been contracting out jobs without setting standards regarding pay. In the case of federal contract workers, some laws, such as the Service Contract Act and the Davis-Bacon Act, regulate wages for certain types of contracts. However, these regulations do not ensure that workers are paid above a poverty-level wage; many workers are excluded from coverage by these laws, and the prevailing wage can be set below $8.20 an hour.

Some service workers on federal contracts are covered by the Service Contract Act, which requires workers to be paid the prevailing wage. The prevailing wage is determined by the Department of Labor, and is usually defined as the median wage (the wage where half of all workers earn more and half earn less) or the average wage for each occupation and locality. The Davis-Bacon Act is a similar law that covers the construction industry.

TABLE 7
Federal contract jobs that pay below a living wage, by type of contractor, 1999

	Less than $8.20		$8.21 - $9.20	
	Number	Share	Number	Share
Small business	28,970	17.8%	9,830	16.7%
Small disadvantaged business	7,770	4.8	2,440	4.2
Other small business	21,200	13.0	7,380	12.6
Large business	95,830	59.0%	36,260	61.8%
Nonprofit	11,750	7.2%	3,930	6.7%
Nonprofit agency employing blind or severely disabled persons	480	0.3	150	0.3
Nonprofit educational organization	4,180	2.6	1,420	2.4
Nonprofit hospital	380	0.2	130	0.2
Historically black college/ university or minority institution	140	0.1	40	0.1
Other nonprofit organization	6,580	0.1	2,190	0.1
State and local government	10,700	6.6%	3,050	5.2%
State-local government — educational	8,750	5.4	2,490	4.2
State-local government — hospital	190	0.1	60	0.1
Other state-local government	1,770	1.1	500	0.9
Women-owned business*	3,260	2.0%	1,040	1.8%
Not indicated	15,270	9.4%	5,610	9.6%
Total	162,530		58,690	

* Category is not mutually exclusive.

Source: EPI analysis of Current Population Survey and Federal Procurement Data System data.

TABLE 8
Total federal contract jobs by existing wage standards, FY 1999

	Number	Share
Covered by law with wage standard	459,010	32.0%
Service Contract Act	346,020	24.5
Davis-Bacon Act	112,990	8.0
Not covered by law with wage standard	956,020	68%
Walsh-Healey Act	263,660	18.6
Not subject to Walsh-Healey, Service Contract, or Davis-Bacon Acts	653,880	46.2
Not indicated	38,490	2.7
Total	1,415,030	100%

Source: EPI analysis of Federal Procurement Data System data.

There are, however, many exemptions to these laws. For example, contracts for the maintenance and repair of computers are exempt from the Service Contract Act. In fact, as **Table 8** shows, in 1999 only 32% of federal contract workers were covered by laws with wage standards: 25% were covered by the Service Contract Act, and 8% were covered by the Davis-Bacon Act.

One drawback to using a prevailing wage standard is that it can be set as low as the minimum wage. Thus, a prevailing wage law does not guarantee that workers will be paid a living wage. As a consequence, the Department of Labor has set the prevailing wage at a level below what is considered a living wage for 201 job classifications covered by the Service Contract Act.[12] The job classifications for which wages are set below $8.20 in at least some areas of the country include accounting clerk, bus driver, child care attendant, corrections officer, court security clerk, food service worker, janitor, laundry worker, mail clerk, parking lot attendant, receptionist, and vending machine repairer.

Because we have excluded all workers covered by the Service Contract Act and the Davis-Bacon Act from this analysis, we actually underestimate the number of federal contract workers who earn less than a living wage.

Conclusion

Pressure on federal agencies to reduce the size of their workforce has created incentives for contracting for goods and services to private businesses. Most of the workers employed by these private businesses do not enjoy wages and benefits comparable to federal workers.

In fact, an estimated 162,000 federal contract workers don't earn a wage sufficient to lift a family of four out of poverty. Just under 60% of these poorly paid workers work for large firms, and 62% work on Department of Defense contracts.

Most of these low-wage workers are women, adults, and work full time. While a majority of these low-wage workers are white, blacks and Hispanics are over-represented among those earning poverty-level wages.

Currently, the federal government does nothing to ensure that contract workers employed with federal funds are paid a living wage. Only one-third of contract jobs are covered by a wage standard, and even the standards that cover these workers don't require that they are paid a living wage. Living wage legislation would ensure that all federal contract workers could support their families above the poverty line.

November 2000

Methodology

The federal government does not collect data on the number of federal contract workers or who these workers are.[13] For some idea of the characteristics of federal contract workers, we looked at the characteristics of private sector workers in general (the majority of federal contract workers work for the private sector).

To estimate the number of low-wage workers covered by federal contracts, we combined General Services Administration (GSA) data on federal contracts with data from the Current Population Survey on the share of low-wage workers. We were able to use the dollar value of a contract to estimate the number of workers on that contract.

We then estimated the number of low-wage workers on the contract by using the proportion of low-wage workers among private sector workers in that industry. This assumes that the same proportion of contract workers earn poverty level wages as workers in the private sector. We could not make this assumption for workers covered by the Service Contract Act or the Davis-Bacon Act, because these workers are paid the prevailing wage (the location-specific median wage for their occupation). Under the conservative assumption that all workers on contracts covered by the Service Contract Act and the Davis-Bacon earn above $8.20 an hour, workers on these contracts were excluded from our analysis. Because there is evidence that some workers covered by these laws do earn less than $8.20 an hour (see below), our estimate of the number of contract workers who earn less than a living wage is conservative.

The GSA data provided information on where the work on federal contracts was performed, which federal agencies contracted for the work, and what types of businesses the contracts are with (see the data appendix for a more detailed explanation of the methodology).

Data Appendix

Data on contracts were obtained from the Federal Procurement Data System (FPDS), collected by the U.S. General Services Administration. The FPDS contains nearly 500,000 records of transactions over $25,000 that occurred during fiscal year 1999 (October 1, 1998 – September 30, 1999). Each record contains data on the dollar amount of the action, the location of the work performed, the contracting agency, the industry of the business doing the work, and other information on the type of business.

To estimate the number of jobs on each contract, we matched the Standard Industrial Classification (SIC) code for each contract in the FPDS to the industry codes used in the 1998 Domestic Employment Requirements Matrix from the Bureau of Labor Statistics (BLS). We used the number of jobs created per million dollars of sales[14] from the matrix to estimate the number of jobs created[15] on each contract action, based on the dollar value of the contracts.

For each broad industrial classification, we estimated the proportion of workers earning below $8.20 an hour and $9.20 an hour using the Current Population Survey. We then multiplied this proportion by the number of workers per contract in each industry to get the total number of workers that earned less than $8.20 an hour and $9.20 an hour. Because we use a national proportion of low-wage workers, this method may over-estimate the number of affected workers in high-wage states and under-estimate the number in low-wage states.

For example, for a firm in the building services industry with a contract worth $5 million, we multiplied 5 by 30 (the number of jobs per $1 million of sales for that industry). The result is an estimated 150 jobs. We then multiplied the number of jobs on that contract by the share of low-wage jobs in the building services industry (7%). Thus, our estimate was 10 jobs paying less than $8.20 for that contract.

This methodology assumes that the same proportion of contract workers earn poverty level wages as workers in the private sector. We could not make this assumption for workers covered by the Service Contract Act or the Davis-Bacon Act, because these workers are paid the prevailing wage (the median wage for their occupation). Thus, we excluded workers covered by the Service Contract Act and Davis-Bacon Act from our analysis.

Using the data collected in the FPDS on each contract, we were able to generate Tables 4-9. To determine the characteristics of workers earning less than $8.20, we used Current Population Survey ORG data. (See the data appendix of Bernstein and Schmitt (1998) for more details.)

Endnotes

1. The last minimum wage increase went into effect in 1996-97, when the minimum wage was raised from $4.25 to $5.15. Congress is currently considering legislation to increase the minimum wage to $6.15. Without another increase, the real value of the minimum wage will fall to $4.67 (1999 dollars) by the year 2003 (according to inflation projections by the Congressional Budget Office).

2. We estimated the number of jobs, regardless of whether the jobs are full time or part time (in other words, these jobs are not expressed as "full time equivalent" jobs).

3. Senator Paul Wellstone (D-Minn.) has also announced plans to introduce federal living wage legislation.

4. However, as the legislation is currently written, some of these workers would be exempt because they work for small businesses or nonprofits.

5. We are unable to report the number of jobs by occupation.

6. For the total dollar value of contracts by each industry, see the Federal Procurement Report (General Services Administration 2000).

7. The share of low-wage workers in service industries is potentially larger. We excluded workers covered by the Service Contract Act because these workers are paid the prevailing wage, but there are some job classifications under that act that pay less than $8.20 an hour.

8. The share of low-wage workers in the construction industry is also potentially larger. We excluded workers covered by the Davis-Bacon Act because these workers are paid the prevailing wage, but there are some job classifications under that act that pay less than $8.20 an hour.

9. For the total dollar value of contracts by each agency, see the Federal Procurement Report (General Services Administration 2000).

10. This is below the share of total federal funds spent on Department of Defense contracts (67%).

11. The definition of a small business varies by industry. The following are the most common small business size standards: fewer than 500 employees for most manufacturing and mining industries; fewer than 100 employees for all wholesale trade industries; less than $5 million for most retail and service industries; less than $17 million for most general and heavy construction industries; less than $7 million for all special trade contractors, and less than $0.5 million for most agricultural industries.

12. Department of Labor memo to Rep. Gutierrez dated March 24, 2000.

13. Legislation introduced earlier this year — the Truthfulness, Responsibility, and Accountability in Contracting Act (S. 2841 and H.R. 3766) — would, among other things, require all agencies to track the size of their contractor workforces, for specific contracts as well as for all contracts combined, and would require the Office of Personnel Management and the Department of Labor to report to Congress on how contractor wages and benefits compare to those earned by federal employees.

14. We included only jobs created in the industry where the sales occurred.

15. Because some dollar amounts on the contract actions were negative (when contractors refund unspent money), some actions were associated with negative job creation.

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General Services Administration. 2000. *Federal Procurement Report, FY 1999 Through Fourth Quarter.* Washington, D.C.: General Services Administration.

Danielle Gao and Yvon Pho provided extensive programming assistance for this paper. Jennifer Lake, Megumi Kubota, and Abe Cambier also provided research assistance. Jared Bernstein, John Schmitt, Edie Rasell, Jen Kern, Helene Jorgensen, and Kris Misage gave helpful comments. Joe Procopio carefully edited the paper.

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106TH CONGRESS
2D SESSION

H. R. 4353

To provide for a livable wage for employees under Federal contracts and subcontracts.

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2000

Mr. GUTIERREZ (for himself, Mr. BONIOR, Mr. BRADY of Pennsylvania, Mr. STARK, Mr. EVANS, Mr. THOMPSON of Mississippi, Mr. KUCINICH, Mr. FRANK of Massachusetts, Mr. HILLIARD, Mr. GREEN of Texas, Mr. FILNER, Ms. LEE, Mr. MEEKS of New York, Ms. VELAZQUEZ, Mr. SANDERS, Ms. KILPATRICK, Mr. PALLONE, Ms. WATERS, Mr. CAPUANO, Mr. WYNN, Mr. HOEFFEL, Ms. NORTON, Mr. HINCHEY, Mr. ENGEL, Mr. DAVIS of Illinois, Mr. FATTAH, Mr. JACKSON of Illinois, Mr. NADLER, Mr. LEWIS of Georgia, Mr. OWENS, Ms SCHAKOWSKY, Mr. COSTELLO, Mr. CONYERS, Mr. RUSH, Mr. PAYNE, Mr. MCDERMOTT, Ms. CARSON, Mr BROWN of Ohio, Mrs. MALONEY of New York, Mr. BERMAN, Mr. COYNE, Mr. MARTINEZ, Mr. PASTOR, Mr. TIERNEY, Mrs. CHRISTENSEN, Mr CUMMINGS, Mr. PHELPS, Mrs. CLAYTON, Mr. GEORGE MILLER of California, Mr. KILDEE, Ms. PELOSI, Ms. MCKINNEY, Mrs. MINK of Hawaii, Mr. STRICKLAND, Mr. MATSUI, Mr. RAHALL, Ms. WOOLSEY, Ms. BALDWIN, Mr. DEFAZIO, Ms. MILLENDER-MCDONALD, Mrs. JONES of Ohio, Mr. RANGEL, Mr. OLVER, Mr. DELAHUNT, Mr. TOWNS, Ms. BROWN of Florida, Mr. CLAY, Ms. DELAURO, Mr. MCNULTY, Mr. LIPINSKI, Mr. ROMERO-BARCELO, Mr. SERRANO, Mr. FALEOMAVAEGA, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. JACKSON-LEE of Texas, Mr. LANTOS, Mr. JEFFERSON, Mr. RODRIGUEZ, Mr. SABO, Mr. FARR of California, Mr. DIXON, Mrs. MEEK of Florida, Mr REYES, Mr. ORTIZ, Mr. HINOJOSA, Mrs. NAPOLITANO, Mr. GONZALEZ, Mr. BACA, Mr MCGOVERN, Mr. BARRETT of Wisconsin, and Ms. ROYBAL-ALLARD) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for a livable wage for employees under Federal contracts and subcontracts.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Living Wage Responsibility Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) American workers are working harder to make ends meet.

(2) The wages of many working Americans have not kept pace with the cost of providing for their families.

(3) The Federal Government provides billions of dollars in subsidies to businesses each year through both spending programs and the Internal Revenue Code of 1986.

(4) Recipients of Federal contracts have benefited greatly from the provision of taxpayers' dollars.

(5) The Congressional Budget Office concluded that the Federal Government spends more than $30 billion a year on spending and credit programs.

(6) Congress must ensure that Federal dollars are used responsibly to improve the economic security and well-being of Americans across the country.

SEC. 3. POVERTY LEVEL WAGE.

(a) REQUIREMENT.—

(1) GENERAL RULE.—Except as provided in paragraph (2), any employer under a Federal contract for an amount exceeding $10,000 or a subcontract under a Federal contract for such an amount shall, except as provided in subsection (b), pay each of the employer's employees working on or hired in conjunction with such contract or subcontract—

(A) an hourly wage necessary for such employee to earn, while working 40 hours a week on a full-time basis, the amount of the Federal poverty level for a family of 4 (as published in the Federal Register by the Department of Health and Human Services under the authority of section 673(2) of the Omnibus Budget Reconciliation Act of 1981), or

(B) $8.20 an hour,

whichever is greater.

(2) EXCEPTION.—An employer which is—

(A) a small business concern as defined under section 3 of the Small Business Act (15 U.S.C. 632), or

(B) a nonprofit organization exempt from Federal income tax under section 501(c) of the Internal Revenue Code of 1986 if the ratio of the total compensation of its chief executive officer to the compensation of the full-time equivalent of its lowest paid employee is not greater than 25 to 1,

shall not be required to pay the wage prescribed by paragraph (1).

(3) SCOPE.—An employer may not avoid the requirement of paragraph (1) by laying off or otherwise terminating the employment of an employee with the intention of replacing such employee with an employee who, under subsection (b), is not eligible for the subsection (a) wage.

(b) EXCEPTION.—An employee who is participating in—

(1) an apprenticeship program, or

(2) any other training program which does not exceed 6 months in duration and which is offered to an employee while employed in productive work that provides training, technical and other related skills,

and personal skills that are essential to the full and adequate performance of the employee's employment,

is not eligible for the wage prescribed by subsection (a).

(c) CONTRACT REQUIREMENT.—Any contract between the Federal Government and any contractor and any contract between such contractor with a subcontractor to carry out work for the Federal Government shall require the contractor or subcontractor to pay the wage prescribed by subsection (a)(1).

(d) ENFORCEMENT.—

(1) SUSPENSION.—If an employer does not pay the wage required by subsection (a) the Federal contract or subcontract under which such employer was employing employees shall be suspended.

(2) INELIGIBILITY.—An employer described in paragraph (1) shall not be eligible for any Federal contract or subcontract for a period of 5 years beginning on the date the employer does not pay the required wage.

(3) RESTITUTION.—An employer who does not pay the wage required by subsection (a) shall be liable to the United States in an amount equal to the unpaid wages and in addition an equal amount as liquidated damages. The Secretary of Labor shall

pay to the employees who were not paid such wage the amount recovered by the United States under this paragraph.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect with respect to Federal contracts entered into, renewed, or extended after 90 days after the date of enactment of this Act.

○

Min Wage

UNITED STATES DEPARTMENT OF LABOR

FACSIMILE TRANSMISSION

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS

200 Constitution Avenue, N.W. Room S-2006 Washington, DC 20210	Confirmation: 202/693-4601 August 8, 2000/10:39AM

To: GENE SPERLING

DEPARTMENT/COMPANY:

FACSIMILE NUMBER: 456-2878

FROM: GERI PALAST

NUMBER OF PAGES INCLUDING COVER: 4

FACSIMILE REPLIES:		
	CONGRESSIONAL AFFAIRS	202/693-4642
	INTERGOVERNMENTAL AFFAIRS	202/693-4644
	IMMEDIATE OFFICE OF THE ASSISTANT SECRETARY	202/693-4641

MESSAGE:

Resending on 8/28 at 1:15pm.

Ingrid Platt

March 8, 2000
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

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

H.R. 3833 - Minimum Wage Increase
(Shimkus (R) Illinois)

H.R. 3832 - Small Business Tax Fairness Act
(Archer (R) Texas)

If Congress presents the President with legislation that either unacceptably delays a minimum wage increase or contains fiscally irresponsible tax cuts, the President will veto the legislation.

H.R. 3833 - Minimum Wage Increase

Congress should pass a straightforward bill to raise the minimum wage by $1 in two equal steps, as proposed by the President. H.R. 3833, which would extend a minimum wage increase over a three-year period, would unacceptably delay the American worker's much-needed pay raise, costing a full-time, year-round worker more than $900 over two years. The Administration strongly urges Congress to enact a minimum wage bill as proposed by the President, unencumbered by measures to repeal important overtime protections for workers or regressive, fiscally irresponsible tax cuts that threaten Social Security, Medicare, and debt reduction.

A modest increase in the minimum wage of $1 would merely restore the real value of the minimum wage to the 1982 level. Recent history has shown that those who argue that even a reasonable increase in the minimum wage would harm the economy are wrong. Since the last minimum wage increase of 90 cents over two years, enacted in 1996, the unemployment rate has fallen from 5.2 percent to 4.1 percent -- around the lowest in 30 years -- and more than 10 million new jobs have been created. That last minimum wage increase provided a significant incentive to work, contributing to the 44 percent decline in the welfare caseload, and bringing the welfare rolls down to their lowest level in three decades. It also has been a crucial factor in contributing to rising incomes for even the poorest groups, reversing their income declines of the previous decade.

Minimum wage legislation should not be used as a vehicle to repeal important overtime protections for American workers, and the Administration would oppose adding such provisions. For example, the Administration is concerned about provisions in the bill that would repeal overtime protections for 1.5 million American sales employees, funeral workers, and computer professionals.

Youth Minimum Wage

Prior law:
At the time of the 1996 Amendments to the Fair Labor Standards Act (FLSA) (enacting the last minimum wage increase), there was no youth sub-minimum wage. However, the 1989 FLSA Amendments provided for a temporary youth "training wage," which ended in 1993.

Workers under 20 could be paid a training wage of 85% of the minimum wage for the first 90 days of employment. They could be paid the same sub-minimum training wage for a second 90-day period with a **different** employer if that employer met certain on-the-job training requirements.

Current law:
The 1996 Amendments established a different youth sub-minimum wage. FLSA-covered employers may pay a sub-minimum wage of $4.25 an hour (the minimum wage prior to the 1996 Amendments; the current minimum wage is $5.15) to employees who are under 20 years of age during the first 90 consecutive calendar days after initial employment.

A worker can only be "initially employed" once by a given employer. However, a worker under 20 can be "initially employed" by more than one employer. Thus, a particular young worker may receive the sub-minimum wage upon initial employment by different employers, so long as the worker is less than 20 years old.

Employers are prohibited from displacing an employee (discharge or reduction in hours, wages or benefits) in order to hire someone at the youth minimum wage.

Tip Credit

Prior law:
Prior to the 1996 Amendments, an employer was required to pay tipped employees a cash wage equal to 50% of the minimum wage, and could count tips received by employees as wages to satisfy the full minimum wage. If the total of employer-paid cash wage plus tips equaled less than the full minimum wage, the employer had to make up the difference.

Current law:
The 1996 Amendments abandoned the "percent of minimum wage" approach, and froze the cash wage employers must pay at $2.13 an hour -- the dollar amount equal to 50% of the minimum wage at the time of the amendments. If the total of employer-paid cash wage plus tips equals less than the full minimum wage, the employer must make up the difference.

Thus, under current law the amount of cash wage the employer must pay tipped employees will stay the same notwithstanding any subsequent increase in the minimum wage, so long as tips cover the difference. As the minimum wage increases, so will the amount of employee tips that the employer may count towards the minimum wage and the employer's cash wage obligation will remain fixed.

J. Dennis Hastert
Fourteenth District
Illinois

Min Wage

(202) 225-0600

Office of the Speaker
United States House of Representatives
Washington, DC 20515
September 28, 2000

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Honorable Richard Gephardt
U.S. House of Representatives
Washington D.C. 20515

Dear Dick:

Thank you for your letter of September 26, 2000 regarding a balanced approach to the minimum wage. As you know, I wrote the President a week before Labor Day, asking him for his help in breaking the roadblock that has kept us from enacting legislation that would raise the minimum wage as it provided tax relief for the small business owners who often hire minimum wage workers. I appreciate your response, which I take as a good faith effort to break this roadblock.

In your response, you express grave concern about the above-the-line health care tax deduction. According to the Joint Tax Committee, 26 million Americans would be able to provide affordable health care coverage by claiming this important tax deduction. And according to the General Accounting Office, this tax deduction would primarily benefit millions of low and middle-income Americans in the 15% percent tax bracket, and help 1.6 million Americans to get health insurance for the first time.

You said in your letter that increasing the minimum wage would help 10 million workers. Likewise, our 100% health care tax deduction would help 26 million Americans get health care insurance or increase their current coverage. Most of these Americans work in small businesses, which often cannot afford to offer their employees health insurance.

One of the real problems in health care today is access to affordable health insurance. Our plan addresses that problem with a solution that works. I urge you to drop your opposition to this common-sense health care reform. If we work together, I believe we can help America's workers with their wages and with their health insurance. We can also help small businesses, which create the majority of new jobs in the country. Thank you for your letter and I look forward to hearing from you in the future.

Sincerely,

Denny Hastert
Speaker of the House

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1st District, Nevada

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Min wage

Congress of the United States
House of Representatives
Washington, DC 20515-2801

Committees:
Transportation and Infrastructure
Veterans' Affairs
Small Business

Caucus Task Forces:
Education
Healthcare

October 24, 2000

GS
10/28/00
cc: Gene Sperling
cc: Sam Dick

President William J. Clinton
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500-0003

Dear Mr. President:

It has come to my attention that the minimum wage legislation being crafted by the House GOP may include provisions which would prevent states from continuing to adopt their own tip credit rules. Such a proposal would adversely affect my home state of Nevada. I write to alert you to the possibility that this anti-worker provision may appear during the remaining days of this Congressional session.

Nevada's current minimum wage standard does *not* include tip income as part of the minimum wage calculation. If this state standard is overridden at the federal level and tip income is included in the wage calculation, waiters, waitresses, and other workers in my state would, in effect, be faced with a pay cut. Clearly, this would not be acceptable.

Mr. President, I share your views on the urgent need for an increase in the minimum wage and I admire your leadership on this issue. The working men and women of this country need and rightly deserve such an increase. However, I feel just as strongly that an increase in the minimum wage should not come at the expense of current labor protections.

Thank you for your consideration of this matter.

Sincerely,

Shelley Berkley

SHELLEY BERKLEY
Member of Congress

RS/SAW
just for my info - how does R tip credit proposal work?
GS 10/28/00

cc: John Podesta, White House Chief of Staff
Charles Brain, White House Legislative Affairs

Min Wage

MINIMUM WAGE

I. Tax provisions that we agree with and are acceptable:

- Accelerate 100% self-employed health insurance deduction
- Repeal occupational taxes related to spirits, wine and beer
- Permit installment method for accrual basis taxpayers
- Commercial fishermen provision

II. Tax provisions that we can agree to with modifications:

- WOTC with extension to welfare-to-work
- Computer donations—standard and additional digital divide
- Charitable rollover-modified by appreciation to property provision ($412 million)

III. Major issues in minimum wage tax bill:

1. Dropping or moving health insurance from the minimum wage:

Issues:

- *How much leverage on FSLA would we lose by kicking out the health provisions?*
- *Does trying to add Clinton priorities undercut our effort to drop provisions?*
- *What if they agree to more progressive tax-credit options? (This is unlikely due to Archer's opposition).*

2. Reforestation and climate change.

Issues

- *Do we insist on the climate change tax cut and pair it with the reforestation tax cuts?*
- *Should we go for the car tax credit at $2.5 billion, a modified package at $5 billion, or the full package of provisions at $9 billion?*

3. FUTA surtax:

Issues

- *Is it our aim to keep FUTA?*
- *Do we keep FUTA out or do we keep it in with UI reforms? (Adding UI reforms to FUTA would increase the package by $14 billion over ten years.)*

4. Meals and entertainment:

   - Everyone in the tax strategy group is opposed to increasing the business and meal deduction to 80% for all employees.

   Issue

     - *Should we support the provision granting 80% business meal deduction for workers subject to DOT hours and/or the provision moving from 50% to 60% for small businesses only?*

5. Should we follow the strategy of a symmetrical path—for example, put our digital divide package against their digital divide package and our environmental package against their environmental package?

6. Should we discuss our priority items, for which they do not have proposals, such as school construction and vaccines?

THREE OVERALL TAX STRATEGY OPTIONS

Should we propose: 1) a top-line agreement incorporating selected current bills and fight under the number for our priorities, 2) a message offer, or 3) no offer?

Top-Line Agreement

The top-line approach would generate the following likely outcome.

Likely outcome	Low range	High range
Pension: Portman-Cardin	$60	$100
New markets	20	27
Telephone excise tax	54	54
Minimum wage	35	80
Patients bill-of-rights (PBOR)	0	40
Total	**$169**	**$301**

Conditions to a top-line agreement:

- **Keep the Republican tax cut to $180-200 billion.** This is workable only if we can keep the Republican package in the $180-200 billion range.

- **Agree to a higher number if the extra room is reserved only for Clinton priorities.** Agree to a top-line figure of $250-$275 billion if $50 to $70 billion is made available for Clinton tax priorities, such as long-term care, school construction, EITC/marriage penalty, vaccines, climate change, etc.

Pros of strategy:

- If Republican agree to top line approach, we could prevent the tax cuts from spiraling uncontrollably upwards to the $350-400 billion range.

- It provides us a framework to push for Clinton priorities without the fear that it would lead to a bidding war.

Cons of strategy:

- Fighting each bill individually might lead to a less overall tax cut total than the top-line agreement strategy.

- The top-line strategy might allow them to claim to the public that the Administration is embracing their "debt-reduction and moderate tax cut strategy". In addition, it takes away our position as defenders of "fiscal discipline" by stopping the Republican's irresponsible $2 trillion tax cut plan.

Unified Democratic Offer

Propose a $250 billion net offer by Clinton and Democrats. Below is a net $250 billion scenario that is being put forth for discussion. It is a revised "Podesta envelop" without the telephone tax. It includes a Social Security provision and several smaller Clinton priorities with up to $75 billion in tax loophole closures and eliminating unnecessary subsidies.

Possible Unified Offer	(billions)
Senate Democrat estate tax	$60
House Democrat marriage penalty	82
Clinton Social Security benefits offer—eliminating 50% tax bracket	43
Pension and savings	45
New markets	20
School construction	8
Long-term care	26
Vaccines	1.5
Climate change	8.5
EITC reform or child care tax credit	21
Misc. (open pot)	10
Gross total	**325**
Loophole closures	**75**
Net Total	**$250**

Pros of unified offer:

- This would place President and Congressional Democrats in a position of proposing a "working family" tax cut plan and put the Republicans in the position of saying no.
- It may help Congressional Democrats who feel they need to get "healthy" on the issues of the marriage penalty, Social Security and the estate tax.

Cons of unified offer:

- It would move the President away from the fiscal discipline posture on Medicare and Social Security solvency. *(This could be partially addressed with moving the Medicare off-budget package.)*
- It may serve as a floor for Republican tax cuts and could re-ignite tax cut efforts. The President may be seen as reviving the tax-cut debate when tax cuts as an issue is beginning to recede in Congress.

No Offer

Fight each bill separately. Under this strategy, we would fight every bill one by one to keep the overall total down. This strategy would allow us to pursue only relatively small Clinton tax priorities, for example, fighting for school construction in the Labor-HHS appropriations bill and fighting for the long-term care tax credit in the event of a "patients bill-of-rights" legislation.

Pros of no-offer strategy:

- Republican tax-cutting efforts appear to be fading and we should not be pushing for tax cuts.
- We can focus on fighting for school construction in Labor-HHS bill. In the event of a "patients bill-of-rights" bill, we will have significant leverage to add the long-term care tax credit.

Cons of no-offer strategy:

- The public may perceive us as opposing tax cuts.
- We are less likely to get at a high number for Clinton's tax cut priorities.

MINIMUM WAGE

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- We are less likely to get at a high number for Clinton's tax cut priorities.

Min. Wage

7TH STORY of Focus printed in FULL format.

The New York Times

November 9, 1999, Tuesday, Late Edition - Final

SECTION: Section A; Page 24; Column 1; Editorial Desk

LENGTH: 415 words

HEADLINE: A Minimum Wage Bill for the Well Off

BODY:

The Senate will vote today on a Republican-sponsored amendment to raise the minimum wage by $1, to $6.15 an hour, over three years. Though the Democrats propose the same hike spread over only two years, the basic proposal is uncontroversial. Both parties recognize the popularity and wisdom of raising wages of low-paid workers when unemployment rates are at their lowest levels in 30 years and workers, therefore, face no threat of mass layoffs.

Sadly, the Republicans are not content to do this good deed and go home. They have loaded the amendment with tax cuts that are fiscally damaging and cynically focused on wealthy workers.

The Republican package would cost about $75 billion over 10 years. Pointing to a $1 trillion surplus outside Social Security, the Republicans say their tax cuts are affordable. But that expected surplus assumes that Congress will live with current budget caps and cut domestic discretionary spending -- every program other than the military and entitlements like Medicare -- by at least 10 percent after accounting for inflation. Passing a $75 billion tax cut would force further cuts in programs that will soon be squeezed anyway.

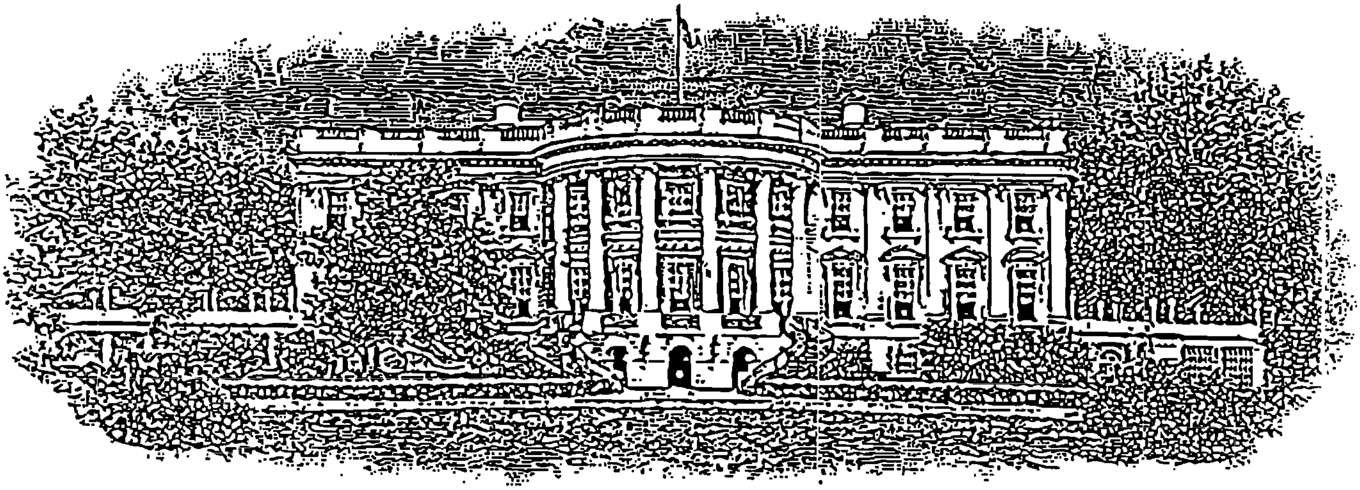
Almost all the Republican tax cuts go to the wealthy. The proposal would, for example, raise the amount of salary on which pension contributions may be made t[illegible]0,000 from $160,000. Worse still, Peter Orszag, an economist at the [illegible]sity of California at Berkeley, points out that the Republicans have [illegible]ured their plan in a way that could encourage companies to reduce contributions they make to the pensions of low-paid workers.

The Republican plan would also provide a new tax deduction for health care premiums paid by workers whose employers cover no more than half the cost. The tax deduction would be most valuable to high-wage workers and would do little to make health coverage affordable for the vast majority of the 40 million Americans who are uninsured.

Citizens for Tax Justice, a liberal research group, estimates that the highest-earning 1 percent of taxpayers would get almost 20 percent of the proposal's tax cuts, averaging about $1,600 a year. But the lowest-earning 20 percent would get only about 3 percent of the tax cut, averaging about $13 a year. That feature alone makes it a plan that President Clinton should veto. Next year, politicians preparing for election will almost certainly send him a bill to raise the minimum wage -- without attaching pernicious tax cuts.

Min Wage

The White House



DOMESTIC POLICY

FACSIMILE TRANSMISSION COVER SHEET

TO: Gene

FAX NUMBER: 62878

TELEPHONE NUMBER:

FROM:

TELEPHONE NUMBER:

PAGES (INCLUDING COVER):

COMMENTS:

To: Talisman

> From: Hanna, Craig
> Sent: Thursday, October 12, 2000 5:18 PM
> To: joel_johnson@who.eop.gov; Nichols, Laura
> Cc: King, Andrea; Multop, Ridge; Mays, Janice; Hartz, Jerry
> Subject:
>
> FROM THE OFFICE OF
> Representative J. Dennis Hastert
> Illinois, 14th District
> Communication Center | Home Page
>
>
>
> NEWS RELEASE | Contact: John Feehery> or Pete Jeffries
> Statement by House Speaker J. Dennis Hastert (R-IL) Calling
> President and Democrats to Expand
> Health Care to Uninsured
>

WASHINGTON, Thursday, Oct. 12- House Speaker J. Dennis Hastert (R-IL) today made the following statement: "With nearly 43-million Americans now in the ranks of the uninsured, I truly hope the White House will work with us on the Minimum Wage bill to expand access to high quality, affordable health care to get these folks covered now. I have said for a long time that unless you make health care coverage both affordable and available we will never solve this national challenge.

"Today, I'm proud to publicly release two studies by the bipartisan Joint Committee on Taxation clearly confirming that the Republican A-Plus Health Care Deduction will provide access to affordable health care for 26-million Americans as opposed to only a few thousand in the White House's response. In fact, these bipartisan studies show that by passing a 100-percent health care tax deduction into law 1.6-million currently uninsured Americans would finally be able to receive health care coverage compared to only 45,000 under the President's Democrat plan.

"The A-Plus Health Care Deduction simply makes common sense since it expands the same health care incentives already in place for big business, labor unions and the self-employed to the most in need of high quality health care, America's uninsured. And make no mistake, the uninsured problem is worse today by 5-million Americans than when the Clinton-Gore health care team came to office in 1993 with 38-million uninsured Americans.

"The Minimum Wage bill before us provides a great opportunity to put more money in people's pockets and expand access to high quality health care coverage at the same time. I would hope the President will work with us to make progress on this important national challenge now and not save it for a political issue on the campaign trail."

The A-Plus Health Care Deduction Making Health Care Affordable & Available for America's Uninsured

THE PROBLEM:

* America's economic prosperity has helped many workers bring home to their families some of the largest paychecks and best benefits they've ever experienced. Even so, there's one class of working Americans that continues to fall further behind - America's uninsured - 75% of whom work in a small business.

* In fact, one of every six Americans today is uninsured because health care coverage is either not available where they work or too costly for the family budget - mostly women and children of African American and Hispanic descent.

THE SOLUTION:

* With nearly 43-million Americans now in the ranks of the uninsured, action must be taken to make health care more affordable and available.

* The A-Plus Health Care Deduction will expand affordable health care coverage to working families by allowing uninsured Americans to take a 100% tax write-off for their health care costs - whether they annually itemize deductions or not.

* For instance, a single mother making less than $35,150 but spends $2,658 in premiums would save $399 each year in out-of-pocket costs - that's an extra month's rent or a couple weeks of daycare.

* The A-Plus Health Care Deduction makes sense for the uninsured because it simply expands the same tax break for health insurance already provided to Big Business, labor unions and the self-employed.

* In a pair of just released studies by the bipartisan Joint Committee on Taxation, 26-million Americans would be able to provide affordable health care coverage to themselves and their families by claiming this tax break - 1.6-million would be newly insured. That's millions more than the President's Democrat plan which would only expand coverage to 45-thousand uninsured Americans.

* The A-Plus Health Care Deduction would be available to anyone who bought health insurance for themselves/their family or who paid 50% or more of the total premium for employer-sponsored insurance.

* According to the non-partisan General Accounting Office, making health care 100% tax deductible helps low and middle-income Americans the most. (31-million Americans in the 15% tax bracket and nearly 5-million in the 28% tax bracket)

JC|CW Save for Tax File/Book

Tax Gen

Minimum Wage

6S 9/1/00 From 8/30 discussion Friday

DRAFT

September 8, 2000

MEMORANDUM FOR SECRETARY SUMMERS
DEPUTY SECRETARY EIZENSTAT

FROM JON TALISMAN
ACTING ASSISTANT SECRETARY (TAX POLICY)

MARTI THOMAS
ACTING ASSITANT SECRETARY (LEGISLATIVE AFFAIRS AND PUBLIC LIAISON)

RE ISSUES WITH TAX CUT IN HASTERT MINIMUM WAGE OFFER

In an August 28 letter to the President (attached), Speaker Hastert made a compromise offer that would include a $1.00 an hour increase in the minimum wage to $6.15 over two years. The offer also dropped the estate tax and pension provisions contained in the current bills before Congress, but still contains (as in Senator Nickles' small business package), among other provisions, the deduction for individually purchased (i.e., non-employer provided) health insurance. According to the Speaker, the estimated cost of this offer is $23 billion over five years, and $76 billion over ten. The health insurance deduction provision, which raises serious policy concerns, is about $45 billion over ten years

The President reportedly raised concerns about several of the tax provisions in the Speaker's offer on their recent trip to Columbia, but they agreed to discuss the issues further at the staff level. Representative Bonior has stated that the tax provisions are too expensive. He noted that the tax cuts accompanying the last minimum wage increase (in 1997) only totaled about $20 billion over ten years. Senator Daschle indicated that he would accept some tax provisions as a part of a deal for increasing the minimum wage, but he wanted the cost of the package reduced by $30 billion.

This memo discusses the major elements of the Speaker's tax cut proposal and some options for modifying the tax proposal to reflect some of our priorities.

Tax Items in the Minimum Wage Package

The Speaker's offer is an improvement over the minimum wage bills that had passed the House and Senate, but some elements still raise issues. The earlier versions of the minimum wage bill, which would have cost over $100 billion over ten years, included costly proposals for estate tax relief and major elements from the Portman-Cardin and Patients' Bill of Rights (PBOR) proposals. All of the pension and estate tax proposals have been stripped from the Speaker's offer (as they are moving in other legislation), but the largest tax cut from PBOR remains. Based on a very sketchy description, the Speaker's proposal would:

- allow an above-the-line deduction for health insurance expenses (discussed above),
- repeal the 0.2 percent FUTA surtax (discussed above),
- speed up the phase-in of 100-percent deductibility for health insurance purchased by self-employed people,
- speed up the phase-in for 80-percent deduction of meals and entertainment expenses for employees subject to DOT hour limitations (e.g., truckers and airline pilots),
- increase to $35,000 the amount of property that small businesses can expense,
- double (to $20,000) the amount of reforestation expenses eligible for a tax credit,
- extend the Work Opportunity Tax Credit (WOTC) through 2004,
- allow accrual-basis taxpayers to use the installment method of accounting (i.e., repeal 1999 law changes),
- repeal the special excise taxes (effectively license fees) on producers of distilled spirits, wine, and beer, and – ok
- allow commercial fishermen to income-average in the same way as farmers.

In addition, the Speaker proposed two other tax cuts directly to the President:

- a deduction for donations by computer manufacturers of used computer equipment to schools, and
- tax-free rollovers from IRAs and 401(k) plans to charitable organizations.

We have significant policy concerns about the first two proposals, which are outlined below. We also need further details on the specifics of the proposals, many of which were unclear in the Speaker's offer.

Above-the-line deduction for health insurance. The most problematic element of the proposal is the above-the-line deduction for health insurance. It is the most expensive element of the package, costing $45 billion over ten years according to OTA, and it does little or nothing to help small businesses. Providing a tax deduction for purchases of health insurance outside the workplace makes employer-provided health insurance less attractive, especially to young, healthy employees who can get inexpensive insurance in the nongroup market. This is a particular problem for small firms that want to offer health insurance, because the cost of their insurance increases dramatically as the number of employees covered decreases—especially, if the uncovered employees are also the healthiest. Moreover, a deduction is most valuable to high-income employees in higher tax brackets, whereas the greatest need for expanded coverage is among lower-income employees.

Repeal of the FUTA surtax. We also have a problem with repeal of the FUTA surtax as a stand-alone measure. As described in the September 1 memo from de la Vina, Elmendorf, and Burman, the Department of Labor has reached a tentative agreement with representatives of states, employers, and unions on a package of reforms to the Unemployment Insurance program. Repeal of the FUTA surtax is an essential element of that agreement: employers might not support reform without that sweetener attached. For that reason, the Administration should insist that the reforms be included with the FUTA surtax repeal. Since the reform package has bipartisan support, it should be possible to include it in the minimum wage bill, and its enactment this year would be a significant achievement.

Although the details of the rest of the package are unclear, most of the other elements could probably be made acceptable in some form. (The attachment discusses the issues that need to be resolved.)

Possible counter-offer options

The following table presents some options from the Administration's Budget that could be added to an overall package. Several of the options either directly or indirectly help small businesses.

- **New Markets** -- the new markets tax credit and renewal community bill ($18 billion), which has the broad bipartisan support in both the House and the Senate, contains a number of incentives to help businesses in distressed communities, as well as the new tax credit to make available equity capital in areas where it has traditionally been scarce.

- **Education** -- Investment in schools through school modernization bonds and qualified zone academy bonds, ($8 billion). This provision has strong bipartisan support in the House as a part of the larger Johnson-Rangel School Modernization bill, but may face Republican opposition in the Senate. We also could add our college opportunity tax cut, which costs $30 billion. Finally, we may want to add in our proposed employer tax credit for workplace literacy (including computer literacy), which was part of the $2 billion digital divide initiative.

- **Child Care** -- The proposed expansions of the child and dependent care tax credit ($31 billion) help low- and moderate-income people to meet the high cost of child care, an essential cost of working, thus helping to expand the labor supply in a very tight labor market. The proposal to provide a tax credit for employer-provided child care ($1.4 billion) proposed by Senator Kohl would be useful complement and a direct aid to employers who provide this valuable fringe benefit.

- **Health Care** -- The tax credits for COBRA continuation coverage ($10 billion) and Medicare buy-in ($2 billion) provide targeted assistance in paying for health insurance for workers between jobs and early retirees. Since the credits target employees who are out of the work force, they do not undermine the system of employment-based health insurance, in sharp contrast to the Speaker's proposed health insurance deduction. The proposal to encourage the development of small business health insurance purchasing coalitions would strengthen the system of employment-based health insurance by helping small employers to pool together to gain some of the health insurance cost savings that accrue to large employers. These proposals have received interest from both the Blue Dogs and centrist Democrats in the Senate. Versions of health-related tax credits targeted to small businesses were introduced before the August recess by Senator Robb [and the Blue Dogs].

- **Energy and the Environment** -- The climate change tax incentives are aimed at helping the producers and marketers of innovative energy-saving technologies to develop markets for those products and achieve profitability. Several of the incentives help businesses to reduce their energy costs.

- **Vaccines** -- While the vaccine tax credit doesn't address small business concerns, it remains one of the Administration's highest priorities.

- **Encourage philanthropy** – As discussed above, the Speaker made two proposals to encourage philanthropy. Our budget proposals would allow non-itemizers to take a partial deduction for charitable donations, simplify the tax rules for public foundations, raise the limits on donations of appreciated property to charity, and clarify the tax-treatment of donor-advised funds. The $15 billion package would be a more equitable way to address the concerns raised by the Speaker.

Revenue Cost Of Selected Budget Options
(Billions of Dollars)

	2000-2005	2000-2010
Provide incentives for public school construction and modernization	-2.4	-8.0
New markets package (HR 4923)	-5.1	-17.8
Enhance the child and dependent care tax credit	-7.6	-31.0
Provide tax credit for employer-provided child-care facilities	-0.5	-1.4
Encourage COBRA continuation coverage	-3.3	-10.3
Provide credit for Medicare buy-in program	-0.4	-1.6
Provide tax relief to encourage small business health plans	-0.1	-0.3
Provide climate change tax incentives	-4.0	-9.3
Encourage development of vaccines for targeted diseases	0.0	-1.0
Encourage philanthropy	-4.7	-14.7

Source: Office of Tax Analysis

Attachment. Speaker Hastert's Offer and Issues
(based on the description attached to the August 28 letter to the President)

Based on a very sketchy description, the Speaker's proposal would:

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Issues with other tax provisions

Speed-up proposals. The speed-ups of the deductibility of self-employed health insurance and business meals for employees subject to DOT hour limitations (e.g., truckers and airline pilots) are not particularly objectionable if they only change the timing of the policies. There are business meal proposals that would substantially expand the scope of the 80-percent deduction to apply to other employees and would be problematic. (We can't tell from the Speaker's description what version of the proposal he has in mind. Senate Minority Leader Daschle made critical comments about the Speaker's offer suggesting that he interpreted the proposal to be the more expansive one.)

Higher expensing limit for small firms. Our Budget proposal would have raised the expensing limit immediately to $25,000 and indexed it for inflation. Raising the limit further to $35,000 is acceptable policy, but the limit increase should be combined with the simplifications that we proposed in the Budget. The Administration's 2001 Budget proposal on Section 179 expensing would not only encourage small businesses to increase investment by raising the deduction limit, but also would simplify the operation of Section 179 and remove some of the confusion that small business owners face in using the provision. In addition, it would better target the provision on small businesses. The proposal could be expanded further to help small businesses by modifying the list of property eligible for expensing improvements to include storefronts and buildings as described in S. 1341, The Main Street Business Incentive Act.

Double expenses eligible for reforestation credit and rapid amortization. This proposal would double from $10,000 to $20,000 the amount of expenses eligible for the 10-percent reforestation credit and seven-year amortization. It would also eliminate the cap on amortization expenses in 2001-2003. The increase in the amount of eligible expenses is mildly objectionable because it would provide a small windfall to large timber companies. The temporary elimination of the cap on expenses eligible for rapid amortization is highly objectionable because it would create large windfalls for large timber companies and inequities between the tax treatment of timber and other investments. OTP staff is working on developing an alternative that is better targeted at the needs of small timber producers.

Tax-free rollovers from retirement savings to charities. This proposal would allow owners of IRAs and 401(k)s to make contributions to charity from those accounts without either including the income or taking the charitable deduction. Under certain circumstances, such a transaction would be advantageous. For example, under the proposal, taxpayers could effectively deduct fully the amount of contributions made from an IRA, without regard to whether they itemize their deductions, and without regard to the present-law limitations on deductible charitable contributions. By comparison, under current law, they would first include the IRA distribution in income, and then deduct the charitable contribution only to the extent, if any, that their other deductions plus the contribution exceed the standard deduction. Thus, under current law, a non-itemizer's income tax liability could increase despite the charitable donation. Similarly, taxpayers whose AGI exceeds the threshold for phasing out itemized deductions also would have a slight increase in tax liability, even if they donated the full amount of their IRA distribution to charity. Finally, taxpayers whose contributions to public charities exceed 50 percent of their AGI (30 percent for donations of appreciated property) may not currently deduct that excess. Contributions directly from an IRA or 401(k) could skirt that limit under the proposal.

Although encouraging contributions to charity is clearly worthwhile, the issue is why we should change the rules only for those with IRAs or 401(k) accounts. Our Budget proposals, which increase the AGI limits for contributions of appreciated property and allow a limited above-the-line charitable deduction for non-itemizers would be a more equitable way to advance the same objectives. We also have worked with representatives from the computer industry to develop a workable option to encourage their donation of computers to schools, as part of the Administration's ongoing digital-divide initiative, and believe we could support a proposal with sufficient safeguards that are acceptable to industry.

Extend the Work Opportunity Tax Credit through 2004. We strongly support the Speaker's proposal to extend this popular credit, and extension has broad bipartisan bicameral support. However, if WOTC is extended, the Welfare to Work Tax Credit, which is specifically targeted to employers who hire long-term welfare recipients, should be extended at the same time. (Both credits are currently scheduled to expire at the end of 2001.) If these credits are extended, the provision that prevents the AMT from reducing the value of personal credits, which also expires in 2001, could also be extended through 2004. The Small Business Administration's Office of Advocacy raised AMT relief as a special concern of small business owners. Moreover, extending this provision through 2004 could be viewed as a down payment on the more fundamental AMT reform that has to happen soon.

Minimum Wage

March 2, 2000

MEMORANDUM FOR GENE SPERLING

FROM: JASON FURMAN
BRIAN KENNEDY

SUBJECT: MINIMUM WAGE: ISSUES AND STRATEGY

This memo goes through some of the open issues on the minimum wage and the strategy for next week. The minimum wage will be going to the House Rules committee on Wednesday March 8th and to the floor the following day. The floor vote will be split between minimum wage and tax. The minimum wage will be a vote on the $1 over three years and the $1 over two years alternative. The Republicans have a tax package that is $120 billion over 10 years, of which $80 billion is estate. It is currently uncertain whether or not the Republicans will allow a vote on the Democratic alternative. The Democrats are working on their alternative; right now it is $30 billion gross (including small business and school construction) and $20 billion of raisers. They are trying to make it fully paid for.

Our suggestion is that Brian and Jason hold the Friday meeting on these issues, and then you hold a principals meeting on Monday where people like Podesta, Lew, Summers are present and can make decisions.

Minimum Wage Strategy

We have been working on some elements of an approach to next week. These include:

- *Minimum wage event.* An event with the President on Wednesday to fire up support for the minimum wage. This would probably include one worker who would benefit from the increase and possibly one employer who has benefited from paying above minimum wages. An open question is whether or not to include members. The tentative thought is that we should only do this if we could get a Republican to speak; otherwise it would make it too partisan and jeopardize the ability to attract moderate Republicans in the House.

- *Minimum wage report.* CEA and Labor are working on a tentative report on the minimum wage. The topics covered would include: (1) who would benefit from the increase (totals, percentage of women, percentage of full-time workers, state-by-state numbers etc.), (2) the positive effects of the last minimum wage increase, (3) the lack of negative effects on jobs or inflation from the last minimum wage increase, and (4) the economic evidence on the minimum wage and jobs. If we want this report to go forward, we could release it in conjunction with the POTUS minimum wage event.

- *Letter/SAP with a veto threat.* Marti Thomas, Broderick Johnson, and others feel we need to get a written veto threat for the Republican tax provisions up to the Hill soon, sometime between Monday and Wednesday. The point of the letter would be to define the debate as the desirability of a clean minimum wage increase, and a veto threat if the Republicans attach poison pills. The three vehicles for this would be a POTUS letter, a Summers/Herman letter, and a SAP. Our suggestion is to do a POTUS letter on Monday that is general and then a SAP that goes into more detail about specific objections to tax and labor provisions in the Republican bill. (We could do the POTUS letter without knowing the details of the Republican tax package; the SAP would have to wait until these details are known.) We are drafting a POTUS letter. One issue you need to think about is whether a POTUS letter on Monday would partly undermine the event on Wednesday; should we hold off or use another vehicle?

- *Calls to members.* A list of wavering members is attached; we should think about whether there are any calls you should make. We are talking to White House leg about this as well.

Open Issues

The biggest open issue is that we have to decide our stance toward the Democratic package (sketchy details of the package are below). This will depend on whether the package is paid for (they are trying to do this, but it is still unclear whether or not they will be able to), whether the package is contingent (their marriage penalty was, but in this case it is less likely), and our opinion on the specific provisions in the bill. If the Democratic alternative is paid for, the best stance would probably be to praise the Democrats for their fiscal responsibility and talk about how the Republican bill would jeopardize Social Security, Medicare and debt reduction. There are open questions, however, whether or not to take a position on their specifics; and if so what position we should take.

Principals should probably meet on Monday to discuss this and any other open issues. If this is not possible, we could probably cover it in the Friday 5 pm meeting and Monday's 8:30 meeting.

Details of the Minimum Wage Increases

The current Democratic draft has two $0.50 increases, the first one month from enactment and the second 12 months later. The current Republican draft has increases of $0.35 on April 1st 2000, $0.35 on April 1st 2001, and $0.30 on April 1st 2002. The Republican package would cost a full-time worker at the minimum wage $900 over two years. The Democratic package would simply restore the real value of the minimum wage to what it was in 1982.

Details of the Republican Tax Package

A draft JCT scoring of the Republican tax package is attached. It is similar to the one proposed in the fall. The main provisions are:

REPUBLICAN MINIMUM WAGE TAX PACKAGE	
	10-year Cost (billions)
Small Business Provisions, Total	**17.0**
Accelerate 100% self-employed health insurance deduction	*2.1*
Increase section 179 expensing to $30,000	*2.6*
Increase business meals deduction to 60 percent	*11.2*
Other	*1.1*
Pension Provisions ($9.2 billion of total are limit increases)	**18.1**
Estate and Gift Tax Relief (mostly lower rates and converting unified credit into an exemption)	**78.7**
Distressed Communities (mostly "American Community Renewal Act" with 15 Renewal Communities)	**2.0**
Real Estate Provisions (mostly a phased-in increase of LIHTC)	**4.9**
Total Tax Cut	**$120.7**

The estate tax provisions are barely targeted at small businesses, farms, or smaller estates. Instead, the primary benefits go to larger estates. (One exception is a $227 million provision to expand conservation easements.) Specifically, the fully phased in estate tax provisions would cut the top rate from 55 percent to 48 percent, but cut lower rates by only 2 percentage points. It would eliminate the 5 percent surtax, which only benefits estates worth more than $10 million. And it would turn the unified credit for estates (which effectively means that estates below $675,000 are not taxed) into an exemption. Like turning any tax credit into a deduction, this would have no effect on estates in the lower bracket, and taxes for estates in the higher brackets.

Details of the Democratic Tax Package

We do not know very much about the Democratic package. Currently they have about $30 billion of tax cuts and $20 billion of raisers. They are trying to make it fully paid for, but are concerned that the raisers may alienate some of their members. If it is not paid for, they might make it contingent on debt reduction and Social Security/Medicare solvency, similar to the marriage penalty. This does not, however, seem very likely. The particular direction they go will shape how we talk about our opposition to the Republican tax measures.

The Democratic tax package may include some estate tax provisions geared at small business. They will argue that these provide more tax relief for small businesses than the Republican proposal. They will also probably include business meals, section 179 expensing, school construction, deductibility of spouses on business trips, and other measures.

09/05/00 09:36 FAX
08/30/00 WED 03:49 FAX WH LEG AFFAIRS CORRESPON 001
001

Minimum Wage

J. Dennis Hastert
Fourteenth District
Illinois

(202) 225-0600

Office of the Speaker
United States House of Representatives
Washington, DC 20515

August 28, 2000

The President
The White House
Washington D.C.

Dear Mr. President:

I have enjoyed working with you on several issues where we have found common ground. We have been quite successful this year in working together on repealing the Social Security Earnings Limit, fighting the war on drugs in Columbia, opening new markets in our poorest communities in America, and opening new markets oversees in China, Africa, and the Caribbean.

I would like to propose that we work over the next month to find common ground on your desire to increase the minimum wage by $1 and our desire to help alleviate the burdens on small businesses that would shoulder the costs of such an increase.

It is very clear that a vast majority of Congressional Democrats and Republicans would like to see a balanced approach achieved before we adjourn. While the House and the Senate have passed legislation that attempts to strike this balance, a variety of procedural hurdles have prevented us from getting that legislation to your desk for signature.

Our proposal is to increase the minimum wage by $1 in 50 cent increments that begin January 1st of next year and the remaining 50 cents on January 1st of 2002. We are also offering to drop the death tax and pension provisions in the bill that you regrettably find objectionable.

The remaining provisions are designed to assist small business with the costs of this wage increase and have a revenue impact of $24 billion over 5 years and roughly $76 billion over the next 10 years. We find this to be a reasonable and balanced offer that deserves your consideration.

I believe that we can work together to pass this legislation when we return in September with strong bipartisan majorities in the House and Senate. I have spoken with Senate Majority Leader Trent Lott and I believe he wants to achieve such a balanced approach as well. We would like your input and your assistance in getting this legislation to your desk before we adjourn this year. We will certainly need your help in removing the procedural roadblocks constructed to block such an effort. I look forward to working with you on this issue over the August recess.

Sincerely,

Dennis Hastert

J. Dennis Hastert
Speaker of the House

Minimum Wage Increase and Modernizing Regulations

1. **(House) Increase Minimum Wage by $1 over two years** – Effective January 1, 2001, the minimum wage will increase by $.50, and will increase another $.50 on January 1, 2002.

2. **(House) Inside-Sales FLSA Exemption** – The Fair Labor Standards Act of 1938 is outdated in its treatment of differing factions of the sales force. For example, it treats door-to-door sales employees (who are FLSA exempt) differently than those that sell using the Internet and other modern technology (who are not FLSA exempt). This provision changes the law to recognize changes in sales occupations in the workforce over the past 62 years so that inside and outside sales employees are treated the same under the law (with the exception of telemarketers). This will act to equalize their compensation and overtime rules.

3. **(House) FLSA Clarification for Computer professionals** – This provision would clarify and update the current exemption for computer professionals. Many workers have been treated as exempt professionals under the current law since 1990, when the exemption for computer professionals was enacted with bipartisan support. In the past 10 years, many new jobs which were not even contemplated have been created causing confusion as to the classification of these workers. This provision would clarify existing law, specifying the new duties that are performed by workers who are "similarly skilled" to those in the current exemption.

4. **(House) FSLA Exemption for funeral directors** – This provision would amend the Fair Labor Standards Act to exempt licensed funeral directors and licensed embalmers from minimum wage and overtime. This issue has been the subject of several court cases and this provision would clarify the treatment of such employees under the statute.

5. **(Senate) Bonus Gainsharing** – Current law dictates that employers have to recalculate an hourly employee's overtime pay if the employee receives certain types of commissions, incentives or performance bonuses. This acts as a disincentive for employers to provide these rewards because of the burdens associated with recalculating the employees' overtime pay. The provision included in the minimum wage package would allow employers to reward hourly employees in the same manner as professional employees, allowing all workers to share financially when their efforts produce gains in productivity or sales, fewer injuries or other important benefits to a company.

6. **(Senate) Tip Credit** – The Fair Labor Standards Act provides that tips received by tipped employees may be counted by the employer as "wages" for the purposes of meeting the minimum wage requirements. The employer may not pay less than $2.13 an hour in cash wages. If an employee's tips and the cash wage paid by the employer of at least $2.13 per hour do not equal the minimum wage, then the employer must increase the employee's cash wage to make up the difference. There are varying requirements in state laws regarding the cash wage for tipped employees. This provision would prospectively allow all employers to utilize a tip credit without reducing the wages of any tipped employees. The cash wage for tipped employees in effect on the date of enactment would be preserved in each state.

Tax Items in the Minimum Wage Package

1. **(Senate) WOTC** – Compromise to extend Work Opportunity Tax Credit through 2004 to assist businesses in hiring disadvantaged workers. [*House included no provision. Senate and Rangel substitute made permanent*.]
2. **(House) Reforestation** – Provide tax relief for reforestation expenses to create and maintain jobs [*House bill increases maximum reforestation expenses qualifying for amortization and credit from 10k to 25k; removes cap on amortization cost in 2001 and 2003. Rangel substitute increases from 10k to 20k; increases credit rate from 10% to 20%; and reduces amortization from 84 months to 36 months*].
3. **(Senate/House) Section 179** – Allow small businesses to expense qualifying property costs up to $35,000 [*House, Senate and Rangel previously agreed to increase section 179 expensing to 30k*].
4. **(Senate/House) Meals/Entertainment** – Speed up phase-in for 80% deduction of meals and entertainment expenses [*Senate increased meal/entertainment deduction to 80%. House increased meals to 60%, and 80% for those subject to DOT hour limitations. Rangel substitute increased meal/entertainment to 65% for business with sales below $5m.*].
5. **(Senate/House) Installment method** – Repeal installment method accounting requirement.
6. **(Senate) FUTA surtax** – Repeal outdated .2% FUTA surtax [*Though the net FUTA tax rate is .8%, the permanent tax rate is only .6%. The .2% surtax was adopted in 1976 to repay loans to the fund during '74 recession – that debt was paid in '87, but Congress extended it to offset costs of spending for unrelated programs. FUTA trust fund has nearly $20 billion surplus*].
7. **(Senate/House) Health deductibility 100% for self-employed** – Accelerate and extend deductibility to those who choose not participate in employer-subsidized health plans [*House, Senate and Rangel substitute all make 100% deductibility immediate*].
8. **(Senate) Health expense above-the-line deduction** – Phase-in for individuals to deduct 100% of health expenses without itemizing [*Individuals currently cannot deduct for health expenses unless they itemize and that is only 7.5%. This would free individuals of itemizing and allow them to deduct more for health insurance expenses, but not if they are covered by Medicare, government, and those whose plans are more than 50% covered by employers.*].
9. **(House) Special Occupations Taxes** – Repeal excise taxes imposed on producers and marketers of distilled spirits, wine, and beer [*Rep. John Lewis and Rep. Bob Matsui support bill by Rep. Dave Camp to eliminate these onerous taxes.*].
10. **(House) Commercial Fisherman income averaging** – Extend income-averaging benefits for farmers to include commercial fisherman.

ESTIMATED COST: $23 billion over 5 years. $76 billion over 10 years.

09/08/00 14:55 FAX 2022254580 REP ABERCROMBIE 002

min wage

NEIL ABERCROMBIE
1ST DISTRICT, HAWAII
WHIP-AT-LARGE

COMMITTEE ON
ARMED SERVICES

COMMITTEE ON
RESOURCES

Congress of the United States
House of Representatives
Washington, D.C. 20515

September 8, 2000

President William J. Clinton
The White House
Washington, D.C. 20500

Dear Mr. President:

Negotiations are underway to develop a final bill to increase the federal minimum wage by $1.00 an hour over two years, along with tax reductions benefitting businesses and industries most affected by minimum wage increases.

You will recall our conversation the evening of the 1993 Budget Agreement passage that at the first opportunity for review following success in meeting our deficit reduction goals you would support restoring the business meal/spousal travel provisions to the previously agreed upon levels we discussed. This minimum wage bill is the vehicle for keeping that promise. It has been seven years in coming but worth every minute of the wait as you have been vindicated in every respect. In the wake of that triumph I ask for your consideration and support.

The Rangel substitute minimum wage tax package contained the restoration, as does the draft of the House Democratic year-end tax reform package. Because hotel/motel, travel and tourism, restaurant and other industries are directly affected by the minimum wage, I cannot urge strongly enough the importance of the deductions to the hundreds of thousands of employees involved not only in Hawaii but nationwide.

Theses deductions are of critical importance to those of us representing areas dependent on tourism, but of equal importance is the credibility of Democrats in Congress, particularly those of us who voted for your 1993 budget. Events have proven conclusively that supporting that budget was correct. It put the nation on the road to the great economic prosperity we now enjoy. As you move toward resolving the final terms of the minimum wage/tax reduction package I trust you will stand firmly behind our understanding.

With warm aloha,

Neil Abercrombie
Member of Congress

ORIGINATED FROM:

☑ WASHINGTON OFFICE: 1502 LONGWORTH HOUSE OFFICE BUILDING, WASHINGTON, D.C. 20515 (202) 225-2726 / 225-4580 FAX
☐ HOME OFFICE: ROOM 4-104, 300 ALA MOANA BLVD., HONOLULU, HAWAII 96850 (808) 541-2570 / 533-0133 FAX
Homepage: http://www.house.gov/abercrombie/ E-mail: neil.abercrombie@mail.house.gov

NEIL ABERCROMBIE
1ST DISTRICT, HAWAII
WHIP-AT-LARGE

COMMITTEE ON ARMED SERVICES
COMMITTEE ON RESOURCES

Congress of the United States
House of Representatives
Washington, D.C. 20515

CC: Courtney

FAX LEAD PAGE

TOTAL NUMBER OF PAGES, INCLUDING THIS ONE: 2

DATE: September 8, 2000 TIME: 3:00 p.m.

TO FAX NUMBER: 456-6220

ATTENTION: CHUCK BRAIN

FROM: REP. NEIL ABERCROMBIE/TOM WANLEY

NOTES: The Congressman may attempt to reach the President to discuss this matter.

Thanks

If there are any problems with this transmission, please call our office at 202/225-2726. Our fax number is 202/225-4580.

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☑ WASHINGTON OFFICE: 1502 LONGWORTH HOUSE OFFICE BUILDING, WASHINGTON, D.C. 20515 (202) 225-2726 / 225-4580 FAX
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Homepage: http://www.house.gov/abercrombie/ E-mail: neil.abercrombie@mail.house.gov

Min Wage

David Medine
09/20/2000 02:40:56 PM

Record Type: Record

To: Gene B. Sperling/OPD/EOP@EOP

cc: See the distribution list at the bottom of this message
Subject: Tip Credit and Minimum Wage

Tip Credit and Minimum Wage. Lee Culpepper of the National Restaurant Assn. and Jonathan Yarowsky of Patton Boggs (Tommy Boggs had been scheduled to attend but had a conflicting meeting with Sen. Breaux) met Tuesday with Sarah and David concerning tip credits. They propose freezing the tip credit and preempting state laws on this subject, although without reducing any current employees' wages. They argue that it is a myth that servers are minimum wage employees, with entry-level restaurant servers earning an average of $11.65/hr and more experienced servers average $15.00/hr. Without tip credits, these higher paid employees would benefit more from minimum wage increases than the policy rationale for increasing the minimum wage. They also suggested a willingness to address the problem of the lowest paid servers who might not get the full benefit of a minimum wage increase under this approach. However, their enthusiasm for their proposal would cool significantly if the tip credit were adjusted to insure the net hourly wage for servers increased along with the minimum wage.

Message Copied To:

David Tseng/OPD/EOP@EOP
Christopher M. Wanken/OPD/EOP@EOP
Joseph N. Crisci/OPD/EOP@EOP
Elliott H. Baer/OPD/EOP@EOP
Sarah Rosen Wartell/OPD/EOP@EOP

Min Wage

FROM THE OFFICE OF

CONGRESSMAN

CAL DOOLEY

1201 Longworth House Office Building • Washington, DC 20515 • (202) 225-3341 • Fax: (202) 225-9308

Date: 9-28-00

To: Chuck Brain

Fax #: 456-6220

From:

Cal Dooley	Diane Pate	Gina Mahony
Lisa Quigley	Michelle Bright	Brandon Avila
Lori Denham	Connie Lausten	Nancy Crose
Adam Kovacevich	Jim Travis	

Message:

Pages: 2 Pages To Follow

If there are any problems in transmittal, please call (202) 225-3341

Min Wage

Congress of the United States

Washington, DC 20515

President William Jefferson Clinton
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. President:

Under current law, "inside" or "digital" sales employees are subject to overtime requirements of the Fair Labor Standards Act while "outside" or traditional sales employees are exempt. As you know, the bipartisan *Sales Incentive Compensation Act (H.R. 3846,)* is now part of the Minimum Wage package. This bill includes a provision that would provide a narrow exemption for "inside" sales employees who are engaged in electronic commerce. We strongly support the inclusion of this provision in the final Minimum Wage package.

We are asking for the change in the FLSA because the current wage and hour law creates a disparity between "outside" sales employees, who travel to the customer's place of business, and "inside" sales employees, who use the internet, the fax or telephone to sell directly to existing customers. Under the FLSA, an "inside" sales employee is classified as "non-exempt" and must be paid an *hourly* wage, with overtime pay for work over 40 hours per week. The traditional "outside" sales employee, however, is classified as "exempt" and enjoys both flexibility in work schedule and enhanced earnings potential as a *salaried* worker. As a result of this disparity in treatment, current "inside" employees and new hires believe they are at a competitive disadvantage because they lack the prospects of enhanced compensation, based on sales/performance and customer service objectives, and the career/professional development opportunities of the traditional outside sales employees.

As companies in this country have had to change the way they do business to compete in today's global e-business market place, they have also had to change the way they sell their products. To meet the needs of their customers today, high tech businesses employ two sales forces – "inside" sales employees, who can sell the company's entire product line directly to customers via the Internet, the telephone or the fax, and traditional outside sales employees. We need to correct the disparity between the two sales forces by enacting legislation that will modernize the federal wage and hour law to bring it in line with today's work force needs.

For these reasons, we urge you to support the "inside" sales provision and ensure that it remains in the final package.

Sincerely,

Cal Dooley — David Price

Ellen Tauscher — Tim Roemer

Jim Davis — [illegible signature]

Lynn N. Rivers

Jim Moran

Charlie Stenholm

FROM: CHUCK BRAIN

Min Wage

DRAFT

September 25, 2000

The Honorable J. Dennis Hastert
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker,

As long-standing advocates of an increase in the minimum wage, we appreciate your recent offer to support a $1 increase before we adjourn this session of Congress.

We believe it is imperative that the more than 10 million workers who earn the minimum wage receive assistance as soon as possible. Our country is enjoying an unprecedented period of prosperity, and we are now in the longest period of economic growth in our nation's history. But for the millions of Americans struggling to get by on the minimum wage, we cannot act too soon.

We appreciate the discussions that we have had to date. But certain aspects of your proposal cause us deep concern.

First, it does not seem fair to raise the minimum wage, but then take away overtime protections for millions of hard-working Americans. The productivity of America's work force is at an all-time high. But parents of working families are putting in more hours than at any time in recent memory. Yet your proposal would grant favors to certain industries, and would cut overtime pay for millions of workers. We cannot support any proposal that deprives American workers of their overtime or minimum wage protections.

Second, while there is bipartisan agreement on many of your tax proposals, we are concerned about the overall size of the tax package -- which is four times greater than the one adopted in the 1996 increase. We have grave policy concerns in regard to the above-the-line health deduction, and believe it could discourage employers from providing health coverage for their workers. It is also nearly two-thirds of the cost of your entire proposal. We support repeal of the 0.2% FUTA surtax, but only if it is coupled with unemployment insurance reform advocated by both business and labor. Overall, we believe the tax package should remain focused on small businesses which often employ minimum wage workers.

Third, it is time to raise the federal tip credit which is permanently frozen at $2.13 an hour. The federal tip credit has not been increased since 1991, and tipped employees are rapidly falling behind other workers. In addition, we cannot support your proposal to strip states of the power to raise their guaranteed base wage for tipped employees above the current federal level. Already, 29 states have chosen to do better than the federal tip credit.

Fourth, it is time to require the Commonwealth of the Northern Mariana Islands to pay the full federal minimum wage to their workers. The Mariana Islands has been a territory of the United States since 1986, and has had plenty of time to bring their wage laws into compliance with federal standards.

Mr. Speaker, we sincerely appreciate your willingness to work together to accomplish this important goal. We look forward to sitting down with you as soon as possible to discuss this matter further.

Sincerely,

Richard Gephardt

Tom Daschle

David Bonior

Edward Kennedy

Charles Rangel

Daniel Patrick Moynihan

William Clay

Min Wage

Agree

1) 100% Self Insure Health
2) Installment
3) Special excise line
4) Commercial fish

Agree + Add

1. WOTC + Welfare to Work
2. Computer +md + our staff
3. Charitable It Add
4. ~~Reforestation + Climate Change~~

Major Issues

1) Drop FUTA or Add UI Reform
2) Reforestation + Climate Change
3) Meals + Entertainment
→ set speed up on 80%
50 or 60% small business
4) Prefer Drop Complete
Debate in PBOR
or
Progressive option

Other Issues

1) school construction

Min Wage

American Federation of Labor
Congress of Industrial Organizations
815 Sixteenth Street, N.W.
Washington, D.C. 20006

September 22, 2000

FAX Transmission

■ LEGISLATION ■

TO: Gene Sperling

FAX: 456-2878

From: Peggy Taylor, Director
Department of Legislation
Phone: 202/637-5090
Fax: 202/508-6963

Number of pages to follow: 25

(Please call Kathy Fuller at 637-5086 if you have any questions or received this transmission in error)

Comments:

Attached are materials we intend to distribute in booklet form sometime early next week. They include an introduction/summary; short version talking points on each of the 5 FLSA exemptions; and a lengthier background piece on each. Please note that they are all still in *draft* form. Your comments are certainly welcomed. We thought they may be helpful for your meeting today.

opeiu#2,aflcio

Working Families Say "No Deal" to A Raw Deal: Congress Must Not Tie Minimum Wage Hike for Millions to Lower Pay and Longer Hours for Millions More

GOP leaders have offered to go along with a $1.00 minimum wage increase over two years – an increase that would benefit millions of the nation's lowest paid workers, that the public broadly supports, and that few businesses seriously oppose – but they demand a high price in exchange for this modest wage hike. In addition to tax cuts ostensibly designed to offset costs of the increase to affected businesses, Republicans in the House and Senate are pushing for significant changes to the Fair Labor Standards Act, the nation's bedrock wage and hour law that provides protections for tens of millions of workers and their families. GOP leaders propose:

First, to change existing "bonus" rules used to determine workers' actual wages, so that employers could use lower pay rates to calculate overtime pay;

Second, to strip away minimum wage and overtime protections from certain "inside sales workers" who earn as little as $25,000 a year;

Third, to broaden an existing overtime exemption – that *should* be repealed – in order to cover even more workers in certain computer-related jobs;

Fourth, to deny minimum wage and overtime protections for workers employed as funeral directors and embalmers, simply because many of these employees work irregular and unpredictable hours; and

Fifth, to bar states from adopting "tip credit" rules – *under their own state laws* – that would provide greater income protections for workers within the states.

These proposals plainly bear no reasonable relationship to the minimum wage legislation that has been pending before Congress for the last two years. Nor would *any* of these changes benefit *any* workers. Instead, they represent another attempted assault on workers' wage and hour protections – an effort to secure FLSA roll-backs that proponents of the measures could not otherwise win. Adopting these regressive "reforms" would no doubt boost the corporate bottom line, but for millions of working families, the bottom line would be lower earnings, longer hours and fewer protections.

That GOP leaders should seize this moment to push for major FLSA changes is no surprise. The strategy reflects a continuation of ongoing efforts to erode basic FLSA protections for working families. For example, during the last minimum wage fight in 1996, Congressional Republicans tried unsuccessfully to win a major new "small business" exemption that the Labor Department estimated would remove three million businesses from the Act's umbrella, stripping minimum wage and overtime protections from millions of workers. Republican leaders – most of whom staunchly opposed the minimum wage hike and some of whom oppose the minimum wage *per se* – were successful on other fronts, however, passing the first permanent sub-minimum wage for young workers; changing "tip credit" rules to lower wage payment obligations for employers of tipped workers, thus denying many tipped employees, despite low

ELIMINATION OF BONUS PAY FROM OVERTIME CALCULATIONS UNDER FLSA

The Fair Labor Standards Act currently provides that employees who work overtime are entitled to time-and-one-half their "regular rate of pay" for each hour worked over forty during a week. The "regular rate of pay" is intended to include most forms of compensation such as gainsharing, incentive bonuses, commissions, performance contingent bonus plans, and other rewards for meeting or exceeding specified goals, so that employees' overtime pay is based on their <u>real</u> pay, not some fraction thereof to be determined by the employer. The Hastert Proposal would exclude these bonuses from the overtime calculation and cause the overtime pay and earnings of millions of workers to be reduced.

- ***Excluding the various forms of bonuses from "regular rate of pay" will immediately result in reduced overtime pay for millions of workers.*** Performance-based pay is widespread and increasing in all industries across the spectrum. Millions of workers currently covered by these bonus pay plans will immediately experience a significant reduction in their paychecks and overall earnings if this exemption is enacted into law.

- ***Excluding bonuses from overtime pay calculations would increase the use and size of bonus schemes and reduce workers' earnings.*** Employers could circumvent FLSA requirements by paying employees low hourly wages upon which to calculate overtime pay, and providing a significant portion of pay in "bonuses" that did not count toward meeting overtime pay obligations.

- ***Excluding bonuses from overtime pay would encourage even more forced overtime and even longer work hours.*** The number of overtime hours has risen significantly in recent years. In the manufacturing sector alone, overtime has increased 40% in the past 20 years. A reduction in overtime pay costs would create a strong incentive for employers to increase mandatory overtime even more. Workers already faced with long hours and the difficult challenge of balancing family and work will be squeezed all the more.

The Bonus Amendment
September 2000

Excluding Performance and Incentive Bonuses from "Regular Rate of Pay" Could Reduce Overtime Pay for Millions Currently Entitled to It

The proposed amendment to the FLSA would exclude non-discretionary bonuses – gainsharing, incentive bonuses, commissions, performance contingent bonus plans, and other rewards for meeting or exceeding specified goals – from "regular rate"determinations for purposes of computing overtime pay. Excluding bonuses from the regular rate for overtime pay reduces workers' pay. Indeed, because of lower overtime pay, the proposed bonus amendment would likely increase the amount of mandatory overtime, with the result being that many may end up working more for less.

Under the FLSA, employees who work overtime are entitled to time-and-one-half their "regular rate of pay" for each hour worked over forty during a week. The "regular rate of pay" is intended to include most forms of compensation, including non-discretionary bonuses, so that employees' overtime pay is based on their *real* pay, not some fraction thereof to be determined by the employer. Otherwise, employers could circumvent FLSA requirements by paying employees low hourly wages, which were used to calculate overtime pay, and providing a significant portion of pay in "bonuses" that did not count toward meeting overtime pay obligations.

Excluding bonuses from overtime pay would significantly reduce workers' overtime pay. For example, a worker paid $12.00 per hour as a regular rate of pay would, under current law, earn $18/hour in overtime pay, without regard to how the employer structures the worker's compensation. However, if the employer were to pay half the worker's salary in an incentive bonus (i.e., $6.00 as the base rate and $6.00 as a performance-linked bonus), hourly overtime compensation under the GOP proposal would fall by 16.7% to $15.00.

Excluding Bonuses from Regular Rate Determinations for Overtime Pay Could Affect All Workers Who Put in Overtime Hours.

- Performance-based pay is widespread, in particular in the manufacturing sector. A 1997 American Management Association (AMA) survey of manufacturing companies found that "almost every company was using some kind of positive-incentive bonus plan to motivate employees to raise output to meet customers orders."[1] Among others, gainsharing plans were quite common, while reliance on piece work pay was declining. A survey by Hewitt Associates confirms and increased incidence of performance-based pay systems: Four of five (78 percent) surveyed organizations currently have at least one type of variable pay plan in place, up from fewer than half (47 percent) in 1990.[2]

- The American Management Association estimates that 2,500 companies were using gainsharing in the mid-nineties[3] – and the numbers are growing. Among machine-tool companies, for example, 22% used gainsharing in 1997 compared to only 8 percent twenty years earlier.[4]

- In the textile industry, employers are replacing piece rates with gainsharing. A study by the Economic Policy Institute found that "in the plants that [they] studied, managers have introduced group piece-rate systems with special group bonuses for achieving targeted levels of quality or production."[5] UNITE! estimates that 168,000 of the workers it represents, or more than half of its 250,000 members, would lose out if the production incentives were exempted from regular rate determination for overtime pay computation. This includes 90,000 garment workers, 36,000 workers in distribution, 18,000 in auto supply, and 24,000 in industrial laundries.

- Gainsharing is also quite common in the steel industry. The United Steelworkers of America estimates that 100,000 of its members participate in gainsharing plans and another 100,000 in basic steel alone participate in incentive plans. Overall, the majority of the union's membership (60-70%) is likely to be affected by the proposed change in the bonus rules.[6]

- In short, many workers already participate in performance-based pay plans, and excluding non-discretionary bonuses from the regular rate for computing overtime could have a significant negative effect on all of them. Moreover, passage of the proposed exclusion would encourage employers in every industry to shift away from straight pay toward performance-based systems, in order to reduce their overtime pay. *As a result, all 74 million American workers currently entitled to overtime pay could be negatively affected by the proposed bonus amendment.*[7]

Excluding Bonuses from Regular Rate Determinations for Overtime Pay Would Increase the Use and Size of Bonus Schemes and Reduce Workers' Earnings.

- Performance and incentive bonuses already often make up a significant share of total earnings. For example:

    - A survey conducted by MIT economics professor Paul Osterman found that 31 percent of production workers were paid bonuses based on group or firm performance in 1997. These performance bonuses made up 23 percent of annual pay increases for workers receiving bonuses, and therefore are a significant part of compensation for many workers.

    - In the steel industry, a survey of mini mills found that production and productivity performance bonuses make up between 45% and 60% of total compensation.[8] If performance bonuses did not count in determining the regular rate for overtime pay purposes, many steel workers would face large cuts in overtime pay.

  Excluding non-discretionary bonuses from overtime pay computation would encourage all employers to shift even more of workers' pay to bonuses. Such manipulation of compensation would result in lower overtime earnings per hour and could result in lower actual earnings for affected workers.

Excluding Bonuses from Regular Rate Determinations for Overtime Pay Would Encourage Even More Forced Overtime and Even Longer Hours.

- Excluding non-discretionary bonuses from overtime pay computation would also likely increase work hours overall. The number of overtime hours has risen in recent years. In the manufacturing sector, for example, overtime has increased by 40%, from 3.3 hours per week in 1979 to 4.6 hours per week in 2000.[9] A reduction in overtime pay resulting from changed bonus rules would create a strong incentive for employers to increase mandatory overtime hours even more. Many workers already work excessively long hours and find it extremely difficult to balance family and work. Reducing overtime pay by excluding bonuses would likely increase such forced overtime and long hours, exacerbating the time squeeze working families face.

Endnotes

1. Woodruff Imberman, "Using Incentive Plans to Boost Productivity in Manufacturing," *JOM*, vol. 50, no. 11 (1998).

2. Hewitt Associates. "Salary Increases to Remain Stable in 2001 as More Companies Rely on Variable Compensation, Hewitt Study Shows." Press Release, August 28, 2000.

3. Woodruff Imberman, "Improving Plant Performance Through Gainsharing," *JOM*, vol. 47, no. 7 (1995). The AMA study defines gainsharing as a group incentive, pay-for-performance wage system shared with the employer as a result of improving productivity above a certain level.

4. Woodruff Imberman, "Using Incentive Plans to Boost Productivity in Manufacturing," *JOM*, vol. 50, no. 11 (1998).

5. Eileen Appelbaum, Thomas Bailey, Peter Berg, and Arne L. Kalleberg, *Manufacturing Advantage: Why High-Performance Work Systems Pay Off*. Ithaca, N.Y: Cornell University Press, 2000, p. 76.

6. Roy Murray, Director of Collective Bargaining Services, United Steelworkers of America, September 2000.

7. U.S. Department of Labor estimate, September 2000.

8. Craig Woker, "Tying Pay to Success at Minimills." *New Steel*, December 1998.

9. Bureau of Labor Statistics, "The Employment Situation: [Various Months 2000]." *News Release*, various months of 2000; and Eva. E. Jacobs, *Handbook of U.S. Labor Statistics: Employment, Earnings, Prices, Productivity, and Other Labor Data*, Third Edition, 1999.

EXEMPTION OF INSIDE SALES WORKERS FROM FLSA

Outside sales employees (who take orders or make sales away from the employer's worksite) are exempt from the minimum wage and overtime requirements of the Fair Labor Standards Act. The proposed "inside sales" exemption would extend this exemption to certain inside sales workers, including many low wage earners, who are currently covered by these laws. This proposal targets inside sales workers for no legitimate reason, and would cut the pay (and family income) of some 2.5 million workers.

- ***The exemption ignores the differences between inside and outside sales employees.*** Outside sales employees are exempt from the FLSA overtime requirement because employers cannot effectively record and verify these employees' actual work hours. Employers can, however, verify the actual work hours of inside sales employees because they work on-site at an employer's workplace.

- ***The exemption ignores a basic purposes of the FLSA overtime pay requirement: to limit employers' imposition of mandatory overtime.*** Attaching a real financial cost to the imposition of excessive overtime, through a time-and-a-half pay requirement, is one of the most powerful incentives workers and policy makers have to discourage employers from imposing excessive overtime on their existing work forces. Employers have increasingly demanded employees work longer hours. In fact, the imposition of excessive mandatory overtime has been a major issue in several recent strikes and job actions, including the CWA and IBEW strike against Verizon. The requirement also serves to encourage employers to hire the workers they need, thereby creating more employment opportunities, rather than imposing extra work and longer hours on over-worked employees.

- ***The exemption denies important FLSA protections to low wage families.*** The proposed exemption would cover inside sales workers earning as little as $24,693, or the equivalent of $11.87 an hour. In 2000, a household of four with a gross income of $22,165 or less could be eligible for food stamps. The National Priorities Project, along with Jobs With Justice, has calculated that a livable wage, defined as "the minimal annual amount of money required to meet a household's basic needs," for a family of four in the United States is $32,185 (1997 dollars).

- ***The exemption would cover a large share of the workforce, including many women workers.*** The Labor Department estimates that the proposed estimates that the proposed exemption for inside sales workers could affect as many as 2.5 million workers, or more than one-third of all sales workers. CWA estimates that as many as 50,000 of their members alone could be affected by the proposed exemption. UNITE! estimates that it represents 5,000 sales workers who would probably lose overtime if the proposed amendment passed. According to the Newspaper Association of America, 70% of all workers in advertising departments at U.S. daily newspapers are women. Exempting inside sales workers from the FLSA overtime requirement is likely to have a disproportionate effect on women workers, many of whom earn relatively low wages.

The Inside Sales Exemption Amendment
September 2000

Exempting Inside Sales Workers from Minimum Wage and Overtime Requirements Would Hurt Working Families and Contravene A Basic Purpose of the Overtime Pay Requirement

Outside sales employees (who take orders or make sales away from the employer's worksite) are exempt from the minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA). The proposed "inside sales" exemption would extend this exemption from minimum wage and overtime pay requirements to certain inside sales workers, including many low wage earners, who have previously been covered by these laws. This proposal unfairly targets inside sales workers for no legitimate reason, and would effectively cut the pay (and family income) for the 2.5 million workers affected by this proposal.[1]

The proposed inside sales exemption creates a set of complicated and unclear rules for determining if an inside sales worker is covered under the exemption. The proposal would exempt inside sales workers who meet the following requirements:

- have "specialized or technical knowledge" related to products or services being sold;
- make sales predominantly to regular customers to whom the employee has made previous sales, or, in the alternative, the position may not involve initiating sales contacts;
- have a "detailed understanding" of the customer's needs;
- exercise "discretion in offering a variety of products and services";
- receive a base pay that is equal to at least 1 ½ times the minimum wage, multiplied by 2,080 (regardless of the actual hours worked), plus additional pay based on each sale attributable to the employee, which must equal at least 40% of the amount required for base pay; and
- receive the same rate of sales-based compensation for each sale made beyond the minimum required level (that is the 40% amount), as was applied in reaching the minimum required level. (That is the sales rate for subsequent sales may not be reduced.)

Translated into real dollars, the earnings provision means that inside sales workers earning as little as $24,693/year (in wages and commissions) will be exempt from FLSA minimum wage and overtime requirements.[2]

Exempting Inside Sales Workers From Minimum Wage and Overtime Requirements Ignores the Differences Between Inside and Outside Sales Employees and the Reasons Outside Sales Employees are Exempt

- Outside sales employees are exempt from the FLSA overtime requirement because employers cannot effectively record and verify these employees' actual work hours. Employers can, however, verify the actual work hours of inside sales employees because they work on-site at an employer's workplace.

The Proposed Inside Sales Exemption Denies Important FLSA Protections For Families Struggling to Make Ends Meet on Low Wages

- The proposed exemption would cover inside sales workers earning as little as $24,693, or the equivalent of $11.87 an hour. This hourly figure is more than $1.00 less than average hourly earnings for all production and non-supervisory workers as well as for sales workers.[3] The annual earnings threshold under the proposed exemption is more than $6,000 less than average annual wages.[4]

- In 2000, a household of four with a gross income of $22,165 or less could be eligible for food stamps.[5] Some of the workers affected by the proposed inside sales exemption would earn only slightly more than this eligibility threshold.

- Many workers subject to the proposed inside sales exemption earn considerably less than is necessary to support themselves and their families. The National Priorities Project, along with Jobs With Justice, has calculated that a livable wage, defined as "the minimal annual amount of money required to meet a household's basic needs," for a family of four in the United States is $32,185 (1997 dollars).[6] Many workers covered under the proposed inside sales exemption would earn as much as $7500 less than this livable wage.

- Exempting workers earning as little as $24,693 from overtime requirements clearly deprives these working families of important protections and added income they need to make ends meet.

The Proposed Inside Sales Exemption Ignores a Basic Purpose of the FLSA Overtime Pay Requirement, to Limit Employers' Imposition of Mandatory Overtime

- Employers are increasingly demanding that employees work longer and longer hours, despite the fact that many workers may not want to work these longer hours or have family obligations wholly incompatible with such long hours. In fact, the imposition of excessive mandatory overtime has been a major issue in several recent strikes and job actions, including the CWA and IBEW strike against Verizon.

- Attaching a real financial cost to the imposition of excessive overtime, through a time-and-a-half pay requirement, is one of the most powerful incentives workers and policy makers have to discourage employers from imposing excessive overtime on their existing work forces. The requirement also serves to encourage employers to hire the workers they need, thereby creating more employment opportunities, rather than imposing extra work and longer hours on over-worked employees.

The Proposed Inside Sales Exemption Would Cover A Large Share of the Workforce, Including Many Women Workers

- The Labor Department estimates that the proposed exemption for inside sales workers could affect as many as 2.5 million workers, or more than one-third of all sales workers.

- The Communications Workers of America estimate that as many as 50,000 of their members alone could be affected by the proposed exemption. This figure includes, among others, individuals selling yellow page ads as well as other telecommunications products and services. The CWA-represented workers are just the tip of the iceberg, however; far greater numbers of unrepresented workers likely to be covered by the inside sales exemption are working in telecommunications, in the information technology sector, for internet service providers, and others.

- UNITE! estimates it represents 5,000 sales workers who would probably lose overtime if the proposed amendment passed.

- The Newspaper Guild/CWA estimates that 10,000 of its members, and as many as 100,000 workers in the newspaper industry overall, could lose important overtime protections if the inside sales exemption passes

- According to the Newspaper Association of America, 70% of all workers in advertising departments at U.S. daily newspapers are women.[7] Thus, exempting inside sales workers from the FLSA overtime requirement is likely to have a disproportionate effect on women workers, many of whom earn relatively low wages.

Endnotes

1. U.S. Department of Labor estimate, September 2000.

2. 1.5 x $5.65 x 2,080 = $17,638 plus (40% x $17,638) = $24,693. ($5.65 is used because the minimum wage will increase to $5.65 when the amendment goes into effect)

3. Average hourly earnings for production and non-supervisory workers is from 1999 and comes from the Economic Policy Institute, *State of Working America, 2000-01* (September 2000), p. 120, Table 2.4; Average hourly earnings for sales workers comes from the U.S. Department of Labor, Bureau of Labor Statistics, *National Compensation Survey Occupational Wages in the United States, 1997*, September 1999, Bulletin 2519 - earnings for sales workers is from 1997, and has been indexed to 1999 dollars.

EXEMPTION OF COMPUTER PROFESSIONALS FROM FLSA

The proposed expansion of the so-called "computer professional" overtime exemption to workers in additional computer-related jobs would cover network and database analysts; workers who manage or train certain workers in computer-related occupations; and computer software or network designers, testers, and consultants. Rather than expanding the exemption, Congress should repeal it. True "professionals" in all occupations are already exempted from the Fair Labor Standards Act. There is no need for an industry specific exemption. Much less one that targets employees with an hourly rate or skill level comparable to other occupations which will continue to be entitled to overtime protections.

- ***Exempting hourly paid workers in computer-related occupations from overtime coverage is inconsistent with the treatment of other comparably paid hourly workers.*** Among hourly-paid employees, workers in computer-related occupations are the only ones whose wage rate exempts them from FLSA overtime coverage. A number of hourly employees working as auto workers, electricians, plumbers and steamfitters, painters and paperhangers, operating engineers and truck drivers, to name some, earn in excess of the $27.63 threshold of the current exemption and continue to be covered by the Act.

- ***There is nothing about the new economy that warrants new rules in derogation of workers' basic rights to decent wages and working conditions, including overtime pay.*** The high tech industry in which large numbers of so-called "computer professionals" work is thriving and its executives enjoy huge salaries and rich stock dividends. The industry already relies far too much on temporary and contract work, rather than investing in training, recruiting and retaining a permanent work force, and it already requires excessive hours of work from its employees and temporary and contract workers. Broadening the exemption covering workers in computer-related occupations will not alleviate these conditions; it will exacerbate them. Rather than expanding the so-called "computer professional" exemption, Congress should repeal it.

- ***Expanding the exemption to more workers in computer-related occupations strip FLSA protections from a large and growing number of workers.*** The Department of Labor estimates that at least 164,000 hourly paid and salaried workers in computer-related occupations who earn more than $27.63 will be affected, as will an unknown number of salaried workers earning between $13,000 and $57,470 annually. Computer-related occupations will be some of the fastest growing occupations over the next few years with employment in these occupations projected to double between 1998 and 2008.

- ***Expanding the exemption will worsen the problem of excessive hours for salaried and hourly workers in these jobs.*** Long hours, weekend and evening work are prevalent among workers in computer-related jobs. For workers in an industry in which few employees enjoy the benefits of a union contract, the FLSA time-and-a-half overtime pay requirement is one of the most powerful tools workers and policy makers have to discourage companies from demanding extraordinary and excessive hours of work. Expanding the exemption to cover more workers in computer-related jobs makes mandatory overtime far less costly for employers, thus reducing or eliminating their incentive to cut workers' hours.

- ***Expanding the exemption deprives affected workers of earnings they need to compensate for lower overall pay, fewer benefits and less job security.*** Although losing the right to overtime pay disadvantages both salaried and hourly workers in computer-related occupations, hourly workers that rely on overtime earnings to save for periods of unemployment and to cover the costs of benefits they do not receive from their employers, will pay a higher price. Stock options account for a significant portion of the high incomes in the industry often reported by the press. Temporary and contract workers, however, rarely receive these. While many workers in permanent, salaried computer-related positions have high incomes providing comfortable life styles, most hourly paid contingent workers have lower incomes with fewer benefits and often find it difficult to get by.

- ***Expanding the exemption will have an especially harsh effect on women and on temporary and contract workers, who are most likely to be paid by the hour.*** High tech and information technology employers rely extensively (more than any other industry) on hourly paid temporary and contract workers. And since women are generally more likely than men to work in these contingent work arrangements, expanding the exemption is likely to have a disproportionate effect on women.

Expansion of the So-called "Computer Professional" Exemption
September 2000

Expanding the Overtime Exemption of Workers in Computer-Related Jobs Would Erode FLSA Protections for Many Who, Like Workers Throughout the Economy, Need Overtime Pay and Protections to Support Their Families and Reduce Excessive Work Hours

The proposed expansion of the so-called "computer professional" overtime exemption to workers in additional computer-related jobs would cover network and database analysts; workers who manage or train certain workers in computer-related occupations; and computer software or network designers, testers, and consultants. While the ultimate reach of this proposed expansion is unknown, it would likely affect many workers who are less skilled than those the exemption now covers. Many of these newly exempted workers would not otherwise be exempt, i.e., they would not fall under the FLSA's exemption for "professional" employees.

The original exemption from overtime for workers in certain computer-related jobs dates back to 1990. The exemption applied to both salaried and hourly paid workers in specified computer-related jobs who met certain criteria. Among hourly workers, the exemption applied to those whose hourly rates were equal to or greater than 6 ½ times the federal minimum wage, which was then $3.80. When the minimum wage was increased in 1996, Congress froze the rate for exempting these hourly paid workers at $27.63. Because the hourly rate is frozen, ever-growing numbers of hourly paid workers in the specified computer-related jobs will be exempt from overtime coverage in the future, as their nominal wages rise.

Exempting Hourly Paid Workers in Computer-Related Occupations From Overtime Coverage is Inconsistent With the Treatment of Other Comparably Paid Hourly Workers.

- Among hourly-paid employees, workers in computer-related occupations are the only ones whose wage rate exempts them from FLSA overtime coverage. Many hourly workers, including those who enjoy the benefits of collective bargaining agreements, earn more than $27.63 per hour. For example, the UAW estimates that it represents more than 80,000 workers at Daimler-Chrysler, Ford and General Motors whose hourly wage rates are at least $26.87. With the recently negotiated 3% increase, these workers' wages will rise to at least $27.68 an hour.

- Skilled trades employees also often earn hourly wages as great as $27.63. For example, recent contract negotiations boosted hourly wages for 7500 Chicago area masons from $27.48 an hour by as much as $1.55; for 2000 Cleveland area electricians, from $27.63 to as much as $29.03; for 4800 plumbers and steamfitters in the Philadelphia area, from $28.07 by as much as $2.00; and for 4000 painters and paperhangers in New York, from $27.25 to $28.25. Like many hourly paid workers in computer-related jobs, most skilled trades craftspersons have no guarantee of full-time, full-year work. Thus, even at such hourly wage rates, annual earnings without overtime pay can fall below the median annual income for a family of four ($47,769 in 1998),[1] making overtime pay a critical source of income for working families.

Expanding the Exemption from Overtime to More Workers in Computer-Related Occupations Will Negatively Affect a Large and Growing Number of Workers.

- The Department of Labor estimates that at least 164,000 hourly paid and salaried workers in computer-related occupations who earn more than $27.63 per hour will be affected by expanding the exemption, as will an unknown number of salaried workers in these occupations who earn between $13,000 and $57,470 annually.

- The UAW estimates that expansion of the exemption could affect as many as 1,000 of its members, represented by the National Writers' Union, UAW Local 1981, who write content for websites.

- The American Federation of State, County and Municipal Employees (AFSCME) estimates that expansion of the exemption could affect between 20,000 and 30,000 of its members.

- Computer-related occupations will be some of the fastest growing occupations over the next eight years. Employment in these occupations is projected to double between 1998 and 2008. The BLS projects that overall employment will increase by 14.4%, but the number of computer engineers will grow by 108%, computer support specialists by 102%, system analysts by 94%, database administrators by 77%, and computer programmers by 30%. The BLS projects that the occupation of system analysts will create the most jobs, adding a total of 507,000 new jobs by 2008.[2] In the face of this projected growth, expanding the exemption of workers in computer-related occupations simply means that an ever-growing share of the labor force will fall outside the FLSA's protections.

Expanding the Exemption from Overtime to More Workers in Computer-Related Occupations Will Have an Especially Harsh Effect on Women and on Temporary and Contract Workers, Who are Most Likely to be Paid by the Hour.

- The proposed expansion of the exemption for workers in computer-related jobs will have a disproportionate impact on contingent workers. High tech and information technology employers rely extensively (more than any other industry) on hourly paid temporary and contract workers. According to the Bureau of Labor Statistics' *Occupational Outlook Handbook*, growing numbers of workers in computer-related jobs are employed on a temporary or contract basis or work as independent consultants.[3] Employing such workers on a temporary and contract basis can result in tremendous cost-savings for employers. Those savings are magnified by the existing exemption from overtime for workers in certain computer-related occupations and will grow even more if Congress expands this exemption.

- Though women are under-represented among so-called "computer professionals" – only three out of 10 are women – they are especially likely to be affected by the proposed expansion of the exemption.[4] Women are generally more likely than men to work in contingent work arrangements.[5] Indeed, the observed pay differential of 17 percent between male and female "computer professionals" may evidence women's greater likelihood to be in contingent work arrangements.[6] Expanding the exemption to cover even more hourly and salaried workers in computer-related occupations is thus likely to have a disproportionate effect on women.

Expanding the Overtime Exemption of Workers in Computer-Related Jobs Will Worsen the Problem of Excessive Hours for Salaried and Hourly Workers in these Jobs.

- Long hours, weekend and evening work are prevalent among workers in computer-related jobs.[7] For workers in an industry in which few employees enjoy the benefits of a union contract, the FLSA time-and-a-half overtime pay requirement is one of the most powerful tools workers and policy makers have to discourage companies from demanding extraordinary and excessive hours of work. Expanding the exemption to cover more workers in computer-related jobs makes mandatory overtime far less costly for employers, thus reducing or eliminating their incentive to cut workers' hours.

Expanding the Exemption from Overtime to More Workers in Computer-Related Occupations Deprives Affected Workers of Earnings They Need to Compensate for Lower Overall Pay, Fewer Benefits and Less Job Security.

- Although losing the right to overtime pay disadvantages both salaried and hourly workers in computer-related occupations, hourly workers may pay a special price since they are more likely to rely on overtime earnings to save for periods of unemployment and to cover the costs of benefits that they, unlike many salaried employees, do not receive from their employers.

- Many hourly paid workers in computer-related jobs are hired on a temporary and contract basis. Temporary workers are generally lower paid and less likely to have employer-provided health and pension benefits than permanent, salaried employees. For example, according to the Economic Policy Institute, temporary help agency workers are paid 18 percent less than regular full-time workers.[8] Only 8.5 percent have health insurance coverage through their agency, and only 5.8 percent have pension coverage. In comparison, around 70 percent of full-time permanent employees have such benefits through their employer. Direct-hired temps fare little better than agency workers: only 12.4 percent have employer-provided health insurance and only 5.4 percent have pension coverage.[9]

- Further, according to the Washington Alliance of Technology Workers (an affiliate of the Communications Workers of America representing many computer workers), temporary and contract workers in the high tech industry typically cover most of their training costs themselves, which requires considerable investment of time and money to stay current in a rapidly changing technological environment. These workers usually do not have paid-time off to develop these skills, nor do they receive tuition reimbursement.

- The news media frequently reports on the high salaries in the high tech sector, but stock options account for a significant portion of these incomes. Temporary and contract workers rarely receive stock options. Hence, while many workers in permanent, salaried computer-related positions have high incomes providing comfortable life styles, most hourly paid contingent workers have lower incomes and fewer benefits and often find it difficult to get by.

Overtime Pay Helps Cushion Against the High Job and Earnings Insecurity Associated with Temporary and Contract Work.

- Temporary workers in computer-related occupations often face high job insecurity, periods of unemployment and sporadic earnings due to the transient nature of work projects. Many firms also place a limit on the amount of time temporary workers can remain at a single place of employment.[10] Thus, relatively high hourly wages for workers in computer-related occupations may not translate into high annual earnings. One strategy these workers use to manage job and income insecurity is to work many hours during periods of employment and save for periods of unemployment. Expanding the overtime exemption will make it harder for greater numbers of workers in computer-related positions to cope with periods of unemployment between jobs.

Expanding the Overtime Exemption Ignores the High Costs of Living in Areas Where Many Workers in Computer-Related Occupations Live.

- Jobs for many workers in computer-related positions are heavily concentrated in specific geographic locations across the country. According to data by the Bureau of the Census, living costs are 63 percent higher in Oakland, California and 44 percent higher in Boston, Massachusetts -- two centers of high tech employment -- compared to the national level.[11] In particular, housing and other expenses are often very high in these areas due to the fast employment growth in the computer industry, which has raised housing prices and rent. The National Association of Realtors found that of 318 metropolitan areas it tracked, the highest median costs of housing in the U.S. were in San Jose ($543,200) and San Francisco ($455,400). The greater Seattle-Bellevue-Everett area, home to Microsoft, ranked 18th at $230,200. Expanding the overtime exemption of workers in computer-related occupations would make it all the more difficult for them to earn the incomes they need to support themselves and their families in such high cost areas.

The Overtime Rules Should Cover <u>All</u> Hourly and Salaried Workers in Computer-Related Jobs Who Do Not Otherwise Fall Under One of the FLSA's Other Exemptions.

- Exempting workers from overtime simply because they work in certain computer-related occupations is inconsistent with the overall history, purpose, and structure of the FLSA. The overtime premium provision should cover *all* hourly paid and salaried workers in computer-related occupations, regardless of their earnings, unless they otherwise meet the criteria of one of the FLSA's exemptions (e.g., the "professional" exemption). The FLSA exempts no hourly paid workers from coverage, other than certain so-called "computer professionals," because of their pay rates. Expanding the exemption of workers in computer-related jobs could, over time, lead to deterioration of wages for such workers already likely to earn the least and have the fewest benefits of any workers in these jobs. In addition, the precedent this exemption creates could well fuel further erosion of overtime protections for workers in other occupations.

- There is nothing about the new economy that warrants new rules in derogation of workers' basic rights to decent wages and working conditions, including overtime pay. The high tech industry in which large numbers of so-called "computer professionals" work is thriving and its executives enjoy huge salaries and rich stock dividends. The industry already relies far too much on temporary and contract work, rather than investing in training, recruiting and retaining a permanent work force, and it already requires excessive hours of work from its employees and temporary and contract workers. Broadening the exemption covering workers in computer-related occupations will not alleviate these conditions; it will exacerbate them. Rather than expanding the so-called "computer professional" exemption, Congress should repeal it.

Endnotes

1. Lawrence Mishel, Jared Bernstein, and John Schmitt, *The State of Working America, 2000-2001*. Ithaca, N.Y.: Cornell University Press, 2000, p. 36.

2. Douglas Braddock, "Occupational Employment Projections to 2008." *Monthly Labor Review*, November 1999, pp. 51-77; and Bureau of Labor Statistics, "BLS Releases New 1998-2008 Employment Projections." *News Release*, November 30, 1999.

3. U.S. Department of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2000-01 Edition, pps. 111,115.

4. U.S. Department of Labor, Bureau of Labor Statistics, Employment and Earnings, January 2000, table 39.

5. U.S. Department of Labor, Bureau of Labor Statistics, "Contingent and Alternative Employment Arrangements, February 1999." News Release, December 21, 1999.

6. Council of Economic Advisors, "Opportunities and Gender Pay Equity in New Economy Occupations." May 11, 2000, p. 5.

7. For example, in describing the work conditions for computer programmers, the U.S. Department of Labor's *Occupational Outlook Handbook* explains that "many programmers may work long hours or weekends, to meet deadlines or fix critical problems that occur during off hours." The *Occupational Outlook Handbook* also says that computer systems analysts, engineers and other computer scientists "usually work about 40 hours a week -- the same as many other professional or office workers. However, evening or weekend work may be necessary to meet deadlines or solve specific problems." U.S. Department of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2000-01 Edition, pps. 111, 114.

8. Ken Hudson, "No Shortage of 'Nonstandard' Jobs: Nearly 30% of Workers Employed in Part-time, Temping, and other Alternative Arrangements." *Economic Policy Institute Briefing Paper,* 1999; and Arne L. Kalleberg, and other. *Nonstandard Work, Substandard Jobs: Flexible Work Arrangements in the U.S.* Washington, D.C.: Economic Policy Institute, 1997.

9. U.S. Department of Labor, Bureau of Labor Statistics, "Contingent and Alternative Employment Arrangements, February 1999." *News Release,* December 21, 2000, table 9.

10. For instance, Microsoft has instituted a requirement that workers take a 100-day break-in-service after working for the company over a 365 period of time.

11. Bureau of the Census, *Statistical Abstract of the United States, 1999,* table 779.

EXEMPTION OF FUNERAL DIRECTORS AND EMBALMERS

Increasingly large corporations are purchasing small independently owned funeral homes, thereby enhancing the likelihood that the homes will become subject to FLSA requirements. Some funeral directors are currently exempt from the FLSA because as managers they fall under the Act's "executive exemption." But many other funeral directors and embalmers are employees who are not covered by the exemption and are thus entitled to FLSA protections. Exempting funeral directors and embalmers altogether from the FLSA would deprive tens of thousands of workers of rights and protections they currently enjoy and deny protections to many future workers who would otherwise be covered under the Act.

- ***The exemption targets workers who need the income protections that the FLSA provides.*** According to the Bureau of Labor Statistics, in 1998, 10% of both funeral directors and morticians earned only slightly more than the poverty level for a family of four. Half of all funeral directors and morticians earned less than $16.85 an hour, while half of all embalmers earned less than $13.55 an hour, considerably less than the 1998 median family income of $47,769.

- ***The exemption will increase employers' incentive to require these workers to put in excessive hours.*** One objective of the FLSA's time-and-a-half overtime requirement is to limit employers' imposition of excessive work hours. As the BLS notes, funeral directors already work "long, irregular hours," are often on an on-call basis, and work evenings and weekends. Exempting funeral directors and embalmers from FLSA overtime coverage will only exacerbate this situation by removing a key federal protection that operates as a brake on mandatory overtime and excessive work hours.

- ***The rationale to exempt these employees simply because they work irregular hours does stand up under scrutiny.*** Congress and the Department of Labor have dealt with other situations involving employees' irregular hours in sections 207(f) of the FLSA (involving certain employees with irregular hours) and 207(k) (involving certain police and fire employees). And employers, including funeral homes, have considerable flexibility under existing law to arrange workers' schedules to accommodate irregular and unpredictable hours.

The Proposal to Exempt Licensed Funeral Directors and Embalmers Is Not "Working Family" Friendly; Instead, Exempting These Workers From FLSA Coverage Increases Employers' Incentive to Require These Workers to Put in Excessive Work Hours

- According to the Bureau of Labor Statistics' Occupational Outlook Handbook,

  "Funeral directors often work long, irregular hours. Many work on an on-call basis, because they may be needed to remove remains in the middle of the night. Shift work sometimes is necessary because funeral home hours include evenings and weekends. In smaller funeral homes, working hours vary, but in larger homes employees usually work 8 hours a day, 5 or 6 days a week." [5]

  Although workers covered by collective bargaining agreements often enjoy protections against mandatory overtime, most other workers do not, as the FLSA does not bar employers from imposing overtime or requiring employees to work excessive hours. One objective of the FLSA's time-and-a-half overtime requirement, then, is to limit employers' imposition of excessive work hours. As the BLS notes, funeral directors already work "long, irregular hours." Exempting funeral directors and embalmers from FLSA overtime coverage will only exacerbate this situation, by removing a key federal protection that operates as a brake on mandatory overtime and excessive work hours.

- Supporters of the proposed exemption contend that some funeral directors and embalmers would prefer compensatory time off instead of overtime pay, and that exempting these workers from the FLSA would allow funeral homes to provide compensatory leave.[6] The reality is that it's the employer who benefits, not workers, from denying FLSA protections to funeral directors and embalmers. Absent an overtime pay requirement, employers have no meaningful incentive to cut workers' overtime hours. The idea that removing overtime protections empowers employers to provide compensatory time off, thus benefitting workers, is specious: all that eliminating overtime pay protections will do is encourage employers to require even longer hours from funeral directors and embalmers.

Denying Employees FLSA Protections Simply Because They Work Irregular Hours is a Draconian Solution That Compromises Workers' Rights and Undermines the Purpose of The Nation's Wage and Hour Laws

- Proponents of the proposal to exempt funeral directors and embalmers from the FLSA argue that the exemption is necessary because of these employees' irregular and sometimes unpredictable work hours. Denying employees protections altogether simply because of the nature of their work hours is to throw out the baby with the bath water. Congress and the Department of Labor have dealt with other situations involving employees' irregular hours, for example, in section 207(f) of the FLSA (involving certain employees with irregular hours) and 207(k) (involving certain police and fire employees). And employers, including funeral homes, have considerable flexibility under existing law to arrange workers' schedules to accommodate irregular and unpredictable hours. The proposed alternative -- to remove minimum wage and overtime protections altogether for these employees – is a draconian solution that does nothing to protect or further the rights and interests of workers but simply serves to shore up corporate profits at workers' expense.

Endnotes

1. U.S. Department of Labor estimate, September 2000.

2. U.S. Department of Labor, Bureau of Labor Statistics, 1998 Occupational Employment and Wage Estimates, 39014 Embalmers, www.bls.gov/oesnl/oes39014.htm; U.S. Department of Labor, Bureau of Labor Statistics, 1998 Occupational Employment and Wage Estimates, 39011 Funeral Directors and Morticians, www.bls.gov/oesnl/oes39011.htm. 1998 poverty level information is from the U.S. Census Bureau, *Poverty in the United States, 1998*. P60-207, Table 1.

3. Lawrence Mishel, Jared Bernstein, and John Schmitt, *The State of Working America, 2000-2001*. Ithaca, N.Y.: Cornell University Press, 2000, p. 36.

4. Wage data for the executive, administrative, and managerial workers, the professional specialty workers, and technical workers are from the U.S. Department of Labor, Bureau of Labor Statistics, *National Compensation Survey Occupational Wages in the United States, 1997*, September 1999, Bulletin 2519, and represent the 1997 mean hourly earnings (indexed to 1998 dollars.) The wage data for funeral directors/morticians and embalmers come from the U.S. Department of Labor's 1998 Occupational Employment and Wage Estimates.

5. U.S. Department of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2000-01 Edition

6. *Congressional Record*, July 31, 1998, p. S9562. (Statement Introducing S. 2405 by Senator Faircloth. This bill sought to exempt licensed funeral directors from the FLSA's overtime and minimum wage requirements.)

BARRING STATES FROM ADOPTING THEIR OWN TIP CREDIT RULES

The tip credit preemption proposal is designed to bar states from adopting new laws that prohibit tip credits or that require employers to pay higher guaranteed wages than required under the FLSA. While not repealing existing tip credit prohibitions or limits under state laws, the proposal would freeze those requirements at current levels. As the federal minimum wage rises in the future, employers would be allowed to take a "tip credit" for the amount of the difference between the "frozen" state law provision and the new federal minimum.

- ***Passage of the tip credit preemption proposal would contravene states' historic power under the FLSA and other federal worker protection laws to enact local standards that exceed floors set under federal law.*** Preempting states' power to enact tip credit laws that require greater employer payments than the FLSA would be an unprecedented encroachment of federal authority into an area that has previously been reserved to the states.

- ***Passage of the tip credit preemption proposal will harm low wage workers, many of whom are women struggling to make ends meet.*** The challenges faced by waiters and waitresses may be even greater than many other low wage workers because many work only part-time. The BLS reports that part-time work is more common among food and beverage service workers than among workers in almost any other occupation. Half of all waiters and waitresses work part-time and nearly four out of five (77.4%) of these workers are women. As a result, the impact of the tip credit preemption proposal will fall overwhelmingly on low paid women workers.

- ***Passage of the tip credit preemption proposal will impede efforts to end poverty for workers moving from welfare to work.*** Many women moving from welfare to work are employed as waitresses. Research by the W.E. Upjohn Institute for Employment Research has found that the third most common occupation for welfare recipients is that of waitress, and the most common industry for welfare recipients to work in is eating and drinking establishments.

- ***Passage of the tip credit preemption proposal unfairly targets tipped workers.*** Notwithstanding the fact that they are some of the lowest paid workers in the nation, tipped employees were targeted in the 1996 amendments to the FLSA. which raised the federal minimum wage to $5.15 over a two year period but changed the cash wage obligation for employers of tipped employees from 50% of the federal minimum wage to a fixed dollar amount, currently $2.13 an hour. Previously, when the minimum wage increased, tipped employees shared in the benefit because the employers' actual wage obligation, which was a percentage of the minimum, also rose. A direct result of the 1996 tip credit change is that many tipped workers will not realize any benefit at all from this or future federal minimum wage hikes. The Hastert proposal will extend that wage loss to <u>all</u> tipped employees.

The Tip Credit Preemption Amendment
September 2000

Barring States From Adopting Their Own Tip Credit Rules Is An Unjustifiable Encroachment on States' Authority and an Assault On Low Wage Workers

The tip credit preemption proposal is designed to bar states from adopting new laws that prohibit tip credits or that require employers to pay higher guaranteed wages than required under the FLSA. While not repealing existing tip credit prohibitions or limits under state laws, the proposal would freeze those requirements at current levels. As the federal minimum wage rises in the future, employers would be allowed to take a "tip credit" for the amount of the difference between the "frozen" state law provision and the new federal minimum.

The Fair Labor Standards Act (FLSA) allows employers with tipped employees to credit a certain amount of workers' tips (the "tip credit") to meeting the employers' federal minimum wage requirements. Employers of tipped workers must pay those workers at least $2.13 an hour and can apply the workers' tips to make up the difference between the $2.13 wage payment and the federal minimum wage. If a worker's tips plus $2.13 an hour total at least the federal minimum wage, the employer has no more wage obligation (under the law); if tips plus the wage payment equal less than the minimum wage, the employer must make up the difference. Currently, the maximum tip credit under federal law is $3.02/hour, though that amount will rise to $4.02 with the proposed minimum wage increase to $6.15 (unless there is a further change in the FLSA's tip credit provision).

Minimum wage laws in Alaska, California, Minnesota, Montana, Nevada, Oregon, Washington and Guam do not permit tip credits for tipped employees. In these states and in Guam, the minimum wage for tipped employees is the same as the minimum wage for workers without tips.[1] Many other states' tip credit laws provide employers with smaller tip credits than the federal tip credit. In those states, employers must generally pay tipped employees a larger cash wage than the FLSA requires.

Passage of the Tip Credit Preemption Proposal Would Contravene States' Historic Power Under the FLSA and Other Federal Worker Protection Laws to Enact Local Standards That Exceed Floors Set Under Federal Law

- The purpose of the FLSA and many other federal worker protection laws is to set a national floor of workplace standards, which virtually all employers must meet. These standards serve compelling national interests. But under the FLSA and numerous other worker protection laws (such as the employment discrimination statutes), states – and in many instances, localities – have always had the power to enact standards for their citizens that exceed those set by federal law. For example, states have the power to set higher minimum wage levels than the federal rate (and many have done so) or to prescribe more generous rules related to overtime pay. Preempting states' power to enact tip credit laws that require greater employer wage payments than the FLSA would be an unprecedented encroachment of federal authority into an area that has previously been reserved to the states.

Passage of the Tip Credit Preemption Proposal Will Harm Low Wage Workers, Many of Whom Are Women, Who Are Struggling to Make Ends Meet

- Like all low wage workers, tipped employees, such as waitresses and waiters, struggle to make ends meet. The challenges faced by waiters and waitresses may be even greater than for many other low wage workers, because many work only part-time. The Bureau of Labor Statistics' *Occupational Outlook Handbook* reports that "part-time work is more common among food and beverage service workers than among workers in almost any other occupation;" half of waiters and waitresses work part-time.[2] On average, waiters and waitresses earned $4.04/hour in 1997 (without tips) and worked an average of 29.2 hours per week.[3]

- Women are nearly four out of five (77.4%) of the employees working as waiters or waitresses.[4] As a result, the impact of the tip credit preemption proposal will fall overwhelmingly on low paid women workers.

Passage of the Tip Credit Preemption Proposal Will Impede Efforts to End Poverty for Workers Moving from Welfare to Work

- Many women moving from welfare to work are employed as waitresses. Research by the W.E. Upjohn Institute for Employment Research has found that the third most common occupation for welfare recipients is that of waitress, and the most common industry for welfare recipients to work in is eating and drinking establishments.[5]

Passage of the Tip Credit Preemption Proposal Unfairly Targets Tipped Workers

- Tipped employees were targeted in the 1996 amendments to the FLSA. Prior to the 1996 amendments, the tip credit was set at 50% of the minimum wage. Employers who claimed the tip credit had to pay cash wages of at least 50% of the minimum wage to tipped employees, or $2.13 an hour in 1995 (when the minimum wage was $4.25 an hour). The 1996 amendments, which raised the federal minimum wage to $5.15 over a two year period, changed the cash wage obligation for employers of tipped employees from 50% of the federal minimum wage to a fixed dollar amount, currently $2.13/hour. Previously, when the minimum wage increased, tipped employees shared in the benefit because the employers' actual wage obligation, which was a percentage of the minimum, also rose. Now, however, with every minimum wage increase, employers' cash wage obligation for tipped employees remains fixed at only $2.13 an hour.

- One result of the 1996 tip credit change is that, notwithstanding the fact that they are among the lowest paid workers in the nation, many tipped workers will not realize <u>any</u> benefit at all from this or future federal minimum wage hikes. Had the 1996 tip credit amendment not been passed, today's tipped employees could instead anticipate a $3.08 cash wage from their employers (50% of $6.15) due to the proposed minimum wage increase.

- The situation for tipped workers is different, however, in those states that prohibit tip credits altogether or that have tip credit rules that are more generous to employees than the federal rule. In most of those states, tipped employees will enjoy some real benefit from the proposed federal increase. However, if states' existing tip credit requirements are frozen and states are barred from enacting more favorable rules in the future, employees will lose important protections that their states had determined were appropriate and necessary, in light of local conditions.

Endnotes

1.US Department of Labor Employment Standards Administration Wage and Hour Division, *Minimum Hourly Cash Wages for Tipped Employees Under Minimum Wage Laws*, January 1, 2000.

2.U.S. Department of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, 2000-01 Edition.

3.U.S. Department of Labor, Bureau of Labor Statistics, *National Compensation Survey Occupational Wages in the United States, 1997*, September 1999, Bulletin 2519.

4.U.S. Department of Labor, Bureau of Labor Statistics, *Employment and Earnings*, January 2000.

5.Timothy J. Bartik, *Jobs for Welfare Reciplents*, W.E. UpJohn Institute for Employment Research, Spring 1997.

Min Wage

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HUMAN RIGHTS WATCH

FACSIMILE COVER SHEET

To: Director Gene Sperling
From: Human Rights Watch, California Committee
Re: Harkin Amendment to Minimum Wage Legislation
Fax: (202) 456-2878
Pages: 3, Including Cover Page

SP/W/RS
Seems like a big lift at this point.
GS
10/6/00

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October 4, 2000

Gene Sperling
Director
National Economic Council
The White House
1600 Pennsylvania Avenue
Washington DC 20500
Fax: 202/456-2878

Dear Mr. Sperling,

Last week, Senator Tom Harkin introduced the Children's Act for Responsible Employment (S. 3100) to address the shameful conditions endured by hundreds of thousands of children who work as hired laborers in commercial US agriculture. We are writing to urge you to use your influence with the Congressional leadership to ensure that this legislation is incorporated into the the final compromise legislation to raise the minimum wage, and to provide certain tax benefits that is expected to be enacted before the Congress adjourns this session.

We are very pleased that this legislation has the support of the Clinton administration, and that Secretary of Labor Alexis Herman has publicly pledged support for bringing child labor standards for child farmworkers into line with those that apply to other young workers. At a national Child Labor Conference held in Washington DC in June of this year, you also addressed the importance of bringing US labor law into the 21st century and strengthening protections for children working in US agriculture.

A Human Rights Watch report released in June (Fingers to the Bone: US Failure to Protect Child Farmworkers) described the hazardous and grueling conditions endured by child farmworkers. These children recounted twelve-hour days that frequently begin before dawn, exposure to dangerous pesticides, and risks of injury from working with sharp tools and heavy machinery. They described dizziness and nausea from working in 100 degree temperatures with inadequate access to drinking water. Most had dropped out of school as a result of their long hours in the fields.

In June, Secretary Herman rightly stated that "it is not acceptable" for 12 and 13 year old children to be legally allowed to work in agricultural jobs, and for 14- and 15- year-olds to be able to legally work unlimited hours in farm jobs. Yet, as you know, the Fair Labor Standards Act (FLSA) currently allows child farmworkers to work at younger ages, for longer hours, and under more hazardous conditions than children in non-agricultural jobs.

We hope that the Clinton administration will make it a priority in these last days of Congress to ensure that the CARE Act of 2000 (S. 3100) is adopted. The minimum wage bill currently under negotiation offers an excellent vehicle, and we urge you to work actively with the Congressional leadership to include S. 3100 in the final package adopted by Congress.

Sincerely yours,

Mike Farrell Nancy Parrish Vicki Riskin Orville Schell

Mike Farrell Co-Chair California Committee, South	Nancy Parrish Co-Chair California Committee, North	Vicki Riskin Co-Chair California Committee, South	Orville Schell Co-Chair California Committee, North

Joan Beerman	Rabbi Leonard Beerman	Jeff Bleich
Rebecca Brackman	Joan Burns	Justin Connolly
Nancy Cushing-Jones	Chiara DiGeronimo	Jack Edleman
Mary Estrin	Jonathan Feldman	Rob Force
Eric Garcetti	Beth Greenfield	Tom Higgins
Paula Holt	Claudia Kahn	Shari Leinwand
Emily Levine	Lorraine Loder	Roberto Lovato
Jane Olson	Tom Parker	Marina Pisklakova Parker
Zazi Pope	Carol Richards, PhD	David W. Rintels
Larry Rose	Pippa Scott	Stanley Sheinbaum
Sid Sheinberg	Matt Ward	Patty Williams
Diane Wittenberg	Stanley Wolpert	

cc: Senator Tom Harkin

Min Wage

DEPARTMENT OF THE TREASURY
WASHINGTON

ASSISTANT SECRETARY

September 14, 2000

MEMORANDUM FOR SECRETARY SUMMERS
DEPUTY SECRETARY EIZENSTAT

FROM: JONATHAN TALISMAN
ACTING ASSISTANT SECRETARY (TAX POLICY)

SUBJECT: **Possible Options to Respond to Hastert Minimum Wage Offer**

In an August 28 letter to the President and a follow-up personal conversation, Speaker Hastert made a compromise offer that included a $1.00 an hour increase in the minimum wage to $6.15 over two years. The offer also contained a small business package that was similar to the two minimum wage bills before Congress, but drops the estate tax and pension provisions contained in those bills.

The Speaker's proposal would:

- allow an above-the-line deduction for the cost of individually-purchased health insurance,
- repeal the 0.2 percent FUTA surtax,
- speed up the phase-in of 100-percent deductibility for health insurance purchased by self-employed people,
- phase in 80-percent deduction of meals and entertainment expenses for all employees,
- increase to $35,000 the amount of property that small businesses can expense,
- increase the maximum reforestation expenses eligible for amortization and the credit from $10,000 to $25,000 and remove the cap on amortization costs in 2001-2003,
- extend the Work Opportunity Tax Credit (WOTC) through 2004,
- allow accrual-basis taxpayers to use the installment method of accounting (i.e., repeal 1999 law changes),
- repeal the special excise taxes (effectively license fees) on producers of distilled spirits, wine, and beer,
- allow commercial fishermen to income-average in the same way as farmers,
- allow computer manufacturers a deduction for donations of used computer equipment to schools, and
- allow tax-free rollovers from IRAs and 401(k) plans to charitable organizations.

According to the Speaker, this offer (not taking into account the last two provisions which were added by the Speaker later) costs $23 billion over five years, and $76 billion over ten years.

The offer was discussed at a bicameral, bipartisan meeting last week, which was attended by Chuck Brain and Jon Talisman. The House and Senate Democrats agreed that the tax package is too large and that the health insurance deduction should be dropped. Senate Republicans, particularly Senator Nickles, will push hard for the health insurance deduction.

This memo outlines possible options for responding to the Speaker's proposal.

Modifications to the Speaker's Offer

Health insurance. The most problematic element of the package is the health insurance deduction. It could actually cause problems for small employers by increasing the incentive for the healthiest workers to opt out of the employer group. If that provision were deleted from the package, the cost would be in the $20 to $30 billion range over ten years. Senator Daschle said on Sunday that he would accept a minimum wage package with tax cuts in that range.

FUTA surtax. The FUTA surtax should not be repealed as a stand-alone measure. In the meeting last week, Democrats and we argued that the bipartisan package of reforms negotiated by the Department of Labor with representatives of states, employers, and unions should be coupled with the FUTA surtax repeal. Repeal of the FUTA surtax is an essential element of that bipartisan agreement; passing it as a stand-alone measure could significantly reduce the odds of achieving meaningful FUTA reform. Adding these reforms would increase the total cost of the package by about $14 billion over ten years.

Deduction for meals and entertainment. The Speaker proposes a significant expansion of the deduction for meals and entertainment expenses. Most employers can deduct only 50 percent of such costs, but employers of employees subject to DOT hour limits, such as truckers and airline pilots, will eventually be able to deduct 80 percent of their meals. The Speaker would increase the deduction to 80 percent for all employees. Senator Daschle has ridiculed the Speaker's proposal as a reinstatement of the "three-martini lunch." For that reason, and also because of the great cost (as much as $40 billion over ten years, depending on the phase in), the proposal should be limited to a straightforward speed-up of the 80 percent deduction for employees subject to DOT hour limits. If the 80-percent deduction is to be extended to other types of employees, that expansion should be limited to employees of small businesses.

Reforestation tax incentives. Mr. Hastert's proposed expansion of the reforestation tax incentives is overly broad, providing windfalls to large timber producers. The proposal would increase from $10,000 to $25,000 the amount of expenses eligible for the 10-percent reforestation credit and seven-year amortization. It would also eliminate the cap on amortization expenses in 2001-2003. The increase in the amount of eligible expenses is mildly objectionable because it would provide a small windfall to large timber companies. The temporary elimination of the cap on expenses eligible for rapid amortization is highly objectionable because it would create large windfalls for large timber companies and inequities between the tax treatment of timber and other investments. Moreover, this "temporary" provision would be unlikely to expire once enacted. We should resist lifting the cap and explore ways to limit the benefits of the other elements of the proposal to small businesses.

Possible Additions to Address Administration Priorities

There was less agreement among Democrats about what, if anything, should be added to the package. They agreed that the welfare-to-work tax credit should be extended through 2004 if the work opportunity tax credit is extended. The attached table presents some other options from the Administration's Budget that could be added to an overall package. Several of the options either directly or indirectly help small businesses.

- **New Markets** -- The new markets tax credit and renewal community bill ($18 billion), which has broad bipartisan support in both the House and the Senate, contains a number of incentives to help businesses in distressed communities, as well as the new tax credit to make available equity capital in areas where it has traditionally been scarce.

- **Education** -- Investment in schools through school modernization bonds and qualified zone academy bonds, ($8 billion) has strong bipartisan support in the House as a part of the larger Johnson-Rangel School Modernization bill, but may face Republican opposition in the Senate. We also could add our college opportunity tax cut, which costs $30 billion.

- **Vaccines** -- This remains one of the Administration's highest priorities.

- **Digital Divide** -- We may want to add our $2 billion digital divide initiative. In particular, our proposed employer tax credit for workplace literacy (including computer literacy), is well-suited to a small business package.

- **Child Care** -- The proposed expansions of the child and dependent care tax credit ($31 billion) help low- and moderate-income people to meet the high cost of child care, an essential cost of working, thus helping to expand the labor supply in a very tight labor market. The proposal to provide a tax credit for employer-provided child care ($1.4 billion) offered by Senator Kohl would be useful complement and a direct aid to employers who provide this valuable fringe benefit.

- **Health Care** -- The tax credits for COBRA continuation coverage ($10 billion) and Medicare buy-in ($2 billion) provide targeted assistance in paying for health insurance for workers between jobs and early retirees. Since the credits target employees who are out of the work force, they do not undermine the system of employment-based health insurance, in sharp contrast to the Speaker's proposed health insurance deduction. The proposal to encourage the development of small business health insurance purchasing coalitions would strengthen the system of employment-based health insurance by helping small employers to pool together to gain some of the health insurance cost savings that accrue to large employers. These proposals have received interest from both the Blue Dogs and centrist Democrats in the Senate. Senator Robb and the Blue Dogs introduced versions of health-related tax credits targeted to small businesses before the August recess.

- **Energy and the Environment** -- The climate change tax incentives are aimed at helping the producers and marketers of innovative energy-saving technologies to develop markets for those products and achieve profitability. Several of the incentives help businesses to reduce their energy costs.

- **Encourage philanthropy** -- The Speaker made two proposals to the President to encourage philanthropy (not in Table 1). Our budget proposals would allow non-itemizers to take a partial deduction for charitable donations, simplify the tax rules for public foundations, raise the limits on donations of appreciated property to charity, and clarify the tax-treatment of donor-advised funds. The $15 billion package would be a more equitable way to address the concerns raised by the Speaker.

Revenue Cost Of Selected Budget Options
(Billions of Dollars)

	2000-2005	2000-2010
New markets package (HR 4923)	-5.1	-17.8
Provide incentives for public school construction and modernization	-2.4	-8.0
Provide college opportunity tax cut	-11.7	-36.0
Digital Divide initiatives	-1.2	-2.1
Enhance the child and dependent care tax credit	-7.6	-31.0
Provide tax credit for employer-provided child-care facilities	-0.5	-1.4
Encourage COBRA continuation coverage	-3.3	-10.3
Provide credit for Medicare buy-in program	-0.4	-1.6
Provide tax relief to encourage small business health plans	-0.1	-0.3
Provide climate change tax incentives	-4.0	-9.3
Encourage development of vaccines for targeted diseases	0.0	-1.3
Encourage philanthropy	-4.7	-14.7

Department of Treasury
Office of Tax Analysis

Cc: Thomas
Robertson
Fant
Stern
Cohen
Elmendorf