FOIA Number: 2016-0531-F

FOIA MARKER

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Series/Staff Member: Gene Sperling

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OA/ID Number: 20717

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Folder Title:
[Minimum Wage 10/00] [2]

Stack:	Row:	Section:	Shelf:	Position:
S	17	7	9	2

Min Wage

Pj1: Sperling

Congress of the United States

Washington, DC 20515

FYI:
Gene
Sperling

September 26, 2000

The Honorable William J. Clinton
The White House
Washington, DC 20502

Dear Mr. President,

We applaud all of your efforts to fight for a $1 increase in the minimum wage before we adjourn this session of Congress.

Thanks to your leadership, our nation 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 more than 10 million Americans struggling to get by on the minimum wage, we cannot act too soon.

We welcome Speaker Hastert's support for a $1 increase in the minimum wage which we have long advocated. Together with your staff, we have begun bipartisan discussions on this critical issue. But certain aspects of the Speaker's proposal cause us deep concern, and we wanted to share our thoughts with you.

First, it is not fair to raise the minimum wage, while at the same time taking away overtime protections for millions of hard-working Americans. Yet the Speaker's proposal would do just that. At a time when the productivity of the American work force is at an all-time high and workers are putting in more hours than at any other time in recent history, we cannot support any proposal that deprives American workers of their overtime and minimum wage protections.

Second, it is time to strengthen the federal tip credit, not weaken it. We cannot support any proposal to strip states of the power to raise their guaranteed base wage for tipped employees above the current federal level. In fact, federal tip wages have not been increased since 1991. It is time to raise the federal floor for tipped employees which is now frozen at $2.13 an hour.

Third, it is time to insure that workers in the Commonwealth of the Northern Mariana Islands are paid the full federal minimum wage. The Commonwealth has been a territory of the United States since 1986, and has had plenty of time to bring its wage laws into compliance with federal standards.

Fourth, while there is bipartisan agreement on many of the Speaker's tax proposals, we are concerned that the overall size of the tax package is nearly four times greater than the one that accompanied the 1996 minimum wage increase. We have grave policy concerns about the above-the-line health deduction, and believe it could discourage employers from providing health coverage for their workers. We support repeal of the 0.2% FUTA surtax, but only if it is coupled with unemployment insurance reform. Overall, we believe the tax package should focus on assisting small businesses which often employ minimum wage workers. We would also like a clearer understanding of how this tax proposal fits in with the Speaker's commitment to devote 90% of the surplus to paying down the debt.

Mr. President, we stand ready to work with you in accomplishing the important goal of raising the minimum wage. We look forward to continued discussions with you and with the Speaker so that we can resolve this matter as quickly as possible.

Sincerely,

Dick Gephardt
Richard Gephardt

Tom Daschle
Tom Daschle

David E. Bonior
David Bonior

Edward M. Kennedy
Edward Kennedy

Bill C
William Clay

Harry Reid
Harry Reid

Charles B. Rangel
Charles Rangel

Daniel Patrick Moynihan

Congress of the United States
Washington, DC 20515

September 26, 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 applaud 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 an increase 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 are pleased that discussions have begun, but certain aspects of your proposal cause us deep concern.

First, it is not fair to raise the minimum wage, while at the same time taking away overtime protections for millions of hard-working Americans. Your proposal would do just that. At a time when the productivity of the American work force is at an all-time high and workers are putting in more hours than at any other time in recent history, we cannot support any proposal that deprives American workers of their overtime and minimum wage protections.

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Richard Gephardt

Tom Daschle
Tom Daschle

David E. Bonior
David Bonior

Edward M Kennedy
Edward Kennedy

Bill Clay
William Clay

Harry Reid
Harry Reid

Charles B Rangel
Charles Rangel

Daniel Patrick Moynihan

cc: The Honorable Trent Lott

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 — [signature]

Consumer Federation of America

U.S. PIRG

National Consumer Law Center Inc.

September 28, 2000

RE: OPPOSE ONE-SIDED BANKRUPTCY LEGISLATION

Dear Senator:

We are writing to urge you to reject H.R. 833, the bankruptcy reform bill, and the attempts to bring up the bill during the appropriations process. The bankruptcy bill is an unfair attempt to reward the irresponsible and sometimes abusive practices of the banking and credit card industry. The bankruptcy bill should not protect the same industry that has paid hundreds of millions of dollars in fines for deceptive and predatory practices in actions brought by Attorneys Generals, the Federal Trade Commission, a bankruptcy judge and individual consumers. These cases involve many of the same companies that are behind the bankruptcy bill. Congress should not further subsidize this behavior by passing an unbalanced bankruptcy reform bill.

We have followed bankruptcy legislation for over three years. The credit card industry and other supporters of the bill contend that Congress should move forward with the legislation, despite the fact that the number of people filing for bankruptcy has decreased substantially in the past two years. Newspaper editorial boards and independent bankruptcy experts from across the country have spoken out against the bill. It is difficult to understand why Congress hasn't already rejected this legislation.

While the credit card industry, the banking lobby and credit union representatives would like Congress to believe that this bill won't have a negative effect on women, children, or working families, that simply is not true. Ironically, it is the rich debtors who can afford to repay their debts who will be able to continue to move assets and skirt bankruptcy laws through the use of the homestead exemption, which remains in the bill.

This bill is beginning to look like a corporate welfare program, where the credit card and banking industry want taxpayer-funded bankruptcy courts to provide them with special treatment but will shut the door on families that have suffered genuine financial hardship, like job loss or unforeseen medical expenses, divorce. If Congress want to put responsibility into the bankruptcy system, it should start by curbing the abusive practices of the credit card industry, including the targeting of America's children.

Don't let this powerful industry lobby sway you to pass a bill that will hurt working families. Our organizations do not oppose bankruptcy legislation that is targeted to curb real abuse. However, when it comes to protecting working families, women, and children we urge you to listen to the civil rights and religious community, the unions, organizations representing women and children, and consumer advocates -- over the self-serving assertions of the credit card and banking industry.

Sincerely,

Frank Torres
Frank Torres
Consumers Union

Travis Plunkett
Travis Plunkett
Consumer Federation of America

Edmund Mierzwinski
Edmund Mierzwinski
U.S. Public Interest Research Group

Margot Saunders
Margot Saunders
National Consumer Law Center

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: Gene Sperling

Fax #: 456-2878.

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

DRAFT

September 25, 2000

The Honorable William J. Clinton
The White House
Washington, DC 20502

Dear Mr. President,

We applaud all of your efforts to fight for a $1 increase in the minimum wage before we adjourn this session of Congress.

Thanks to your leadership, our nation 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 10 million Americans struggling to get by on the minimum wage, we cannot act too soon.

We welcome Speaker Hastert's support for a $1 increase in the minimum wage which we have long advocated. Together with your staff, we have begun bipartisan discussions on this critical issue. But certain aspects of the Speaker's proposal cause us deep concern, and we wanted to share our thoughts with you.

is and history
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~~ The Speaker's proposal would grant favors to certain industries, and would cut overtime pay for ~~mi~~llions of workers. We cannot support any proposal that deprives American workers of their overtime or minimum wage protections.

However workers are

While

their believe
Second, while there is bipartisan agreement on many of ~~the~~ 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-

Considering the proposal in other legislation.

thirds of the cost of the Speaker's 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~~ the Speaker's 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. President, we stand ready to work with you in accomplishing the important goal of raising the minimum wage. We look forward to continued discussions with you and with the Speaker so that we can resolve this matter as quickly as possible.

Sincerely,

Richard Gephardt
Tom Daschle

David Bonior
Edward Kennedy

Charles Rangel
Daniel Patrick Moynihan

William Clay

First, it is not fair to raise the minimum wage, but then take away overtime protections for millions of hard-working Americans. The Speakers' proposal would do just that. At a time when the productivity of the American work force is at an all-time and workers are putting in more hours than at any other time in recent history, we cannot support any proposal that deprives American workers of their overtime and their minimum wage protections.

Second, while there is bipartisan agreement on many of the tax proposals, we are concerned about the overall size of the tax package. The Speakers' proposal is four times greater than the one adopted in the 1996 minimum wage increase package. Moreover, we believe any tax package should remain focused on the small businesses that often employ minimum wage workers. Proposals such as the above-the-line health deduction are better discussed in conjunction with the Patients' Bill of Rights where the potential negative impact on health insurance coverage for workers could be addressed.

→ Insert in Both Letters @ 4th + 5th paras.

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

DM What is their solution for low-income servers?

GS 10/2/00

DoL draft TB

DRAFT 9/11 6 pm

Majority Minimum Wage Proposal: Cutting Working Families' Pay

It's time to give the hard working but lowest paid Americans a raise – and it's the right thing to do.

For more than a year and a half, the Republican leadership has dragged its feet, trying to water down an increase in the minimum wage by spreading it over three years instead of two. So far, delay has cost a full-time minimum-wage worker more than $900.

It's time for Congress to set aside its legislative games and work with the Administration to help 10 million working families make ends meet.

A minimum wage increase would provide real benefits for working women and families. 10 million workers could see their pay increase by as much as $2,000. Almost 33 percent of those who would benefit support children under 18; more than 60 percent are women; 16 percent are African American; 20 percent are Hispanic. At a time when we are experiencing the longest economic expansion in history, the proposed $1 increase before Congress would merely return the real value of the minimum wage to the level it was in 1982.

Republicans want to couple a minimum wage increase with a tax cut for small businesses. The Republican leadership is also holding a pay raise for 10 million low wage workers hostage to an overtime pay cut for America's hard working families.

That's just wrong. Congress should not use a well-deserved – and overdue – raise for some workers as an excuse to take pay from the pockets of those and other workers by taking away their right to overtime pay. At a time of economic prosperity, we should not pit worker against worker.

Even with our strong economy, many workers depend on overtime pay to provide for their families. Under the Republican proposal, an average manufacturing worker today could see a 14% cut in pay or a loss of over $4,600 a year that she earns from overtime. The Republican proposal could mean a pay cut for millions of workers across the economy, because it ties a minimum wage increase to **harmful provisions that would undermine overtime pay and the wages of tipped workers.**

Incentive and performance bonuses: Republicans want to let employers designate a portion of their workers' hourly base pay as incentive or performance bonuses and exclude it from overtime pay. By slashing hourly wages and diverting pay to "bonuses," employers could mandate more overtime hours while cutting their overtime costs – leaving workers with less pay and less time with their families.

This could mean a pay cut for the 74 million workers entitled to earn overtime pay. Workers' overtime pay has always been based on their real pay rate. Under the Republican proposal, employers could cut overtime costs by calling most of workers' pay a "non-overtime pay bonus" – effectively repealing the fundamental right to overtime pay when you work more than 40 hours in a week.

Employers should be encouraged to share their economic success with their workers – but not at the cost of a workers' base pay. That's why discretionary bonuses, gifts, and profit-sharing plans don't have to be included in overtime. And that's why the President worked with Congress to add stock option plans to that list, so workers could benefit from this new kind of incentive.

DRAFT 9/11 6 pm

Inside sales workers who earn as little as $25,000 could see their overtime pay disappear, thanks to the Republican proposal. Up to 2.5 million people doing sales work at mortgage companies, medical equipment firms, wholesale distributors, electronics supply firms or in other sales positions – almost 36% of all inside sales workers – would lose their right to any additional pay when they work overtime.

Tracking the time "outside" sales workers – door-to-door salesmen or traveling salesmen -- spend working poses a unique problem for employers. That's why the law has always exempted outside sales workers from the minimum wage and overtime laws – it makes common sense.

But the Republican proposal is only interested in making dollars and cents for employers, by denying overtime to inside sales workers and lowering employers' costs. Sales work is growing with the expanding economy, but these new jobs are not door-to-door. The reasons for the "outside sales" exemption don't apply -- employers face no special challenges in tracking the work time of inside sales workers. The Republican proposal is simply designed to deny overtime to this expanding group of workers.

As a practical matter, it will be almost impossible to tell who is exempt and who isn't under this proposal. They have to have "specialized or technical knowledge" of the product – how much is enough to be exempt? How detailed does their "detailed knowledge" of customer needs have to be?

With this vague standard, it will be difficult to prevent even well-intentioned employers from mistakenly treating workers who should still get overtime as exempt. And employers will have an economic incentive – no extra cost for overtime – to treat all sales employees as exempt "inside sales" workers, whether or not the criteria for the exemption are met.

The tip credit proposal would freeze the pay of up to 1.4 million waiters and waitresses, as well as other workers who get tips. Under current federal law, restaurant owners have to pay tipped workers like waiters and waitresses only $2.13/hour – the rest of their so-called "pay" is in tips – and Congress has increased their cash wages only 12 cents in the last 20 years. Now, Republicans want to deny States the right to give these workers a raise. Why should a waitress have her guaranteed pay frozen for a minimum wage increase, when we should be restoring her pay to what it was originally – 50% of the minimum wage?

Funeral home directors and embalmers are the men and women who leave their homes, their beds, their own families, no matter the time of day or night, to come and take care of our families when our loved ones pass away. They deserve every penny they earn, including overtime pay when the demands of their work – of seeing to our needs – cause them to work long hours. But Republicans want to take away all minimum wage and overtime pay rights for these workers.

The industry is changing drastically, with large chain companies buying up small, family-owned funeral homes. When a funeral director is an employee, not an owner whose reward for hard work is the value of her company, she deserves overtime pay like any other worker.

Computer professionals: Republicans want to deny overtime pay to more, and lower skilled, computer workers. Given this trend, pretty soon, if you have a computer on your desk, you'll be exempt from overtime. Of the over 600,000 workers that could be affected, salaried workers earning at least $13,000/year will lose their right to overtime pay, and so will hourly workers earning more than $27.63/hour.

Min Wage

Rebecca Hunter

09/26/2000 03:45:13 PM

Record Type: Record

To: Carolyn T. Wu/WHO/EOP@EOP, Joseph N. Crisci/OPD/EOP@EOP, Jennifer E. McGee/OPD/EOP@EOP

cc:

Subject: Final Draft Min Wage Letter

pls show to your bosses...thanks

---------------------- Forwarded by Rebecca Hunter/WHO/EOP on 09/26/2000 03:44 PM ---------------------------

"Hartz, Jerry" <Jerry.Hartz@mail.house.gov>
09/26/2000 01:16:04 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Final Draft Min Wage Letter

This is final draft. Changes from earlier version are mostly small edits and cleaning up. The tax paragraph has been moved to last so we can do all the minimum wage pieces together. We'll be walking around for signaturs this PM. Remember to sign BOTH letters: one to Hastert, one to Clinton. Thanks.

September 26, 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 applaud 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 an increase 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 are pleased that discussions have begun, but certain aspects of your proposal cause us deep concern.

First, it is not fair to raise the minimum wage, while at the same time taking away overtime protections for millions of hard-working Americans. Your proposal would do just that. At a time when the productivity of the American work force is at an all-time high and workers are putting in more hours than at any other time in recent history, we cannot support any proposal that deprives American workers of their overtime and minimum wage protections.

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Fourth, while there is bipartisan agreement on many of your tax proposals, we are concerned that the overall size of the tax package is nearly four times greater than the one that accompanied the 1996 minimum wage increase. We have grave policy concerns about the above-the-line health deduction, and believe it could discourage employers from providing health coverage for their workers. We support repeal of the 0.2% FUTA surtax, but only if it is coupled with unemployment insurance reform. Overall, we believe the tax package should focus on assisting small businesses which often employ minimum wage workers. We would also like a clearer understanding of how this tax proposal fits in with your commitment to devote 90% of the surplus to paying down the debt.

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

William Clay Harry Reid

Charles Rangel Daniel Patrick Moynihan

cc: The Honorable Trent Lott

September 26, 2000

The Honorable William J. Clinton
The White House
Washington, DC 20502

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Mr. President, we stand ready to work with you in accomplishing the important goal of raising the minimum wage. We look forward to continued discussions with you and with the Speaker so that we can resolve this matter as quickly as possible.

Sincerely,

Richard Gephardt — Tom Daschle

David Bonior — Edward Kennedy

William Clay — Harry Reid

Charles Rangel — Daniel Patrick Moynihan

Message Sent To:____

Charles M. Brain/WHO/EOP
"Duck, Jennifer" <Jennifer_Duck@dpc.senate.gov>
"Fechner, Holly" <Holly_Fechner@labor.senate.gov>
"Fredrickson, Caroline" <Caroline_Fredrickson@daschle.senate.gov>
"Hanna, Craig" <Craig.Hanna@mail.house.gov>
"Hartz, Jerry" <Jerry.Hartz@mail.house.gov>
"Larue, Andrea" <Andrea_Larue@daschle.senate.gov>
"Mays, Janice" <Janice.Mays@mail.house.gov>
"Sullivan, Russ" <Russ_Sullivan@finance-min.senate.gov>
"Weiss, Gail" <Gail.Weiss@mail.house.gov>

Min. Wage

EVENT READAHEAD

EVENT: Minimum Wage Strategy Meeting

DATE OF EVENT: 12:30pm – 1:30pm
Tuesday, September 19, 2000

PLACE: H-509

POC: Peter Wong

PARTICIPANTS:
YOU
Chuck Brain
John Talisman
Mark Childress, Daschle's Staff
Craig Hanna, Gephardt's Staff
Karen Tramontano

OVERVIEW/ BACKGROUND: This meeting is to discuss/coordinate with Congressional Dem's the minimum wage legislative strategy

ATTACHMENTS:

1. **Minimum Wage Paper from Wong**
2. **Talisman Memo to Summers: Options to Respond to Hastert Min. Wage Offer**
3. **Small Business Provisions (JCT: 3/10/00)**

Updated 09/18/00

Program	FY 00 Enacted	FY 01 Request	CHC Budget	Tentative Conference	Conf. (+/-) Request	
State Agency Migrant Program	355	380	430	380	0	
High School Equivalency Program (HEP)	15	20	20	20	0	
College Assistance Migrant Program (CAMP)	7	10	10	10	0	
Bilingual Education	248	296	320	279	-17	-17
Adult Education	470	556	635	490	-65	
Hispanic-Serving Institutions (HSIs)	42	63	63	69	6	
Federal TRIO Programs	645	725	690	760	35	
GEAR UP	200	325	300	200	-125	
LEP Research	0	10	10	0	-10	
Migrant Youth Job Training Program (DOL)	5	5	5	5	0	
Migrant and Seasonal Youth Opportunity (DOL)	10	15	10	10	-5	
Title I, Grants to local educational agencies	7,941	8,358	8,205	8,251	-106	
Total, HEAP	9,938	10,762	10,698	10,475	-287	

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?

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.

FS - [illegible]

[illegible]

[illegible]

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.

WCTC

- **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. $2-4 B

- **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.

  Hard to ask if we are [illegible] health [illegible]

- **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
	- 41.0	-133.8

Department of Treasury
Office of Tax Analysis

Cc: Thomas
Robertson
Fant
Stern
Cohen
Elmendorf

Small Business

JOINT COMMITTEE ON TAXATION
March 10, 2000
JCX-27-00

ESTIMATED BUDGET EFFECTS OF H.R. 3832, THE "SMALL BUSINESS TAX FAIRNESS ACT OF 2000"

Fiscal Years 2000 - 2010

[Millions of Dollars]

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2000-05	2000-10
Small Business Provisions														
1. Accelerate 100% self-employed health insurance deduction and extend eligibility to those who choose not to participate in employer-subsidized health plans	tyba 12/31/00	---	-287	-1,093	-697	---	---	---	---	---	---	---	-2,077	-2,077
2. Increase section 179 expensing to $30,000	tyba 12/31/00	---	-359	-616	-350	-187	-176	-160	-167	-188	-197	-202	-1,688	-2,605
3. Increase business meals deduction (excluding entertainment expenses) to 55% in 2001 and 60% in 2002 and thereafter	tyba 12/31/00	---	-259	-794	-1,090	-1,137	-1,186	-1,239	-1,294	-1,351	-1,412	-1,477	-4,466	-11,239
4. 80% business meals deduction for workers subject to DOT hours of service limitation	tyba 12/31/00	---	-39	-70	-64	-55	-47	-37	-26	-13	---	---	-276	-351
5. Coordinate farmer income averaging and the AMT and provide the same income averaging relief to commercial fishermen	tyba 12/31/00	---	-1	-2	-2	-2	-3	-3	-4	-5	-6	-7	-9	-33
6. Repeal the occupational taxes relating to distilled spirits, wine, and beer	7/1/01	---	-64	-75	-75	-75	-75	-75	-75	-75	-75	-75	-364	-739
7. Permit installment method for accrual basis taxpayers	iso/a 12/17/99	-463	-657	-394	-249	-70	-8	-20	-34	-47	-60	-76	-1,841	-2,078
Total of Small Business Provisions		**-463**	**-1,666**	**-3,044**	**-2,527**	**-1,526**	**-1,495**	**-1,534**	**-1,600**	**-1,679**	**-1,750**	**-1,837**	**-10,721**	**-19,122**
Pension Provisions														
A. Provisions for Expanding Coverage														
1. Increase contribution and benefit limits:														
a. Increase limitation on exclusion for elective deferrals to $11,000 in 2001, $12,000 in 2002, $13,000 in 2003, $14,000 in 2004; index in $500 increments thereafter [1]	yba 12/31/00	---	-131	-317	-468	-578	-640	-687	-735	-783	-832	-879	-2,135	-6,052
b. Increase limitation on SIMPLE elective contributions to $7,000 in 2001, $8,000 in 2002, $9,000 in 2003, $10,000 in 2004; index in $500 increments thereafter [1]	yba 12/31/00	---	-5	-14	-22	-27	-29	-29	-30	-32	-33	-35	-96	-255
c. Increase defined benefit dollar limit to $160,000	yba 12/31/00	---	-18	-31	-40	-45	-48	-50	-53	-55	-57	-59	-182	-454
d. Lower early retirement age to 62; lower normal retirement age to 65	yba 12/31/00	---	-3	-4	-4	-4	-5	-5	-5	-5	-5	-5	-21	-45
e. Increase annual addition limitation for defined contribution plans to $40,000 [1]	yba 12/31/00	---	-6	-12	-14	-15	-16	-17	-19	-20	-21	-23	-63	-163
f. Increase qualified plan compensation limit to $200,000 [1]	yba 12/31/00	---	-43	-74	-84	-91	-99	-107	-115	-122	-131	-139	-391	-1,004

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2000-05	2000-10
g. Increase limits on deferrals under deferred compensation plans of State and local governments and tax-exempt organizations to $11,000 in 2001, $12,000 in 2002, $13,000 in 2003, and $14,000 in 2004 [1]	yba 12/31/00	---	-53	-93	-108	-119	-128	-136	-145	-153	-162	-170	-500	-1,266
2. Plan loans for subchapter S owners, partners, and sole proprietors	lma 12/31/00	---	-18	-30	-33	-35	-37	-39	-42	-44	-47	-49	-153	-374
3. Modification of top-heavy rules	yba 12/31/00	---	-4	-9	-11	-12	-14	-16	-17	-19	-21	-23	-50	-146
4. Elective deferrals not taken into account for purposes of deduction limits	yba 12/31/00	---	-40	-75	-87	-94	-101	-108	-115	-122	-129	-135	-396	-1,004
5. Repeal of coordination requirements for deferred compensation plans of State and local governments and tax-exempt organizations	yba 12/31/00	---	-16	-22	-22	-22	-22	-23	-24	-25	-26	-27	-104	-228
6. Elimination of user fee for certain requests regarding small employer pension plans; waiver applies only for request made during first 5 plan years [2]	rma 12/31/00	---	-9	-5	-5	---	---	---	---	---	---	—	-19	-19
7. Definition of compensation for purposes of deduction limits [1]	yba 12/31/00	---	-1	-2	-3	-3	-3	-3	-3	-3	-3	-3	-12	-28
8. Option to treat elective deferrals as after-tax contributions	tyba 12/31/00	---	50	100	131	144	89	-2	-104	-218	-345	-485	514	-640
Subtotal of Provisions for Expanding Coverage		---	-297	-588	-770	-901	-1,053	-1,222	-1,407	-1,601	-1,812	-2,032	-3,608	-11,678
B. Provisions for Enhancing Fairness for Women														
1. Additional catch-up contributions for individuals age 50 and above - increase in maximum contribution limits for pension plans by 10% annually beginning in 2001, not to exceed 40%	yba 12/31/00	---	-74	-152	-131	-99	-95	-97	-100	-101	-103	-103	-550	-1,054
2. Equitable treatment for contributions of employees to defined contribution plans [1]	yba 12/31/00	---	-51	-78	-84	-91	-97	-104	-111	-118	-124	-131	-401	-989
3. Simplify and update the minimum distribution rules by modifying post-death distribution rules, reducing (to 10%) the excise tax on failures to make minimum distributions, and directing the Treasury to simplify and finalize regulations relating to the minimum distribution rules	yba 12/31/00	---	-118	-212	-239	-268	-297	-330	-366	-402	-441	-484	-1,135	-3,157
4. Clarification of tax treatment of division of section 457 plan benefits upon divorce	tdapma 12/31/00	*Negligible Revenue Effect*												
5. Modification of safe harbor relief for hardship withdrawals from 401(k) plans	yba 12/31/00	*Negligible Revenue Effect*												
6. Faster vesting of certain employer matching contributions	pyba 12/31/00	*Negligible Revenue Effect*												
Subtotal of Provisions for Enhancing Fairness for Women		---	-243	-442	-454	-458	-489	-531	-577	-621	-668	-718	-2,086	-5,200
C. Provisions for Increasing Portability for Participants														
1. Rollovers allowed among governmental section 457 plans, section 403(b) plans, and qualified plans	dma 12/31/00	---	26	-5	-5	-5	-5	-5	-5	-6	-6	-6	6	-22
2. Rollovers of IRAs to workplace retirement plans	dma 12/31/00	*Negligible Revenue Effect*												
3. Rollovers of after-tax retirement plan contributions	dma 12/31/00	*Negligible Revenue Effect*												
4. Waiver of 60-day rule	dma 12/31/00	*Negligible Revenue Effect*												
5. Treatment of forms of qualified plan distributions	yba 12/31/00	*Negligible Revenue Effect*												
6. Rationalization of restrictions on distributions	da 12/31/00	*Negligible Revenue Effect*												

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2000-05	2000-10
7. Purchase of service credit in governmental defined benefit plans	ta 12/31/00	Negligible Revenue Effect												
8. Employers may disregard rollovers for cash-out amounts	da 12/31/00	Negligible Revenue Effect												
9. Minimum distribution and inclusion requirements for section 457 plans	da 12/31/00	Considered in Other Provisions												
Subtotal of Provisions for Increasing Portability for Participants		---	26	-5	-5	-5	-5	-5	-5	-6	-6	-6	6	-22
D. Provisions for Strengthening Pension Security and Enforcement														
1. Phase-in repeal of 150% of current liability funding limit; extend maximum deduction rule	yba 12/31/00	---	-3	-14	-20	-36	-36	-38	-38	-39	-41	-42	-109	-307
2. Excise tax relief for sound pension funding	yba 12/31/00	---	-2	-3	-3	-3	-3	-3	-3	-3	-3	-3	-14	-29
3. Notice of significant reduction in plan benefit accruals	pateo/a DOE	Negligible Revenue Effect												
4. Repeal 100% of compensation limit for multiemployer plans	yba 12/31/00	---	-2	-4	-4	-4	-4	-4	-5	-5	-5	-5	-19	-42
Subtotal of Provisions for Strengthening Pension Security and Enforcement		---	-7	-21	-27	-43	-43	-45	-46	-47	-49	-50	-142	-378
E. Provisions for Reducing Regulatory Burdens														
1. Modification of timing of plan valuations	pyba 12/31/00	Negligible Revenue Effect												
2. ESOP dividends may be reinvested without loss of dividend deduction	tyba 12/31/00	---	-19	-44	-56	-61	-63	-66	-69	-71	-74	-77	-243	-600
3. Repeal transition rule relating to certain highly compensated employees	pyba 12/31/00	---	-2	-3	-3	-3	-3	-3	-4	-4	-4	-4	-13	-32
4. Employees of tax-exempt entities [3]	DOE	Negligible Revenue Effect												
5. Treatment of employer-provided retirement advice	yba 12/31/00	Negligible Revenue Effect												
6. Pension plan reporting simplification [3]	1/1/01	Negligible Revenue Effect												
7. Improvement to Employee Plans Compliance Resolution System [3]	DOE	Negligible Revenue Effect												
8. Clarification of exclusion for employer-provided transit passes	tyba 12/31/00	---	-6	-10	-13	-14	-15	-15	-16	-16	-16	-16	-58	-137
9. Repeal of multiple use test	yba 12/31/00	Considered in Other Provisions												
10. Flexibility in nondiscrimination and line of business rules [3]	DOE	Negligible Revenue Effect												
11. Extension to international organization of moratorium on application of certain nondiscrimination rules applicable to State and local government plans	yba 12/31/00	Negligible Revenue Effect												
12. Notice and consent period regarding distributions	yba 12/31/00	No Revenue Effect												
Subtotal of Provisions for Reducing Regulatory Burdens		---	-27	-57	-72	-78	-81	-84	-89	-91	-94	-97	-314	-769
F. Provisions Relating to Plan Amendments	DOE	No Revenue Effect												
Total of Pension Provisions		**---**	**-548**	**-1,113**	**-1,328**	**-1,485**	**-1,671**	**-1,887**	**-2,124**	**-2,366**	**-2,629**	**-2,903**	**-6,144**	**-18,047**

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2000-05	2000-10
Estate and Gift Tax Relief Provisions														
1. Reduction in estate, gift, and generation-skipping transfer taxes: beginning in 2001, convert the unified credit into a true exemption, repeal the 5% "bubble" (which phases out the lower rates); repeal rates in excess of 53%; in 2002, repeal rates in excess of 50%; in 2003 through 2004, reduce all rates by 1 percentage point a year; proportionately reduce State tax credit rates	dda & gma 12/31/00	---	---	-4,738	-6,358	-7,247	-8,465	-9,134	-9,674	-10,173	-10,916	-11,635	-26,808	-78,340
2. Provide deemed allocation of GST exemption	ta 12/31/99	---	-1	-3	-4	-4	-4	-4	-4	-4	-4	-4	-16	-36
3. Provide retroactive allocation of GST for unnatural orders of death	generally ea 12/31/99	---	-4	-5	-6	-6	-6	-6	-6	-6	-6	-6	-27	-57
4. Allow severances of trusts holding property having an inclusion ratio of greater than zero	---	*Included in Estate and Gift Item 3.*												
5. Modify certain valuation rates	---	*Included in Estate and Gift Item 3.*												
6. Provide relief from late elections	---	*Included in Estate and Gift Item 3.*												
7. Provide rule of substantial compliance	---	*Included in Estate and Gift Item 3.*												
8. Expand estate tax rule for conservation easements - increase the 25-mile limit to 50 miles; increase 10-mile limit to 25 miles, and clarify that the date for determining easement compliance	dda 12/31/99 & dda 12/31/97	---	-11	-15	-21	-22	-23	-24	-25	-26	-29	-31	-92	-227
Total of Estate and Gift Tax Relief Provisions		**---**	**-16**	**-4,761**	**-6,389**	**-7,279**	**-8,498**	**-9,168**	**-9,709**	**-10,209**	**-10,955**	**-11,676**	**-26,943**	**-78,660**
Distressed Communities and Industries Provisions														
1. "American Community Renewal Act of 1999" - designate 15 renewal communities within 36 months; provide various incentives (zero capital gains tax on certain 5-year investments; special deduction for real estate revitalization expenditures; special expensing for certain business property; work opportunity tax credit; environmental remediation expenses; family development accounts) beginning 1/1/01 and ending 12/31/07	DOE	---	-102	-197	-202	-201	-220	-247	-325	-141	-35	-76	-922	-1,745
2. Increase maximum reforestation expenses qualifying for amortization and credit from $10,000 to $25,000; remove cap on amortization of reforestation costs in 2001 through 2003	tyba 12/31/00	---	-5	-15	-22	-27	-29	-32	-34	-33	-29	-25	-98	-250
Total of Distressed Communities and Industries Provisions		**---**	**-107**	**-212**	**-224**	**-228**	**-249**	**-279**	**-359**	**-174**	**-64**	**-101**	**-1,020**	**-1,995**
Real Estate Provisions														
1. Improvements in the Low-Income Housing Credit - increase per capita credit by $0.10 per year through 2004; thereafter COLA; $2 million small State minimum beginning in 2001; COLA beginning in 2005; modify stacking rules and credit allocation rules; certain Native American housing assistance disregarded in determining whether building is Federally subsidized for purposes of the low-income housing credit	tyba 12/31/00	---	-4	-24	-68	-140	-234	-345	-467	-601	-750	-913	-470	-3,545

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2000-05	2000-10
2. Accelerate 5-year phasein of private activity bond volume cap	cyba 12/31/00	---	-10	-41	-83	-127	-163	-179	-179	-174	-167	-159	-425	-1,284
3. Exclusion from gross income for certain forgiven mortgage obligations	doia 12/31/00	---	-2	-6	-6	-6	-7	-7	-7	-7	-8	-8	-27	-64
Total of Real Estate Provisions		**---**	**-16**	**-71**	**-157**	**-273**	**-404**	**-531**	**-653**	**-782**	**-925**	**-1,080**	**-922**	**-4,893**
NET TOTAL		**-463**	**-2,353**	**-9,201**	**-10,625**	**-10,791**	**-12,317**	**-13,399**	**-14,445**	**-15,210**	**-16,323**	**-17,597**	**-45,750**	**-122,717**

Joint Committee on Taxation

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

Legend for "Effective" column:

cyba = calendar years beginning after
da = distributions after
doia = discharges of indebtedness after
dda = decedents dying after
dma = distributions made after
DOE = date of enactment
ea = events after
gma = gifts made after
iso/a = installment sales on or after
lma = loans made after
pateo/a = plan amendments taking effect on or after
pyba = plan years beginning after
rma = requests made after
ta = transfers after
tdapma = transfers, distributions, and payments made after
tyba = taxable years beginning after
yba = years beginning after

[1] Provision includes interaction with other provisions in Provisions for Expanding Coverage.
[2] Estimate provided by the Congressional Budget Office.
[3] Directs the Secretary of the Treasury to modify rules through regulations.

Minimum Wage

EMPLOYERS HAVE FLEXIBILITY TO CHOOSE HOW TO COMPENSATE AND PROVIDE INCENTIVES TO WORKERS

Employers can give any worker a bonus for any reason.

Proponents of the Majority's proposal to reduce overtime pay by excluding bonuses from overtime calculations claim the Fair Labor Standards Act is an obstacle for employers who want to reward good workers.

But they're wrong. The law already provides employers with the flexibility to let employees reap the benefits of a successful company, and at the same time protects workers' right to overtime pay.

First, under current law employers are not required to pay an overtime premium to most salaried workers. Hence bonuses to these workers do not have to go into overtime pay, and the Majority bonus proposal won't affect them at all.

Second, there are many ways employers can reward the up to 74 million employees who are entitled to overtime, without affecting their overtime pay. An employer can:

- Offer employees a stock option plan.
- Announce a policy allowing employees to share in the company's profits through a profit sharing plan that ties the amount each worker receives to length of service or base pay (so long as the individual worker's share is not based on attendance, amount of work, production rate, or efficiency).
- Give workers a surprise cash bonus at the end of an especially profitable quarter or year.
- Make a gift to its workers' of the company's product: a company that develops computer software can decide to give some or all of its workers a free copy of their latest product.
- Give workers savings bonds as a holiday gift.
- Mark the ten-year anniversary of a company's founding by giving each employee a check equal to 2% of his or her annual pay.

Of course, employers can also reward employees by providing them with generous benefits packages – health insurance, pension, life insurance and thrift or savings plans – that won't impact overtime pay.

Third, since 1949, employers have been free to reward workers in many other ways too, so long as they include them in the base for overtime pay of any worker who actually puts in overtime hours:

- Pay workers a commission in addition to base pay for every sale she makes or customer she brings in.

- Set up a profit-sharing plan that is tied to workers' production, efficiency, or hours worked.

- Establish a gainsharing bonus program.

- Announce that workers who improve production quality by 10% will get 10% of pay as a bonus.

- Have a policy that gives stepped up bonuses based on how much a worker exceeds her production quota.

Employers have been making these kinds of awards **and** paying proper overtime for decades.

Finally, if an employer chooses to reward workers using a method that affects overtime, all it means is those workers who work longer hours will get a little higher bonus – and wasn't rewarding hard workers the point? Making such calculations is easier today than ever before, especially with today's computerized payroll systems. And employers already have on hand the information they need: how many hours an employee worked, including overtime hours, during the time covered by the bonus, and how much the employee had already been paid before the bonus.

It's clear: employers have – and have always had – a lot of flexibility to reward workers. There's nothing new about paying bonuses and commissions to workers who earn overtime; what's new about the Majority proposal is changing the rules to avoid paying workers the overtime they deserve.

The Majority proposal is not about "flexibility in the new economy" – it's about cutting overtime pay for America's working families.

Memorandum

To: Gene Sperling
Karen Tramontano
Barbara Chow

From: Sarah Rosen-Wartell

Date: September 11, 2000

Re: Revised FLSA Materials from DoL

Assistant Secretary Mike Kerr forwarded revised paper, updating what we used on our conference call last week.

Revised FLSA from DOL
on Email from SRW

DRAFT **9/11 Noon**

Revised from version discussed last week.

Overview

The FLSA amendments in the Majority proposal are objectionable in whole because they offset a modest increase in the minimum wage for the lowest paid workers by taking away minimum wage and overtime pay protections for millions of other working Americans including, in some instances, these same lowest paid workers. This proposal pits minimum wage workers against other workers and themselves – and that's just wrong.

Losing overtime pay could mean a significant pay cut for some workers. In the manufacturing sector, production workers earned an average of $92 a week in overtime pay in August 2000 – 14.4% of these workers' average weekly earnings.

By making overtime less costly for employers, these proposals will accelerate the already increasing problem of mandatory overtime. This is an attack on working families, leaving workers with less pay and less time to spend with their families

Eliminating Bonuses from Overtime Pay

Current Law:

- Employees who work overtime are entitled to time and one half their "regular rate of pay" for each hour over forty worked. The "regular rate of pay" is intended to include most forms of compensation (except the items the statute specifically excludes), so that employees' overtime pay is based on their real pay. The law is designed to prevent employers from paying a low hourly wage, used to calculate overtime pay, and giving the employee a significant portion of her pay as a "bonus," which would then not be reflected in any overtime pay.

- Bonuses that are announced or promised ahead of time must be included in this regular rate when calculating a worker's overtime pay. Examples of such bonuses include performance or incentive bonuses, where an employer announces she will pay a bonus if employees exceed a production or quality goal. Just like hourly pay, these kinds of bonuses are intended as direct compensation for the quality or quantity of an employee's work. When an employee earns a bonus and works overtime hours in the same week, the amount of the bonus must be included as part of the "regular rate," which is then multiplied by 1.5 to determine the overtime pay.

- Under current law, employers can compensate their employees in several ways that do not impact workers' overtime pay. Gifts, bona fide profit-sharing, thrift or savings plans, bona fide health insurance plans, and discretionary bonuses (i.e., bonuses that are not promised ahead of time as a *quid pro quo*) do not impact overtime:

  -- a gift of cash or goods to some or all workers
  -- a plan to share with all employees any profits realized by the company
  -- a surprise bonus to workers who have exceeded a production or efficiency quota, or performed well in other ways

DRAFT **9/11 Noon**

Proposed Change:

- The Majority proposal would amend the law so that pay in the form of incentive or performance bonuses, gainsharing or commissions would not count in calculating overtime pay.

Proponents Arguments:

- Proponents claim that administrative burdens associated with these calculations under current law discourage employers from offering incentive or performance bonuses to their hourly workers, thereby denying these workers certain benefits enjoyed by other workers. They assert that employers find it difficult to calculate retroactively additional overtime payments due employees who receive commissions, incentives or performance bonuses for work done in prior weeks that included overtime hours.

Reasons to Oppose:

- Pay structures could be manipulated, cutting workers pay. Excluding bonuses, commissions and similar payments from the regular rate used to calculate overtime creates a strong incentive to create pay systems with lower hourly wages, while shifting more of the worker's pay to "bonuses." When the worker doesn't put in overtime hours, her pay could be the same. But if the worker does work overtime hours, her pay for those hours, and her gross earnings, would be cut because it is based only on the new, lower hourly wage, with *the bonuses excluded.*

- For some workers, hourly wages could be cut to the minimum wage, and supplemented by bonuses, netting employers huge savings in overtime pay costs – and giving them a competitive edge, putting pressure on their competitors to follow suit.

- Because overtime will cost them less, there would be less disincentive for employers to force workers to put in excessive overtime hours. Overtime pay is intended to impose a cost on employers who make employees work long hours, to act as a "brake" against oppressively long workweeks. This proposal severely undermines the disincentive effect of overtime pay – leaving workers with less pay and less time with their families.

- This change would severely undermine overtime pay as it has existed in this country since 1938 by providing a huge loophole to avoid paying time and one-half based on an employee's true earnings.

- As the economy changes in response to the information revolution, we may need to evaluate new forms of compensation, and determine how to treat them under the law.

- That's exactly what the Administration did this year with employee stock options, which have only recently become available to rank and file workers. Usually, employers give stock options so their employees have an opportunity to own a piece of the company, and to share in the company's future. That's different from pay, and that's why genuine stock options – not pay in disguise – are now excluded from overtime calculations. The President worked with Congress to change the law to reflect this new phenomenon.

- But there is nothing new about cash bonuses for good work or workers. With a calculator and information they already have – how many hours an employee worked, including overtime hours, during the time covered by the bonus, and how much the employee had already been paid before the bonus – employers have been offering these kind of bonuses, and complying with the overtime law, for decades.

- In fact, the technology of the new economy makes it even easier for employers to give bonuses and make any needed adjustments to overtime pay, because now you can write a payroll program that does the calculations instantly.

Whom it will affect and how:

- Approximately 74 million are currently entitled to overtime pay; while not all work overtime hours, this change could potentially affect all of them.

- Example: John, who today receives $6 an hour and a 5% commission on sales, is paid overtime based on the entire earnings, not just the $6 an hour. This change would allow his employer to exclude the commission from the calculation of overtime pay – reducing the overtime pay rate, the employer's overtime costs, and John's take home pay.

- Example: Sue is a manufacturing plant assembly line worker who earns $14.00/hour, receives time and a half overtime after 40 hours a week, and gets an additional production bonus of $100 for each week her work unit exceeds production quotas with the fewest defects. She regularly works five 10-hour days (50 hours/week). Under current law, she is due $880 with proper overtime pay each week she earns a bonus. Under the proposed amendment, she would lose ten dollars a week from her pay if the production bonus were excluded from the overtime rate. Sue could lose up to $520 a year under this proposal.

- Example: Sally makes $10 an hour today and is entitled to $15 an hour for each overtime hour she works. But, under the proposed amendment, her employer, enticed by competitive pressure and financial incentive, could cut her base pay down to the minimum wage and convert her additional compensation to some form of incentive bonus. Let's say her pay is cut to $6 an hour and she is provided a weekly bonus of $160 to meet production quotas. At first glance, it looks like Sally would have the same total pay, just in a different form. But when she works overtime, she would only get $9 an hour (instead of $15). In a 50-hour workweek, she would receive $490 in total pay ($240 straight time, $90 for overtime, and a $160 production bonus). Without these changes in the law, she would have received $550 in total pay. Sally has just seen her pay cut $60 a week, which translates to $3,120 a year if all else stayed the same.

DRAFT **9/11 Noon**

Exempting Inside Sales Workers

Current Law:

- The Fair Labor Standards Act specifically provides that the minimum wage and overtime requirements do not apply to a worker employed as an "outside salesman," someone who spends at least 80% of their time doing "outside" – e.g., door-to-door or traveling – sales work.

- "Outside sales" workers are typically outside the day-to-day control of their employers. The law recognizes that monitoring or tracking the time of sales employees who travel over 80% of the time presents a unique problem for employers, who have no way of knowing how many hours the employees work or if they work overtime.

Proposed Change:

- Under the Majority proposal, employers would not have to pay minimum wage or overtime pay to certain "inside sales" employees – employees who do sales work while on the employer's premises – who make over $25,000 in combined salary and commissions. In other words, a worker who earns that much could be forced to work unlimited hours of overtime, with no additional pay of <u>any kind</u> – not just overtime pay – for their work.

Proponents Arguments:

- Proponents claim that they are merely equalizing the treatment of "inside" and "outside" sales workers, to recognize that with changing technology workers who used to sell door-to-door are now using the Internet and other forms of technology to make those same sales.

Reasons to Oppose:

- The proponents' argument ignores the reason for the "outside sales" exemption – the employer's inability to track the worker's hours. That problem doesn't exist for employees who sell products from – or "inside" – the employer's premises. Employers have no trouble controlling and monitoring how much time these employees spend at work, and often go to great lengths to do so. Employers know when inside sales employees work overtime – in fact, they may demand it – and they should give those workers overtime pay.

- Denying minimum wage and overtime protections to "insides sales" employees who earn more than $25,000 is not justified; it is simply a way to cut employers' labor costs, by taking money out of workers' paychecks and undermining their basic right to the minimum wage and overtime pay for working more than 40 hours a week.

- The Majority proposal takes away overtime protection from certain "inside sales" workers who meet a complicated, subjective duties test. To distinguish an exempt employee from one still covered by the overtime law, employers will have to assess whether the employee has sufficient "specialized or technical knowledge" of products or services, "detailed understanding" of customer needs, and ability to exercise "discretion in offering a variety of products and services" to qualify for the exemption – and if they guess wrong, they'll risk owing back wages for unpaid overtime.

- This vague standard will also be very difficult for the Department of Labor to administer and enforce, which means it will be difficult to protect workers who shouldn't qualify for the exemption but whose employers deny them overtime pay.

Whom it will affect and how:

- Approximately 2.5 million workers – almost 36% of all inside sales workers – could be affected.

- Workers who call existing customers or who receive incoming calls could lose their minimum wage and overtime protections. Telemarketers making "cold calls" would probably not be affected by this change, nor would retail counter clerks. The types of workers potentially impacted thus vary widely, but examples of workers who could be affected include:
  - sellers of mortgage banking or other financial services who simply wait for the phone to ring.
  - sellers of Yellow Pages advertising who already have ongoing relationships with customers and make sales calls to those customers.
  - sellers of medical or scientific equipment or pharmaceuticals to doctors, dentists, and dental and medical labs.
  - sellers in wholesale distribution of virtually any product sold to commercial resellers, i.e., the entire "wholesale distribution industry," such as food distributors, wholesale florists, electrical and plumbing supply shops.

- Example: A sales associate in a mortgage company receives calls from potential customers seeking home mortgages and other loans. Today she is paid a $350 weekly salary and a commission of $35 for each qualifying loan application processed. In a typical week, she processes five applications while working five nine-hour days (45 hours/week) and earns $554.17 with proper overtime pay. Under the proposed exemption, because her base pay ($350 x 52 = $18,200) exceeds 1 and 1/2 times the minimum wage for 2080 hours and her commissions exceed 40 percent of base pay, she would be entitled to receive only $525. She would suffer a $1,516.84 annual pay cut, if all else stayed the same – and she could be forced to work overtime hours with no extra pay.

- Example: Sue makes "cold" sales calls "predominantly" to previous or existing customers, so she could be exempt and denied overtime. In the next cubicle over, Thomas makes identical "cold" sales calls "predominantly" to strangers and is treated as non-exempt. In a busy week when both spend 45 hours at the office doing similar work, Thomas gets overtime pay but Sue does not.

Labor Items in the Min. Wage Proposal

1. **(House) Minimum Wage Increase** – 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** – Provision updates the FLSA to recognize changes in sales occupations 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 existing law by specifying all of the new duties that are performed by computer professionals who are "similarly skilled" to those computer professionals that are already exempt in current law.

4. **(House) FSLA Exemption for funeral directors --** This provision would exempt licensed funeral directors and licensed embalmers from minimum wage and overtime rules. 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 provision would allow employers to reward hourly employees in the same manner as non-hourly employees without incurring the administrative burdens of recalculating overtime pay.

6. **(Senate) Tip Credit** – Current law mandates that an employer may not pay less than $2.13 an hour in cash wages to tipped employees provided the employee's tips cover the difference between the cash wage and the minimum wage. Some states mandate that employers pay the entire minimum wage in cash anyway. This provision would allow all employers, under future minimum wage increases, to utilize a tip credit, while preserving existing cash wages for tipped employees.

DRAFT 9/11 Noon

Undermining State Tip Credit Laws

Current Law:

- Federal law allows employers to pay to tipped employees cash wages in the amount of \$2.13/hour, and to credit tips earned by the employee toward the full federal minimum wage owed. If tips don't bring an employee's hourly wage to the full federal minimum, the employer must make up the difference.

- The federal rule constitutes a floor. States are free to pass laws requiring employers to pay a greater share, or all, of the full minimum wage. Seven States (Alaska, California, Minnesota, Montana, Nevada, Oregon, and Washington) require employers to pay the full minimum wage to tipped employees, with no tip credit allowed. Twenty-two other States allow a tip credit, but smaller than is provided for in federal law.

Proposed Change:

- We have not seen the specifics of this proposal, but it seems that the Majority proposal would "freeze" State laws that require employers to pay a higher cash wage than under federal law. In the future, States would be preempted from increasing the amount of cash wage employers must pay tipped employees, thus forcing States to allow employers to take a credit based on tips equal to the amount by which the federal minimum wage is increased above the "frozen" State law provision.

Proponents Arguments:

- Proponents state that this provision would merely allow all employers to use a tip credit, without reducing the wages of tipped employees.

Reasons to Oppose:

- The Fair Labor Standards Act sets a floor, not a ceiling, on minimum wage and overtime pay.

- States should have the right to pass laws, according to the needs and preferences of their citizens, that provide employees with additional protections.

- This will reduce the wages of employees. They would, presumably, continue to receive the same amount in tips, but would eventually receive less money in cash wages from the employer.

Whom it will affect and how:

- Tipped employees are usually low paid workers, workers who have not received an increase in their minimum cash wages for many, many years. (The cash wage employers must pay tipped employees under federal law has increased only 12 cents over the past 20 years.)

- Approximately 1.4 million people work as waiters or waitresses. But this figure does not reflect all of the workers who could be affected. There are other workers who may receive tips (for example, pizza and other delivery workers, and valets), while all wait staff may not be tipped employees.

DRAFT **9/11 Noon**

The tip credit provisions were modified by the 1977, 1989, and 1996 FLSA Amendments, as reflected below:

Date	Minimum Wage	Max. Tip Credit $ / %	Cash Wage Paid by Employer
1/1/78	$2.65	$1.32 (50%)	$1.33
1/1/79	$2.90	$1.30 (45%)	$1.60
1/1/80	$3.10	$1.24 (40%)	$1.86
1/1/81	$3.35	$1.34 (40%)	$2.01
1/1/90	$3.80	$1.71 (45%)	$2.09
1/1/91	$4.25	$2.125 (50%)	$2.12½
10/1/96	$4.75	$2.62 (55%)	$2.13 (frozen at $2.13)
9/1/97	$5.15	$3.02 (59%)	$2.13

$ 2.13

6 15
2 13
4:02

DRAFT 9/11 Noon

Exempting Funeral Directors and Embalmers

Current Law:

- The minimum wage and overtime laws apply to funeral directors and embalmers unless they meet the requirements for an existing exemption (e.g., as supervisory managers).

Proposed Change:

- The Majority proposal would amend the law to specifically exempt funeral directors and embalmers from the minimum wage and overtime law.

Proponents Arguments:

- Given the nature of the business, funeral directors and embalmers are generally on call around the clock and the hours they work per week can vary greatly. Overtime pay is costly and burdensome to small funeral home concerns. Given their erratic schedules, some workers might prefer compensatory time off to overtime pay, but if the overtime law applies, it requires that workers receive overtime pay, not comp time.

Reasons to Oppose:

- The industry is changing drastically, with large chain companies buying up smaller, privately owned funeral homes. Funeral directors of small, family owned concerns are likely to be exempt as the owner/operator of the business. But as these small businesses are bought out or replaced by larger companies, funeral directors are employees, not owner-operators, entitled to overtime pay like any other workers (if they are not exempt managers).

- Employers are free to give their employees extra time off, paid or unpaid, in addition to paying them overtime pay, under current law.

- Removing the cost of overtime pay means employers will be more likely to require onerous long hours of work. Thus, making all funeral directors and embalmers exempt will give them less control over their time, and less time with their families.

Whom it will affect and how:

- We estimate that approximately 25,000 to 35,000 workers could lose minimum wage and overtime protection. The Funeral Directors Association web site puts the number of funeral directors/embalmers at 35,000; this number probably includes self-employed funeral directors, who are already exempt. According to BLS, there were 25,000 funeral directors/morticians in 1998. While this number excludes the self-employed, it does not include embalmers.

DRAFT **9/11 Noon**

- Example: Tim is a licensed funeral director working for a funeral home operated by a national chain. He works long hours each week at the funeral home, and is also on-call to their customers after hours, seven days a week. Tim earns $16.85 an hour and generally puts in 60 hours a week. Under current law, he is entitled to $505.50 in overtime pay (1.5 x $16.85 x 20 hours) in addition to his weekly hourly wages of $674 ($16.85 x 40 hours). If this provision becomes law, funeral directors like Tim would lose <u>all</u> minimum wage and overtime protection. He could see his pay cut to whatever his employer decided to pay – even if it's less than the <u>minimum</u> wage.

DRAFT 9/11 Noon

Exempting More Workers as "Computer Professionals"

Current Law:

- Under current law, workers who qualify as "professionals" – i.e., doctors, lawyers, engineers, architects and others who must have advanced academic degrees, and artists – are not covered by the minimum wage or overtime laws.

- In 1990 and 1996, Congress amended the law to deem computer systems analysts, computer programmers, software engineers and similar computer workers as exempt "professionals," if they are paid on a salary basis or are paid hourly wages of at least $27.63. As a result, these workers are not entitled to overtime pay regardless of whether they meet the traditional criteria for exempt professionals.

Proposed Change:

- The Majority proposal would add to the "computer professional" exemption categories of lower skilled workers, and workers who manage or train such employees.

Proponents Arguments:

- This provision simply updates the exemption by clarifying that job titles and categories that didn't exist in 1990 or 1996 and should also be exempt from overtime.

Reasons to Oppose:

- The proposed exemption would further erode the definition of an exempt professional by including lesser skilled and even non-salaried workers. The industry is rapidly growing and tight; competitive pressure to work people overtime is already severe. More and more people will fall under this exemption as the industry continues its tremendous growth.

- It invites other industries to lobby for the same treatment – that is, to deprive workers of minimum wage and overtime protection by exempting specific jobs from the law.

Whom it will affect and how:

- Based on 1998 BLS OES data, the estimate is that at least 164,000 computer workers earning $27.63/hour or more could be affected by this provision, as well as an unknown number of additional computer workers in these categories paid guaranteed <u>salaries</u> as low as $250 per week ($6.25 per hour or $13,000 per year).

Memorandum

To: Gene Sperling
Karen Tramontano
Barbara Chow

From: Sarah Rosen Wartell

Date: September 11, 2000

Re: FLSA Material from AFL-CIO

Peggy Taylor at AFL-CIO has forwarded the following.

American Federation of Labor
Congress of Industrial Organizations
AFL-CIO

FAX Transmission

■ DEPARTMENT OF LEGISLATION ■

TO: Gene Sperling

FAX #: 456-2878

DATE: 9/11

FROM: Peggy Taylor

PHONE: 202/637-5057 **FAX #:** 202/508-6963

Number of pages to follow: 10

COMMENTS:
Gene, There may be more — and in better shape — tomorrow. I think the pieces on computer professionals may be helpful. The overall piece probably doesn't add to what you know.

(Please call (202) 637-5088, if you have received this transmission in error)

815 Sixteenth Street, N.W. ■ Room 309 ■ Washington, D.C. 20006

Talking Points on the FLSA Exemption for Computer Professionals
Draft
September 11, 2000

Expansion of exemption
The FLSA overtime exemption for computer professionals is expanded to include: a. network and database analysts; b. workers who manage or train computer professional employees; and c. computer software or network designers, testers, and consultants.

Lack of data
No data are available on the number of computer professionals who are affected by the current exemption or the additional number of workers who would be affected by the proposed expansion. Many computer professionals are salaried, white-collar employees who are not covered by overtime, and therefore would not be affected. However, there is a significant and growing number of computer professionals who are adversely affected by the overtime exemption, namely professionals hired on a temporary basis, employed through a temporary agency, or as consultants (excluding independent contractors who are not covered by the FLSA).

Employment of Computer Professionals
In 1999, a total of 2.2 million persons was employed in computer professional occupations.[1] Most computer professionals were employed into the following three occupations: computer programmers (564,000), system analysts (553,000) and computer support specialists (456,000). Other computer professionals worked as data base administrators, computer programmer aides, numerical tool and process control programmers, and other computer scientists.[2]

Employment and Wages of Computer Professionals, 1999

Occupation	Employment (In 1000s)	Wages*
Computer System Analysts and Scientists	1,348	$1,008
Operations and System Researchers and Analysts	242	$864
Computer Programmers	564	$898
Total	2,154	n/a

Source: Bureau of Labor Statistics, *Employment and Earnings*, January 2000, table 39.
* Median weekly earnings of full-time wage and salary workers.

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[1]Bureau of Labor Statistics, *Employment and Earnings*, January 2000, table 39.

[2]Bureau of Labor Statistics, Occupational Employment Statistics, 1998. BLS web site: <http://www.bls.gov/oes/national/oes_prof.htm> ; and Bureau of Labor Statistics, *Employment and Earnings*, January 2000, table 39.

Women are *under*-represented in the computer professional workforce. Fully, 69 percent of the computer professionals are men -- the comparable number for the overall workforce is 56 percent. Women are also lower paid than their male counterparts. Female computer systems analysts and computer programmers are paid 16 percent less than male employees, and female operations and systems analysts are paid 18% less.[3]

Though women make up a relatively small share of the computer professional workforce, it may be expected that they would more likely be affected by the proposed expansion of the FLSA exemption. Hourly paid professional workers are more likely to be temporary and contract employees, and women workers are generally more likely to work in these types of contingent work arrangements.[4] This is further supported by the observed pay differential between male and female computer professionals which indicates that women may be more likely to be employed in contingent work arrangements and shorted job tenure, and thus lower pay.[5]

1) Growing number of hourly paid workers

Computer professional occupations will be some of the fastest growing occupations over the next eight years. Employment in the computer professionals occupations are projected to double between 1998 and 2008. According to the BLS, overall employment is projected to increase 14.4%, but the number of computer engineers is expected to increase 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.[6]

According to the Bureau of Labor Statistics' *Occupational Outlook Handbook*, a growing number of computer professionals and computer programmers are employed on a temporary or contract basis or work as independent consultants as companies demand expertise with new programming languages or specialized areas of application.[7] Since computer professionals hired on a temporary basis, often are hourly paid, the exemption will adversely affect a growing number of contingent professionals in the future. Furthermore, expanding the exemption would lower labor costs and thus encourage companies to increasingly rely on a temporary work force

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[3]Bureau of Labor Statistics, *Employment and Earnings*, January 2000, table 39.

[4]Bureau of Labor Statistics, "Contingent and Alternative Employment Arrangements, February 1999." News Release, December 21, 1999.

[5]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.

[6]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.

[7]Bureau of Labor Statistics, *Occupational Outlook Handbook*, 1999, pp. 109-16.

rather than employing full-time permanent workers.

2) Hourly paid computer professionals often work long hours
The *Occupational Outlook Handbook* warns that "many computer professionals may work long hours or weekends, to meet deadlines or fix critical problems that occur during off hours."[8] Temporary computer professionals are often hired to meet peak demands, provide help to meet a project deadline, or work on a specific project with a time limit. Given the nature of the work of temporary professionals, they are very likely to encounter long work hours and accumulate many hours of overtime. Exemption from overtime pay would further encourage companies to require hourly paid workers to work extra hours.

3) Wage disadvantage of hourly paid computer professionals
Hourly paid temporary workers are generally lower paid than permanent workers, and this is also true for computer professionals. Elimination of overtime pay for hourly paid workers would further increase their pay disadvantage. ?

4) High job and earnings insecurity
Temporary computer professionals often face high job insecurity and sporadic earnings. Thus, a relatively high hourly wage often translate into much lower annual earnings. One potential strategy for computer professionals to manage job insecurity is to work a large number of hours during periods of employment and save for periods of unemployment. The elimination of overtime pay could make it increasingly difficult for computer professionals to cope with periods of unemployment between assignments/contracts.

5) High costs of living
Jobs for computer professionals are generally concentrated in specific geographic locations across the country, such as Seattle, WA and Silicon Valley, CA. Housing and other expenses are often very high in these areas because of the fast employment growth in the computer industry, making cost of living very high. Exemption for overtime pay for hourly paid workers would make it even more difficult for these workers and their families to make a living.

6) Overtime pay should cover all hourly paid workers
The overtime premium provision was envisioned to cover *all* hourly paid workers regardless of their occupation or their earnings. Exempting workers based on their job duties is wrong. This could lead to further erosion of overtime pay for workers in other occupations.

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[8]Bureau of Labor Statistics, *Occupational Outlook Handbook*, 1999, p. 114.

Will be added to draft tlking pts on computer professionals:

Workers employed by temporary agencies, as are many computer professionals, are much less likely than comparable, full-time employees to have employer-provided benefits. For example, among full-time temporary employees, only 43.1% have any health insurance coverage, and only 6.8% have health insurance coverage through their agencies. In contrast, 87.4% of regular full-time employees have any health insurance coverage, and 69.0% have coverage from their employer. Contract company workers are also less likely than regular full-time employees to have employer-provided health insurance coverage: 57.9% of contract company workers have health insurance through their employers, again compared with 69.0% of regular full-time employees.

Temporary and contract workers are also less likely than regular full-time employees to have any pension coverage or pension-coverage provided by their employers. Fewer than one in five (16.3%) of temporary agency employees who work full-time have any pension coverage, and only 5.1% have coverage through their agencies. Just over half (52.2%) of contract company workers have any pension coverage, with 43% having coverage through their employers. Among regular full-time workers, two-thirds (66.0%) have any coverage, and 60.3% have employer-provided coverage.

Source: Ken Hudson, *No Shortage of 'Nonstandard' Jobs: Nearly 30% of workers employed in part-time, temping, and other alternative arrangements,* Economic Policy Institute, December 1999 (February 1997 CPS data)

Note: this data is for all temporary and contract workers; we do not have data for only temporary and contract workers working as computer professionals.

Senate Labor and Workforce Committee
Testimony of Barbara Judd
B 6165

Madam Chair and members of the committee:

Thank you for the opportunity today to testify in favor of SB 6165. My name is Barbara Judd, and I live in Snohomish county. I have been employed in the high-tech industry for over 2 years. I am a permatemp at Microsoft and I am a member of WashTech.

I work with a group of about 20 other financial professionals. I have an MBA, as do others; many of us are CPA's and some are attorneys. Our job is to write code which translates complex and constantly changing federal laws into an easy-to-use consumer product.

We are all temporary workers payrolled through four different staffing companies. Our benefits are pitiful. It is impossible to fund a decent retirement. We receive no sick leave pay. Health insurance for myself and my husband costs over $300 per month.

Most of us earn between $30 and $35 an hour. We are hourly employees and we are fortunate to receive overtime pay at time and one half rate. Under current state law, this overtime premium is at the sole discretion of our employer. In fact, when we attempted to unionize and form a bargaining unit last summer, we were threatened with the loss of this premium. Our employers may at any time legally remove this premium.

As does Senator Fairley, I also have a child who works in this industry. Requirements of extreme amounts of overtime is common. My daughter relates frequent stories of 20 hour days and 7 day weeks. Working an individual employee 80 hours a week and paying straight time for each of the 80 hours is an unjust financial windfall for an employer at the expense of the worker. I'd like to give you an example.

An employer who works an employee for an 80 hour week, paying time and a half for overtime, incurs a cost of 25% more than if they had hired two employees. This same situation, where the employer pays straight time for overtime, incurs a cost 30% less than if they were employing two individuals.1

Also, is it just to use this arbitrarily defined point in pay at which to deny an overtime premium? As another example, your manager calls you into the office, praises your work and raises your hourly salary from $27 to $28. Unfortunately, now that you earn a one dollar an hour more, you no longer receive an overtime premium. Based on a 50 hour week, your salary is now about $400 a month less2.

This overtime pay exemption singles out the high-tech worker for unjust treatment. It encourages the abusive practice of requiring extreme amounts of overtime. And its direct effect is to enrich the coffers of corporations. Yes, some of these corporations are struggling. Does that mean we should allow them to retain a financial advantage, unavailable to other industries, that is at the expense of workers? I hope that for my daughter's future employment, equity will be returned.

Minimum Wage Provisions Eroding the Fair Labor Standards Act

Background

S. 625, the "Bankruptcy Reform Act of 1999,"and H.R. 3081, the "Small Business Tax Fairness Act of 2000" each contain an increase in the minimum wage wage as well as provisions which erode coverage by the Fair Labor Standards Act ("FLSA") minimum wage and overtime protections. On August 28th Speaker Hastert sent a letter to President Clinton offering a minimum wage compromise proposal. The Hastert proposal contained all four of the FLSA provisions found in the Senate and House passed bills and included an additional tip credit provision not contained in either bill. The tip credit is believed to be based on a bill introduced by Representative Brian Bilbray (R-49th/CA), H.R. 1921, the Tip Credit Protection Act of 1999. Below is a discussion of the ways in which the FLSA erosion occurs.

Bonus Exemption (S. 625):

Current Law: The FLSA requires that employers pay overtime at a rate of not less than one and one-half times an employee's regular rate of pay. The calculation of "regular rate of pay" must include all forms of remuneration, with only a few exceptions (such as discretionary bonuses and holiday gifts).

Changes contained in S. 625: This bill would make *non*-discretionary bonuses a new exception to the rule that all remuneration must be included in the calculation of the regular rate of pay. Non-discretionary bonuses include those which the employer has agreed or contracted to pay, such as gainsharing, incentive, and performance bonuses as well as commissions.

Because this bill is not industry-specific, but rather would apply to all FLSA-covered employees, it would impact a large percentage of that workforce. By exempting non-discretionary bonuses, the bill would decrease overtime payments by lowering the wage base on which overtime is calculated. It would also encourage employers to decrease overtime pay significantly by offering a higher percentage of an employee's overall compensation in bonuses which would then be excluded from the calculation of the employee's rate of overtime pay.

Inside-Sales Employee Exemption (H.R. 3081):

History: Since the enactment of the FLSA, "outside sales" employees – those working away from the employer's place of business making sales or obtaining orders – have always been exempt from overtime requirements. The justification for this exclusion was that employees who spend the bulk of their time away from the employer's facilities are not subject to direct management or supervision.

Current law: Under current law, "inside sales" employees of retail businesses may qualify for a different overtime exemption if more than one-half of their compensation is commission-based (over a representative period of at least a month) and their regular or average hourly rate is more than one and one-half times the minimum wage. (Employees in other than retail establishments do not currently qualify for this exemption.)

Changes contained in H.R. 3081: The bill would expand the overtime exemption to include a greater number of "inside sales" employees. The bill extends the overtime exemption to all sales employees that:

- Have "specialized or technical knowledge" related to the 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 contracts;
- Have a "detailed understanding" of the customer's needs;
- Exercise "discretion in offering a variety of products and services";
- Receive base pay of 1 ½ times the minimum wage, multiplied by 2,080 (regardless of 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.)

The types of sales employees affected will be vast -- from workers in wholesale distribution, telecommunications, mortgage banking and other financial services to food distributors, and wholesale florists -- just to name a few. In addition, this bill will deprive sales employees earning as little as $22,500[1] a year of overtime protections.

Moreover, the complex multi-test to meet the exemption likely will lead to misunderstandings, disputes and costly litigation. It will be virtually impossible to determine which workers possess the requisite "specialized or technical knowledge" of products or services, a "detailed understanding" of customer needs, or who sell "predominantly to" previous customers and exercise "discretion in offering a variety" of products and services. The practical effect of these subjective and undefined terms is to make them meaningless and virtually impossible to enforce.

Computer Industry Exemption (H.R. 3081):

[1] 1 ½ x $5.15 x 2,080 = $16, 068 plus (40% x $16,068) = $22, 495.20.

History: Before 1990, for employees to be exempt as "professionals" from overtime protections, their duties had to require advance knowledge in a field obtained by specialized intellectual instruction, as distinguished from a general academic education. They also had to consistently exercise discretion and judgment on important matters and be paid on a salary basis.

In 1990, a new exemption allowed computer systems analysts, computer programmers, software engineers and similarly skilled workers – holding positions not requiring an advanced degree – to qualify for the professional exemption from overtime requirements. The exemption extended to hourly computer industry workers earning more than 6.5 times the minimum wage, e.g. $27.63/hour.

In 1996, the FLSA protections for computer industry workers were further eroded. The compensation test for hourly workers was frozen at the 6.5 times the "old" minimum wage, so that future minimum wage increases would not serve to increase the compensation test for the exemption.

Changes contained in H.R. 3081: The bill would expand the 1990 exemption for computer professionals by including positions that are a lower skill level. This widening of the exempted employees, coupled with a compensation test frozen at 1996 levels, means that dramatically fewer computer industry workers will be entitled to 40-hour work week protections.

Specifically, the bill would broadly exclude from coverage "any employee who is a computer systems, network, or database analyst, designer, developer, programmer, software engineer, or other similarly skilled worker," making $57,700 or more a year,[2] and whose primary duty is:

i) the application of a systems network or database analysis techniques and procedures, including consulting with users, to determine hardware, software, systems, network, or database specifications (including functional specifications);

ii) the design, configuration, development, integration, documentation, analysis, creation, testing, securing, or modification of, or problem resolution for, computer systems, networks, databases, programs including prototypes, based on and related to user, system, network or database specifications, including design specifications and machine operating systems;

iii) the management or training of employees performing the above-described duties;

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[2]The bill affects employees who are compensated on an hourly basis at "a rate of not less than $27.63 an hour."

iv) a combination of duties described above, the performance of which require the same skill level.

The above-criteria appears to reach numerous job categories, including -- for example - data processing associates, software associates, customer systems engineers, systems applications specialists, senior technicians, communications technicians, data processing associates, customer engineers, computer center plant engineers, and computer network associates.

Funeral Directors Exemption (H.R. 3081):

History: Funeral Directors, as a job category, have never been exempted from the FLSA. Nonetheless, funeral homes have historically been small, independently owned businesses, and as such, they are often exempt from coverage because they do not have employees engaged in interstate commerce and annual gross sales of $500,000 or more, as required by the statute.

In recent years, however, large corporations have begun to buy out many small funeral homes, increasing the likelihood that they will be FLSA-covered enterprises. Notwithstanding this fact, even where the business itself is covered by the Act, the funeral directors may still be exempt under the current law if they meet the requirements for the "executive exemption" because their primary duty is management of the establishment.

Changes contained in H.R. 30811: The bill would exempt "any employee employed as a licensed funeral director or a licensed embalmer" from all of the minimum wage and overtime provisions of the FLSA . It would deny the original intent of the FLSA by exempting employees who are neither "executives" or "professionals" from the protections of the Act.

Tip Credit (Hastert Proposal):

History: Under the tip credit provisions of the FLSA, an employer may credit an amount of tips received by an employee against the employer's minimum wage obligation. Prior to 1996, employers were required to pay tipped employees at least 50% of the minimum wage rate. The law further provides that if an employee's tips, combined with the employer's "cash wage," do not equal the minimum hourly rate, the employer is required to make up the difference.

Current Law: In 1996 the tip credit provision was amended to replace the employer's direct wage obligation formula of 50% of the minimum wage rate in effect, to a fixed rate of not less than $2.13 per hour. The amount essentially froze the tip credit at 50% of the pre-1996 minimum wage increase rate ($4.25). States are currently entitled to prohibit employers from paying a wage inclusive of a tip credit and thereby require the full minimum wage rate be paid to tipped employees; or to set the tip credit amount at a level that is lower than the federal $2.13 rate.

Changes contained in the Hastert Proposal: Seven states and Guam currently prohibit tip credited wages: four of them having state set minimum wage rates higher than the federal rate. A number of other states have set state tip credit amounts lower than the federal rate. In these states employers are required to pay a higher cash wage than $2.13 per hour.

Although no actual language, other than Speaker Hastert's proposal summary, was available at the time of this writing, it is believed that the tip credit amendment proposed mat be based at least in part on H.R. 1921, the Tip Credit Protection Act of 1999, a bill introduced by Representative Brian Bilbray (R-49th/CA); and would preempt state and local laws from precluding tip credits or prohibiting employers from applying tip credits.

It also appears to be freezing the tip credit at $2.13 which H.R. 1921 does not do. After restating current law, the proposal provides:

> "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."

It is unclear whether the "cash wage in effect on the date of enactment" refers to the federal rate or each individual state's rate. It is believed to be the former

The language of H.R. 1921 preempts states and local municipalities from precluding a tip credit or prohibiting an employer from applying a tip credit. However, the bill further provides that up to $10,000 in tips per year will be treated as "gifts" and are to be excluded from gross income; and that only tips in excess of $10,000 per year and over $20 per month shall be subject to Social Security payroll tax, unemployment compensation, and income withholding. These latter provisions are not mentioned in Hastert's proposal summary.

9/5/00

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?

Min Wage

DRAFT 9/11 6 pm

Majority Minimum Wage Proposal: Cutting Working Families' Pay

It's time to give the hard working but lowest paid Americans a raise – and it's the right thing to do.

For more than a year and a half, the Republican leadership has dragged its feet, trying to water down an increase in the minimum wage by spreading it over three years instead of two. So far, delay has cost a full-time minimum-wage worker more than $900.

It's time for Congress to set aside its legislative games and work with the Administration to help 10 million working families make ends meet.

A minimum wage increase would provide real benefits for working women and families. 10 million workers could see their pay increase by as much as $2,000. Almost 33 percent of those who would benefit support children under 18; more than 60 percent are women; 16 percent are African American; 20 percent are Hispanic. At a time when we are experiencing the longest economic expansion in history, the proposed $1 increase before Congress would merely return the real value of the minimum wage to the level it was in 1982.

Republicans want to couple a minimum wage increase with a tax cut for small businesses. The Republican leadership is also holding a pay raise for 10 million low wage workers hostage to an overtime pay cut for America's hard working families.

That's just wrong. Congress should not use a well-deserved – and overdue – raise for some workers as an excuse to take pay from the pockets of those and other workers by taking away their right to overtime pay. At a time of economic prosperity, we should not pit worker against worker.

Even with our strong economy, many workers depend on overtime pay to provide for their families. Under the Republican proposal, an average manufacturing worker today could see a 14% cut in pay or a loss of over $4,600 a year that she earns from overtime. The Republican proposal could mean a pay cut for millions of workers across the economy, because it ties a minimum wage increase to **harmful provisions that would undermine overtime pay and the wages of tipped workers.**

Incentive and performance bonuses: Republicans want to let employers designate a portion of their workers' hourly base pay as incentive or performance bonuses and exclude it from overtime pay. By slashing hourly wages and diverting pay to "bonuses," employers could mandate more overtime hours while cutting their overtime costs – leaving workers with less pay and less time with their families.

This could mean a pay cut for the 74 million workers entitled to earn overtime pay. Workers' overtime pay has always been based on their real pay rate. Under the Republican proposal, employers could cut overtime costs by calling most of workers' pay a "non-overtime pay bonus" – effectively repealing the fundamental right to overtime pay when you work more than 40 hours in a week.

Employers should be encouraged to share their economic success with their workers – but not at the cost of a workers' base pay. That's why discretionary bonuses, gifts, and profit-sharing plans don't have to be included in overtime. And that's why the President worked with Congress to add stock option plans to that list, so workers could benefit from this new kind of incentive.

DRAFT 9/11 6 pm

Inside sales workers who earn as little as $25,000 could see their overtime pay disappear, thanks to the Republican proposal. Up to 2.5 million people doing sales work at mortgage companies, medical equipment firms, wholesale distributors, electronics supply firms or in other sales positions – almost 36% of all inside sales workers – would lose their right to any additional pay when they work overtime.

Tracking the time "outside" sales workers – door-to-door salesmen or traveling salesmen -- spend working poses a unique problem for employers. That's why the law has always exempted outside sales workers from the minimum wage and overtime laws – it makes common sense.

But the Republican proposal is only interested in making dollars and cents for employers, by denying overtime to inside sales workers and lowering employers' costs. Sales work is growing with the expanding economy, but these new jobs are not door-to-door. The reasons for the "outside sales" exemption don't apply -- employers face no special challenges in tracking the work time of inside sales workers. The Republican proposal is simply designed to deny overtime to this expanding group of workers.

As a practical matter, it will be almost impossible to tell who is exempt and who isn't under this proposal. They have to have "specialized or technical knowledge" of the product – how much is enough to be exempt? How detailed does their "detailed knowledge" of customer needs have to be?

With this vague standard, it will be difficult to prevent even well-intentioned employers from mistakenly treating workers who should still get overtime as exempt. And employers will have an economic incentive – no extra cost for overtime – to treat all sales employees as exempt "inside sales" workers, whether or not the criteria for the exemption are met.

The tip credit proposal would freeze the pay of up to 1.4 million waiters and waitresses, as well as other workers who get tips. Under current federal law, restaurant owners have to pay tipped workers like waiters and waitresses only $2.13/hour – the rest of their so-called "pay" is in tips – and Congress has increased their cash wages only 12 cents in the last 20 years. Now, Republicans want to deny States the right to give these workers a raise. Why should a waitress have her guaranteed pay frozen for a minimum wage increase, when we should be restoring her pay to what it was originally – 50% of the minimum wage?

Funeral home directors and embalmers are the men and women who leave their homes, their beds, their own families, no matter the time of day or night, to come and take care of our families when our loved ones pass away. They deserve every penny they earn, including overtime pay when the demands of their work – of seeing to our needs – cause them to work long hours. But Republicans want to take away all minimum wage and overtime pay rights for these workers.

The industry is changing drastically, with large chain companies buying up small, family-owned funeral homes. When a funeral director is an employee, not an owner whose reward for hard work is the value of her company, she deserves overtime pay like any other worker.

Computer professionals: Republicans want to deny overtime pay to more, and lower skilled, computer workers. Given this trend, pretty soon, if you have a computer on your desk, you'll be exempt from overtime. Of the over 600,000 workers that could be affected, salaried workers earning at least $13,000/year will lose their right to overtime pay, and so will hourly workers earning more than $27.63/hour.

DRAFT 9/11 Noon

Minimum Wage

Revised from version discussed last week.

Overview

The FLSA amendments in the Majority proposal are objectionable in whole because they offset a modest increase in the minimum wage for the lowest paid workers by taking away minimum wage and overtime pay protections for millions of other working Americans including, in some instances, these same lowest paid workers. This proposal pits minimum wage workers against other workers and themselves – and that's just wrong.

Losing overtime pay could mean a significant pay cut for some workers. In the manufacturing sector, production workers earned an average of $92 a week in overtime pay in August 2000 – 14.4% of these workers' average weekly earnings.

By making overtime less costly for employers, these proposals will accelerate the already increasing problem of mandatory overtime. This is an attack on working families, leaving workers with less pay and less time to spend with their families

Eliminating Bonuses from Overtime Pay

Current Law:

- Employees who work overtime are entitled to time and one half their "regular rate of pay" for each hour over forty worked. The "regular rate of pay" is intended to include most forms of compensation (except the items the statute specifically excludes), so that employees' overtime pay is based on their real pay. The law is designed to prevent employers from paying a low hourly wage, used to calculate overtime pay, and giving the employee a significant portion of her pay as a "bonus," which would then not be reflected in any overtime pay.

- Bonuses that are announced or promised ahead of time must be included in this regular rate when calculating a worker's overtime pay. Examples of such bonuses include performance or incentive bonuses, where an employer announces she will pay a bonus if employees exceed a production or quality goal. Just like hourly pay, these kinds of bonuses are intended as direct compensation for the quality or quantity of an employee's work. When an employee earns a bonus and works overtime hours in the same week, the amount of the bonus must be included as part of the "regular rate," which is then multiplied by 1.5 to determine the overtime pay.

- Under current law, employers can compensate their employees in several ways that do not impact workers' overtime pay. Gifts, bona fide profit-sharing, thrift or savings plans, bona fide health insurance plans, and discretionary bonuses (i.e., bonuses that are not promised ahead of time as a *quid pro quo*) do not impact overtime:

  -- a gift of cash or goods to some or all workers
  -- a plan to share with all employees any profits realized by the company
  -- a surprise bonus to workers who have exceeded a production or efficiency quota, or performed well in other ways

DRAFT **9/11 Noon**

Proposed Change:

- The Majority proposal would amend the law so that pay in the form of incentive or performance bonuses, gainsharing or commissions would not count in calculating overtime pay.

Proponents Arguments:

- Proponents claim that administrative burdens associated with these calculations under current law discourage employers from offering incentive or performance bonuses to their hourly workers, thereby denying these workers certain benefits enjoyed by other workers. They assert that employers find it difficult to calculate retroactively additional overtime payments due employees who receive commissions, incentives or performance bonuses for work done in prior weeks that included overtime hours.

Reasons to Oppose:

- Pay structures could be manipulated, cutting workers pay. Excluding bonuses, commissions and similar payments from the regular rate used to calculate overtime creates a strong incentive to create pay systems with lower hourly wages, while shifting more of the worker's pay to "bonuses." When the worker doesn't put in overtime hours, her pay could be the same. But if the worker does work overtime hours, her pay for those hours, and her gross earnings, would be cut because it is based only on the new, lower hourly wage, with *the bonuses excluded.*

- For some workers, hourly wages could be cut to the minimum wage, and supplemented by bonuses, netting employers huge savings in overtime pay costs – and giving them a competitive edge, putting pressure on their competitors to follow suit.

- Because overtime will cost them less, there would be less disincentive for employers to force workers to put in excessive overtime hours. Overtime pay is intended to impose a cost on employers who make employees work long hours, to act as a "brake" against oppressively long workweeks. This proposal severely undermines the disincentive effect of overtime pay – leaving workers with less pay and less time with their families.

- This change would severely undermine overtime pay as it has existed in this country since 1938 by providing a huge loophole to avoid paying time and one-half based on an employee's true earnings.

- As the economy changes in response to the information revolution, we may need to evaluate new forms of compensation, and determine how to treat them under the law.

- That's exactly what the Administration did this year with employee stock options, which have only recently become available to rank and file workers. Usually, employers give stock options so their employees have an opportunity to own a piece of the company, and to share in the company's future. That's different from pay, and that's why genuine stock options – not pay in disguise – are now excluded from overtime calculations. The President worked with Congress to change the law to reflect this new phenomenon.

- But there is nothing new about cash bonuses for good work or workers. With a calculator and information they already have – how many hours an employee worked, including overtime hours, during the time covered by the bonus, and how much the employee had already been paid before the bonus – employers have been offering these kind of bonuses, and complying with the overtime law, for decades.

- In fact, the technology of the new economy makes it even easier for employers to give bonuses and make any needed adjustments to overtime pay, because now you can write a payroll program that does the calculations instantly.

Whom it will affect and how:

- Approximately 74 million are currently entitled to overtime pay; while not all work overtime hours, this change could potentially affect all of them.

- Example: John, who today receives $6 an hour and a 5% commission on sales, is paid overtime based on the entire earnings, not just the $6 an hour. This change would allow his employer to exclude the commission from the calculation of overtime pay – reducing the overtime pay rate, the employer's overtime costs, and John's take home pay.

- Example: Sue is a manufacturing plant assembly line worker who earns $14.00/hour, receives time and a half overtime after 40 hours a week, and gets an additional production bonus of $100 for each week her work unit exceeds production quotas with the fewest defects. She regularly works five 10-hour days (50 hours/week). Under current law, she is due $880 with proper overtime pay each week she earns a bonus. Under the proposed amendment, she would lose ten dollars a week from her pay if the production bonus were excluded from the overtime rate. Sue could lose up to $520 a year under this proposal.

- Example: Sally makes $10 an hour today and is entitled to $15 an hour for each overtime hour she works. But, under the proposed amendment, her employer, enticed by competitive pressure and financial incentive, could cut her base pay down to the minimum wage and convert her additional compensation to some form of incentive bonus. Let's say her pay is cut to $6 an hour and she is provided a weekly bonus of $160 to meet production quotas. At first glance, it looks like Sally would have the same total pay, just in a different form. But when she works overtime, she would only get $9 an hour (instead of $15). In a 50-hour workweek, she would receive $490 in total pay ($240 straight time, $90 for overtime, and a $160 production bonus). Without these changes in the law, she would have received $550 in total pay. Sally has just seen her pay cut $60 a week, which translates to $3,120 a year if all else stayed the same.

DRAFT 9/11 Noon

Exempting Inside Sales Workers

Current Law:

- The Fair Labor Standards Act specifically provides that the minimum wage and overtime requirements do not apply to a worker employed as an "outside salesman," someone who spends at least 80% of their time doing "outside" – e.g., door-to-door or traveling – sales work.

- "Outside sales" workers are typically outside the day-to-day control of their employers. The law recognizes that monitoring or tracking the time of sales employees who travel over 80% of the time presents a unique problem for employers, who have no way of knowing how many hours the employees work or if they work overtime.

Proposed Change:

- Under the Majority proposal, employers would not have to pay minimum wage or overtime pay to certain "inside sales" employees – employees who do sales work while on the employer's premises – who make over $25,000 in combined salary and commissions. In other words, a worker who earns that much could be forced to work unlimited hours of overtime, with no additional pay of <u>any kind</u> – not just overtime pay – for their work.

Proponents Arguments:

- Proponents claim that they are merely equalizing the treatment of "inside" and "outside" sales workers, to recognize that with changing technology workers who used to sell door-to-door are now using the Internet and other forms of technology to make those same sales.

Reasons to Oppose:

- The proponents' argument ignores the reason for the "outside sales" exemption – the employer's inability to track the worker's hours. That problem doesn't exist for employees who sell products from – or "inside" – the employer's premises. Employers have no trouble controlling and monitoring how much time these employees spend at work, and often go to great lengths to do so. Employers know when inside sales employees work overtime – in fact, they may demand it – and they should give those workers overtime pay.

- Denying minimum wage and overtime protections to "insides sales" employees who earn more than $25,000 is not justified; it is simply a way to cut employers' labor costs, by taking money out of workers' paychecks and undermining their basic right to the minimum wage and overtime pay for working more than 40 hours a week.

- The Majority proposal takes away overtime protection from certain "inside sales" workers who meet a complicated, subjective duties test. To distinguish an exempt employee from one still covered by the overtime law, employers will have to assess whether the employee has sufficient "specialized or technical knowledge" of products or services, "detailed understanding" of customer needs, and ability to exercise "discretion in offering a variety of products and services" to qualify for the exemption – and if they guess wrong, they'll risk owing back wages for unpaid overtime.

- This vague standard will also be very difficult for the Department of Labor to administer and enforce, which means it will be difficult to protect workers who shouldn't qualify for the exemption but whose employers deny them overtime pay.

Whom it will affect and how:

- Approximately 2.5 million workers – almost 36% of all inside sales workers – could be affected.

- Workers who call existing customers or who receive incoming calls could lose their minimum wage and overtime protections. Telemarketers making "cold calls" would probably not be affected by this change, nor would retail counter clerks. The types of workers potentially impacted thus vary widely, but examples of workers who could be affected include:
  - sellers of mortgage banking or other financial services who simply wait for the phone to ring.
  - sellers of Yellow Pages advertising who already have ongoing relationships with customers and make sales calls to those customers.
  - sellers of medical or scientific equipment or pharmaceuticals to doctors, dentists, and dental and medical labs.
  - sellers in wholesale distribution of virtually any product sold to commercial resellers, i.e., the entire "wholesale distribution industry," such as food distributors, wholesale florists, electrical and plumbing supply shops.

- Example: A sales associate in a mortgage company receives calls from potential customers seeking home mortgages and other loans. Today she is paid a $350 weekly salary and a commission of $35 for each qualifying loan application processed. In a typical week, she processes five applications while working five nine-hour days (45 hours/week) and earns $554.17 with proper overtime pay. Under the proposed exemption, because her base pay ($350 x 52 = $18,200) exceeds 1 and 1/2 times the minimum wage for 2080 hours and her commissions exceed 40 percent of base pay, she would be entitled to receive only $525. She would suffer a $1,516.84 annual pay cut, if all else stayed the same – and she could be forced to work overtime hours with no extra pay.

- Example: Sue makes "cold" sales calls "predominantly" to previous or existing customers, so she could be exempt and denied overtime. In the next cubicle over, Thomas makes identical "cold" sales calls "predominantly" to strangers and is treated as non-exempt. In a busy week when both spend 45 hours at the office doing similar work, Thomas gets overtime pay but Sue does not.

Undermining State Tip Credit Laws

Current Law:

- Federal law allows employers to pay to tipped employees cash wages in the amount of $2.13/hour, and to credit tips earned by the employee toward the full federal minimum wage owed. If tips don't bring an employee's hourly wage to the full federal minimum, the employer must make up the difference.

- The federal rule constitutes a floor. States are free to pass laws requiring employers to pay a greater share, or all, of the full minimum wage. Seven States (Alaska, California, Minnesota, Montana, Nevada, Oregon, and Washington) require employers to pay the full minimum wage to tipped employees, with no tip credit allowed. Twenty-two other States allow a tip credit, but smaller than is provided for in federal law.

Proposed Change:

- We have not seen the specifics of this proposal, but it seems that the Majority proposal would "freeze" State laws that require employers to pay a higher cash wage than under federal law. In the future, States would be preempted from increasing the amount of cash wage employers must pay tipped employees, thus forcing States to allow employers to take a credit based on tips equal to the amount by which the federal minimum wage is increased above the "frozen" State law provision.

Proponents Arguments:

- Proponents state that this provision would merely allow all employers to use a tip credit, without reducing the wages of tipped employees.

Reasons to Oppose:

- The Fair Labor Standards Act sets a floor, not a ceiling, on minimum wage and overtime pay.

- States should have the right to pass laws, according to the needs and preferences of their citizens, that provide employees with additional protections.

- This <u>will</u> reduce the wages of employees. They would, presumably, continue to receive the same amount in tips, but would eventually receive less money in cash wages from the employer.

Whom it will affect and how:

- Tipped employees are usually low paid workers, workers who have not received an increase in their minimum cash wages for many, many years. (The cash wage employers must pay tipped employees under federal law has increased only 12 cents over the past 20 years.)

- Approximately 1.4 million people work as waiters or waitresses. But this figure does not reflect all of the workers who could be affected. There are other workers who may receive tips (for example, pizza and other delivery workers, and valets), while all wait staff may not be tipped employees.

DRAFT **9/11 Noon**

The tip credit provisions were modified by the 1977, 1989, and 1996 FLSA Amendments, as reflected below:

Date	Minimum Wage	Max. Tip Credit $ / %	Cash Wage Paid by Employer
1/1/78	$2.65	$1.32 (50%)	$1.33
1/1/79	$2.90	$1.30 (45%)	$1.60
1/1/80	$3.10	$1.24 (40%)	$1.86
1/1/81	$3.35	$1.34 (40%)	$2.01
1/1/90	$3.80	$1.71 (45%)	$2.09
1/1/91	$4.25	$2.125 (50%)	$2.12½
10/1/96	$4.75	$2.62 (55%)	$2.13 (frozen at $2.13)
9/1/97	$5.15	$3.02 (59%)	$2.13

DRAFT 9/11 Noon

Exempting Funeral Directors and Embalmers

Current Law:

- The minimum wage and overtime laws apply to funeral directors and embalmers unless they meet the requirements for an existing exemption (e.g., as supervisory managers).

Proposed Change:

- The Majority proposal would amend the law to specifically exempt funeral directors and embalmers from the minimum wage and overtime law.

Proponents Arguments:

- Given the nature of the business, funeral directors and embalmers are generally on call around the clock and the hours they work per week can vary greatly. Overtime pay is costly and burdensome to small funeral home concerns. Given their erratic schedules, some workers might prefer compensatory time off to overtime pay, but if the overtime law applies, it requires that workers receive overtime pay, not comp time.

Reasons to Oppose:

- The industry is changing drastically, with large chain companies buying up smaller, privately owned funeral homes. Funeral directors of small, family owned concerns are likely to be exempt as the owner/operator of the business. But as these small businesses are bought out or replaced by larger companies, funeral directors are employees, not owner-operators, entitled to overtime pay like any other workers (if they are not exempt managers).

- Employers are free to give their employees extra time off, paid or unpaid, in addition to paying them overtime pay, under current law.

- Removing the cost of overtime pay means employers will be more likely to require onerous long hours of work. Thus, making all funeral directors and embalmers exempt will give them less control over their time, and less time with their families.

Whom it will affect and how:

- We estimate that approximately 25,000 to 35,000 workers could lose minimum wage and overtime protection. The Funeral Directors Association web site puts the number of funeral directors/embalmers at 35,000; this number probably includes self-employed funeral directors, who are already exempt. According to BLS, there were 25,000 funeral directors/morticians in 1998. While this number excludes the self-employed, it does not include embalmers.

- Example: Tim is a licensed funeral director working for a funeral home operated by a national chain. He works long hours each week at the funeral home, and is also on-call to their customers after hours, seven days a week. Tim earns $16.85 an hour and generally puts in 60 hours a week. Under current law, he is entitled to $505.50 in overtime pay (1.5 x $16.85 x 20 hours) in addition to his weekly hourly wages of $674 ($16.85 x 40 hours). If this provision becomes law, funeral directors like Tim would lose all minimum wage and overtime protection. He could see his pay cut to whatever his employer decided to pay – even if it's less than the minimum wage.

DRAFT 9/11 Noon

Exempting More Workers as "Computer Professionals"

Current Law:

- Under current law, workers who qualify as "professionals" – i.e., doctors, lawyers, engineers, architects and others who must have advanced academic degrees, and artists – are not covered by the minimum wage or overtime laws.

- In 1990 and 1996, Congress amended the law to deem computer systems analysts, computer programmers, software engineers and similar computer workers as exempt "professionals," if they are paid on a salary basis or are paid hourly wages of at least $27.63. As a result, these workers are not entitled to overtime pay regardless of whether they meet the traditional criteria for exempt professionals.

Proposed Change:

- The Majority proposal would add to the "computer professional" exemption categories of lower skilled workers, and workers who manage or train such employees.

Proponents Arguments:

- This provision simply updates the exemption by clarifying that job titles and categories that didn't exist in 1990 or 1996 and should also be exempt from overtime.

Reasons to Oppose:

- The proposed exemption would further erode the definition of an exempt professional by including lesser skilled and even non-salaried workers. The industry is rapidly growing and tight; competitive pressure to work people overtime is already severe. More and more people will fall under this exemption as the industry continues its tremendous growth.

- It invites other industries to lobby for the same treatment – that is, to deprive workers of minimum wage and overtime protection by exempting specific jobs from the law.

Whom it will affect and how:

- Based on 1998 BLS OES data, the estimate is that at least 164,000 computer workers earning $27.63/hour or more could be affected by this provision, as well as an unknown number of additional computer workers in these categories paid guaranteed salaries as low as $250 per week ($6.25 per hour or $13,000 per year).

JC/CW

Save for Tax File/Book

Fax to Gene

Minimum Wage

DRAFT

September 8, 2000

GS 9/1/00 from 8:30 discussion Friday

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, – for rewrite tech
- double (to $20,000) the amount of reforestation expenses eligible for a tax credit, – timber windfall
- extend the Work Opportunity Tax Credit (WOTC) through 2004, – w/ WtW
- 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. – fo–

only end for timber not energy conservation

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 – add standards – can be cut to 2-3 – add our digital divide tax cuts
- tax-free rollovers from IRAs and 401(k) plans to charitable organizations.

Lt. Senate P-C – ok – equity questions

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.

all Health Tax in PBR

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

discussion

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:

- 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
- 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 above. We also need further details on the specifics of the proposals, many of which were unclear in the Speaker's offer.

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 ☑001
08/30/00 WED 03:49 FAX WH LEG AFFAIRS CORRESPON ☑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,

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.

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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*].
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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.

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 overseas 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,

J. Dennis Hastert
Speaker of the House

002

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.

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003

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

Minimum Wage

Patrick M. Dorton
08/28/2000 04:00:38 PM

Record Type: Record

To: Joel Johnson/WHO/EOP@EOP, Joseph N. Crisci/OPD/EOP@EOP, Christopher M. Wanken/OPD/EOP@EOP

cc:
Subject: Revised Possibilities on Minimum wage w/Joel input (pls give to Gene)

in 2 years to

this roadblocks to

If at long last, the Republicans are ~~dropping tax breaks that have blocked progress~~ on a $1 increase in the minimum wage, ~~then this is~~ that's good news for more than 10 million American workers. ~~These barriers have held this bill hostage for almost 2 years~~. While some of these barriers still remain, the President stands ready to work with Congress on a bill he can sign.

~~OTHER OPTIONS:~~
~~We're pleased to see some willingness by the Republicans to drop the tax breaks that have blocked this pay raise for more than 10 million American workers. But the devil is in the details. These need to be worked out.~~

~~Lockhart is tougher:~~

~~The Republicans have blocked a minimum wage hike for 10 million Americans for almost 2 years (Jan. 1999) with special interest tax breaks. Today's offer represents some movement, but there's still more work to be done to eliminate the many barriers the Republicans have put in the way of this pay raise for the American people.~~

Minimum Wage

OPPORTUNITIES AND GENDER PAY EQUITY IN NEW ECONOMY OCCUPATIONS

May 11, 2000

A Report by
The Council of Economic Advisers

OPPORTUNITIES AND GENDER PAY EQUITY IN NEW ECONOMY OCCUPATIONS

EXECUTIVE SUMMARY

- The field of Information Technology (IT) has provided extraordinary job growth in the United States. Since 1983, employment in five core IT-related occupations has grown by 81 percent—an increase that greatly exceeded the 32 percent employment growth for the general economy.

- Employment in the five IT-related occupations provides excellent pay for both men and women. For example, the median annual earnings of women employed full-time in IT is over $38,000—about 60 percent higher than the $23,900 earned by women working outside of IT.

- However, an important gender employment gap exists in these IT occupations. Women are currently underrepresented, making up only 29 percent of these occupations, compared with 47 percent of the workforce in the general economy.

- Furthermore, women are most underrepresented in the IT occupations where pay is the highest—for example, in electrical engineering, which is just 10 percent female. This occupational disparity contributes to a lack of women in the highest paid jobs. While 18 percent of men employed in IT earn $70,000 or more, only 8 percent of women earn this much.

- There is also a gender pay gap within IT occupations. A woman with median earnings in IT earns about 22 percent less than a man with median earnings. Part of this gap stems from differences in age, education, race, and occupational composition. Taking these factors into account lowers the gap to 12 percent—a gap similar to that estimated for the labor market more generally.

- The gender pay gap narrows sharply for women in IT who have higher levels of education. Women who do not have bachelor's degrees face a pay gap of 15 to 21 percent, after adjusting for demographics and occupation. By contrast, women with a bachelor's degree or more face a 9 to 11 percent gap. In IT jobs, education plays an even more important role in narrowing the pay gap than in the economy at large.

- Reducing the pay gap in IT will require a relative increase in the proportion of young women who choose educational programs that prepare them for the higher-paying occupations in IT. Policies that assist women in their career development, such as on-the-job training and mentoring, can also enhance women's investment in these occupational skills and their retention rates, and can thus be expected to help close the gender wage gap.

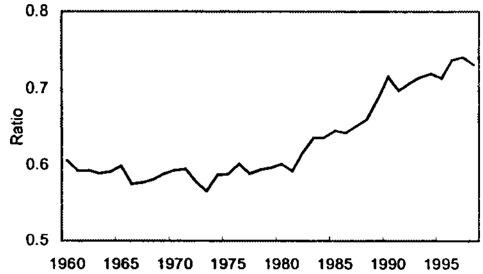
Opportunities and Gender Pay Equity in New Economy Occupations

1. Introduction

The progress made by women in the paid labor market has been one of the most important economic changes of the 20th century. The past century has seen an enormous increase in the proportion of women who work for pay. In 1999 about three-fifths of the adult female population were in the labor force (either employed or looking for work), a rate three times as high as the rate in 1900. And far more women today enter previously male-dominated professions.

The opening of opportunities in the labor market for women has gone hand in hand with improvements in their labor market outcomes. One way of assessing this progress is in the earnings of women relative to men (see Chart 1). In 1960 a woman with median earnings was paid about 40 percent less than a man with median earnings (based on annual earnings of full-time, full-year workers). This pay gap, which resulted in an earnings ratio of about 0.60, remained little changed over the 1960s and 1970s, but subsequently narrowed, so that the earnings ratio was 0.73 for 1998 (the last year for which data on full-year workers is available). In 1999 a slightly different measure of pay equity—the median weekly earnings—indicated that the median full-time female worker earned about 77 percent of a man's earnings.

Chart 1. Ratio of Female to Male Median Annual Earnings for Full-Time, Year-Round Workers



Source: Department of Commerce (Bureau of the Census).

This report provides evidence about the source of this pay gap by focusing on a narrow, but increasingly important, subset of occupations in the labor market—occupations related to Information Technology (IT). The report's focus on IT stems from the particularly visible role IT has played in the new economy. IT is a highly paid, dynamic, and rapidly growing sector of the labor market. In fact, employment in the five core IT occupations grew 81 percent since 1983, dwarfing the 32 percent growth in the economy at large. Women in this sector have earnings that considerably exceed those outside IT. For example, a typical woman working full-time in the IT occupations we study earns $38,000 annually, compared to $23,900 in other occupations.[1]

However, challenges still remain to enable women to share fully in the benefits of IT jobs. Currently, women are significantly underrepresented in IT, especially in the higher-paid occupations. In addition, much like in the economy at large, a gender earnings gap exists within IT jobs; weekly pay in the IT occupations is 23 percent less for women than for men—about the same as in the rest of the labor market. The pay gap for women with college education is significantly smaller than for women with less education. A distinctive feature of the IT sector is that education plays an even more important role in narrowing the pay gap than in the economy at large. Policies that encourage greater numbers of college-educated women to choose IT-related fields of study, and firm practices that encourage these women to remain in IT occupations, can be expected to help reduce the gender pay gap in IT.

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[1] All annual earnings figures in this report are based on hourly earnings calculated from the CPS (described later in the text) translated into yearly earnings for a full-year worker employed 40 hours per week.

Studying the sources of this pay gap in IT is useful as a means of understanding the pay structure in this rapidly growing sector, and is instructive for illuminating gender differences in pay in the labor market more generally. Section 2 provides a brief background on the IT sector, and Section 3 reports a statistical analysis of the gender wage gap in IT. Section 4 provides a discussion placing results in a broader context. Section 5 concludes.

2. THE IT WORKFORCE

By most accounts the U.S. economy is experiencing a technological transformation that has changed the nature of work and placed a premium on a new set of skills. While this transformation has affected many jobs in the economy, there is a core set of occupations at the forefront of the revolution—occupations in information technology. Although there is no exact definition of an IT worker, there are a number of occupations that quite clearly fall into the general domain of IT.[2] The analysis in this report considers a number of core IT occupations for which data are available from the Current Population Survey (CPS), a large nationally representative sample with information on workers' weekly earnings, demographic characteristics, and occupation. These core IT occupations are:

- electrical and electronic engineers;
- computer systems analysts and scientists;
- operations and systems researchers and analysts;
- computer programmers; and
- computer operators.

Definitions of these occupations are provided in Box 1.

Box 1. Descriptions of IT Occupations

Electrical and Electronic Engineers design, develop, test, and supervise the manufacturing of electrical and electronic equipment. These engineers specialize in different areas such as power generation, transmission, and distribution; communications; computer electronics; and electrical equipment manufacturing — or a subdivision of these areas. They design new products, write performance requirements, and develop maintenance schedules. They also test equipment, solve operating problems, and estimate the time and cost of engineering projects.

Computer Systems Analysts, Engineers, and Scientists is a category which includes a wide range of computer-related occupations. Systems analysts solve computer problems and enable computer technology to meet the individual needs of an organization. Computer engineers work with hardware and software aspects of systems design and development. Computer scientists include a wide range of computer professionals who design computers and the software that runs them, develop information technologies, and develop and adapt principles for applying computers to new uses.

Operations Researchers and Analysts conduct research and perform analyses to support management in increasing the performance of an organization. Managers begin the process by presenting the symptoms of an operations-related problem to the analyst, who then formally defines the problem

[2] For a further discussion of these and related issues see Carol Ann Meares et al., "The Digital Workforce: Building Infotech Skills at the Speed of Innovation," U.S. Department of Commerce, Office of Technology Policy, June 1999.

and selects the most appropriate analytical technique to examine it. Upon completion of the analysis, the analyst presents management with recommendations based on the results of the analysis.

Computer Programmers write, test, and maintain the detailed instructions, called programs or software, that computers must follow to perform their functions. In many larger organizations, programmers follow descriptions that have been prepared by software engineers or systems analysts. The transition from mainframe to personal computers has blurred the once rigid distinction between the programmer and the user. Increasingly, adept users are taking over many of the tasks previously performed by programmers, such as writing simple programs to assess data or perform calculations.

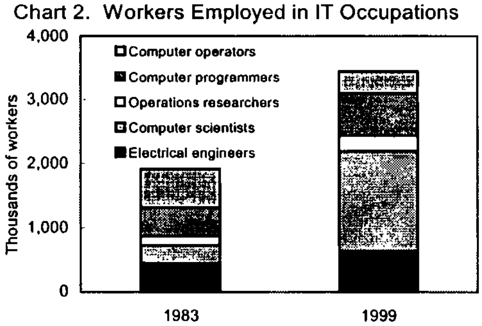
Computer Operators oversee the operation of computer hardware systems to ensure that they are being used most efficiently. These systems include mainframes, minicomputers, or networks of personal computers. Computer operators must anticipate problems and take preventative action, as well as solve problems that occur during operations. Increased automation and other technological advances are shifting the responsibilities of many computer operators to areas such as network operations, user support, and database maintenance.

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

IT Occupations: High Wages and Rapid Growth

The combined employment level in these five occupations has grown by almost 81 percent since 1983 (Chart 2), with particularly strong growth in the last five years. In contrast, total employment in the overall economy grew by just 32 percent since 1983. Today these five IT occupations comprise approximately 3.4 million workers (about 2.6 percent of all employed workers). Employment projections by the Bureau of Labor Statistics suggest that rapid growth for computer-related occupations is expected to continue well into the 21st century.

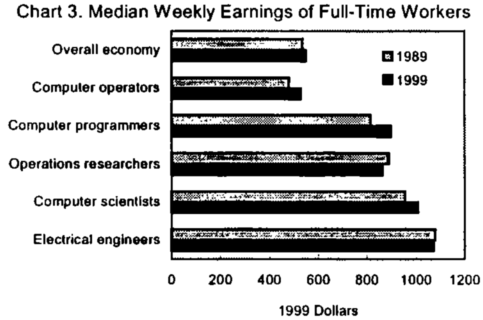
Chart 2. Workers Employed in IT Occupations



Source: Department of Labor (Bureau of Labor Statistics).

Looking at specific occupations, the most notable feature is the strong and steady growth of computer systems analysts and scientists. In 1983, this occupation had just over a quarter of a million workers, or 14 percent of the total IT workforce. By 1999, there were 1.5 million workers in this occupation, or 45 percent of the total. Also notable is the decline in the number of computer operators, perhaps stemming from changes in computing technology.

Chart 3. Median Weekly Earnings of Full-Time Workers



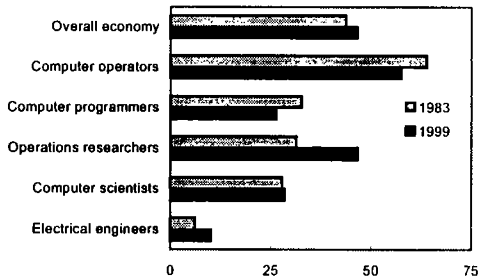
Source: Department of Labor (Bureau of Labor Statistics).

In addition to experiencing high employment growth, these occupations are also characterized by high wages. Median weekly earnings for four of the five IT occupations—all but computer operators—easily exceeded median weekly earnings for all workers in 1999 as well as in 1989 (Chart 3). The median earnings for the highest-paid IT occupation—electrical and electronic engineers—were almost twice that of all workers ($1,073 vs. $549 in 1999).

Female Representation in IT

As in many other highly technical occupations, women are underrepresented in IT. In 1999, women represented 46.5 percent of all employed workers, but only 28.9 percent of the IT workforce (Chart 4). The percentage of women in these occupations has actually been declining since 1986, when it was 40.2 percent. These aggregate percentages, moreover, mask considerable variation across the five IT occupations. In 1999, women were particularly underrepresented in the higher-paying IT occupations. For example, in electrical and electronic engineering—the highest-paid of these IT occupations—women made up just 10.1 percent. In comparison, women made up 57.3 percent of computer operators—the lowest paid IT occupation. Part of the overall downward trend in female representation in IT can be accounted for by the general shift in employment away from computer operators towards occupations in which women are less well represented. Programs geared towards increasing the role of women in technical fields are discussed below.

Chart 4. Females as a Percent of Total Workers



Source: Department of Labor (Bureau of Labor Statistics).

3. AN ANALYSIS OF THE GENDER WAGE GAP IN IT

Although women in IT earn far more than women in other sectors, the median weekly earnings of women who work full time in IT is about 23 percent less than men's—about the same pay gap as is experienced in the labor market generally. A small part of this difference is plausibly due to women in the sample working fewer hours than men, but use of a measure of earnings per hour changes the gender pay gap only modestly—to about 22 percent.

The objective of this analysis is to explore the factors that underlie this hourly pay gap. A portion of the gap is due to differences in the characteristics of men and women, such as education and age. Regression analysis can control for these differences, and thus compare the wages of similar men and women—of those with comparable education and age.[3]

The basic pay difference between women and men—the 22 percent pay gap—diminishes to 17 percent after controlling for educational attainment, age, and race (see Chart 5 and the Appendix Table).[4] Women tend to be less well educated and slightly younger than men in IT, thus controlling for these differences narrows the gap slightly. This gap might also narrow further if data were available on women's labor force experience (rather than age), since lower levels of experience at each age level could limit women's pay growth relative to men's.

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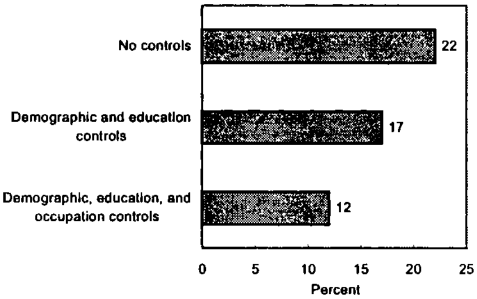
[3] In particular, a series of earnings regression models are estimated using a pooled sample of the 1997, 1998, and 1999 monthly CPS data (with respondents in 1997 and 1998 included only in their last survey months). The dependent variable is the log of individuals' per hour earnings, and explanatory variables control for individual characteristics. The analysis focuses on full-time workers aged 20 or older who are not self-employed. Earnings are converted to December 1999 dollars using the monthly CPI-U. The sample size is 6,650. All coefficients have been standardized so that they can be interpreted as the *percent difference in earnings* associated with the explanatory variable. (That is, $e^{b}-1$ is reported, where b is the estimated coefficient from the regressions.)

[4] The results reported in the Appendix Table were estimated using median regression, rather than ordinary least squares (OLS). One advantage of median regression is that it allows one to safely ignore earnings top-coding of the CPS data (about 1.7 percent of the sample are top-coded). A second advantage is that this allows easy comparison to the other quantile regressions discussed below. Differences in "average" or "typical" individuals, described in the text, always refer to differences in the median. The same regressions were estimated using OLS, leading to similar inferences.

Chart 5. Gender Gap in Median Hourly Earnings



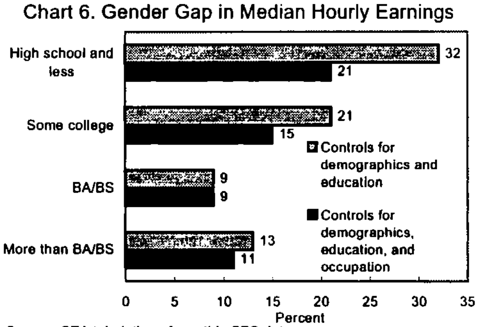
Source: CEA tabulation of monthly CPS data.

Another factor affecting the differential pay of men and women in IT is that women tend to be employed in IT occupations that are lower paying. For example, women are more likely to be computer operators than men are, and women are less likely to be electrical and electronic engineers. Controlling for these occupational differences within the IT sector explains a significant portion of the pay gap—the gap falls to 12 percent after adding controls for occupational composition.[5] It may be tempting to conclude that this estimated 12 percent pay gap is therefore a rough measure of the extent of gender discrimination in the IT labor market. However, this measure may underestimate the true extent of pay discrimination. If capable women are promoted into higher-paying computer-related occupations at lower rates than men, then looking at the pay differentials between men and women within each occupation doesn't reveal the extent of pay discrimination—the glass ceiling limits women's promotions and thus elevates the pay disparity between women and men overall.[6]

Differences in the Pay Gap Across Educational Levels

The average gender pay gap at the median—22 percent—masks striking differences in the gap between men and women at varying levels of education. Among women and men who have a high school degree or less, the pay gap is 21 percent even after accounting for differences in demographics and occupation. The comparable gap for workers with some college education is 15 percent. Since 16 percent of all women in IT have a high-school degree or less, and an additional 30 percent have some college (but no bachelor's degree), the persistently large pay gap between these women and men is certainly noteworthy. For women with higher levels of education, in contrast, the gender pay gap is lower—about 9 to 11 percent (Chart 6). This demonstrates the potential for education to promote greater pay equity for women. In this regard, education is particularly important in IT occupations. Our analysis suggests that education plays a more important role in narrowing the pay gap in IT jobs than in the economy at large.

Chart 6. Gender Gap in Median Hourly Earnings



Source: CEA tabulation of monthly CPS data.

[5] This 12 percent "unexplained" pay gap is the same as one study featured in the Council of Economic Advisers report, "Explaining Trends in the Gender Wage Gap," 1998.

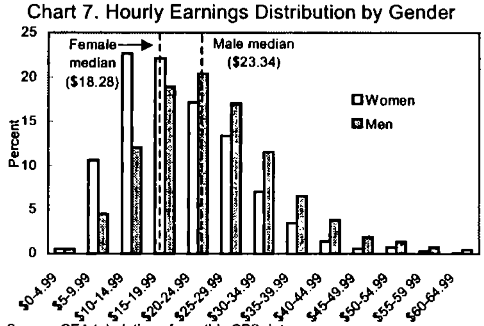
[6] To illustrate this point, consider a hypothetical example. Suppose that a firm pays all of its programmers—men and women alike—the same wage. This firm also pays all systems analysts—again, men and women alike—a higher wage. Suppose further that this firm discriminates against women in promotion, so that a higher fraction of men than women are promoted from the programming positions into the higher-paying systems analyst positions. Using a regression approach that looks at pay only within occupations (as we did to calculate the 12 percent reported above), there would be no evidence of pay discrimination within occupations in this hypothetical firm, even though in fact pay discrimination exists—operating through lower promotion rates for women.

The Pay Gap Across the Pay Distribution

The IT sector is well known for its high average pay rates, but also for paying exceptionally high wages to a substantial number of people, such as people in jobs with successful start-up companies. In fact, in the IT occupations evaluated here, 18 percent of men and 8 percent of women have earnings that translate to more than $70,000 annually. Outside the IT sector far fewer people earn these high income levels—only 7 percent of men and 2½ percent of women. Similarly, 10 percent of men and 4 percent of women in IT earn more than $80,000, compared with 4 percent of men and 1½ percent of women working outside the IT sector.

However, these same numbers indicate that in IT, as in the rest of the labor market, women do not fully share in high-earnings jobs. Women, in fact, are concentrated at the other end of the distribution; 20 percent of all women in IT have earnings that translate to $24,900 or less per year, but only 9 percent of men fall in this earnings category. (Chart 7 shows the earnings distributions for men and women.)

Chart 7. Hourly Earnings Distribution by Gender



Source: CEA tabulation of monthly CPS data.

Sources of Pay Disparity at the Low and High Earnings Levels. At every point of the earnings distribution, women earn less than men. Among low-earning workers there is a large gap of 24 percent, while among high-earning workers the gap is a somewhat smaller 17 percent. Intriguingly, however, once demographics, education, and occupation are taken into account, there is a persistent "unexplained" 12 to 13 percent gender pay gap at the low end of the earnings distribution, as well as at the median, and high end. The fact that the same gap persists at the upper end of the earnings distribution indicates that occupational choice can only partially explain why even highly-compensated women earn less than men.[7]

Summary of Statistical Results

Analysis indicates that at the median, the gender pay gap in IT of 22 percent narrows to 17 percent among individuals with similar age, race, and education, and to 12 percent when also accounting for gender differences in occupation. Other notable findings that emerge from the statistical analysis are:

- While women in IT generally earn considerably less than men, this gap is much smaller for women who are college educated. Among IT workers with no college education, women earn about 21 percent less than men with similar demographics and occupations. In contrast, the gap for those with a bachelor's degree or graduate degree is 9 to 11 percent.

- Much of the wage gap in IT is the consequence of differences in occupational composition by gender. Accounting for occupation differences (along with demographics and education) the wage gap closes to 12-13 percent for workers receiving low earnings, median earnings, and high earnings.

[7] These results are based on quantile regression results that compare women at the 80th percentile of their distribution to men at the 80th percentile of their earnings distribution, introducing controls for age, education, race, and occupation, and on a similar quantile regression at the 20th percentile. See the Appendix table.

4. Lower Representation of Women in Technical Fields

The results above indicate that women are paid less than men in IT occupations, even after accounting for observed factors that influence pay. As noted, this gap is not by any means unique to the IT sector. It largely mirrors what happens in the economy at large and is similar to trends in the broad fields of science and engineering, where women are also greatly underrepresented, particularly in the highest paying jobs. A portion of the difference in pay in technical fields is a consequence of this underrepresentation, so it is important to understand why this disparity occurs.

Some of the gender differences in representation in scientific or IT occupations are due to the differences in the proportion of men and women who prepare for technically-oriented careers. While the evidence suggests that men and women are receiving the same level of science and math preparation in high school, among those earning bachelor's degrees women were much less likely than men to earn a degree in science and engineering. In 1996, 41 percent of men and 29 percent of women selected degrees in this area. The percentage differences are even larger when focussing specifically on engineering (9.4 percent versus 1.7 percent). A recent study by the Department of Commerce concluded that "increasing women's participation in the education pipeline that leads to many IT jobs may require efforts to get more college-bound women to choose science and engineering as a field of study, especially computer science and engineering disciplines."[8] A number of federal programs are now in place to facilitate the entry of women into these fields (see Box 2).

Box 2. Federal Programs to Increase Participation by Women in Science, Technology, and Engineering

The federal government has developed a range of programs aimed at promoting increased participation of women in science, technology and engineering. Some of these programs are national in scope, while others encourage greater participation by women within specific agencies. Examples include:

National Aeronautical and Space Administration WISE program. The WISE (Women in Science and Engineering) program at NASA is an undergraduate academic and research program whose goal is increasing the number of highly qualified minority and disadvantaged women in scientific and technical careers. Its strong mentoring and research components are designed to encourage students to pursue graduate studies and/or advanced degrees. Participants are provided opportunities for research experiences at all NASA Centers, the Jet Propulsion Laboratory, universities, and other federal laboratories.

Environmental Protection Agency WISE council. The goals of the WISE council are to increase the number of female scientists and engineers at EPA through recruitment and community outreach; to update and expand their skills; to enhance their careers and work environment; and identify barriers to professional advancement and take action to correct inequities that may exist. The council represents the concerns of all of EPA's women scientists and engineers.

National Science Foundation Program for Gender Equity in Science, Mathematics, Engineering and Technology. This program funds education research in factors that encourage or discourage young women's interest, knowledge, and involvement in science and technology, from kindergarten through college. At the undergraduate level, for example, research may look at strategies for recruitment and retention of young women in engineering and computer science. Research grants

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[8] Carol Ann Meares et al., "The Digital Workforce: Building Infotech skills at the Speed of Innovation," U.S. Department of Commerce, Technology Administration, Office of Technology Policy, June 1999. See p. 95.

are awarded through a national competition, with most grantees being educational institutions and non-profit research organizations.

National Science Foundation POWRE program. The Professional Opportunities for Women in Research and Education (POWRE) program helps women who want to re-enter science careers improve their academic standing or advance to tenure track positions. The program supports more than 200 women in science and engineering by providing funding for visiting researchers, research and educational enhancement. It also supplements existing NSF-funded activities that promote academic career advancement of women in science, technology and engineering.

National Institutes of Health Re-entry program. The Re-entry program focuses on workers who had to withdraw from their careers because of family responsibilities such as caring for children or an ill family member. Supplements to existing research grants provide salary support and some research costs to assist the re-entering scientist in the transition back to the laboratory, under the sponsorship of a mentor. For more senior re-entering scientists, the mentored Research Scientist Development Award allows scientists to apply for support for a period of supervised training to update their skills and knowledge.

Sources: National Science and Technology Council, "Ensuring a Strong U.S. Scientific, Technical, and Engineering Workforce in the 21st Century," April 2000. National Science Foundation, "Program for Gender Equity in Science, Mathematics, Engineering, and Technology," October 1998.

Among those women who do prepare for and enter technically-oriented occupations, exit rates are often high, further reducing the overall representation of women working in these occupations. In general both male and female exit rates from the science and engineering occupations are higher than for other similar professional occupations (such as law and health professions), but women exit from science and engineering at twice the rate of men. One reason that is cited by women for their higher exit rate is the greater responsibilities of women for family care. Women were also roughly twice as likely as men to have made location decisions and sacrificed career opportunities to satisfy a spouse's career. Thus, some women make the choice to compromise their careers by choosing occupations that are more family-friendly.[9] The results in this report—that pay disparity persists broadly across occupations, educational attainment and pay levels—suggests that there are many factors aside from personal choices that contribute to pay inequity. Nonetheless, policies that address these family needs are likely to raise retention rates, thereby improving career prospects for women.

Women also cite differential treatment as a primary reason for their higher exit rates relative to men. Of college-educated women who leave science, 19 percent state that they left in part because "science and engineering are unfriendly to women." To explore this general response more fully, 52 women in science and engineering were interviewed at length.[10] Based on these interviews, the study concludes that successful women who remain in science and engineering almost always have important mentors supporting them, whereas those lacking mentors are more likely to exit the field. More than half of women in the study also said they perceived that the performance standards were more stringent for women than for men. These perceptions, whether accurate or not, influence their desire to stay and to invest in the ongoing development that is necessary in science-related fields.[11]

[9] Anne Preston, "Sex, Kids, and Commitment to the Workplace: Employers, Employees and the Mommy Track," working paper, 1999.

[10] Anne Preston, "Occupational Exit of Men and Women from Science and Engineering Jobs: A Comprehensive Study," working paper, 1997. Evidence is from a sample of college-educated men and women who graduated from a large state college from 1960-1991.

[11] Although direct evidence of discrimination in hiring and promotion is generally hard to come by, such evidence does exist for some skilled occupations. In auditions for symphony orchestras, females' chances of

If women have been passed over for promotion or perceive that their future professional opportunities are poorer than those of men, they may rationally choose to focus more on their family responsibilities. As a result, they may be further underrepresented in the higher paying occupations.

In general, reduction of the pay gap in IT will require a relative increase in the proportion of young women who choose educational programs that prepare them for the higher-paying occupations in IT. Because the gender pay gap tends to be lower for individuals with higher levels of education, an increase in the education of women entering IT might prove an especially effective means of narrowing the pay gap. In addition, policies that open greater possibilities for promotion and that assist women in their career development, such as on-the-job training and mentoring, can also enhance women's investment in these occupational skills and their retention rates. This in turn could contribute to a further reduction in the gender pay gap in IT.

5. Conclusion

Women in IT occupations earn more than those women who hold other types of jobs: the median earnings of women in IT is \$38,000 compared to \$23,900 for women in other occupations. However, the median pay for women within IT is considerably less than that of men within IT; women earn 22 percent less than men. Part of this pay differential is associated with lower education for women, so that after controlling for this factor, along with demographics, women earn 17 percent less than men. An additional part of the gap occurs because women are underrepresented in the highest-paid IT occupations. When controls for occupational differences are introduced, women earn 12 percent less than men. This 12 percent may underestimate the true earnings gap if there is, for example, a "glass ceiling" that limits women's access to the higher paying occupations.

Women's underrepresentation in IT occupations remains pronounced, particularly in the higher paying occupations such as computer systems analysts and electrical and electronic engineers. Part of this differential is associated with less preparation among women for technical fields. But if the evidence from scientific fields as a whole is representative of IT conditions for women, women also have higher exit rates for IT jobs than do men. Employers can address this gap in exit rates with improved mentoring and training for women. The data show that more highly educated women earn wages that are more comparable to men's, so the hiring and retention of these well-educated women is a potential key for reducing the pay gap between men and women in IT.

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successful entry are considerably higher when the jury listening to the audition cannot see the gender of the applicants (Claudia Goldin and Cecilia Rouse, "Orchestrating Impartiality: The Impact of 'Blind' Auditions on Female Musicians," National Bureau of Economic Research Working Paper, 1997). Similarly, in high-paying restaurants, where the wait staff tend to contain more men, when a man and woman submit identical resumes, the man is more likely to be hired (David Neumark, Roy Blank and Kyle An Nort, "Sex Discrimination in Restaurant Hiring: An Audit Study," *Quarterly Journal of Economics*, August 1996).

Appendix Table
Estimated Percentage Wage Gap in Hourly Earnings

	Median						20th Percentile			80th Percentile		
	(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(1)	(2)	(3)
Overall Pay Gap	-0.22	-0.17	-0.12				-0.24	-0.20	-0.13	-0.17	-0.13	-0.12
PAY GAP BY EDUCATION												
High School and Less				-0.31	-0.32	-0.21						
Some College				-0.20	-0.21	-0.15						
College (BA, BS)				-0.13	-0.09	-0.09						
More than BA, BS				-0.14	-0.13	-0.11						
Controls for education, race/ethnicity and age	No	Yes	Yes	No [a]	Yes	Yes	No	Yes	Yes	No	Yes	Yes
Controls for education, race/ethnicity, age and occupation	No	No	Yes	No	No	Yes	No	No	Yes	No	No	Yes

Note: Each model is based on a quantile regression at either the 20th, 50th, or 80th percentile. The dependent variable is the log of hourly earnings. All coefficients presented are statistically significant at the 1 percent level.
[a] Controls for education only.

RAISING THE MINIMUM WAGE:
A SMART POLICY FOR AMERICA'~~S WORKERS AND THE~~ AMERICAN ECONOMY
July 28, 2000

Today, in his weekly radio address, President Clinton will call on Congress to pass clean, straightforward legislation to raise the minimum wage by \$1 – from \$5.15 to \$6.15 – in two equal steps. The President first called for an increase in the minimum wage in his State of the Union Address in January 1999. Congress at first stalled and then held the minimum wage increase hostage for tax cuts that are part of a costly and fiscally irresponsible plan that would drain the entire surplus and leave nothing for priorities like an affordable Medicare prescription drug benefit. Congressional delay has cost a full-time minimum wage worker over \$900.

- **The President's Proposal to Raise the Minimum Wage by \$1 to \$6.15 an Hour Would Potentially Benefit More than 10 Million American Workers – Most of Whom Are Adult Workers.** 10.1 million hourly paid workers make between \$5.15 and \$6.14 an hour and thus would potentially benefit from a \$1 increase in the minimum wage. About 69 percent of these workers are adults (age 20 or over), about 60 percent are women, about 45 percent worked full-time, and about 33 percent are parents with children under age 18. In 1997, the earnings of the average minimum wage worker accounted for 54 percent of their family's total earnings.

- **Increasing the Minimum Wage Would Help Hard-Pressed Families Pay for Groceries, Rent, and Other Necessities.** Raising the minimum wage from \$5.15 to \$6.15 would raise the annual earnings of a full-time worker by about \$2,000 a year. For a full-time worker, the minimum wage increase would translate into enough money to pay for nearly 7 months of groceries or 5 months of rent. *Congressional delay has cost a full-time minimum wage worker over \$900 since September 1, 1999 – the date originally proposed for the first 50 cent increase by President Clinton, Senator Kennedy, and Representative Bonior.*

- **The President's Modest Increase Would Simply Restore the Real Value of the Minimum Wage to What it Was in 1982.** Raising the minimum wage by \$1 over two years would simply restore the real value of the minimum wage to what it was in 1982. This would help reverse the erosion in the real value of the minimum wage during the 1980s when, between January 1981 and March 1990, the minimum wage was unchanged at \$3.35 an hour, while prices rose by nearly 50 percent.

- **The Impact from Last Minimum Wage Increase Is Clear: over 10 Million Workers Got A Raise and Strong Job Growth Continued.** Since the last minimum wage increase in 1996/97, the economy has created more than 11 million jobs and the unemployment rate has fallen from 5.2 percent in September 1996 to 4.0 percent in June 2000, near its lowest level in over thirty years. Labor market trends for workers most affected by the minimum wage increase – including younger workers with lower educational levels and minorities – also show no negative impact of the minimum wage on employment.

- **Economic Studies Find No Negative Effect of the Minimum Wage on Employment.** Numerous careful economic studies, including ones by David Card and Alan Krueger of Princeton University, have shown that increasing the minimum wage has no negative effect on employment. Recent research has even suggested that higher wages can *increase* employment, because they increase employers' ability to attract, retain, and motive workers. And they benefit workers by increasing the reward to work.

- **The Minimum Wage Plays an Important Role in Ensuring That All Workers Share in a Growing Economy.** In the last seven years, incomes have grown nearly as strongly from the bottom to the top of the income distribution, ending a decades long increase in inequality. In contrast, in the previous two decades inequality widened, as poorer workers saw their incomes decline in real terms. Research has shown that the decline in the real value of the minimum wage from 1979 to 1988 was responsible for approximately 24 percent of the increase in wage inequality experienced by men and about 32 percent of the increase in wage inequality for women.

- **Recent Increases in the Minimum Wage Have Helped Reduce the Welfare Caseload.** By increasing the reward to work, a higher minimum wage attracts new workers into the workforce. An analysis by the Council of Economic Advisers showed that the 90 cent increase in the minimum wage signed into law by President Clinton in 1996, and increased minimum wages in some states, were responsible for 10 to 16 percent of the decline in welfare caseloads between 1996 and 1998.

- **Helping Ensure Parents Can Raise Their Children Out of Poverty.** A working parent with two children earning the minimum wage in 1993 made $10,563 with the EITC (in 1998 inflation-adjusted dollars)—well below the poverty line. In 1993 the President fought for an increase in the EITC and in 1996 he fought for an increase in the minimum wage. As a result of these changes, a comparably situated family in 1998 was above the poverty line – making $13,268, a 26 percent inflation-adjusted increase in their standard of living.

Distribution of Wage and Salary Workers Paid Hourly Rates by State, 1999

	Number (in thousands)		Percent of All Wage and Salary Workers	
	$5.15 to $6.14	$6.15 to $7.14	$5.15 to $6.14	$6.15 to $7.14
Total	10,093	8,370	13.9	11.6
Alabama	202	146	18.1	13.1
Alaska	9	13	5.5	7.6
Arizona	200	157	15.2	11.9
Arkansas	130	101	20.9	16.2
California	1,463	1,023	17.4	12.1
Colorado	79	92	7.3	8.4
Connecticut	62	70	7.5	8.6
Delaware	22	21	10.8	10.0
DC	12	12	10.0	10.7
Florida	597	530	15.5	13.8
Georgia	267	248	13.1	12.3
Hawaii	47	29	15.0	9.4
Idaho	58	45	15.6	12.3
Illinois	428	354	13.2	10.8
Indiana	180	209	9.8	11.4
Iowa	103	91	11.2	9.9
Kansas	123	96	15.6	12.3
Kentucky	157	161	14.2	14.7
Louisiana	297	123	25.9	10.7
Maine	45	39	11.8	10.4
Maryland	125	137	9.5	10.5
Massachusetts	161	162	9.6	9.7
Michigan	341	312	11.3	10.3
Minnesota	115	121	8.0	8.4
Mississippi	146	74	22.7	11.5
Missouri	172	169	11.9	11.8
Montana	54	32	21.5	12.7
Nebraska	67	68	13.2	13.6
Nevada	60	60	11.2	11.3
New Hampshire	29	31	8.2	8.5
New Jersey	205	187	10.6	9.8
New Mexico	75	39	18.0	9.1
New York	566	395	14.8	10.3
North Carolina	247	223	12.4	11.2
North Dakota	34	29	18.3	15.9
Ohio	427	356	12.7	10.6
Oklahoma	170	126	19.6	14.5
Oregon	35	184	3.7	19.7
Pennsylvania	454	338	13.8	10.3
Rhode Island	37	25	13.4	9.3
South Carolina	153	116	14.9	11.3
South Dakota	33	29	15.2	13.7
Tennessee	208	216	13.6	14.2
Texas	929	653	18.5	13.1
Utah	61	84	10.1	14.0
Vermont	21	20	12.4	11.5
Virginia	218	207	13.6	12.8
Washington	180	158	10.9	9.6
West Virgina	106	60	22.2	12.8
Wisconsin	157	177	8.9	10.0
Wyoming	25	19	17.8	13.8

Note: Workers in the $5.15 to $6.14 category would be directly affected by a $1.00 increase in the minimum wage. Those in the $6.15 to $7.14 category could be affected by spillovers.

Source: U.S. Department of Labor, Bureau of Labor Statistics, unpublished tabulations from the Current Population Survey, 1999.

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.