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[Minimum Wage Binder 5/10/96]

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

02-Jan-1997 08:15pm

TO: Gene Sperling
TO: Jason Goldberg

FROM: Jon Orszag

SUBJECT: EPI Paper on Wages

Gene:

I guess it doesn't take a rocket scientist to figure out where the EPI is going to come down on the wage issue. The problem with this paper is that it directly contradicts statements by the President, Laura, Joe, Rubin, and just about every other Administration spokesperson.

I definitely think that someone has to talk with Mishel/Bernstein about it. Personally, I think it has a number of problems, both technical and political. Here are some quick comments I have from a first pass through their paper.

It states that "the president and his economists repeatedly argued that 'we've turned the corner' on wage decline." I think this is an unfair characteristic of our statements. They imply that we were saying that everything is wonderful, when we were saying that we were moving in the right direction, but we had more work to do.

For example, Mishel/Bernstein write that "The Administration acknowledged that the typical worker had experienced long-term wage problems, but implied that those problems were a thing of the past." By stating that we implied they were a thing of the past, they implicitly state that we believe that there is no work left to be done (which is clearly false).

Next, Mishel/Bernstein argue that the Republicans claimed (during the campaign) that wage growth was fine under Reagan and Bush, but that Clintonomics had driven wages down. They state that this is wrong, but they do absolutely nothing to support this statement.

Moreover, while Mishel/Bernstein claim to be presenting a case about what has happened to wages lately, they present all their data since 1989.

On more technical issues, Mishel/Bernstein present only the worst data. The best example of this is on the bottom of page 4/top of page 5. They present data on average compensation. They write a whole paragraph about one measure that has declined, note one that has increased in parentheses, and do not even note another that has increased. There are other issues here: one series is chain-weighted and the other is current-weighted. If they are truly after what has happened to

average benefits (and benefits alone), they should use a fixed-weighted data series, such as the Employment Cost Index. By using a current-weighted (or chain-weighted) series, they are including the effects of changes in job composition. (NOTE: This is a technical argument and not a political one because this argument implies that job quality has declined!)

Other points:

I. They fail to even write about the median family income data which shows that incomes were \$1,600 higher in 1995 than in 1993.

II. I think their numbers on median weekly earnings for full-time workers are incorrect. I looked at the data and they show a clear rise in 1993, but the Mishel/Bernstein graph shows a drop.

III. They state on page 6 that "whatever measurement errors exist in the current CPI, they are smaller now than in the past.... so it is undoubtedly true that wage performance in recent years is inferior to that of earlier years." This is not so. The biases in the CPI over time act in ambiguous ways. For example, it is certainly true that the bias due to the market basket is larger today than in 1985 (when the basket was composed in 1982-1984). Moreover, a convincing case can be made that the bias due to quality grows larger and larger the more we move into an information economy. On the other hand, the BLS has been correcting certain biases, so the bias could be smaller today. At best, it is ambiguous whether the bias in the CPI is larger today than it was, say, 10 years ago. At worst, it is false.

Economic Policy Institute

1660 L STREET, NW • SUITE 1200 • WASHINGTON, DC 20036 • 202/775-8810 • FAX 202/775-0819

December 20, 1996

Gene Sperling
National Economic Council
Old Executive Office Building
1725 17th Street, NW
Washington, DC 20500

*Congrats on your
promotion!*

Dear Mr. Sperling:

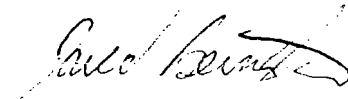
During the recent campaign, we felt that a fair amount of confusion was generated as to recent trends in wages and compensation. With Bob Dole citing our recent edition of *State of Working America* to impugn "Clintonomics," and the President claiming "We've turned the corner," we were compelled to examine the question of what's happened with wages over the current cycle. We expect to publish the enclosed as part of a larger piece in an upcoming issue of *The American Prospect*.

As you know, this seemingly simple question can turn out to be quite elusive, particularly when different data series seem to yield dissimilar results. In some cases, these differences stem from the particular statistic being measured (e.g., means vs. medians). However, even series that measure the same statistic can diverge, for reasons that are not always clear. As an example, a recent *Business Week* piece (11/18/96, pg. 116) used BLS's Employment Cost Level series of average private sector compensation to show declines over the 1990s. As we show, another BLS series of average compensation shows the opposite trend.

In our piece, we approach the question from the perspective that the different data series are answering different questions. The average tells you one thing, the median something else. We clarify these issues and conclude that the wage of the typical worker (the median for all workers or the average for production workers) is stagnant at best, and, at worst, continuing to fall as it has since the late 1970s. In this regard, we do not believe the "turning the corner" is an accurate representation of current wage trends. (Nor, of course, do we hold "Clintonomics" responsible.)

We are very interested in any thoughts you might have about our analysis, and look forward to discussing these findings with you.

Sincerely yours,


Jared Bernstein
Economist


Larry Mishel
Research Director

Economic Policy Institute

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Have Wages Turned any Corners Lately?

How have wages been doing lately? During the recent campaign, this seemingly simple question was the subject of some debate. The president and his economists repeatedly argued that "we've turned the corner" on wage decline. The administration acknowledged that the typical worker had experienced long-term wage problems, but implied that those problems were a thing of the past. The opposition, taking a somewhat curious populist turn, countered that wage growth was fine under Reagan and Bush, but that Clintonomics had driven wages down.

In this piece we examine a wide variety of wage measures to evaluate the nature of wage trends from 1989 through most of 1996--the period covering the current business cycle. We find little evidence to support the notion that wage decline is a thing of the past. If the question is: "Are the wages of typical workers growing faster than inflation?" then the answer is: "At best, the wages of such workers are keeping pace with inflation or growing a few cents per year. At worst, real wages for typical workers are declining in 1996, much as they have since the late 1970s.

What's the Yardstick?

Like many questions in applied economics, the question of wage trends turns out to involve

some important choices. Whose wages are we interested in? If we want to combine everybody's wage, from the CEO to the janitor, we can look at the *average* for the whole economy, but that wage does not necessarily represent what is happening to typical workers (more on this below). Should we then focus on the *median*, which is more representative of how the typical working person is faring? Is it sufficient to examine wages alone, or do we need to look at the full package of compensation (wages plus benefits)? The Bureau of Labor Statistics (BLS) maintains various wage and compensation series; what are these different series telling us? Since we are interested in real (inflation-adjusted) measures, how should we handle recent claims that the Consumer Price Index (the CPI) overstates inflation?

The first question--whose wage should we look at--is the most important. In order to fully appreciate this point, it is necessary to briefly describe the nature of growing wage inequality. Since the late 1970s, the pay of those at the top of the wage scale has grown quickly, while that of workers from the middle on down have stagnated or declined. In this climate of wage changes, the median and the average diverge, with the average "pulled up" by the high and growing values at the top. The change in the median wage, on the other hand, is insensitive to changes in very high (or very low) wages, and in this sense is truly representative of how the worker in the middle of the wage scale is faring.

Another way to observe wage trends that are more representative of the typical worker's experience than the *overall* average is to examine the average wage of sub-groups of workers, related by, for example, occupation or education. In Figure 1, we present three wage series

that meet these representative criteria: two series of median wages and one average hourly earnings (AHE) series for production, non-supervisory workers. The AHE series represents the 80% of the workforce in relatively lower paid occupations (e.g., blue collar workers, non-managers), and therefore, while it still suffers from the problems of the average (i.e., it is less representative than the median), it is more representative of the typical worker than an economy-wide average. The wage levels are adjusted for inflation, and then indexed to 100 in 1989. Thus, instead of observing actual changes in wage levels, the figure shows percentage changes since 1989.

The two median series are 1) the *weekly* wages of full-time workers who are at least 25 years old (a quarterly series published by BLS), and 2) the median *hourly* wage of all workers (a series developed by the authors, from the same underlying data as 1). Both have fallen since the prior cyclical peak, for full-time workers by 3.7%, and for all workers by 5.3%. Note also that their decline has actually accelerated the past few years, contradicting any notions of "corner turning." We should also note, however, that by beginning our analysis in 1989, we are examining only a slice of time. In fact, the negative trend of these median measures in the 1990s is much like that of the 1980s.

As the figure reveals, the AHE series stopped falling in 1993 and increased slightly through the third quarter of 1996, our most recent data point. In 1995 dollars, this increase represents a six cent, or 0.5%, increase over the three years from 1993 to the present. According to this series--and it is the one administration officials base their "turning the corner" claims--the real

hourly wage of non-managerial workers has been rising about two cents per year. While this is clearly an improvement over the steady decline of the 1980s, when the AHE never rose in more than two consecutive years, it hardly warrants the conclusion that “workers have started seeing their wages rising again.” As the figure shows, the series remains 3.3% below its 1989 level, and over 10% below its 1979 level. The best that can be said is that by this measure, we have achieved stagnation.

We can not even be certain yet as to whether the increase since 1993 is indicative of a true change in trend and not simply a pause in the long-term decline. Wage inequality (specifically the gap between the high and middle earners) has been steadily growing since the late 1970s through 1996, and the wages of most workers, including those in the AHE series, have not kept pace with productivity, which is growing at 1% annually. In sum, the factors that have led to increased wage inequality and erosion appear to still be in place. When the business cycle turns sour and unemployment starts to rise, we are likely to see the real wages of these workers resume their decline.

Would the addition of benefits to these wage trends make a significant difference? No, because *average* compensation growth (wages plus benefits) has only slightly out paced average wage growth, by 0.1% annually since 1979. The reason that benefit growth has not made much difference is that benefits (health insurance, pensions, and payroll taxes) make up only about one-fifth of the total compensation package. And in the 1990s, employers have been able to shift some benefit costs (specifically health care), back onto workers. One series

which provides up-to-date information on employers' costs of fringe benefits (the ECL, described below) shows an actual *decline* over the 1989-96 period, from \$1.80 to \$1.63 (1995 dollars), in the pension and health component of the average hourly compensation of all private sector workers (the other average series--NIPA, described below--has benefits growing slowly over this period). Although, there are no data on *median* compensation, we can confidently assert that the growth of benefits for the median worker has likely been even less than that of the average.

Figure 2 shows the trend in two average hourly compensation series for the private sector, again indexed to 1989 (recall that compensation includes both wages and fringe benefits such as health insurance, pensions, and social security). The fastest growing measure is average hourly compensation from the Non-Farm Business sector, derived from our National Income and Product Accounts (or NIPA, the same data from which our measures of productivity and GDP are derived). The other measure of compensation is the Employment Cost Level (ECL), a measure of average compensation from a BLS survey of employers. For reasons that are not clear, the two series diverge, with the NIPA series growing at about 0.5% per year and the ECL *falling* at about that rate. While we cannot explain this divergence, taken together, these two series certainly do not suggest particularly strong growth, even at the average.

Our analysis of real wage trends would clearly change if we were to believe the findings of the Boskin commission on the CPI, which argued that the growth in the BLS measure of inflation is biased upward (note that the growth in inequality is unaffected). For a number of reasons,

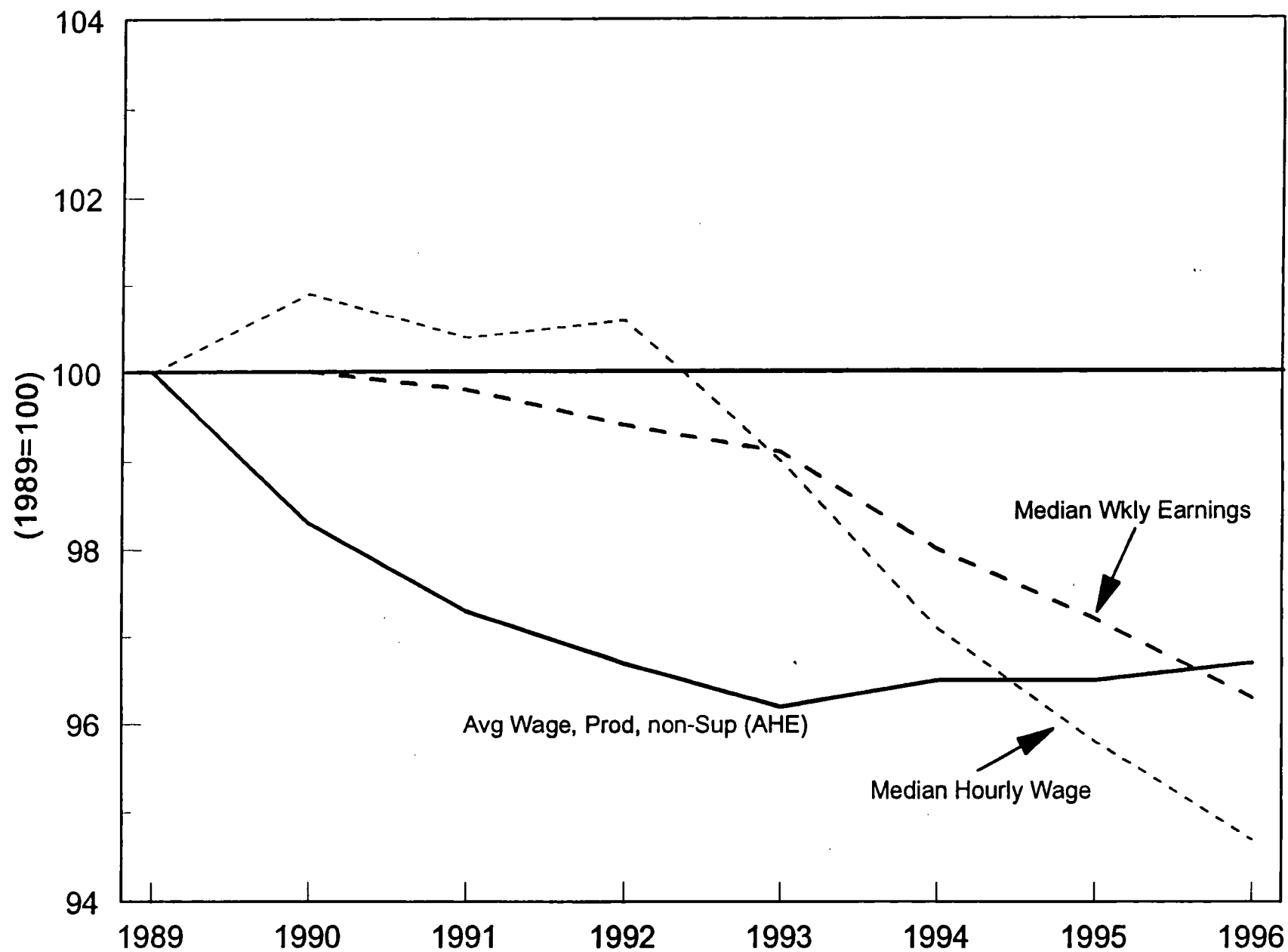
we find the commission's main result--the CPI should be growing 1% per year more slowly--implausible. While there may be some truth to the commission's critique, many of their claims are exaggerated; in most cases their bias estimates are based on "thought experiments," not on empirical research. They also ignored ways in which the CPI may understate inflation. And whatever measurement errors exist in the current CPI, they are smaller now than in the past (as is acknowledged by the commission), so it is undoubtedly true that wage performance in recent years is inferior to that of earlier years. Finally, if you believe the commission's critique, everything economists understood about the nature of past, present, and future growth (including wages, productivity, budget deficits, etc.) needs to be wholly revised. Thus, we maintain that the CPI still stands as our best measure of inflation, and, like every other labor market analysis that has dealt with real wage change, we hesitate to make adjustments that are not supported by careful research of the issues raised by the commission.

Data Appendix

The five data series used in the charts are explained below. All wages are deflated by the CPI. The ECL health insurance component is deflated by the CPI medical care index.

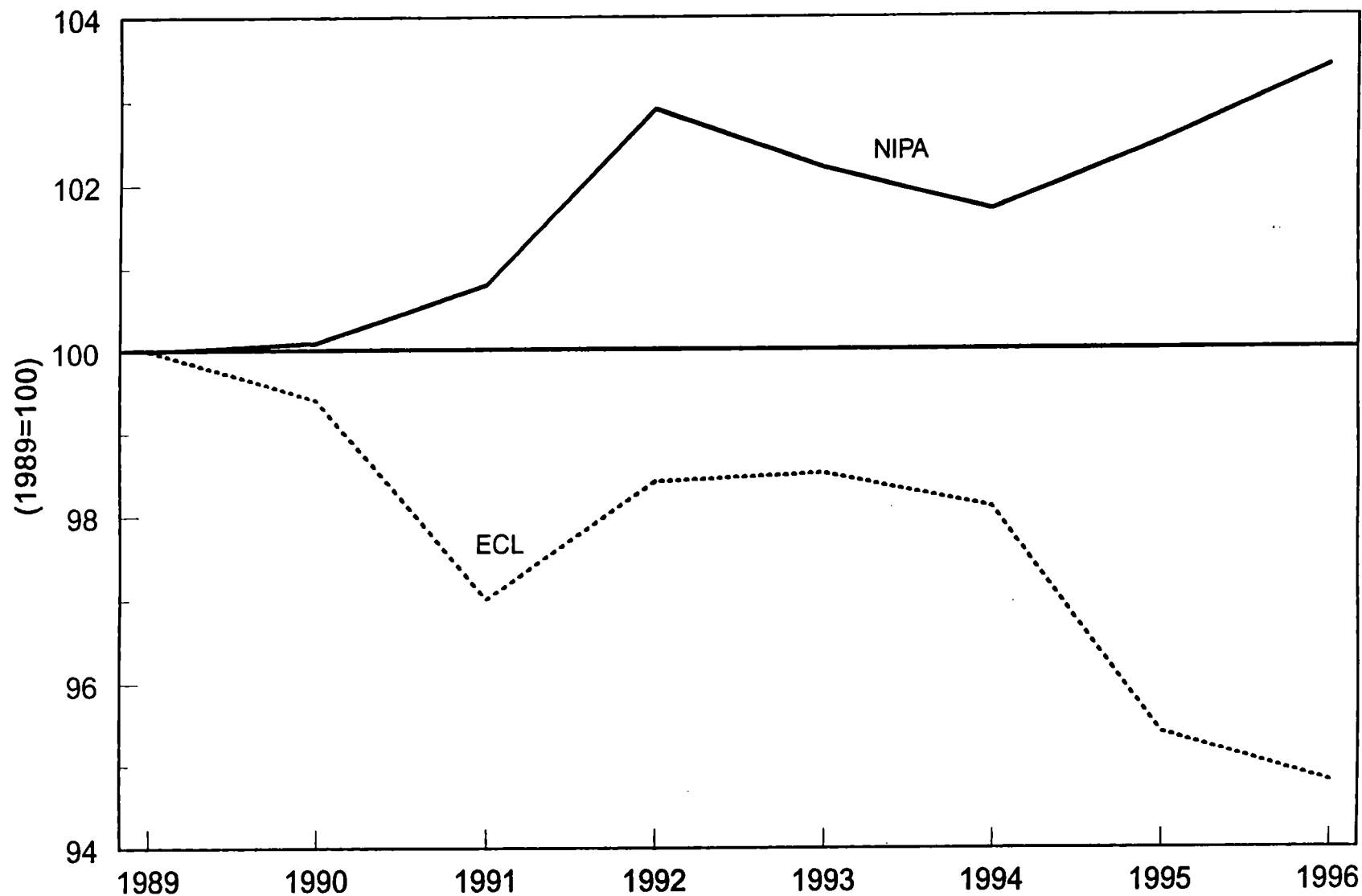
- 1) AHE: The average wage of production, non-supervisory workers, published by the BLS. The last data point is the average of the seasonally adjusted wage levels for the first three quarters of 1996.
- 2) Median Weekly Earnings: The median weekly earnings of usual full-time workers, published quarterly by the BLS. We have seasonally adjusted this series using the same general procedure as BLS (i.e., the ARIMA-X-11 method); the last data point is the average of the seasonally adjusted values for the first three quarters of 1996.
- 3) Median Hourly Wage: Derived from the EPI series of wage rates for all workers. Since we do not presently seasonally adjust this series, the figure tracks the median for the first half of each year since 1989.
- 4) The ECL, or Employment Cost Level: Taken from the BLS quarterly survey of employers' labor costs. The sample in the figure includes only private sector workers. Note that the ECL underlies the Employment Cost Index (ECI), which is a series published quarterly by BLS. The ECI holds the composition of employment by occupation and industry constant in a base year.
- 5) The NIPA real compensation series, nonfarm private business sector, is developed by BLS's Office of Productivity and Technology. The underlying data come from the NIPA accounts (total compensation) and other BLS sources (hours of work). The most recent data point is for the third quarter of 1996.

Median and AHE Trends, 1989-96



Source: See Data Appendix

Trends in Average Compensation, 1989-96



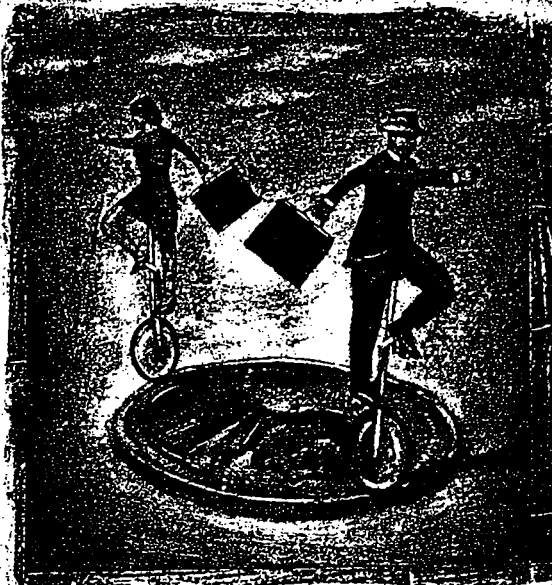
Source: See Data Appendix

BIGGER PAYCHECKS, YES. BETTER PAY, NO

Annual incomes finally rose last year after six flat years. Wage hikes periodically spooked the bond market. And President Clinton announced every chance he gets that the economy has turned the corner. It's all true, and many Americans are doing better since job growth finally picked up in the past year or so. But don't celebrate yet. There's strong evidence that the two-decade trend of wage stagnation continues unabated. If we forget a misleading picture since the government conducts a half-dozen wage surveys that all tell different stories, the monthly series that bond hawk watch, which shows pay outpacing inflation, is so erratic that most labor economists dismiss it. The better assessment comes from a more wearisome snapshot taken each month as part of the Bureau of Labor Statistics survey of labor costs. The figures, released in mid-October, show that compensation growth still trails consumer prices. These numbers are the best measure of the real wage of the average American worker over the long term, says BLS Commissioner Katharine G. Abraham. While the figures don't include the past seven months, there's little reason to suspect a sharp turn off the long-term course.

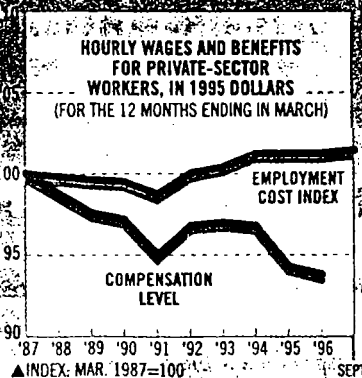
DETROIT So how can income be rising if wages aren't? Simple. Stronger growth lets people work more hours. Households have more to spend, but that doesn't mean employees are earning more per hour. In other words, paychecks are up because Americans are working harder and longer, not because the long-term trends holding down wages—the shift to services, globalization, weak unions, and so on—have been checked. “All the long-term wage problems haven't gone away,” says Marvin H. Kosters, an economist at the American Enterprise Institute, a conservative think tank in Washington.

To see why he's right, look at the BLS Employment Cost series. The data come in two versions. The more



closely watched one, a quarterly index tries to measure the same type of labor year to year. It assumes that the proportion of every type of worker in the economy—factory, service, professional, blue-collar—doesn't change. The second version, the so-called compensation level survey done each March, includes occupational, industry, and other shifts. It shows that compensation has trailed inflation by six percentage points since the bureau began keeping track in 1987, while pay and benefits as gauged by the quarterly index have outpaced consumer prices (chart).

WAGES STILL GOING NOWHERE



▲ INDEX: MAR. 1987=100
DATA: BUREAU OF LABOR STATISTICS, ECONOMIC POLICY INSTITUTE

While the index offers the best picture of what employers pay for labor, the so-called level is better for gauging what employees earn, says Kosters and other labor economists. The two aren't the same. Take Detroit auto makers. They recently granted above-inflation raises to union workers, whose pay and benefits run \$43 an hour. But in recent years, the Big Three have outsourced jobs to suppliers that often pay only \$20 an hour. If suppliers also raise pay above inflation, the index would register real compensation gains. But in reality, thousands of high-wage jobs were swapped for lower-paid ones, reducing average wages. This only shows

up in the level survey. Indeed, auto workers battled Detroit over outsourcing in their just-concluded contracts precisely because the practice lowers wages in the industry. **TEMP TIDE** Similarly, because the level method accounts for the shifting mix of job types, it's the only one that factors in such trends as the spread of lower-wage jobs. And these trends have been in place for years. For instance, employment in the temporary help industry has soared by 70% since 1990 to 2.2 million. This pulls down average wages, because temp jobs pay \$8.79 an hour vs. \$11.44 for full-time ones, according to the BLS.

The same holds true when service jobs, which average \$15 an hour, proliferate, replacing factory ones that pay \$20, according to the Economic Policy Institute, a liberal think tank in Washington. Since 1989, 1 million factory jobs have vanished while service jobs have soared by 10 million, EPI figures show. The shift to low-wage industries continues to pull down wages,” says EPI Chief Economist Larry Mishel.

Americans are doing better in a healthier job market, true enough. But don't mistake the good news for the whole story. Plenty of evidence still weighs wages down.

Bernstein watches workplace trends from Washington.

ing on similar of WebTV. Start-up funding software for net-cruising TVs, due in August. Cupertino, Calif., with BellSouth to internet access in TV set for a trial in Atlanta. Computer is Hudsonson Electron-

the Web via TV.

While the companies approach the market in different ways, they face the same question: Will consumers want to look at the Web on a TV screen, which doesn't offer the same quality as a PC screen. Forrester Research analyst Josh Bennett says "no." The reason: Web sites are designed for PC screens. When viewed

PCs, WebTV has eliminated the flicker problem and made screens easier to read by increasing text sizes. Users can quickly jump from one site to the next and back to regular TV. With a \$50 keyboard, electronic mail is a breeze.

Perhaps most important is that WebTV goes into pause mode when a phone call needs the line.

THE PRESIDENT HAS SEEN

Wage bill eases saving for retirement

By Anne Willette
USA TODAY

The minimum wage bill passed by the Senate Tuesday reaches far beyond workers earning \$4.25 an hour.

Besides raising the wage to \$5.15, the bill would make it easier for millions of Americans to save for retirement.

Many of the bill's retirement provisions also are in the House version passed last spring. So they're likely to survive the House-Senate committee that now must resolve differences between the two bills. President Clinton is expected to sign the final version.

It's been a long road for the retirement provisions. Though not controversial, they've been vetoed three times — twice by President Bush and once by Clinton — because they were part of budget bills. The provisions would:

- ▶ Let workers earn \$80,000 a year, up from \$66,000 now, before the IRS considers them "highly compensated" and limits their 401(k) savings plan contributions. The IRS wants to make sure that higher income workers don't get more tax benefits from 401(k) plans than their lower paid co-workers. So contributions by highly compensated employees are based on the average amount contributed by the company's employees who earn less.
- ▶ Eliminate the above test,

and lots of administrative costs, if companies make generous contributions to employees' 401(k) accounts. Companies would have two choices: Contribute 3% of pay for all employees whether or not they participate in the 401(k), or match employees' contributions dollar for dollar on the first 3% of pay and then 50 cents per \$1 on the next 2%.

- ▶ Extend 401(k) plans to nonprofit groups.

- ▶ Let spouses who don't have earned income make contributions of up to \$2,000 a year to individual retirement accounts. Now, they and their spouse combined can contribute no more than \$2,250.

- ▶ Establish simplified 401(k)-type plans for businesses with 100 or fewer workers. Employees could contribute up to \$6,000 a year; employers would match up to 3% of pay.

Other provisions the House and Senate generally agree on:

- ▶ Reinstate a tax deduction for workers whose continuing education is paid for by their employer. Those payments are considered income by the IRS. Workers would be able to subtract up to \$5,250 of such assistance from taxable income.

- ▶ Increase the tax write-off small businesses get for new equipment to \$25,000 a year by 2003 from \$17,500 now.

- ▶ Minimum wage hike, 1A
- ▶ Spousal IRA, Street Talk, 3B

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THE PRESIDENT HAS SEEN

If we get a min wage bill, please also emphasize the retirement saving actions which we supported + have the base of the get the reps of groups who who supported (also A. Patrick of Westhouse Conf. on Small Business)

Be

CC:

Gene Sperling
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their habit," and r, she says. "We propose."

General C. Everett danger, which was. But the bu-

age, and expected by 1995.

Revenue dipped to \$6.83 billion from \$6.88 billion.

The news creamed Motorola stock in after-hours trading. The share, which closed

Wall Street's intolerance for bad earnings was obvious in other tech stocks Tuesday.

▶ Dialogic plunged 18 to \$28 1/4 after the maker of tele-

STREET TALK

Wage bill expands homemaker IRAs

NEW YORK — Buried in the minimum wage bill that looks increasingly likely to get to President Clinton this summer is a provision that, at long last, recognizes the value of work performed in the home.

The homemaker IRA is "neither complicated nor controversial but makes a belated lot of sense," says Miss Tessler, press secretary for Sen. Kay Bailey Hutchison, R-Texas, who along with just about every other woman in the Senate co-sponsored the legislation. The provision will allow roughly 10 million spouses who work at home to increase their tax-deductible individual retirement account (IRA) contributions from \$250 to \$2,000 a year. It also throws an unintentional bone to the wealthy. More on that later.

First, a brief look at how IRA rules have discriminated against homemakers. When IRAs came into being in 1974, the law was to promote savings by allowing a tax deduction for long-term investments up to \$2,000 a year. Originally, it was envisioned that nearly all adults would be eligible. But lawmakers backtracked, fearful that the government would lose too much tax revenue. So they allowed the \$2,000 IRA contribution for wage earners only.

That was fine for two-earner families, which could contribute \$4,000 a year, tax-deductible, to their IRAs. But it penalized families with only one earner. In a feeble nod to that inequity, lawmakers allowed a \$250 contribution for spouses at home, bringing the total one-earner household to \$2,250 a year in eligible tax-deductible IRA contributions. The difference never sat well with those money women spouses, whose work in the home was belittled. There have been IRA changes over the years, including major limitations on deductions. But the premise that homemakers aren't as valuable as wage earners has endured.

That will change if the current minimum wage bill is signed into law (stories, 1A, 1B). It provides that married couples with at least one wage earner are eligible for an annual \$4,000 IRA contribution, effectively granting the at-home spouse equal IRA status. "It's very significant," says Bruce Thompson, a financial planner at Merrill Lynch. "We're having a seismic crisis generally, and for women it's even worse." And live women earn less than men, Thompson says. So it's critical that those at home be allowed to deduct savings for retirement in at least equal numbers to wage earners.

Currently, only households with annual incomes under \$40,000 can be considered for full tax deductions on IRA contributions. That threshold wouldn't change, and it poses an interesting question: Can the 10 million households that would be newly eligible to beef up deductible IRA savings afford to do so? An extra \$1,750 a year can be tough to find, especially way below that \$40,000 mark. "In reality," says financial planner Stephen Mintz in Monroe, La., "a lot of people won't have the money. They're just fighting to live." And that brings me back to the bone for the wealthy. You can bet well-to-do professionals with at-home spouses will find the money. Such couples have been limited to the same \$2,250 annual IRA contributions all along — albeit non-deductible because of income limits. But even after-tax IRAs have the advantage of compounding tax-free until retirement. After stuffing money in tax-favored things like municipal bonds, 401(k) plans and Keoghs, the wealthy can now put another \$1,750 a year in tax-deferred IRAs. "About half my clients will take advantage of this — the doctors and their wives," Mintz says.

Speaking for Sen. Hutchison, Tessler says that's fine with her. "We're in favor of everyone saving more," she says. "Our goal is to level the playing field for spouses at home. Households that take full advantage of the homemaker IRA by contributing \$4,000 a year and earning, say 6% a year will have a nest egg of \$333,000 after 30 years. That compares with \$188,000 by investing only \$2,250 a year."

EXCLUSIVE ON LINE: See Daniel Kadlec's Market Talk column at <http://www.usatoday.com>. Ask questions via e-mail or line or e-mail him at kadlec@usatoday.com. Include name, address and day phone. Street Talk runs Tues.-Fri.



By Daniel Kadlec
Market Talk



H. Rep. Kay Bailey Hutchison Backed the provision.

Nike

By Jeff Mangum
USA TODAY

Wall Street heard a s Tuesday.

Shares of athletic shoe Nike surged 4 1/2% to \$108.75 after the company said earnings jumped 38% in its fiscal quarter. Revenue from athletic shoes and clothing in the USA alone topped \$1 billion, the first time in any quarter. "This is a quarter that knocked everyone's socks off," says Smith I analyst Faye Landes.

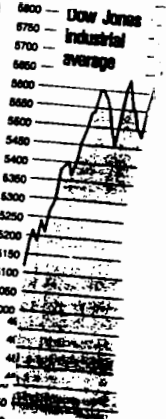
The company earned \$1 million, or \$1.06 per share, the three months ended 31 vs. \$113.4 million, 7 cents a share, a year ago. Revenue climbed to \$1.1 billion, up 36% from \$1.41 billion in the year-ago quarter.

Marketing experts attributed the revenue jump to high sales of women's athletic shoes, the company's growth

Dow Jones

STOCK MARKET

NEW YORK STOCK EXCH. 1270
New High: \$1
New Low: \$6
Bk. Index: 6,911
Up vol: 198M
Down vol: 154M
Total volume: 352M



KEY INDICATORS

Indicator	Value
S&P 500	231
Dow Jones	212
Dow Transp.	35
NYSE comp.	115
NASDAQ comp.	32
Russell 2000	32
BONDS	
Long-Term	458
10-yr. yield	5.3
1 - Lehman Bros. total return	

SBA News

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contact:

Wendy Goldberg
202/205-6915

**Statement by Philip Lader
Administrator
U.S. Small Business Administration
July 9, 1996**

Over the past year and a half, I have spent considerable time assessing the results of several independent academic empirical studies on the minimum wage and its impact on job loss. I have also discussed the issue with numerous American small business owners and workers.

I am convinced that an increase in the minimum wage will not adversely impact small business. I strongly and actively support raising the minimum wage, particularly in light of the small business tax cut package being considered today in the Senate alongside the minimum wage increase.

Raising the minimum wage for all workers is the right thing to do for three reasons. One, the evidence shows that a minimum wage increase will not affect small business job loss. Two, raising the minimum wage is not a major concern for small business owners. In fact, during state meetings leading up to last year's White House Conference on Small Business, the minimum wage was not even one of the top 430 policy recommendations. Three, I do not believe that we should let the minimum wage's real value fall to a 40-year low. Almost two-thirds of America's minimum wage workers are adults; four in 10 are their families' sole breadwinners. These workers deserve to earn a living wage.

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TALKING POINTS: THE MINIMUM WAGE AND SMALL BUSINESS

- SBA Administrator Phil Lader does not support the proposal exempting small businesses from the minimum wage.
- A year and a half ago, as part of internal policy deliberations, Administrator Lader received a recommendation from his Office of Advocacy, an independent office within the SBA, advocating the idea of a small business exemption from a minimum wage increase.
- Administrator Lader chose to personally write Secretary of Labor Robert Reich to suggest this idea as the Clinton Administration considered the effects of a possible minimum wage increase.
- Since then, Administrator Lader has spent considerable time assessing recent empirical studies on the minimum wage and its impact on job loss, as well as discussing the issue with American small business owners and workers.
- Administrator Lader is convinced that an increase in the minimum wage will not affect small business job loss. He strongly and actively supports raising the minimum wage, particularly in light of the small business tax cut package being considered alongside the minimum wage increase.
- Administrator Lader believes that raising the minimum wage for all workers is the right thing to do for three reasons:
 - o One, the evidence shows that a minimum wage increase will not affect small business job loss;
 - o Two, raising the minimum wage is not a major concern for small business owners. In fact, during state meetings leading up to last year's White House Conference on Small Business, the minimum wage was not even one of the top 430 policy recommendations; and
 - o Three, he does not believe that we should let the minimum wage's real value fall to a 40-year low.

CLINTON GORE '96

PRESS RELEASE

*For Immediate Release:
July 9, 1996*

*Contact: Ann Lewis
Deputy Campaign Manager
202/496-5027
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National Press Secretary
202/496-5063*

STATEMENT BY JOE LOCKHART NATIONAL PRESS SECRETARY

Bob Dole has an opportunity today to give working Americans a raise. Despite overwhelming support for increasing the minimum wage, some Republican Senators want to gut the provision with a poison pill amendment that exempts up to 10 million working Americans from the minimum wage increase.

Bob Dole has been silent on this latest effort to deny millions of Americans a modest raise. As the leader of the Republican party, Bob Dole must take a position on raising the minimum wage and the Bond amendment.

Today is the day for Bob Dole to show leadership. Tell your Republican colleagues American workers deserve a raise. Send some signal, as the leader of the Republican party, that you support increasing the minimum wage. Silence on this issue can only be interpreted as support for efforts to deny American workers a long overdue raise.

Silence on this important issue represents a complete abdication of the presumptive nominee's leadership within the Republican party.

American workers cannot afford a failure of leadership from Bob Dole today.

###

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CLINTON GORE

Research Department**Phone: (202) 496-4875****Fax: (202) 496-5011**FROM: Jamanda, GilgipTO: ~~Patricia~~ Gene

FAX #: _____

PAGES: _____

DATE: _____

MESSAGE: ① Dole May 24th reference to
minimum wage. - He mentioned training wage
and increasing # of exempted workers for
"small businesses."

② NYT 3/27/96 - "Dole Blocks Move To Vote ..."

CONGRESSIONAL RECORD -- Senate

Friday, May 24, 1996

104th Congress 2nd Session

142 Cong Rec S 5635

REFERENCE: Vol. 142 No. 75

TITLE: BALANCED BUDGET AMENDMENT, WELFARE REFORM, AND THE
MINIMUM WAGE

SPEAKER: MR. DOLE

TEXT: [*S5635]

Mr. DOLE. Mr. President, since the American people put the Republicans in control of Congress, I think there has been a consensus-Democrats, Independents, Republicans-that we should balance the budget. We have succeeded now in making a balanced budget, which is supported by 80-some percent of the American people, a national priority. Perhaps no policy is more important than the personal economic future of Americans, the future of our children and the future of our Nation.

Last year, under Republican leadership, Congress did pass a budget that would be in balance by the year 2002. President Clinton vetoed that budget and denied America the brighter future that would have resulted in higher standards of living, more real economic growth, lower interest rates, reducing what Americans will pay for home mortgages, car loans, and student loans, and an increase in the savings rates, higher productivity, and relief from the crushing burden of debt.

But notwithstanding that, the President and his allies in and out of Congress who talk about a balanced budget say we ought to have a balanced budget. They may have a different way to arrive at one. So I think there is a fairly strong consensus at least that we should balance the budget. We just have not been able to come together on how we do that. We have tried private negotiations at the White House with myself and the Speaker and the majority leader in the House. They went on [*S5636] day after day, week after week, 55 hours of face-to-face meetings. We could not come together.

So my view is that since almost everyone agrees we should balance the budget at least by the year 2002, we should take the next logical step and do what it takes to make certain that we fulfill our commitment to pass a constitutional amendment to balance the budget.

Last year, we had a month-long debate. We talked about all the pros and cons of a balanced budget amendment to the Constitution. The final vote was 65-35. It was actually 66-34. Then I changed my vote to "no" so that I could use the parliamentary procedure to have a reconsideration of this vote, and I said sometime this year.

All we were doing, if you recall, was sending this to the States where three-fourths of the States would have to ratify the amendment before it became part of the Constitution. So we were, in effect, leaving it to up to the people or leaving it up to the legislative body closer to the people whether or not this particular balanced budget amendment to the Constitution should be ratified and be made a part of the Constitution.

I have made a number of statements both in the Chamber and in public that we would take up the balanced budget amendment again, and since my departure is imminent, I want to keep my word and keep my commitment, although I have no illusions about the outcome. So during the week of June 3, it is my intention to fulfill the commitment I made to hold another vote on the balanced budget amendment.

As I said, I am not under any illusions, but I think there is a great deal at stake. I think we have an obligation to future generations of Americans to make the effort. Only one man stands between the balanced budget amendment and the American people, and that is President Clinton. I hope President Clinton will change his position on the balanced budget amendment. I believe the upcoming vote will give President Clinton the opportunity to demonstrate the kind of leadership the American people want, but I am certain it will succeed only if the President lends his support, his unqualified support to the effort. Only the President can help encourage Democrats who voted for it in the past and then voted against it last year to give us the necessary 67 votes to send this to the States for ratification.

Again, let me make it clear. We are not making the final judgment when we send an amendment to the States for ratification. It takes three-fourths of the States. It would not be easy, but my view is we can send it back to the people, back to the people's representatives, closer to the people, and this also, of course, will give my colleagues who have supported the amendment in the past but voted against it last year another opportunity to come home again, an opportunity to do the most important thing we can be asked to do, and that is to make a positive difference.

So I hope that President Clinton could repair the damage. I know he urged and probably persuaded at least six of our colleagues to vote "no." It is not very often we get a second chance to do the right thing, but we are going to offer that chance to the President and to others. I assume the vote will be the same, or maybe even one or two less, but this is a bipartisan effort.

I want to underscore that. One of the leaders in this effort has been Senator Paul Simon from the State of Illinois, who is retiring from the Senate at the end of this year. He has been working day after day, month after month, year after year for a balanced budget amendment to the Constitution. He did not dream it up last year or the year before. As long as I have known Paul Simon, he has

been supporting a balanced budget amendment, and so has the Senator from Idaho, Mr. Craig, and they have worked closely together.

At one time, we thought we had as many as 72 votes, but when the vote was taken, it was only 66. So my view is it is bipartisan. It comes down to one simple question: Do we trust the American people? Do we trust the State legislatures? I think if we do, then we will send this amendment to the States and let them take a look at it. The Founding Fathers did not give Congress the power. They reserved that power to the States and the people. For most of us who say we are for a balanced budget, this is an opportunity to give our States, whether it is Kansas or some other State, members of my legislature, an opportunity to say, well, it is good; it is bad; it should not be done.

So, I will let my colleagues know, and I will advise the Democratic leader on the precise time. But it will be sometime, probably, I would guess, along about June 4. But I will let my Democratic friend, the leader of the Democratic Senate, Senator Daschle, know a precise time. As I understand, there is no debate. So any debate will happen before. There will not be any agreement on any debate, but bring it up, vote, and then move on to something else.

Let me also say that I was prepared last night because the President made a statement in Wisconsin to send him the welfare bill and he would sign it and I may later today ask unanimous consent to bring up the welfare bill and pass it, send it to the House. This is apparently a bill the President wants. I do not assume there would be any objection on the other side. But, if the President is serious, we are serious. We will get serious in a hurry.

I will ask consent, we will send it to the House, and the House, of course, with the Rules Committee, they do not have to wait 4, 5, 6, 10, 12 days on an issue like this, they can do it in 3 or 4 hours.

So, if the President is serious about this, if he will just notify my colleagues on the other side of the aisle not to object, we may pass a welfare bill here very quickly.

I have also been asked, and I have not discussed it with the majority leader-the majority whip, Senator Lott, about when we would bring the minimum wage vote to the floor. I do not have a problem with bringing it to the floor at any time. In fact, we offered my colleagues on the other side an agreement which, had they accepted, we would bring it up as soon as we came back from the Memorial Day recess, but it was rejected.

It still seems to me that we ought to be able to bring it up; whenever they want to they bring up an amendment, we bring up what we want to bring up as an amendment. We do that frequently around here. We have two different views. I think there should be an increase in the minimum wage. I think we couple it



with-we have talked about it some, about a teenage provision, where you want teenagers to work, the so-called training wage. We might increase those who are not covered, by a small amount, for businesses that are small businesses.

I have talked about this to Senator Daschle. I think there are a couple areas we may be able to agree on. There may be others who have other amendments we may not be able to agree to. But it seems to me, if we are serious about it, we ought to bring it up and do it very quickly. We have had enough debate on the action. We would be prepared to take care of that also on the week of June 3.

Mr. FORD. Will the distinguished majority leader yield for a question?

Mr. DOLE. I will be happy to yield.

Mr. FORD. When the majority leader says "the minimum wage bill," does that mean the bill that was sent over to us from the House; that would be a stand-alone offer?

Mr. DOLE. We have the right to amend.



Mr. FORD. I understand you have the right to amend it, but it will stand alone, it would not be included in the package as in the debate we had here previously in the Senate?

Mr. DOLE. I would be happy to work out something along that line with the Senator from Kentucky.

Mr. FORD. Rather than have four or five votes and then have a vote on the whole package, including the coupling as the Senator said, that we could have the stand-alone votes-I think we are very close to making some kind of agreement.



Mr. DOLE. I would want to consult, obviously, with my colleagues. But my view is there will be a minimum wage increase. It will pass the Congress. It will have some amendments that maybe are not totally pleasing to everybody in the Senate on either side of the aisle. In fact, maybe even the minimum wage is not totally pleasing to everybody on either side of the aisle. But I think, given the strong bipartisan vote in the House, and I think there is support, bipartisan support, for [*S5637] an increase on this side, the question is what do you add to it to get it passed?



Mr. FORD. The only question I was concerned about is that originally we had four or five individual votes and then that would have been included in a total package, with the coupling of maybe a poison pill or two there, that the President may not particularly like and said he would have to veto that with that pill. If we get the House bill and then that is a stand-alone, and we get

the amendments and let the Senate work its will, I think we are getting very close to an agreement on minimum wage. I thank the majority leader.

Mr. DOLE. I will be happy to take it up with the leadership on my side and, hopefully, be able to go to the Democratic leader and the Senator from Kentucky with some proposal to be accepted.

I yield the floor.

DOLE BLOCKS MOVE TO VOTE ON A RISE FOR MINIMUM WAGE

CAMPAIGN IS BACKDROP

Democrats Insist Their Effort Was Not Meant to Hinder His Presidential Race

By ADAM CLYMER

WASHINGTON, March 28 — After hours of creative parliamentary stratagems interwoven with raw political attacks, Senator Bob Dole, the majority leader, today blocked a Democratic effort to vote on raising the minimum wage.

Democrats insisted they were not bringing the issue up today to dim the luster of Mr. Dole's Presidential campaign on the day he hoped a victory in the California primary would give him the last of the delegates needed to clinch the nomination. But Senator Edward M. Kennedy of Massachusetts acknowledged, "We haven't lost any sleep over it."

Seeing the moment, Mr. Kennedy elbowed, "The day that Bob Dole looks up the Republican nomination, he looks out working families that are looking for a very modest increase in the minimum wage" — to \$5.16 an hour from \$4.26 an hour, over 15 months.

Mr. Kennedy, who has been promising to offer the wage increase as an amendment to some piece of legislation for several weeks, got his chance this afternoon only when Mr. Dole stumbled in a parliamentary maneuver that could have kept the Kennedy proposal from even being offered. "That won't happen again," Mr. Dole muttered to aides when he saw Mr. Kennedy exploiting his mistake.

The Kansas Republican discussed the substance of the wage issue only briefly. At one point he said that if the wage was raised, "there are going to be a lot of young people who will lose their jobs, and a lot of them will be black teenagers." He also said that if anything was to be added to the bill the Senate was considering, a measure to create parks areas in 24 states, it should not be the minimum wage but rather changes in welfare and Medicaid. "Usually the American people are really concerned about."

In an interview this evening, Labor Secretary Robert B. Reich de-

Continued From Page A1

puted Mr. Dole's assessment of the effect of raising the wage. He said that independent research, "not supported by any party with a stake in the outcome, showed that a modest increase in the minimum wage will have a negligible impact on jobs."

Mr. Reich also argued that if the nation was concerned about getting people off welfare, increasing the minimum wage was part of the solution.

Mr. Dole also accused the Democrats of bringing up the wage issue today because the A.F.L.-C.I.O. had endorsed President Clinton on Monday. Democrats scoffed at that argument, saying they had not raised the subject last week on a grazing bill because Western Democrats objected. And none of the other bills on this week's calendar, except for legislation on the Federal debt limit, which the Democrats consider too important to clutter up, is subject to amendment.

Senator Tom Daschle of South Dakota, the minority leader, said tonight that Democrats would bring the issue up repeatedly.

Mr. Dole conceded during debate that the subject would inevitably be brought forward. "I assume that sooner or later the issue will be debated and voted on, directly or indirectly," he said, "but not today, not

tomorrow, and not next week."

But this afternoon Mr. Dole surprised Democrats when he rejected an offer Mr. Kennedy made to put the issue off until June if he would promise a vote then.

The mishmash began on Monday night, with Mr. Dole's campaign, beginning in his hometown of Kansas, Kan. Senator Trent Lott of Mississippi, the deputy leader, agreed that Democrats could bring up the amendment today, though he did not promise to let it come to a vote.

But this morning the Republicans backed off that promise, which had been spoken on the floor but not formalized by a unanimous consent agreement, the Senate's way of doing most of its business. Instead, Republicans kept the Senate out of legislative business until a scheduled break for luncheon party caucuses.

Democrats did use much of the morning to make speeches. Senator John Kerry of Massachusetts complained that Senators making 10 times the poverty level were keeping others locked below it.

But after lunch, Mr. Dole got the floor and offered an amendment to a substitute proposal by Senator Frank H. Murkowski, Republican of Alaska, that broadened the number of parks covered. Then he offered an amendment to that amendment. Thinking he had blocked Mr. Kennedy by offering all the amendments the rules allowed.

But, uncharacteristically, Mr. Dole had forgotten to offer amendments to the underlying bill, which originally had dealt only with park use of the former Army base at the Presidio. Mr. Kennedy saw the mistake, got the floor and proposed his wage amendment, and Mr. Kerry followed immediately with a duplicative amendment to the Kennedy amendment — so that nothing else could be offered.

Then Mr. Kerry moved to table, or kill his own amendment, a motion that cannot be debated. Scowling, Mr. Dole put the Senate into a very slow quorum call while he figured out what to do.

He returned to the floor three hours later, smiling. He had persuaded every Republican to join all the Democrats in voting against the motion to bury the Kerry amendment. That vote was 67 to 3, and the unanimously denied Democrats either targets for pressure or the claim of a near-victory.

After that, with the wage amendment technically alive but not about to be voted on, Mr. Dole offered a motion, with two amendments, to send the bill to the Finance Committee, with instructions to deal with Medicaid and Welfare. Then the Senate quit for the night. On Wednesday it is expected to drop the parks bill entirely and take up the low-wage vote.

NYT 3-27-96

Continued on Page B1, Column 5

SBA News

P.2
U.S. Small Business Administration
Washington, DC 20416

SBA Number:

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Wendy Goldberg
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**Statement by Philip Lader
Administrator
U.S. Small Business Administration
July 9, 1996**

Over the past year and a half, I have spent considerable time assessing the results of several independent academic empirical studies on the minimum wage and its impact on job loss. I have also discussed the issue with numerous American small business owners and workers.

I am convinced that an increase in the minimum wage will not adversely impact small business. I strongly and actively support raising the minimum wage, particularly in light of the small business tax cut package being considered today in the Senate alongside the minimum wage increase.

Raising the minimum wage for all workers is the right thing to do for three reasons. One, the evidence shows that a minimum wage increase will not affect small business job loss. Two, raising the minimum wage is not a major concern for small business owners. In fact, during state meetings leading up to last year's White House Conference on Small Business, the minimum wage was not even one of the top 430 policy recommendations. Three, I do not believe that we should let the minimum wage's real value fall to a 40-year low. Almost two-thirds of America's minimum wage workers are adults; four in 10 are their families' sole breadwinners. These workers deserve to earn a living wage.

#

TALKING POINTS: THE MINIMUM WAGE AND SMALL BUSINESS

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Democrats Fight GOP Move to Exclude Millions From Minimum Wage Increase

Debate Intensifies as Senate Braces for Showdown on Proposal

By Helen Dewar
Washington Post Staff Writer
Tuesday, July 9 1996; Page A04
The Washington Post

Democrats yesterday scrambled to fend off a Republican effort to exclude millions of workers from a proposed increase in the minimum wage as the Senate braced for a long-delayed showdown today over the volatile election-year issue.

The debate was amplified across the country as labor unions set up phone banks and ran radio ads aimed at defeating the GOP proposal, and business groups called on their members to contact wavering senators and urge its passage. While President Clinton supports the proposed increase of 90 cents an hour, he has said he will veto the bill if Republicans succeed in amending it to exclude new hires and employees of small businesses and to delay it from taking effect until next year.

Key senators from both parties said the vote on the Republican proposal could be close. Even though a majority of all senators have indicated support for the bill, Republicans control the Senate by 53 to 47, and the proposal seems to have benefited from an increasingly partisan climate in the Senate as the elections approach.

As drafted by Sen. Edward M. Kennedy (D-Mass.), endorsed by Clinton and approved by the House, the bill would raise the hourly wage floor from \$4.25 to \$5.15 in two steps over the next year, meaning pay increases for 10 million or more workers. The bill also includes nearly \$20 billion in tax breaks over the next 10 years, aimed largely at easing the bill's cost to small businesses.

The GOP amendment, spearheaded by Sen. Christopher S. Bond (R-Mo.), would exempt businesses with less than \$500,000 in gross annual receipts from having to pay the increase. It would bar the increase to newly hired workers during their first six months on any job, a substantial broadening of the House-approved provision that would allow a "training wage" for three months for new hires under 20 years old. It also would delay the effective date of the increase from this month to January.

The Center on Budget and Policy Priorities estimated the Republican proposal would deny an increase to 5 million workers who now earn less than \$5.15 an hour.

Kennedy plans to offer an amendment that would limit the House-approved youth training wage to the first 30 days of employment and knock out a House provision denying any minimum wage increase to waiters and others who rely heavily on tips.

Republicans argue that raising the minimum wage would discourage many employers from hiring low-skill workers and force many small enterprises out of business.

In response to Clinton, who earlier described the Republican proposals as a "poison pill" that would provoke a veto, Senate Majority Leader Trent Lott (R-Miss.) said that the GOP effort was aimed at keeping a minimum wage increase from "destroying jobs for the very people" the bill tries to help. "It does not take an economics degree to see that small businesses who stay in business by only the tiniest of margins could be pushed over the edge by the increased costs of labor," he said.

But at a news conference aimed at drumming up opposition to the amendment,

Kennedy and Labor Secretary Robert B. Reich described it as a way of scuttling the minimum wage increase itself. They noted that the National Retail Federation, in an internal memorandum, described it as "the best hope for stopping the minimum wage increase this year." Reich challenged Republican presidential candidate Robert J. Dole to endorse the bill without the GOP amendment.

The Senate has been squabbling since late March over voting on the Democrats' minimum wage bill, which Dole blocked on several occasions. Shortly after taking over from Dole as majority leader, Lott agreed to the arrangement under which both Republican and Democratic amendments to the House-passed bill would be considered.

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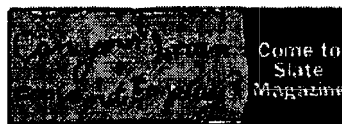
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July 9, 1996

Senate Opens Debate on Bill to Increase Minimum Pay

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By ERIC SCHMITT

WASHINGTON -- Senate Democrats and Republicans debated Monday whether a proposed 90-cent increase in the federal minimum wage would throw an economic lifeline to millions of workers or force small businesses to lay off hundreds of thousands of employees.

The Senate is scheduled to vote Tuesday on the plan to raise the minimum hourly wage to \$5.15, from \$4.25, over two years. It would be the first increase in six years. The House approved the increase by a 2-1 margin in late May.

After months of skirmishing, the battle lines were sharply drawn.

Sen. Edward Kennedy, D-Mass., who is the proposal's chief Senate sponsor, said raising the minimum wage was essential to keep many working families out of poverty and called a Republican amendment to exempt small businesses "a shameless trick" to gut the increase.

"No American who works for a living should have to live in poverty," said Kennedy, who dismissed Republican assertions that a wage increase would cost jobs.

But Republicans countered that without their amendment, many small businesses would go under or lay off workers. The amendment would exempt businesses with less than \$500,000 in annual sales from the increase, allow employers to pay all new workers a sub-minimum wage of \$4.25 for their first six months of employment and delay the effective date of an increase by six months, to Jan. 1, 1997.

"This merely carries out the intent of Congress to exclude the smallest of small employers from the burdens of the minimum wage," said Sen. Christopher S. Bond, R-Mo., who is the amendment's main sponsor.

President Clinton say he will veto a bill that includes any of these "poison pill" provisions. Labor Secretary Robert Reich estimates that the Republican amendment would deny a wage increase to about half of the 10 million workers now toiling at or near the minimum wage.

The wage increase is one of this year's political surprises. Few people gave Democrats much of a chance of pushing it through the Republican-controlled Congress. But Democrats made it a fairness issue and it caught on with the public, blind-siding Republicans first in the House and now in the Senate.

A majority of senators support the 90-cent wage increase. So the important vote on Tuesday will be on the Republican amendment to modify who gets the increase and when.

All 47 Senate Democrats oppose the Republican amendment, Democratic aides said Monday. If all 100 senators vote, Democrats need to pick up at least three Republican defectors to kill the amendment. A tie vote defeats an amendment.

Sen. Trent Lott, R-Miss., the majority leader, has made it clear to fellow Republicans that victory on the amendment is important to him as their new leader. In exchange, he is telling Republican moderates he would soften some of the more objectionable provisions when the House and Senate negotiate a compromise bill later this summer.

Sen. Alfonse D'Amato, R-N.Y., is considered a swing vote on the amendment. He supports the higher wage.

Sen. Tom Daschle, D-S.D., said Monday that if the Republican amendment succeeded, he would recommend Senate Democrats approve the minimum wage bill but try to kill the amendment in the conference committee.

The Republican amendment would also exempt restaurants from paying the wage increase to those who receive tips, who now must be paid only \$2.13 an hour if their tips bring their earnings to \$4.25. In the future, they would be paid \$2.13 an hour so long as their tips brought their wages to \$5.15.

"They're proposing to create a Swiss-cheese amendment with as many holes as they can get away with," Daschle said Monday.

Most senators were traveling back to Washington on Monday after the July 4 recess, so Monday's floor debate on an issue affecting millions of Americans unfolded before a largely empty chamber.

The most contentious issue centered on whether raising the wage increase would cost jobs.

Kennedy said the wage increase would attract people not working now. He cited the example of Vermont and Massachusetts, which raised their minimum wages to \$4.75 an hour in January: unemployment declined, even though neighboring New York and New Hampshire did not raise their wages.

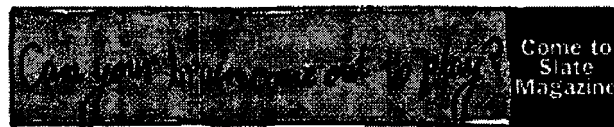
But Republicans said a wage increase would act as a barrier to the lowest-paid, often least-skilled, workers.

"The federal government would be determining that it's better to stay at home and not work if you can't get a job at \$5.15 an hour," said Sen. Don Nickles of Oklahoma, the Senate's second-ranking Republican.

Sen. Nancy Kassebaum, R-Kan., who heads the Labor and Human Resources Committee, said: "Although well-intended, this increase will cause a loss of entry-level jobs and will limit job opportunities for low-skilled workers."

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July 9, 1996

Teen-Agers May Be Hurt by Rise in Minimum Wage

By ROBERT D. HERSHEY Jr.

At one time, Sidewinder Pumps Inc., in Lafayette, La., would hire a dozen or more young people to work each summer at minimum-wage jobs like weeding or expanding the parking lot -- tasks that were not really essential to the company but that let it give teen-agers a taste of what paid work is like.

When the federal minimum wage went up in the early 1990s, the company cut back to three or four summer workers. And this year the prospect of another increase led the company to end this quarter-century tradition. "We don't have any part-timers," said Ernie George, a co-owner of Sidewinder.

As the Senate prepares to vote Tuesday on another round of increases, to \$4.75 and then to \$5.15 next year, most of the incendiary political and economic debate has dissolved into an inconclusive statistical battle over whether the move will hurt more workers than it helps.

But some economists point to employment figures to argue that however lightly a higher minimum wage may weigh on the economy at large, in the past it has fallen heavily on teen-agers, especially black teen-agers, and on adults with little education.

These are groups often also pointed to as having the greatest need to learn basic job habits, such as the importance of showing up regularly and on time.

A look at what happened after the last round of increases -- to \$3.80 in April 1990 and to \$4.25 in April 1991 -- shows how sharply the bottom end of the job market can contract, especially when this disincentive to hire workers coincides with an economic downturn.

While almost nobody argues that the higher minimum contributed significantly to the latest recession, which was ultimately determined to have lasted from July 1990 to March 1991, the higher wage does seem to have markedly worsened the job market for the youngest and least skilled.

In March 1990, just before the federal government raised the minimum to \$3.80 from \$3.35, 47.1 percent of teen-agers had jobs, but that promptly began a slide that carried it down to less than 43 percent a year later, when the \$4.25 wage kicked in. The figure then tumbled to 39.8 percent by June 1992 before slowly recovering to 43.2 percent now.

"The timing of the drop in teen-age employment is absolutely coincident with the increase in the minimum, whereas for other groups the recession's bite was delayed," declared Finis Welch, an economics professor at Texas A&M University and a prominent student of the subject.

A second proof of the impact of the higher wage, Welch said, is how acutely teen-agers -- who account for nearly a third of minimum-wage workers -- were affected compared with other demographic groups.

"Based on the reduction in employment of prime-aged men, 35 to 54, teen-age employment fell more than we would have expected" from the study of earlier recessions, Welch said.

Black teen-agers, often most in need of basic job skills, fared even worse. At the beginning of 1990, 28.8 percent of this group held jobs. But lack of hiring and dismissals drove this down to 22.5 percent by January 1991 and to a low of 20.4 percent in August 1991. Not until April 1996 did it recover to 28 percent.

The unemployment rate, a less-favored gauge because it ignores those who stop looking for work, reflected similar distress.

Joblessness, which for blacks aged 16 to 19 stood at 27.8 percent at the beginning of 1990, climbed steadily to more than 33 percent in the months following the first installment of the higher minimum wage and then averaged 36.2 percent in 1991 before peaking at 44.6 percent in April 1993.

"Teen-agers shouldered a disproportionate share of the burden" even after allowing for their ranks contracting from demographic trends, said Erich Heinemann, an economist at Brimberg & Co., a Wall Street firm. "To a very significant degree," he added, "the 1990-1991 recession was a teen-age recession."

Those who support raising the minimum wage, which is paid more prevalently in the South than in other regions, contend that it will help millions of workers at the bottom of the economic ladder, allowing many to avoid welfare.

They join Labor Secretary Robert Reich in dismissing likely job loss as "negligible" and in denying any concentration of effects. "One never knows for particular groups," Reich said in an interview.

And Joseph Stiglitz, head of President Clinton's Council of Economic Advisers, insisted, "The evidence is just very ambiguous."

If a higher minimum was burdensome enough to employers to force them to trim staff, he asked, why did they not make use of the virtually ignored provision at the time of the last increase that would have allowed them to pay a starting subminimum that was 15 percent less?

But James Coons, economist at the Huntington National Bank, based in Columbus, Ohio, found the 1990-91 experience persuasive.

"The last increase turned out to be a cruel joke for low-skilled teen-age workers," he declared. "To the extent that the minimum is raised high enough to positively affect wage levels," he contended, "it will negatively affect the demand for labor."

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Senate GOP Tries to Weaken Wage Bill, Risking a Veto

By **CHRISTOPHER GEORGES**
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON -- Senate Republicans, spurred by small-business lobbying, are mounting an 11th-hour effort to weaken the minimum-wage-increase bill scheduled for a floor vote Tuesday, in a way that could ensure a presidential veto.

At issue is a proposed GOP amendment that would exempt businesses with less than \$500,000 in annual revenue from complying with the 90-cent-an-hour wage increase to \$5.15. The amendment also would deny the wage increase to waiters and other employees who receive tips, and to all employees for the first six months in any job.

The proposed changes, offered largely to appease small-business interests that strongly oppose the wage increase, would ultimately scuttle the measure, Democrats said. "It's an amazingly egregious amendment," said Senate Democratic Leader Tom Daschle of South Dakota.

Vote Is Too Close to Call

Republicans and Democrat leaders, as well as lobbyists on both sides of the issue, have said the vote is too close to call. "I'm not feeling confident yet," said Peggy Taylor, a spokeswoman for the AFL-CIO, which has spent nearly \$100,000 in recent days on radio advertisements opposing the amendment.

Small-business interests also were cautious, but somewhat more pessimistic. "It doesn't look real positive right now," said Diane Moery of the National Federation of Independent Business, which has spent nearly \$50,000 recently urging its members to contact lawmakers to support the amendment. The NFIB predicted late Monday that four Republican senators would vote against the proposed changes -- giving opponents of the changes two more votes than necessary to kill them.

Even so, small-business groups said they were pleased with the way the new Senate GOP leadership, headed by Majority Leader Trent Lott of Mississippi, has handled the issue -- one they consider a top legislative priority. "Our problem is with the way the administration came out so quickly with the veto threat. You wonder if they even read the amendment," Ms. Moery said.

If the package of changes sponsored by Sen. Christopher Bond (R., Mo.) passes the Senate, the entire measure would move to a House-Senate conference, where Democrats would have another chance to delete them. A similar package of modifications to a "clean" wage-increase bill was proposed, but failed, when the House passed its version of the wage-increase bill earlier this year.

Fate of Various Tax Breaks

Tied to the Senate wage measure is a bipartisan package of small-business tax breaks, included partly to help small

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companies offset higher wage costs. Although Democrats support the tax-break package, which would cost the Treasury \$14 billion over 10 years, they said they would block any effort to pass the tax measure if Republicans succeeded in watering down the wage increase. And while some Republicans had hoped to attach some form of capital-gains-tax relief to the current measure, it now appears that effort has been abandoned.

Since the outset of this year's minimum-wage debate, Republicans, egged on by small-business interests, have sought to prevent the measure from even coming to a vote, arguing that it would ultimately lead businesses to hire fewer low-wage workers. Overwhelmed, however, by popular support for the measure, a fierce lobbying blitz by organized labor and the efforts of Democrat Sen. Edward Kennedy of Massachusetts, Republican opposition has steadily eroded.

Democrats also have used the November presidential election to squeeze Republicans to back some form of a minimum-wage increase. That effort continued Monday, even though Robert Dole has resigned from the Senate to run for president. "I want to challenge Sen. Dole to ask his colleagues to vote for a clean minimum-wage bill," said Labor Secretary Robert Reich, who visited Capitol Hill Monday to help push the Democrats' version of the bill.

Although recent economic reports show sharp growth in hourly wages -- the largest monthly increase in decades -- the economic news has little bearing on the need for a minimum-wage increase, Democrats said. The lowest-paid employees are still in dire need of a mandated wage increase, said Mr. Reich. At the same time, he said, fears that a minimum-wage increase would fuel inflation were overstated. "There is room for a raise without pushing up inflation," Mr. Reich said.

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Business Week: July 8, 1996

Department: News: Analysis & Commentary: COMMENTARY
COMMENTARY: PINOCCHIO FOR PRESIDENT

Remember President Clinton's drive to raise the minimum wage? Just a couple of months ago, Democrats in Congress vowed to boost it 90 cents, to \$5.15, by the Fourth of July. And how about Bob Dole's efforts to repeal a 1993 gasoline-tax hike? Just before quitting the Senate, the then-Majority Leader thundered that rolling back the levy by 4.3 cents a gallon was critical to the fate of the economy.

Well, the minimum wage is still \$4.25 an hour. And the federal gas tax stands at 18.4 cents a gallon. Even though Senate leaders finally agreed on June 25 to vote on both bills later this summer, the odds of either becoming law remain long. Why? Republicans are still insisting on limitations on the minimum-wage hike that Democrats deem unacceptable. And Democrats will stall the fuel-tax rollback until they get a minimum-wage bill they like.

CHARADE. Are Clinton and Dole outraged at these latest examples of legislative gridlock? Hardly. In truth, the issues are playing out just about the way the two Presidential contenders want. Clinton is perfectly happy to see the minimum wage stalled in the Republican-controlled Congress. And the last thing Dole wants is for Congress to pass a gas-tax repeal that the President then gets to sign into law.

Clinton prefers pounding the GOP for failing to pass a pay hike to actually seeing low-wage workers get a raise. After all, if Clinton really wanted to boost the minimum wage, he would have acted in his first two years in office, when the Democrats controlled Congress. Instead, he stumbled on the idea only after the Republicans took over Capitol Hill. "From a purely political standpoint," says one Administration strategist, "we would rather have the issue."

It's the same with Dole and the gas tax. Not only did the Kansan support higher fuel levies throughout the Reagan and Bush Administrations, he never really turned up the legislative heat to get the rollback passed. When the Democrats offered to link the gas tax and minimum wage in a single bill, Dole torpedoed the deal by throwing in a third measure that would make it easier for companies to negotiate work rules outside of collective bargaining. Because the provision is anathema to pro-labor Democrats, it derailed the whole package for months.

Then there was the matter of financing the tax cut, which would have cost about \$4 billion a year. For weeks, Dole refused to say how he would pay for it. Finally, he suggested auctioning off broadcast spectrum to raise cash. Trouble is, congressional Republicans have decided to give away that spectrum to television broadcasters, and no one has yet come up with substitute bucks. But even if Congress had approved a spectrum sale, it would have paid for a gas-tax cut only through the end of the year, or--a cynic might note--just beyond the November elections. Once, Republicans promised to roll back the gas-tax hike permanently. But their latest six-year budget resolution (a plan

called "Bob Dole's budget" by the GOP leadership) omits any mention of the gas tax whatsoever.

"OPENING SHOT." For Dole, the point is that Clinton proposed the '93 gas-tax hike. And sending a symbolic message about the President as a tax-and-spend Democrat is much more important to him than knocking down the levy for a few months. Says Dole campaign manager Scott W. Reed: "It was the opening shot of this huge tax-reform/tax-cutting debate we're going to have in the fall."

This being Washington, both proposals may yet pass Congress. The wishes of the Presidential candidates aside, plenty of incumbent lawmakers really want to bring home some goodies in the weeks before the election. Most congressional Democrats are determined to raise the minimum wage. And Republicans desperately want to get the issue behind them. At the same time, GOP lawmakers would gladly support any tax cut, even one that lasts only a few months. But chances are that politicking will continue to keep either measure from ever becoming law. "The likelihood of Congress sending the President anything he can sign is about zero," predicts one Republican lawmaker.

As the campaign heats up, both Dole and Clinton will be spewing an endless stream of promises--tax cuts, balanced budgets, anticrime initiatives, to name only a few. But the candidates shouldn't be surprised if voters don't believe them. After watching the debates over the gas tax and the minimum wage turn into a political charade, who would?

By Howard Gleckman

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SOME POINTS ABOUT SMALL BUSINESS AND THE MINIMUM WAGE

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- For example, the 1995 White House Conference on Small Business held 50-plus state conferences and 6 regional conferences to discuss issues of critical importance to small business, yet the minimum wage was not mentioned among the top 430 regional recommendations for federal action, let alone the top 60 recommendation which the national conference sent to the President and Congress.
- President Clinton and his Administration have responded positively in support of many of the top recommendations that came out of the White House Conference -- the issues that are of real importance to the nation's small business owners.
- Over 15,000 people representing small businesses across the country participated in the 1995 White House Conference on Small Business, and each received briefing materials from the SBA's Office of Advocacy raising the minimum wage as a possible topic for discussion.
- In addition, in the NFIB Foundation's survey of its members which asked them to rank 75 issues according to their importance to small business, the minimum wage ranked 62nd in importance out of the 75. Only 7 percent of the businesses responding said that minimum wage was a "critical" issue for their business. Further, few, if any, small business trade groups put the minimum wage on their recommended legislative agendas.
- Phil Lader, Administrator of the SBA, sent a letter to the Secretary of Labor, Robert Reich, in March of 1995 which brought the Office of Advocacy's research and policy paper to the attention of the Secretary as an option the Department of Labor should consider. However, the Administrator did not recommend the policy option at that time, nor has he supported Senator Bond's exemption. In fact, he is on the record as supporting President Clinton's position.
- In the March 1995 letter, Administrator Lader also points out that one of the main reasons to suggest "tiering" was to help small businesses bear the costs of "general skills" training for workers. Since that time, President Clinton has proposed legislation to provide a more direct route for assistance to small businesses. The President would provide a 10% credit for businesses which pay for education costs to their employees. The credit provides a much more direct form of reimbursement for a desirable public policy goal: investment in human capital.

By statute, the SBA's Office of Advocacy serves as an advocate for small business. In that capacity, Jere Glover, the Office of Advocacy's Chief Counsel, has said he would continue to support "tiering" to help small businesses with regard to the minimum wage. These views, as with many other opinions expressed by the Chief Counsel for Advocacy, may vary from those of the Administrator or the SBA. This diversity of viewpoints and opinions is normal and can have a constructive effect on the development of government policy toward small business.

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U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

MAR 2 1996

Honorable Robert Reich
Secretary of Labor
Washington, DC 20210

Dear Mr. Secretary:

As you know, 99 percent of our nation's businesses are small businesses (defined as businesses with fewer than 500 employees). The debate about raising the minimum wage, therefore, is necessarily a debate about its impact on small businesses.

I wish to bring to your attention the results of research conducted for the U.S. Small Business Administration's Office of Advocacy on the impact of an increase in the minimum wage on small firms. This research yielded some interesting information concerning minimum wage earnings and the number of small businesses affected. The most remarkable finding is that there are approximately 4.1 million workers in firms with more than 500 employees earning less than the proposed minimum wage. This is in contrast to approximately 2.553 million workers in firms with fewer than 10 employees at the same earnings level. In light of the research findings, I would like to raise the possibility of an exemption for the smallest of our nation's employers, namely those with fewer than 10 employees.

As already noted, there are approximately 2.553 million workers in firms with fewer than 10 employees earning less than the proposed minimum wage.¹ These 2.553 million workers account for only 3.4 percent of the 73.15 million workers in private employment (excluding agricultural and private household sectors and the self

¹ Analysis of data from the April 1993 Current Population Survey (as exhibited in the enclosed table) shows that of the approximately 73.15 million employed private sector wage-and-salary workers aged 16 and older, there are about 1.591 million employees working for employers with less than 10 employees at less than \$4.26 per hour. An additional 962,000 employees work for employers with less than 10 employees at rates between \$4.26 and \$5.15, the level of the proposed increase. Together, these two categories show that there are about 2.553 million employees -- or about 3.4 percent of the 73.15 million total number of workers in private employment (excluding the self-employed and workers in the agricultural and private household sectors) -- earning less than the proposed minimum wage.



employed).² Exempting firms that employ less than 10 employees from the proposed increase would exempt almost 80 percent of all firms with employees in the United States,³ but only 3.4 percent of all employees.

An exemption for the smallest of small businesses makes sense. Exempting small businesses from a mandatory wage increase for minimum wage workers means that firms at the margin will not be forced to cut jobs or not grow. In addition, an exemption allowing the minimum wage to stay at its present level for these firms would be a way of crediting the smallest employers for the costs they incur: 1) by employing young workers in their first jobs, 2) by providing general skills training to workers, 3) by hiring a large fraction of part time, seasonal and contingent workers, and 4) by bearing the cost of turnover associated with minimum wage jobs. Furthermore, by maintaining the status quo, the smallest of small businesses will be able to continue to provide jobs to the marginally employable, an important public policy goal during a time of near-full employment.

I recognize that there is a tension between the desire to raise wages and the creation of a tiered wage system, albeit for workers in the smallest firms. On balance, however, I believe that a tiered system would serve two public policy objectives -- promoting small businesses and preserving jobs. As an alternative, consideration should be given to imposing any increase on these firms over a four year period, instead of two.

I hope you will consider the option of a tiered wage system, for I believe that, rather than penalizing workers in small firms, maintaining the present minimum wage would enable these small employers to sustain present employment levels without imposing the need to make difficult choices to preserve profitability.

Sincerely,



Philip Lader
Administrator

Enclosure

² The November 1994 Employment and Earnings Report from the Department of Labor showed total employment in our economy of 124.724 million workers. These 2.553 million workers account for about 2 percent of that total number.

³ Small firms with less than 10 employees comprise approximately 78.7 percent of all employers.

**NEWS RELEASE**

United States Senate Committee on Small Business

Christopher S. "Kit" Bond, Chairman

FOR IMMEDIATE RELEASE
JULY 2, 1996

CONTACT: KENNETH BRICKER
(202) 224-8584

BOND RESPONDS TO CLINTON VETO THREAT OF MINIMUM WAGE BILL; SAYS PRESIDENT FAVORS ELECTION YEAR POLITICS OVER SMALL BUSINESS

(Washington, D.C.) – Responding to President Clinton's June 28 threat to veto minimum wage legislation that contains a small business exemption, Senator Kit Bond (R-MO), Chairman of the Senate Committee on Small Business, sent a letter today to Majority Leader Trent Lott restating the importance of an exemption for the nation's smallest businesses and criticizing the President for placing politics over policy.

"This is politics over substance...it's as simple as that," Bond said of the President's veto threat. "When the President's hand-picked political appointees at the Small Business Administration go on record supporting an exemption for small business and the President turns a deaf ear, one has to wonder if election year politics has anything to do with it," he said.

Senator Bond noted that even though Senate Democrats now appear to be joining the President in calling the small business exemption a "poison pill," some Senate Democrats supported a small business exemption in the past. "Exempting small businesses from federal minimum wage rates is not a new concept," Bond said. "Previous Congresses have supported, on a bipartisan basis, the common sense small business exemption. The difference this year may be that we have a presidential election coming up," he added.

The Bond amendment to the minimum wage legislation exempts small businesses grossing under \$500,000 annually from the increase in the minimum wage. Small businesses under this exemption threshold will continue to pay \$4.25. The Bond amendment does not add a complete exemption from the federal minimum wage and has no impact on the Fair Labor Standards Act's overtime provisions.

Explaining the need for a small business exemption, Bond said, "America's small businesses have created the vast majority of new jobs during the past decade. If we want this level of growth to continue, we must protect small businesses from federal mandates. Small business entrepreneurs with whom I have talked about the minimum wage have stated unequivocally that it will kill jobs. Obviously, that is something we should avoid." Bond said that his efforts will help minimize the negative impact on the smallest businesses if Congress and the President agree to increase the wage.

A copy of the Bond letter to Senator Lott is attached.

CHRISTOPHER S. BOND, MISSOURI, Chairman
 LARRY PRESSLER, SOUTH DAKOTA
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 JOHN MC CALLIN, HONORARY STAFF DIRECTOR

United States Senate

COMMITTEE ON SMALL BUSINESS

WASHINGTON, DC 20510-6350

July 2, 1996

The Honorable Trent Lott
 Majority Leader
 United States Senate
 Washington, D.C. 20510

Dear Trent:

It was with great dismay that I read President Clinton's letter to you in which he calls my amendment exempting small businesses from the minimum wage increase a "poison pill" that will cause him to veto legislation containing such a provision. Once again, the President has shown that his administration is no friend of our country's small businesses.

As Chairman of the Senate Committee on Small Business, I have traveled across the country to listen to the concerns of small businesses. What I hear time and time again is that the government must stop imposing federal mandates on small businesses. The fact is that an increase in the minimum wage will hurt America's smallest businesses and will eliminate opportunities for the workers they might otherwise have employed.

President Clinton says that my amendment would mean that workers employed at firms grossing less than \$500,000 per year "would not be eligible for an increase in the minimum wage" and that the "provision would lock in, for an indefinite period of time," the current minimum wage. It seems that President Clinton is so out of touch with a market economy that he speaks of the minimum wage as a cap rather than a floor. Everyone in our economy is "eligible" for a wage increase and no one is "locked in" to earning any specific wage. The purpose of the small business exemption is to make sure that new workers will continue to have entry-level jobs available at small businesses so these workers can get into the workforce, prove themselves, and receive raises in the future.

President Clinton's letter also shows that he does not understand or appreciate the realities of small business. Ignoring widely cited statistics showing that very few minimum wage workers are adult heads of households, the President rhetorically refers to the difficulty of raising a family on \$4.25 an hour, and dismisses the legitimate concerns of small businesses by saying the size of the employer "doesn't matter." Small businesses and their advocates couldn't disagree more. The National Federation of Independent Businesses reports that 82% of its members oppose a minimum wage increase. In addition, the independent office of the Chief Counsel for Advocacy at SBA supports an exemption from a minimum wage increase for small businesses grossing under \$500,000.

The Honorable Trent Lott
Majority Leader
July 2, 1996
Page Two

The President's recent opposition to my amendment stands in sharp contrast to the position taken by Philip Lader, Administrator of the SBA, in a letter he wrote to Secretary of Labor Robert Reich in May, 1995. In the letter, Lader explained how important an exemption from any minimum wage increase would be to America's smallest businesses. Mr. Lader said:

An exemption for the smallest of small businesses makes sense. Exempting small businesses from a mandatory wage increase for minimum wage workers means that firms at the margin will not be forced to cut jobs or not grow. In addition, an exemption allowing the minimum wage to stay at its present level for these firms would be a way of crediting the smallest employers for the costs they incur: 1) by employing young workers in their first jobs; 2) by providing general skills training to workers; 3) by hiring a large fraction of part time, seasonal, and contingent workers, and; 4) by bearing the cost of turnover associated with minimum wage jobs. Furthermore, by maintaining the status quo, the smallest of small businesses will be able to continue to provide jobs to the marginally employable, an important public policy goal during a time of near-full employment.

Mr. Lader went on to say that "I believe that a tiered system would serve two public policy objectives -- promoting small businesses and preserving jobs."

The political nature of this debate for President Clinton is demonstrated by the misleading figures he uses in his letter. President Clinton implies that a small business exemption would wholly undermine the minimum wage increase when he states that, under my amendment the increased minimum wage would not apply to two-thirds of all employers. The President is using meaningless and misleading statistics to try to confuse the issue. According to the Bureau of Labor Statistics (BLS), only about 3% of all workers are paid at the minimum wage, and only 8% of our workforce is employed by businesses grossing under \$500,000. In addition, SBA's Chief Counsel for Advocacy, Jere Glover, says that only 10% of all small businesses, grossing above or below \$500,000 per year, pay their workers at the federal minimum wage. So it is clear that my amendment would impact a very small number of American workers. At the same time, it might mean the difference between success or failure for many small businesses and the jobs they provide.

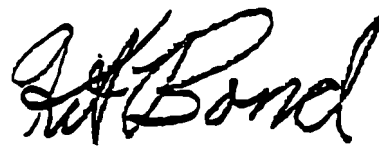
The President is charting a new and surprisingly partisan course with his threat to veto a concept that, in previous Congresses, had been supported on a bi-partisan basis. When Senator Bumpers proposed a similar but even broader exemption in 1991, he had the support of 22 Democratic Senators. Twelve of these Democratic Senators are still in the Senate. If these Senators maintain their earlier position on this issue, then we should be able to pass this amendment that is so important to small businesses.

The Honorable Trent Lott
Majority Leader
July 2, 1996
Page Three

Small businesses have created the vast majority of new jobs during the past decade. If we want this level of growth to continue, we have to protect America's smallest businesses from federal mandates. A small business exemption from the minimum wage increase will help assure continued job growth in our nation's most dynamic economic sector and will protect the ability of workers to enter the workforce.

Nothing in the President's letter does anything to weaken my resolve to press ahead with my amendment to exempt our smallest businesses from any minimum wage increase that might be approved by Congress. We must take seriously the expressions of serious concern by the small business community on this issue. I look forward to helping you in any way with your efforts to gain passage of this small business amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Bond", written in a cursive, flowing style.

Christopher S. Bond
Chairman

SOME POINTS ABOUT SMALL BUSINESS AND THE MINIMUM WAGE

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- President Clinton and his Administration have responded positively in support of many of the top recommendations that came out of the White House Conference -- the issues that are of real importance to the nation's small business owners.
- Over 15,000 people representing small businesses across the country participated in the 1995 White House Conference on Small Business, and each received briefing materials from the SBA's Office of Advocacy raising the minimum wage as a possible topic for discussion.
- In addition, in the NFIB Foundation's survey of its members which asked them to rank 75 issues according to their importance to small business, the minimum wage ranked 62nd in importance out of the 75. Only 7 percent of the businesses responding said that minimum wage was a "critical" issue for their business. Further, few, if any, small business trade groups put the minimum wage on their recommended legislative agendas.
- Phil Lader, Administrator of the SBA, sent a letter to the Secretary of Labor, Robert Reich, in March of 1995 which brought the Office of Advocacy's research and policy paper to the attention of the Secretary as an option the Department of Labor should consider. However, the Administrator did not recommend the policy option at that time, nor has he supported Senator Bond's exemption. In fact, he is on the record as supporting President Clinton's position.
- In the March 1995 letter, Administrator Lader also points out that one of the main reasons to suggest "tiering" was to help small businesses bear the costs of "general skills" training for workers. Since that time, President Clinton has proposed legislation to provide a more direct route for assistance to small businesses. The President would provide a 10% credit for businesses which pay for education costs to their employees. The credit provides a much more direct form of reimbursement for a desirable public policy goal: investment in human capital.

By statute, the SBA's Office of Advocacy serves as an advocate for small business. In that capacity, Jere Glover, the Office of Advocacy's Chief Counsel, has said he would continue to support "tiering" to help small businesses with regard to the minimum wage. These views, as with many other opinions expressed by the Chief Counsel for Advocacy, may vary from those of the Administrator or the SBA. This diversity of viewpoints and opinions is normal and can have a constructive effect on the development of government policy toward small business.



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

MAR 2 1995

Honorable Robert Reich
Secretary of Labor
Washington, DC 20210

Dear Mr. Secretary:

As you know, 99 percent of our nation's businesses are small businesses (defined as businesses with fewer than 500 employees). The debate about raising the minimum wage, therefore, is necessarily a debate about its impact on small businesses.

I wish to bring to your attention the results of research conducted for the U.S. Small Business Administration's Office of Advocacy on the impact of an increase in the minimum wage on small firms. This research yielded some interesting information concerning minimum wage earnings and the number of small businesses affected. The most remarkable finding is that there are approximately 4.1 million workers in firms with more than 500 employees earning less than the proposed minimum wage. This is in contrast to approximately 2.553 million workers in firms with fewer than 10 employees at the same earnings level. In light of the research findings, I would like to raise the possibility of an exemption for the smallest of our nation's employers, namely those with fewer than 10 employees.

As already noted, there are approximately 2.553 million workers in firms with fewer than 10 employees earning less than the proposed minimum wage.¹ These 2.553 million workers account for only 3.4 percent of the 73.15 million workers in private employment (excluding agricultural and private household sectors and the self

¹ Analysis of data from the April 1993 Current Population Survey (as exhibited in the enclosed table) shows that of the approximately 73.15 million employed private sector wage-and-salary workers aged 16 and older, there are about 1.591 million employees working for employers with less than 10 employees at less than \$4.26 per hour. An additional 962,000 employees work for employers with less than 10 employees at rates between \$4.26 and \$5.15, the level of the proposed increase. Together, these two categories show that there are about 2.553 million employees -- or about 3.4 percent of the 73.15 million total number of workers in private employment (excluding the self-employed and workers in the agricultural and private household sectors) -- earning less than the proposed minimum wage.



employed).² Exempting firms that employ less than 10 employees from the proposed increase would exempt almost 80 percent of all firms with employees in the United States,³ but only 3.4 percent of all employees.

An exemption for the smallest of small businesses makes sense. Exempting small businesses from a mandatory wage increase for minimum wage workers means that firms at the margin will not be forced to cut jobs or not grow. In addition, an exemption allowing the minimum wage to stay at its present level for these firms would be a way of crediting the smallest employers for the costs they incur: 1) by employing young workers in their first jobs, 2) by providing general skills training to workers, 3) by hiring a large fraction of part time, seasonal and contingent workers, and 4) by bearing the cost of turnover associated with minimum wage jobs. Furthermore, by maintaining the status quo, the smallest of small businesses will be able to continue to provide jobs to the marginally employable, an important public policy goal during a time of near-full employment.

I recognize that there is a tension between the desire to raise wages and the creation of a tiered wage system, albeit for workers in the smallest firms. On balance, however, I believe that a tiered system would serve two public policy objectives -- promoting small businesses and preserving jobs. As an alternative, consideration should be given to imposing any increase on these firms over a four year period, instead of two.

I hope you will consider the option of a tiered wage system, for I believe that, rather than penalizing workers in small firms, maintaining the present minimum wage would enable these small employers to sustain present employment levels without imposing the need to make difficult choices to preserve profitability.

Sincerely,



Philip Lader
Administrator

Enclosure

² The November 1994 Employment and Earnings Report from the Department of Labor showed total employment in our economy of 124.724 million workers. These 2.553 million workers account for about 2 percent of that total number.

³ Small firms with less than 10 employees comprise approximately 78.7 percent of all employers.



United States Senate Committee on Small Business

Christopher S. "Kit" Bond, Chairman

FOR IMMEDIATE RELEASE
JULY 2, 1996

CONTACT: KENNETH BRICKER
(202) 224-8584

BOND RESPONDS TO CLINTON VETO THREAT OF MINIMUM WAGE BILL; SAYS PRESIDENT FAVORS ELECTION YEAR POLITICS OVER SMALL BUSINESS

(Washington, D.C.) -- Responding to President Clinton's June 28 threat to veto minimum wage legislation that contains a small business exemption, Senator Kit Bond (R-MO), Chairman of the Senate Committee on Small Business, sent a letter today to Majority Leader Trent Lott restating the importance of an exemption for the nation's smallest businesses and criticizing the President for placing politics over policy.

"This is politics over substance...it's as simple as that," Bond said of the President's veto threat. "When the President's hand-picked political appointees at the Small Business Administration go on record supporting an exemption for small business and the President turns a deaf ear, one has to wonder if election year politics has anything to do with it," he said.

Senator Bond noted that even though Senate Democrats now appear to be joining the President in calling the small business exemption a "poison pill," some Senate Democrats supported a small business exemption in the past. "Exempting small businesses from federal minimum wage rates is not a new concept," Bond said. "Previous Congresses have supported, on a bipartisan basis, the common sense small business exemption. The difference this year may be that we have a presidential election coming up," he added.

The Bond amendment to the minimum wage legislation exempts small businesses grossing under \$500,000 annually from the increase in the minimum wage. Small businesses under this exemption threshold will continue to pay \$4.25. The Bond amendment does not add a complete exemption from the federal minimum wage and has no impact on the Fair Labor Standards Act's overtime provisions.

Explaining the need for a small business exemption, Bond said, "America's small businesses have created the vast majority of new jobs during the past decade. If we want this level of growth to continue, we must protect small businesses from federal mandates. Small business entrepreneurs with whom I have talked about the minimum wage have stated unequivocally that it will kill jobs. Obviously, that is something we should avoid." Bond said that his efforts will help minimize the negative impact on the smallest businesses if Congress and the President agree to increase the wage.

A copy of the Bond letter to Senator Lott is attached.

CHRISTOPHER A. BOND, MISSOURI, Chairman
 LARRY PRITZLER, SOUTH DAKOTA
 CONRAD B. CLUNE, MONTANA
 PAUL COVERDELL, GEORGIA
 DICK KEMPTHORNE, OREGON
 ROBERT F. BENNETT, UTAH
 KAY BAILEY HUTCHESON, TEXAS
 JOHN WARRER, VIRGINIA
 WILLIAM H. FRYE, TENNESSEE
 OLIVIER J. SNOWE, MAINE
 DALE BUNNERS, ARIZONA
 SAM NUNY, GEORGIA
 CARL LEVIN, MICHIGAN
 TOM HARKIN, IOWA
 JOHN F. ASHBY, MASSACHUSETTS
 JOSEPH I. LEBRON, CONNECTICUT
 PAUL D. WELLSTONE, MINNESOTA
 HOWELL MEYER, ALABAMA
 FRANK R. LAUTENBERG, NEW JERSEY
 LOUIS TAYLOR, STAFF DIRECTOR AND CHIEF COUNSEL
 JOHN W. BALLUL, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON SMALL BUSINESS

WASHINGTON, DC 20510-6350

July 2, 1996

The Honorable Trent Lott
 Majority Leader
 United States Senate
 Washington, D.C. 20510

Dear Trent:

It was with great dismay that I read President Clinton's letter to you in which he calls my amendment exempting small businesses from the minimum wage increase a "poison pill" that will cause him to veto legislation containing such a provision. Once again, the President has shown that his administration is no friend of our country's small businesses.

As Chairman of the Senate Committee on Small Business, I have traveled across the country to listen to the concerns of small businesses. What I hear time and time again is that the government must stop imposing federal mandates on small businesses. The fact is that an increase in the minimum wage will hurt America's smallest businesses and will eliminate opportunities for the workers they might otherwise have employed.

President Clinton says that my amendment would mean that workers employed at firms grossing less than \$500,000 per year "would not be eligible for an increase in the minimum wage" and that the "provision would lock in, for an indefinite period of time," the current minimum wage. It seems that President Clinton is so out of touch with a market economy that he speaks of the minimum wage as a cap rather than a floor. Everyone in our economy is "eligible" for a wage increase and no one is "locked in" to earning any specific wage. The purpose of the small business exemption is to make sure that new workers will continue to have entry-level jobs available at small businesses so these workers can get into the workforce, prove themselves, and receive raises in the future.

President Clinton's letter also shows that he does not understand or appreciate the realities of small business. Ignoring widely cited statistics showing that very few minimum wage workers are adult heads of households, the President rhetorically refers to the difficulty of raising a family on \$4.25 an hour, and dismisses the legitimate concerns of small businesses by saying the size of the employer "doesn't matter." Small businesses and their advocates couldn't disagree more. The National Federation of Independent Businesses reports that 82% of its members oppose a minimum wage increase. In addition, the independent office of the Chief Counsel for Advocacy at SBA supports an exemption from a minimum wage increase for small businesses grossing under \$500,000.

The Honorable Trent Lott
Majority Leader
July 2, 1996
Page Two

The President's recent opposition to my amendment stands in sharp contrast to the position taken by Philip Lader, Administrator of the SBA, in a letter he wrote to Secretary of Labor Robert Reich in May, 1995. In the letter, Lader explained how important an exemption from any minimum wage increase would be to America's smallest businesses. Mr. Lader said:

An exemption for the smallest of small businesses makes sense. Exempting small businesses from a mandatory wage increase for minimum wage workers means that firms at the margin will not be forced to cut jobs or not grow. In addition, an exemption allowing the minimum wage to stay at its present level for these firms would be a way of crediting the smallest employers for the costs they incur: 1) by employing young workers in their first jobs; 2) by providing general skills training to workers; 3) by hiring a large fraction of part time, seasonal, and contingent workers, and; 4) by bearing the cost of turnover associated with minimum wage jobs. Furthermore, by maintaining the status quo, the smallest of small businesses will be able to continue to provide jobs to the marginally employable, an important public policy goal during a time of near-full employment.

Mr. Lader went on to say that "I believe that a tiered system would serve two public policy objectives -- promoting small businesses and preserving jobs."

The political nature of this debate for President Clinton is demonstrated by the misleading figures he uses in his letter. President Clinton implies that a small business exemption would wholly undermine the minimum wage increase when he states that, under my amendment the increased minimum wage would not apply to two-thirds of all employers. The President is using meaningless and misleading statistics to try to confuse the issue. According to the Bureau of Labor Statistics (BLS), only about 3% of all workers are paid at the minimum wage, and only 8% of our workforce is employed by businesses grossing under \$500,000. In addition, SBA's Chief Counsel for Advocacy, Jere Glover, says that only 10% of all small businesses, grossing above or below \$500,000 per year, pay their workers at the federal minimum wage. So it is clear that my amendment would impact a very small number of American workers. At the same time, it might mean the difference between success or failure for many small businesses and the jobs they provide.

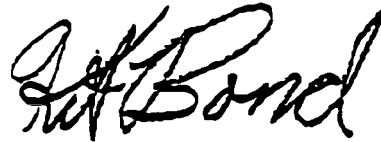
The President is charting a new and surprisingly partisan course with his threat to veto a concept that, in previous Congresses, had been supported on a bi-partisan basis. When Senator Bumpers proposed a similar but even broader exemption in 1991, he had the support of 22 Democratic Senators. Twelve of these Democratic Senators are still in the Senate. If these Senators maintain their earlier position on this issue, then we should be able to pass this amendment that is so important to small businesses.

The Honorable Trent Lott
Majority Leader
July 2, 1996
Page Three

Small businesses have created the vast majority of new jobs during the past decade. If we want this level of growth to continue, we have to protect America's smallest businesses from federal mandates. A small business exemption from the minimum wage increase will help assure continued job growth in our nation's most dynamic economic sector and will protect the ability of workers to enter the workforce.

Nothing in the President's letter does anything to weaken my resolve to press ahead with my amendment to exempt our smallest businesses from any minimum wage increase that might be approved by Congress. We must take seriously the expressions of serious concern by the small business community on this issue. I look forward to helping you in any way with your efforts to gain passage of this small business amendment.

Sincerely,



Christopher S. Bond
Chairman



CENTER ON BUDGET AND POLICY PRIORITIES

Revised July 5, 1996
(Replaces July 3, 1996 version)

THE BOND AMENDMENT TO THE MINIMUM WAGE BILL

by Kathryn Larin

On July 8, 1996, the Senate will begin consideration of the House-passed minimum wage bill, H.R. 3448. The Senate will consider only two amendments to the bill, a Republican amendment offered by Senator Bond and a Democratic amendment offered by Senator Kennedy.

Under the Bond amendment, about half of all workers who now make between \$4.25 and \$5.15 — and would otherwise benefit from raising the minimum wage to \$5.15 — would be denied a minimum wage increase.

- The Bond amendment calls for a subminimum wage for all employees in their first six months of work for their employer, regardless of their age or whether they have been employed at other establishments in the past. This provision alone would deny a minimum wage increase to more than four million of the nearly 10 million workers now making between \$4.25 and \$5.15 an hour.
- The Bond amendment would exempt all businesses with less than \$500,000 in annual revenues from the minimum wage increase. Two thirds of all businesses — 3.2 million — fall into this category. Some 1.5 million employees of these firms would be subject to a permanent subminimum wage of \$4.25 an hour, nearly the lowest minimum wage level (after adjusting for inflation) in 40 years.¹
- There is some overlap between the employees covered by the 180-day subminimum wage and those affected by the small business exemption, but together these two groups account for about half of all low-wage workers who earn between \$4.25 and \$5.15 an hour and would otherwise benefit from an increase in the minimum wage.

In addition to the groups mentioned above, the Bond amendment would also deny a minimum wage increase to as many as two million tipped employees, such as waiters and waitresses. Their employers would continue to have to pay them only \$2.13 an hour.

¹ Estimates by U.S. Department of Labor, based on Current Population Survey, Bureau of Labor Statistics.

Finally, although the minimum wage has not been raised in more than five years, the Bond amendment would delay the effective date of the minimum wage increase an additional six months beyond the effective date in the House bill. A full-time minimum wage worker who was still covered by the legislation would earn nearly \$1,000 less over the next 18 months because of the delay.

Effects of the Subminimum on "New Hires"

The Bond amendment would provide for a subminimum wage equal to \$4.25 for the first six months of a new hire's employment. This provision alone would consign more than four million workers to a subminimum wage. Unlike the subminimum "training wage" included in the 1989 minimum wage bill, this provision would require no training and would apply to workers of all ages, not just those under age 20. The minimum wage bill the House recently passed also established a subminimum wage, but the House bill limited it to the first 90 days of work for an employer and applied it only to workers under the age of 20.

A "new hire" would be anyone that a firm hires who has not previously worked at the firm. By the time the full increase in the minimum wage takes effect, the subminimum wage these new hires could be paid would be more than 20 percent lower than the official minimum wage.

- Census Bureau data show that in February 1995, some 54 percent of all workers earning the minimum wage had been working for their employer for less than six months.
- 42 percent of low-wage workers — those earning between \$4.25 and \$5.15 — would not be eligible for an increase under the 180 day new-hire subminimum proposed by the Bond amendment.²
- Since about two-thirds of minimum wage workers are 20 years of age or older, large numbers of those subject to the subminimum wage would be adults.
- In addition, since nearly two-thirds of minimum wage workers aged 25 or over have four years of high school or some college education, many low-paid workers who had not dropped out of school would be subject to the subminimum wage.

² Unpublished data from the Current Population Survey, February 1995 Contingent Work supplement, Bureau of Labor Statistics.

These data suggest that a substantial number of workers who have learned their job and whose income is vital to the needs of their family could be paid the subminimum wage. The proposed subminimum wage would be a particularly serious problem for farm workers, who by the very nature of their employment often remain with the same farm employer for less than six months. These workers could be paid the subminimum by each new employer.

The Bond amendment's "new hire" wage also would create an incentive for employers to "churn" their workers. Firms could pay a new worker the subminimum for six months, then replace that worker with another new worker who would be eligible for the subminimum. At the least, individuals who are approaching their seventh month of employment or have been employed for more than six months would be put in a precarious position, knowing their employer could bring in a replacement at a wage at least 20 percent lower than their own. The Bond amendment includes "anti-displacement" provisions to prevent churning, but they would be extremely difficult to enforce.

Small Business Exemption

The Bond amendment would exempt *two-thirds of all businesses* from compliance with the new minimum wage law. No previous minimum wage law has included such a broad exemption for small businesses. Before 1989, only small retail and service businesses were exempt from the minimum wage law.

- Of the 10.5 million employees of businesses with annual sales of less than \$500,000, an estimated 1.5 million currently earn less than the proposed minimum wage of \$5.15. None of those workers would be eligible for a wage increase.
- This provision denies minimum wage protections to many low-wage workers in industries that have previously been covered by the law. These include low-wage and often-exploited workers in small garment industry sweatshops, farm workers working for small farming operations, and some janitorial workers.³

³ Since 1938, minimum wage laws have covered workers engaged in interstate commerce, the production of goods for interstate commerce, or any activity closely related and directly essential to producing goods for interstate commerce, regardless of the size of the employer. The one exception was from 1961 to 1989 when small retail and service establishments were exempt from this coverage. The Bond amendment would go beyond any previous minimum wage bill and exempt all employees previously covered by the interstate commerce provision if they work for a small business. It exempts many employees who have always been covered by previous minimum wage laws.

Many small businesses do not see the minimum wage as a major burden. A survey by the National Federation of Independent Businesses showed the minimum wage ranked 62nd in importance out of 75 issues. Among the smallest businesses — those with fewer than 10 employees — only six percent rated the minimum wage a critical problem. The Small Business Administration also has cited studies that show that only seven percent of small businesses consider the minimum wage a critical problem. In addition, recent experience with federal and state minimum wage reforms suggests that a moderate increase in the minimum wage would not be likely to have adverse employment effects of a significant nature.⁴

Exemption for “Tipped” Employees

Since 1966, employers have been required to pay their tipped employees a minimum of 50 percent of the statutory minimum wage, as long as employee tips brought their total hourly earnings up to the minimum wage. Under current law, employers are thus required to pay employees \$2.13 an hour if their tips bring their hourly earnings up to \$4.25.

The Bond amendment would freeze the employer contribution to tipped employees’ wages at \$2.13 per hour, allowing it to fall below 50 percent of the official minimum wage. A tipped employee now earning the minimum wage of \$4.25 an hour including tips would have to make up the full increase in the minimum wage — 90 cents per hour — through increased tips to maintain total wages equivalent to the new \$5.15 minimum wage.

Tipped employees have already seen their required minimum cash wages sharply eroded by inflation over recent years. As a percentage of the minimum wage, the minimum cash wage that employers must pay also has fallen. In 1981, employers were required to pay tipped employees 60 percent of the minimum wage. By 1991, employers were required to pay only 50 percent of the minimum wage. Under the Bond amendment, the employer-paid wage would drop to near 40 percent of the minimum wage.

- Since 1981, tipped employees have seen their legally required cash wage increase only 11.5 cents per hour — from \$2.01 to \$2.13 — while the full minimum wage increased 90 cents an hour — from \$3.35 to \$4.25. During this period, the Consumer Price Index rose 75 percent while the legally required wage these workers must receive rose just 6 percent.

⁴ See Isaac Shapiro, “Four Years and Still Falling: The Decline in the Value of the Minimum Wage,” The Center on Budget and Policy Priorities, January 1995.

<u>Date</u>	<u>Minimum Wage</u>	<u>Cash Wage Required</u>
1/1/81	\$3.35	\$2.01
1/1/90	\$3.80	\$2.09
1/1/91	\$4.25	\$2.12½

In inflation-adjusted terms, the minimum wage these workers must be paid by their employers has fallen 66 percent since 1981.

- The Labor Department estimates that as many as two million waiters and waitresses and their assistants who typically work for tips would be denied a wage increase under this aspect of the Bond amendment.

The proposal would deny minimum wage increases to some of the lowest-paid workers in the economy — delivery personnel, waitpersons and servers. While the law would still require that the cash wages paid by the employer plus employee tips must bring the employee's hourly wage up to the prevailing minimum wage, there are no effective mechanisms in place to enforce this requirement. If tips do not increase with the increase in the minimum wage, many tipped employees will be working for a subminimum wage.

The Value of the Minimum Wage under the Bond Amendment

The Bond amendment would delay until January 1, 1997 the proposed increase in the minimum wage to \$4.75 an hour. It would delay until January 1, 1998 the increase to \$5.15. Under the House-passed version of the bill, the first step of the increase would take effect in July 1996, and the second step would occur in July 1997. Low-wage workers who have not gotten a raise in five years would, under the amendment, wait another six months for a salary increase.

- The minimum wage has stood at \$4.25 an hour since April 1991. During this time, consumer prices have increased more than 15 percent. The value of the minimum wage will likely erode somewhat further by next January.
- The real value of the minimum wage perilously close to a 40-year low. Adjusted for inflation, the minimum wage will be worth less than at any point since 1955 by early 1997.
- A full-time minimum wage worker would earn over \$500 less over the last six months of 1996 because of the delay proposed under the Bond amendment. Such a worker would lose nearly \$500 more during the last six months of 1997.

Who Benefits from an Increase in the Minimum Wage?

There are many popular misconceptions about minimum wage workers. Minimum wage workers are often mistakenly thought of as primarily teenagers. In fact:

- About 70 percent of minimum wage workers are workers are 20 years old or over. Nearly half are 25 or older.
- 35 percent of workers who would benefit from a minimum wage increase to \$5.15 are the sole breadwinner in their family.
- More than three of every five minimum wage workers — 59 percent — are women.

Most minimum wage workers are not poor. But those making this point often fail to note a second point of some importance — among workers who are poor, the majority earn wages at or near the minimum wage. In 1992, nearly two-thirds of workers living in families with incomes below the poverty line had earnings below \$5.00 an hour.

One final point may be noted — more than two million children live in poor or near-poor families where a worker would get a raise if the minimum wage is increased to \$5.15 per hour.

Bond Amendment Denies Minimum Wage Increase for Millions of Workers

The Bond amendment would exempt *as many as half* of low-wage workers from protection under minimum wage laws, denying a minimum wage increase to millions of workers. It would create a two-tiered system whereby large classes of low-wage workers would be subjected, perhaps permanently, to a subminimum wage of \$4.25 an hour, a pay level that provides less in purchasing power than the minimum wage has provided at nearly any other time in the last 40 years.



CENTER ON BUDGET AND POLICY PRIORITIES

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In addition to the groups mentioned above, the Bond amendment would also deny a minimum wage increase to as many as two million tipped employees, such as waiters and waitresses. Their employers would continue to have to pay them only \$2.13 an hour.

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These data suggest that a substantial number of workers who have learned their job and whose income is vital to the needs of their family could be paid the subminimum wage. The proposed subminimum wage would be a particularly serious problem for farm workers, who by the very nature of their employment often remain with the same farm employer for less than six months. These workers could be paid the subminimum by each new employer.

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Exemption for “Tipped” Employees

Since 1966, employers have been required to pay their tipped employees a minimum of 50 percent of the statutory minimum wage, as long as employee tips brought their total hourly earnings up to the minimum wage. Under current law, employers are thus required to pay employees \$2.13 an hour if their tips bring their hourly earnings up to \$4.25.

The Bond amendment would freeze the employer contribution to tipped employees’ wages at \$2.13 per hour, allowing it to fall below 50 percent of the official minimum wage. A tipped employee now earning the minimum wage of \$4.25 an hour including tips would have to make up the full increase in the minimum wage — 90 cents per hour — through increased tips to maintain total wages equivalent to the new \$5.15 minimum wage.

Tipped employees have already seen their required minimum cash wages sharply eroded by inflation over recent years. As a percentage of the minimum wage, the minimum cash wage that employers must pay also has fallen. In 1981, employers were required to pay tipped employees 60 percent of the minimum wage. By 1991, employers were required to pay only 50 percent of the minimum wage. Under the Bond amendment, the employer-paid wage would drop to near 40 percent of the minimum wage.

- Since 1981, tipped employees have seen their legally required cash wage increase only 11.5 cents per hour — from \$2.01 to \$2.13 — while the full minimum wage increased 90 cents an hour — from \$3.35 to \$4.25. During this period, the Consumer Price Index rose 75 percent while the legally required wage these workers must receive rose just 6 percent.

⁴ See Isaac Shapiro, “Four Years and Still Falling: The Decline in the Value of the Minimum Wage,” The Center on Budget and Policy Priorities, January 1995.

<u>Date</u>	<u>Minimum Wage</u>	<u>Cash Wage Required</u>
1/1/81	\$3.35	\$2.01
1/1/90	\$3.80	\$2.09
1/1/91	\$4.25	\$2.12½

In inflation-adjusted terms, the minimum wage these workers must be paid by their employers has fallen 66 percent since 1981.

- The Labor Department estimates that as many as two million waiters and waitresses and their assistants who typically work for tips would be denied a wage increase under this aspect of the Bond amendment.

The proposal would deny minimum wage increases to some of the lowest-paid workers in the economy — delivery personnel, waitpersons and servers. While the law would still require that the cash wages paid by the employer plus employee tips must bring the employee's hourly wage up to the prevailing minimum wage, there are no effective mechanisms in place to enforce this requirement. If tips do not increase with the increase in the minimum wage, many tipped employees will be working for a subminimum wage.

The Value of the Minimum Wage under the Bond Amendment

The Bond amendment would delay until January 1, 1997 the proposed increase in the minimum wage to \$4.75 an hour. It would delay until January 1, 1998 the increase to \$5.15. Under the House-passed version of the bill, the first step of the increase would take effect in July 1996, and the second step would occur in July 1997. Low-wage workers who have not gotten a raise in five years would, under the amendment, wait another six months for a salary increase.

- The minimum wage has stood at \$4.25 an hour since April 1991. During this time, consumer prices have increased more than 15 percent. The value of the minimum wage will likely erode somewhat further by next January.
- The real value of the minimum wage perilously close to a 40-year low. Adjusted for inflation, the minimum wage will be worth less than at any point since 1955 by early 1997.
- A full-time minimum wage worker would earn over \$500 less over the last six months of 1996 because of the delay proposed under the Bond amendment. Such a worker would lose nearly \$500 more during the last six months of 1997.

Who Benefits from an Increase in the Minimum Wage?

There are many popular misconceptions about minimum wage workers. Minimum wage workers are often mistakenly thought of as primarily teenagers. In fact:

- About 70 percent of minimum wage workers are workers are 20 years old or over. Nearly half are 25 or older.
- 35 percent of workers who would benefit from a minimum wage increase to \$5.15 are the sole breadwinner in their family.
- More than three of every five minimum wage workers — 59 percent — are women.

Most minimum wage workers are not poor. But those making this point often fail to note a second point of some importance — among workers who are poor, the majority earn wages at or near the minimum wage. In 1992, nearly two-thirds of workers living in families with incomes below the poverty line had earnings below \$5.00 an hour.

One final point may be noted — more than two million children live in poor or near-poor families where a worker would get a raise if the minimum wage is increased to \$5.15 per hour.

Bond Amendment Denies Minimum Wage Increase for Millions of Workers

The Bond amendment would exempt *as many as half* of low-wage workers from protection under minimum wage laws, denying a minimum wage increase to millions of workers. It would create a two-tiered system whereby large classes of low-wage workers would be subjected, perhaps permanently, to a subminimum wage of \$4.25 an hour, a pay level that provides less in purchasing power than the minimum wage has provided at nearly any other time in the last 40 years.



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

MAR 2 1995

Honorable Robert Reich
Secretary of Labor
Washington, DC 20210

Dear Mr. Secretary:

As you know, 99 percent of our nation's businesses are small businesses (defined as businesses with fewer than 500 employees). The debate about raising the minimum wage, therefore, is necessarily a debate about its impact on small businesses.

I wish to bring to your attention the results of research conducted for the U.S. Small Business Administration's Office of Advocacy on the impact of an increase in the minimum wage on small firms. This research yielded some interesting information concerning minimum wage earnings and the number of small businesses affected. The most remarkable finding is that there are approximately 4.1 million workers in firms with more than 500 employees earning less than the proposed minimum wage. This is in contrast to approximately 2.553 million workers in firms with fewer than 10 employees at the same earnings level. In light of the research findings, I would like to raise the possibility of an exemption for the smallest of our nation's employers, namely those with fewer than 10 employees.

As already noted, there are approximately 2.553 million workers in firms with fewer than 10 employees earning less than the proposed minimum wage.¹ These 2.553 million workers account for only 3.4 percent of the 73.15 million workers in private employment (excluding agricultural and private household sectors and the self

¹ Analysis of data from the April 1993 Current Population Survey (as exhibited in the enclosed table) shows that of the approximately 73.15 million employed private sector wage-and-salary workers aged 16 and older, there are about 1.591 million employees working for employers with less than 10 employees at less than \$4.26 per hour. An additional 962,000 employees work for employers with less than 10 employees at rates between \$4.26 and \$5.15, the level of the proposed increase. Together, these two categories show that there are about 2.553 million employees -- or about 3.4 percent of the 73.15 million total number of workers in private employment (excluding the self-employed and workers in the agricultural and private household sectors) -- earning less than the proposed minimum wage.



employed).² Exempting firms that employ less than 10 employees from the proposed increase would exempt almost 80 percent of all firms with employees in the United States,³ but only 3.4 percent of all employees.

An exemption for the smallest of small businesses makes sense. Exempting small businesses from a mandatory wage increase for minimum wage workers means that firms at the margin will not be forced to cut jobs or not grow. In addition, an exemption allowing the minimum wage to stay at its present level for these firms would be a way of crediting the smallest employers for the costs they incur: 1) by employing young workers in their first jobs, 2) by providing general skills training to workers, 3) by hiring a large fraction of part time, seasonal and contingent workers, and 4) by bearing the cost of turnover associated with minimum wage jobs. Furthermore, by maintaining the status quo, the smallest of small businesses will be able to continue to provide jobs to the marginally employable, an important public policy goal during a time of near-full employment.

I recognize that there is a tension between the desire to raise wages and the creation of a tiered wage system, albeit for workers in the smallest firms. On balance, however, I believe that a tiered system would serve two public policy objectives -- promoting small businesses and preserving jobs. As an alternative, consideration should be given to imposing any increase on these firms over a four year period, instead of two.

I hope you will consider the option of a tiered wage system, for I believe that, rather than penalizing workers in small firms, maintaining the present minimum wage would enable these small employers to sustain present employment levels without imposing the need to make difficult choices to preserve profitability.

Sincerely,



Philip Lader
Administrator

Enclosure

² The November 1994 Employment and Earnings Report from the Department of Labor showed total employment in our economy of 124.724 million workers. These 2.553 million workers account for about 2 percent of that total number.

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**NEWS RELEASE**

United States Senate Committee on Small Business

Christopher S. "Kit" Bond, Chairman

FOR IMMEDIATE RELEASE
JULY 2, 1996

CONTACT: KENNETH BRICKER
(202) 224-8584

BOND RESPONDS TO CLINTON VETO THREAT OF MINIMUM WAGE BILL; SAYS PRESIDENT FAVORS ELECTION YEAR POLITICS OVER SMALL BUSINESS

(Washington, D.C.) — Responding to President Clinton's June 28 threat to veto minimum wage legislation that contains a small business exemption, Senator Kit Bond (R-MO), Chairman of the Senate Committee on Small Business, sent a letter today to Majority Leader Trent Lott restating the importance of an exemption for the nation's smallest businesses and criticizing the President for placing politics over policy.

"This is politics over substance...it's as simple as that," Bond said of the President's veto threat. "When the President's hand-picked political appointees at the Small Business Administration go on record supporting an exemption for small business and the President turns a deaf ear, one has to wonder if election year politics has anything to do with it," he said.

Senator Bond noted that even though Senate Democrats now appear to be joining the President in calling the small business exemption a "poison pill," some Senate Democrats supported a small business exemption in the past. "Exempting small businesses from federal minimum wage rates is not a new concept," Bond said. "Previous Congresses have supported, on a bipartisan basis, the common sense small business exemption. The difference this year may be that we have a presidential election coming up," he added.

The Bond amendment to the minimum wage legislation exempts small businesses grossing under \$500,000 annually from the increase in the minimum wage. Small businesses under this exemption threshold will continue to pay \$4.25. The Bond amendment does not add a complete exemption from the federal minimum wage and has no impact on the Fair Labor Standards Act's overtime provisions.

Explaining the need for a small business exemption, Bond said, "America's small businesses have created the vast majority of new jobs during the past decade. If we want this level of growth to continue, we must protect small businesses from federal mandates. Small business entrepreneurs with whom I have talked about the minimum wage have stated unequivocally that it will kill jobs. Obviously, that is something we should avoid." Bond said that his efforts will help minimize the negative impact on the smallest businesses if Congress and the President agree to increase the wage.

A copy of the Bond letter to Senator Lott is attached.

CHRISTOPHER S. BOND, MISSOURI, CHAIRMAN
 LARRY PRESSLER, SOUTH DAKOTA
 CONRAD R. CURN, MONTANA
 PAUL COVERDELL, GEORGIA
 DIRK REMPHORNE, OREGON
 ROBERT F. BENNETT, UTAH
 KAY BAILEY HUTCHISON, TEXAS
 JOHN WARNER, VIRGINIA
 WILLIAM H. ROYCE, TENNESSEE
 OLYMPIA J. SNOWE, MAINE
 DALE BUNNERS, ARKANSAS
 SAM RYAN, GEORGIA
 CARL LEVIN, MICHIGAN
 TOM HARKIN, IOWA
 JOHN F. KERRY, MASSACHUSETTS
 JOSEPH I. LIBERMAN, CONNECTICUT
 PAUL D. WELSTON, MINNESOTA
 HOWELL MCFLIN, ALABAMA
 FRANK R. LAUTENBERG, NEW JERSEY

LOUIS TAYLOR, STAFF DIRECTOR AND CHIEF COUNSEL
 JOHN W. BALL III, MEMORIAL STAFF DIRECTOR

United States Senate

COMMITTEE ON SMALL BUSINESS

WASHINGTON, DC 20510-6350

July 2, 1996

The Honorable Trent Lott
 Majority Leader
 United States Senate
 Washington, D.C. 20510

Dear Trent:

It was with great dismay that I read President Clinton's letter to you in which he calls my amendment exempting small businesses from the minimum wage increase a "poison pill" that will cause him to veto legislation containing such a provision. Once again, the President has shown that his administration is no friend of our country's small businesses.

As Chairman of the Senate Committee on Small Business, I have traveled across the country to listen to the concerns of small businesses. What I hear time and time again is that the government must stop imposing federal mandates on small businesses. The fact is that an increase in the minimum wage will hurt America's smallest businesses and will eliminate opportunities for the workers they might otherwise have employed.

President Clinton says that my amendment would mean that workers employed at firms grossing less than \$500,000 per year "would not be eligible for an increase in the minimum wage" and that the "provision would lock in, for an indefinite period of time," the current minimum wage. It seems that President Clinton is so out of touch with a market economy that he speaks of the minimum wage as a cap rather than a floor. Everyone in our economy is "eligible" for a wage increase and no one is "locked in" to earning any specific wage. The purpose of the small business exemption is to make sure that new workers will continue to have entry-level jobs available at small businesses so these workers can get into the workforce, prove themselves, and receive raises in the future.

President Clinton's letter also shows that he does not understand or appreciate the realities of small business. Ignoring widely cited statistics showing that very few minimum wage workers are adult heads of households, the President rhetorically refers to the difficulty of raising a family on \$4.25 an hour, and dismisses the legitimate concerns of small businesses by saying the size of the employer "doesn't matter." Small businesses and their advocates couldn't disagree more. The National Federation of Independent Businesses reports that 82% of its members oppose a minimum wage increase. In addition, the independent office of the Chief Counsel for Advocacy at SBA supports an exemption from a minimum wage increase for small businesses grossing under \$500,000.

The Honorable Trent Lott
Majority Leader
July 2, 1996
Page Two

The President's recent opposition to my amendment stands in sharp contrast to the position taken by Philip Lader, Administrator of the SBA, in a letter he wrote to Secretary of Labor Robert Reich in May, 1995. In the letter, Lader explained how important an exemption from any minimum wage increase would be to America's smallest businesses. Mr. Lader said:

An exemption for the smallest of small businesses makes sense. Exempting small businesses from a mandatory wage increase for minimum wage workers means that firms at the margin will not be forced to cut jobs or not grow. In addition, an exemption allowing the minimum wage to stay at its present level for these firms would be a way of crediting the smallest employers for the costs they incur: 1) by employing young workers in their first jobs; 2) by providing general skills training to workers; 3) by hiring a large fraction of part time, seasonal, and contingent workers, and; 4) by bearing the cost of turnover associated with minimum wage jobs. Furthermore, by maintaining the status quo, the smallest of small businesses will be able to continue to provide jobs to the marginally employable, an important public policy goal during a time of near-full employment.

Mr. Lader went on to say that "I believe that a tiered system would serve two public policy objectives -- promoting small businesses and preserving jobs."

The political nature of this debate for President Clinton is demonstrated by the misleading figures he uses in his letter. President Clinton implies that a small business exemption would wholly undermine the minimum wage increase when he states that, under my amendment the increased minimum wage would not apply to two-thirds of all employers. The President is using meaningless and misleading statistics to try to confuse the issue. According to the Bureau of Labor Statistics (BLS), only about 3% of all workers are paid at the minimum wage, and only 8% of our workforce is employed by businesses grossing under \$500,000. In addition, SBA's Chief Counsel for Advocacy, Jere Glover, says that only 10% of all small businesses, grossing above or below \$500,000 per year, pay their workers at the federal minimum wage. So it is clear that my amendment would impact a very small number of American workers. At the same time, it might mean the difference between success or failure for many small businesses and the jobs they provide.

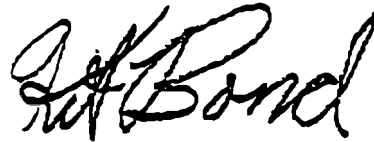
The President is charting a new and surprisingly partisan course with his threat to veto a concept that, in previous Congresses, had been supported on a bi-partisan basis. When Senator Bumpers proposed a similar but even broader exemption in 1991, he had the support of 22 Democratic Senators. Twelve of these Democratic Senators are still in the Senate. If these Senators maintain their earlier position on this issue, then we should be able to pass this amendment that is so important to small businesses.

The Honorable Trent Lott
Majority Leader
July 2, 1996
Page Three

Small businesses have created the vast majority of new jobs during the past decade. If we want this level of growth to continue, we have to protect America's smallest businesses from federal mandates. A small business exemption from the minimum wage increase will help assure continued job growth in our nation's most dynamic economic sector and will protect the ability of workers to enter the workforce.

Nothing in the President's letter does anything to weaken my resolve to press ahead with my amendment to exempt our smallest businesses from any minimum wage increase that might be approved by Congress. We must take seriously the expressions of serious concern by the small business community on this issue. I look forward to helping you in any way with your efforts to gain passage of this small business amendment.

Sincerely,



Christopher S. Bond
Chairman

Leader talking points
Sen. Bond Proposal on Minimum Wage

- Senator Bond's suggestion that we exempt smaller businesses [those businesses grossing under \$500,000 annually] from the proposed minimum wage increase would create real hardship for many of America's minimum wage workers.
- The Clinton administration opposes this proposal. It would deprive hundreds of thousands of American workers of a minimum wage increase.
- It's important to note that there currently is an exemption for small businesses in place [for businesses grossing under \$500,000 and not engaged in interstate commerce] -- but Senator Bond's proposal looks to expand it so that far too many workers would fail to earn a living wage.
- Ultimately, this is an issue of fairness. The minimum wage is now at a 40-year low in buying power. That means that working families living on minimum wage salaries are falling farther and farther behind.
- Senator Bond's proposal would not, as he suggests, "maintain the status quo." In reality, it would only ensure that minimum wage workers in smaller businesses would continue to fall behind, and be unable to provide basic necessities for their families.

Bumpers issue: [If Bond or interviewer ~~says~~ suggests that Senator Bumpers would support this Bond proposal based on his legislation of five years ago, you can state unequivocally (this is from John Hilley) that Senator Bumpers agrees with the administration's position on this]

Security, retro, and timing

(This may or may not be termed the Bond proposal)



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For Release

Nickel-and-Diming America's Working Families

Robert B. Reich
U.S. Secretary of Labor

The National Press Club
Washington, DC
July 2, 1996

The day after tomorrow, families across this land will engage in our annual celebration of the American Dream. Next week, the United States Senate will decide whether that dream is to be available to all hard-working families.

Struggling working families are the unspoken heroes of America. Mothers and fathers, working long hours at tough jobs, sometimes doing two shifts. Doing work that's hard on muscles and joints. Doing what needs to be done: Janitors, maids, child-care workers, cashiers, busboys, fork-lift operators, gas-station attendants. The people who vacuum the boardrooms, file the papers, answer the phones, serve the food, cut and sew the clothing, empty the bedpans, pick the crops, sweep the halls.

These are the invisible workers of America.

Over ten million of them earn less than \$5.15 an hour.

And they are the voiceless workers of America. They are not what the Beltway types like to call a "special interest." There is no National Association of Working Poor on K Street to lobby their cause in the halls of Congress.

These are the people who sit at kitchen tables late at night figuring out which bills they must pay, which can let slide a few more weeks. Hoping they or their kids stay healthy because they can't afford to see a doctor. Worrying that their golden years will go sour because they have no pension.

They're not on welfare, although some come dangerously close. They don't need a capital gains tax cut, because they have no capital. They don't need a "medical savings account" because they can't afford to save. They simply work hard -- very, very hard -- and play by the rules.

Today, in the most powerful nation on the planet, in the most successful economy in the world, almost one out of ten working families lives in poverty.

National productivity is up. Corporate profits are up. Unemployment and inflation are down. So far under our watch 9.7 million new jobs have been created -- most of them paying well.

This economy is doing better than it has in three decades.

But millions of struggling families are in danger of being left behind.

And that's why the fight now being waged in Washington is so important.

-- We're proud of having expanded the earned income tax credit for 15 million hard-working, low-wage families. But the other side wants to contract it.

-- We want to protect the extra overtime pay on which so many hourly workers depend, and at the same time give working families the flexibility to take overtime as extra leave. But they want to give employers -- not employees -- the right to decide whether and when extra leave should substitute for extra pay.

-- We want to crack down on sweatshop employers who cheat their workers out of hard-earned wages. But they continue to cut the number of workplace inspectors.

-- We want to expand opportunities for working people and their children to get the education and skills they need -- including at least two years of free tuition at an average community college. The other side seeks to cut funds for education and job training.

-- We want to give poor working women safe, affordable child care. But they disagree. They won't provide the child care that poor women need in order to move from welfare to work.

-- We want to preserve and protect the right of hardworking people to seek a better life by forming unions and bargaining for better wages and benefits. The other side wants to gut this right by allowing companies to set up sham unions.

Perhaps no issue better dramatizes the plight of struggling working families -- and the struggle here in Washington to help them -- than the President's effort to pass a modest 90 cent increase in the minimum wage. We want to raise the minimum wage because \$4.25 an hour-- \$8,500 a year -- is not a fair wage. The other side disagrees.

Who are these invisible workers, who would benefit if the minimum wage were raised? More than two-thirds are adults. Almost 60 percent are women. More than a third are the sole breadwinners in their households.

Talk about family values. We recently found that some 2.3 million children live in poor or near-poor families where a worker would get a raise if the minimum wage were increased 90 cents an hour.

The minimum wage is nearing a 40 year low in terms of real purchasing power. The last increase, five years ago, has been all but wiped out by inflation. 97 percent of it already gone. But the other side continues to fight, delay, obstruct, do whatever possible to deny hardworking families this modest 90-cent adjustment for inflation.

Let me tell you what they're up to now. Raising the minimum wage is so popular with the American public, who recognize it as an issue of basic fairness, that the other side wants to set things up next week so that they can seem to be voting in favor of it.

Don't be fooled. It's a cruel shell game. They plan to amend it with a series of exceptions whose net effect will be to deny this 90-cent-an-hour raise to millions of workers.

Here's shell game Number One: They propose to exclude anyone who's in a job less than six months. Because low-wage workers change jobs so often, the practical effect of this would be to deny a raise to 42 percent of workers who would otherwise get one. That's four million working people.¹ And you don't need to be a rocket scientist to know that this provision will create a powerful incentive for employers to push people out of jobs before the 6 months is up. The President will veto any bill with this cynical amendment.

Shell game Number Two: They want to exclude anyone employed by a company with less than half a million dollars in yearly earnings. This is much broader than the small business exclusion in current law. Workers in fully two-thirds of all businesses would be denied a raise. Another guaranteed veto.

Shell game Number Three: They want another six month delay -- until January 1997. Remember it's been nearly a year-and-a-half since the President first offered his minimum wage proposal. In fact, the second installment of that raise -- to \$5.15 an hour -- would be taking effect this week if the other side hadn't blocked it. Another six months will cost a minimum wage worker \$878. When you're making only \$8,500 a year, \$878 makes a big difference. Another reason to veto.

They are pushing other mean-spirited exclusions. Consider this one, directly from the pockers of the restaurant industry: They want to deny any increase to tipped employees like waiters and waitresses. That's two million people right there who wouldn't get a raise.

¹ Tabulations from the Current Population Survey. See Appendix A.

So this is their response to the invisible workers of America: Here's 90 cents -- unless you're among the excluded millions, who will be locked into a minimum wage at a 40-year low.

Enough of this pettiness. Stop nickel-and-diming America's struggling working families. The economy is strong. People at the top are doing better than ever. You've delayed and obstructed long enough. Vote a clean 90 cent increase in the minimum wage, and do it as soon as you return next week.

Let us resolve this Fourth of July weekend that the American dream will be available to every American who puts in a hard day's work. And when the Senate returns next week, let them honor the people who do the work that keeps America going.

###

Appendix A**Percentage of Hourly Paid Workers by Hourly Wage Rate and Tenure with Current Employer.
(16 years and over, Total reporting specific tenure; February 1995)**

	Total	\$4.25	\$4.25 to \$5.14
1 year or less, Total	35.5%	76.6%	66.8%
6 months or less	20.4%	54.4%	42.3%
0 to 1 month	5.5%	15.3%	12.1%
0 to 3 months	11.2%	32.5%	24.2%
More than 1 year, Total	64.5%	23.4%	33.2%

Source: Unpublished tabulations from the Current Population Survey.

Note: The percentages in this table are based on data from the February 1995 Contingent Work supplement to the Current Population Survey (CPS), which included data on employer tenure. Due to differences in sample, imputation, and weighting, the estimates of the number of hourly workers and of those at or around any specific wage level based on this supplement differ somewhat from the figures derived from the basic monthly CPS earnings sample.

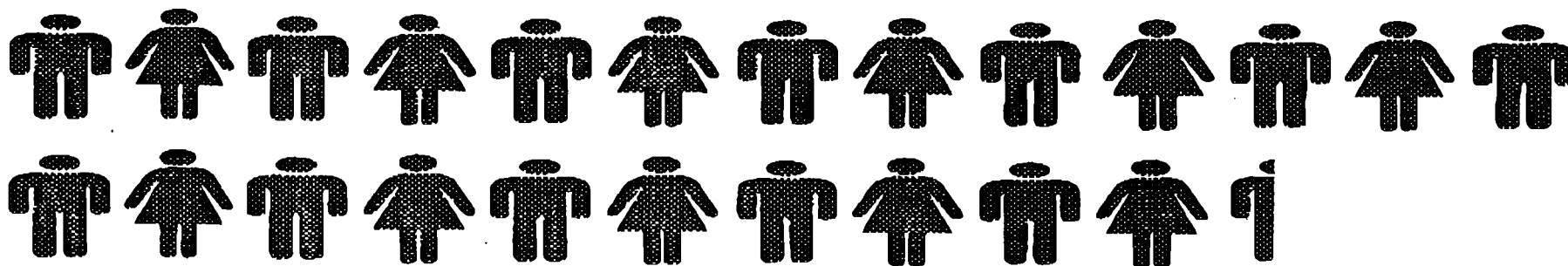
Also, estimates of the number of hourly paid workers and those at particular wage levels are known to vary during the course of the year due to seasonal fluctuations in the labor force. Seasonality likely affects job tenure patterns as well; however, tenure data are only collected in occasional supplements to the CPS.

Minimum Wage Increase: Who Benefits?

U.S. Department of Labor

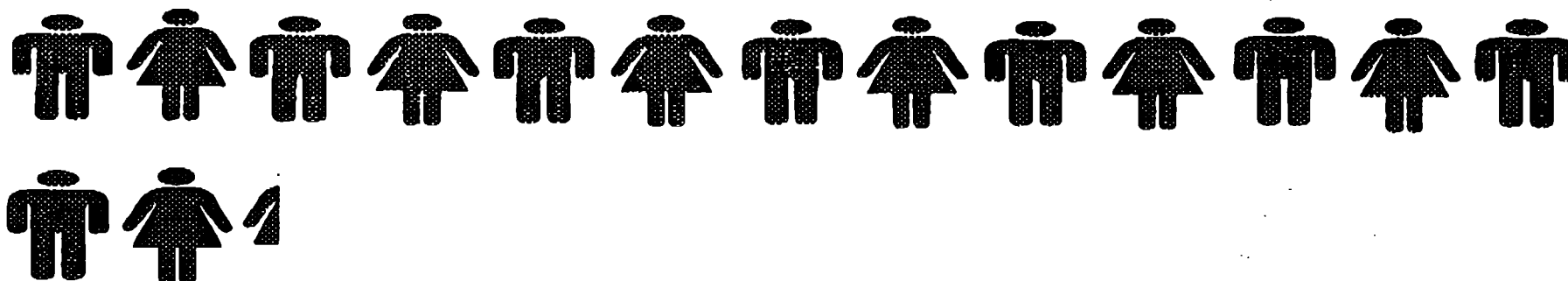
July 2, 1996

Kids benefit



2.34 million kids in poor or near-poor families . . .

Including:



. . . 1.52 million kids in poor or near-poor families with only a single bread-winner

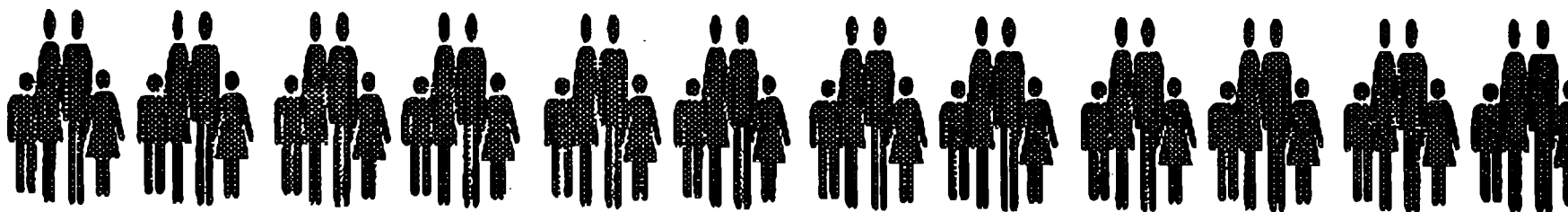
Each icon = 100,000
Source: Economic Policy Institute,
based on 1995 Current Population Survey

Minimum Wage Increase: Who Benefits?

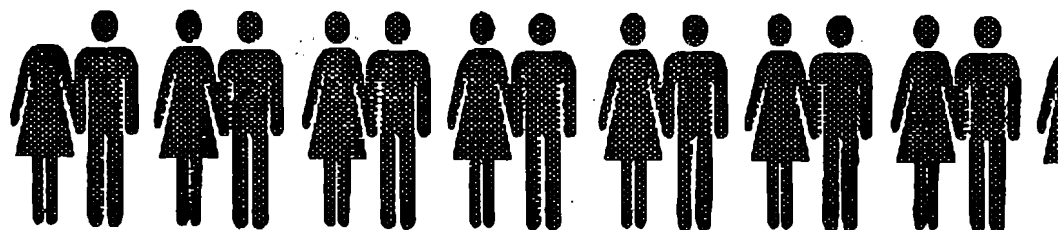
U.S. Department of Labor

July 2, 1996

Families benefit

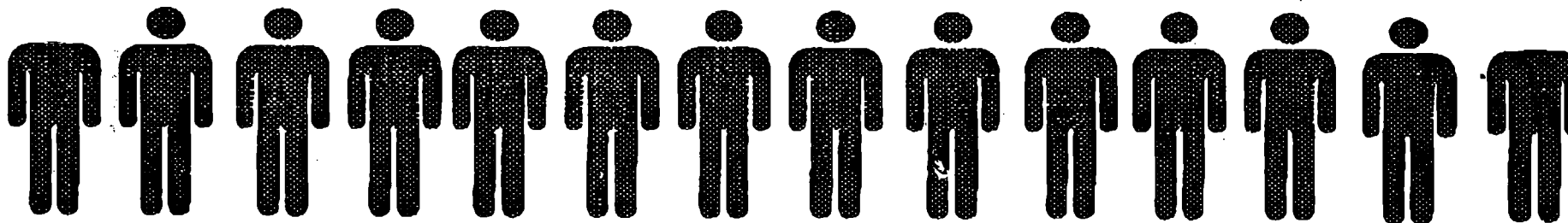


1.19 million families with children



720,000 families with no children

Each icon = 100,000
Source: Economic Policy Institute,
based on 1995 Current Population Survey



1.39 million single adults

LOTT
DASULLER
KENNEDY
KASSERHUM

THE WHITE HOUSE

WASHINGTON

Lyon

June 28, 1996

Dear Mr. Leader:

If we want to make work pay, we must make the minimum wage a living wage. Nearly a year and a half ago, I proposed raising the minimum wage by 90 cents in two equal steps. This increase would honor our values: work, family, responsibility, and opportunity. And it would ensure -- along with the expanded Earned Income Tax Credit -- that no parent who works full-time would have to raise their children in poverty.

A bipartisan group in the House has done their part and voted in favor of raising the minimum wage. For the 10 million workers and their families struggling at or near the minimum wage, the time for the Senate to do its part is long overdue.

We now have a bipartisan majority of Senators in favor of raising the minimum wage. Regrettably, the Senate Republican leadership is planning to offer an amendment that would potentially deny any minimum wage increase to millions of American workers and delay any increase for the remainder until next year. I strongly oppose any measure that would deny a minimum wage increase to those workers who need and deserve it.

Under the Senate majority leadership proposal, employees of fully two-thirds of all firms in the United States -- all businesses with revenues of less than \$500,000 annually -- would not be eligible for an increase in the minimum wage. For millions of American workers, this provision would lock in, for an indefinite period of time, a minimum wage that will be at a 40-year low in real terms. How does that reward working families and honor our values? It doesn't matter the size of your employer, you can't raise a family on \$4.25 an hour. If you send me legislation with this poison pill, I will veto it.

The Honorable Thomas A. Daschle
Page Two

The Senate majority leadership bill could also deny a minimum wage increase to every worker for the first six months of their employment with any employer. This is another piece of an apparent strategy to play a game of bait and switch with a minimum wage increase. This provision is more extreme than the House-passed version, which the Administration strongly opposed, and a radical and unacceptable expansion of the "youth training wage" included in the 1989 minimum wage bill. It doubles -- from 90 to 180 days -- the time period during which an employer could deny any new employees the minimum wage increase, and it fails to limit this extended subminimum wage to workers under 20 years of age. It creates a permanent subminimum wage of \$4.25 an hour for every worker without any requirement that the employers train these lower paid workers. In industries where high turnover is common -- like retail -- this provision would create an incentive for employers to drop workers after six months, so that they would never graduate from the subminimum wage. If this provision is included in the bill, I will veto the bill.

The minimum wage is already very close to its lowest real value in 40 years. Inflation has largely repealed the minimum wage increase enacted by an overwhelming bipartisan majority in both houses of Congress in 1989 and signed by President Bush. The first part of our 90-cent increase will not even restore the minimum wage to its value following the last increase. Every day we delay a minimum wage increase, its real value moves closer and closer to a 40-year low. I am determined not to let that happen and will strongly oppose any legislation that delays any increase in the minimum wage until next year. If this provision is included in the bill, I will veto the bill.

I strongly oppose the provision in the Senate majority leadership bill that would deny the minimum wage to "tipped employees" (e.g., waiters and delivery people). It may not seem like much, but to these workers my minimum wage proposal would mean an extra 45 cents an hour. For someone struggling to make ends meet, that's a difference we could never imagine.

The Honorable Thomas A. Daschle
Page Three

In addition, I would strongly oppose the provision that would deprive overtime pay to workers who use an employer-owned vehicle to drive from job site to job site during the course of the workday, and I would oppose the provision to diminish the protection of "computer professionals" to receive overtime pay when they work excessive hours.

The American people want the minimum wage increased. A bipartisan majority in Congress wants the minimum wage increased. If we truly value work and family, we should raise the value of the minimum wage now. The Senate majority leadership should drop the poison pills in their amendment and immediately allow an honest up-or-down vote on the minimum wage.

Sincerely,

A handwritten signature in cursive script, reading "Bill Clinton".

The Honorable Thomas A. Daschle
Democratic Leader
United States Senate
Washington, D.C. 20510

NEW REVISED SPE DRAFT -- 6/26/96 10:50 am

Dear :

The minimum wage must be a living wage if we are to make work pay. In February 1995, I proposed a 90-cent increase in the minimum wage to take effect in two steps in July 1995 and July 1996. A bipartisan majority of the Congress and an overwhelming majority of Americans support this minimum wage increase. Congress should have long ago adopted this common sense proposal.

Instead, at a time when ^{Senate} approximately 10 million workers and their families should be looking forward to receiving the final portion of their raise, the majority leadership plans to offer an amendment which would deny potentially millions of low-wage workers any raise and to further delay a minimum wage increase for the rest. I strongly oppose any measure that would deny a minimum wage increase to those workers who need and deserve it.

Under the majority leadership proposal, employees of fully two-thirds of all firms in the United States -- all businesses with annual revenues of less than \$500,000 annually -- would not be eligible for an increase in the minimum wage. Potentially millions of workers would be locked in to the current \$4.25 per hour minimum wage. This provision will adversely affect working adults as well as working youth, including those who already hold jobs at today's \$4.25 minimum wage. You cannot raise a family on \$4.25 an hour, regardless of the size of the business for which you work. It is simply not fair to leave these workers behind. They deserve a living wage too.

The majority leadership bill would also deny a minimum wage increase to every worker for the first six months of their employment with any employer. This is another piece of an apparent strategy to provide a minimum wage increase with one hand and take it away with the other. This provision is more extreme than the House-passed version which the Administration strongly opposed and a radical and unacceptable expansion of the "youth training wage" included in the 1989 minimum wage bill. It doubles -- from 90 to 180 days -- the time period in which an employer could deny any new employees the minimum wage increase, and fails to limit this extended subminimum wage to workers under 20 years old. It creates a permanent subminimum wage of \$4.25 for every worker without any requirement that employers train

2

these lower paid workers. In industries where high turnover is common --- like retail --- some workers may never graduate from the subminimum wage. This proposal will discourage some employers from taking any steps to retain their workers and reduce turnover.

To make matters worse, the majority leadership bill would delay any increase in the minimum wage for yet another six months compared to the House-passed bill, and a year-and-a-half later than my proposal. The minimum wage is already perilously close to its lowest real value in 40 years. Inflation has largely repealed the minimum wage increase enacted by an overwhelming bipartisan majority in both houses of Congress in 1989 and signed by President Bush. There can be no justification for further delay. Minimum wage workers and their families need a raise and they need it now.

The majority leadership bill would also deny a minimum wage increase to "tipped employees" -- for example, waiters and delivery people. Current law requires that employers pay tipped employees at least 50 percent of the minimum wage with their tips making up the difference. This bill would lock in a wage of \$2.13 per hour for tipped employees. In sum, this provision would force tipped employees -- a large percentage of whom are among our society's lowest paid workers -- to pay for the minimum wage increase out of their customers' tips. In the last 15 years, tipped employees have seen their legally-required minimum wage increase only 11.5 cents per hour. This is simply not fair, and this bill would perpetuate the unfairness indefinitely.

Beyond its efforts to undermine the minimum wage increase, the majority leadership bill would effectively deprive workers of pay for (1) virtually all home-to-work travel in employer-provided vehicles, without necessary employee protections, and (2) any activities performed by an employee which are "incidental to" the use of an employer's vehicle for commuting, without any necessary limitations. The bill would deny all claims for wages, including overtime, already submitted by workers for travel time of this type. The effect of the bill could well be to cut workers' earnings for time they spend working. I oppose this provision of the bill.

Finally, I also oppose the provision in this bill that would diminish the protection of "computer professionals" under the

3

law. If this bill is enacted, in the future as wages rise, fewer and fewer computer professionals will have to be paid overtime when they work excessive hours.

The American people want the minimum wage increased. A bipartisan majority in Congress wants the minimum wage increased. Millions of hard-working low-wage workers in this great country need and deserve a raise. The majority leadership should put aside its family income reduction package and immediately allow an honest up-or-down vote on the minimum wage.

Sincerely,

THE WHITE HOUSE
WASHINGTON

12 June 1996

MEMORANDUM TO LEON PANETTA
JOHN HILLEY
LAURA D'ANDREA TYSON
GENE SPERLING
DOUG SOSNIK

From: Harold Ickes 
Re: Terry Shumaker

Attached for your information is a self explanatory 6 June letter to me from Terry Shumaker regarding his opposition to a proposed amendment to the minimum wage bill.

TERRY SHUMAKER
214 North Main Street
Post Office Box 1415
Concord, New Hampshire 03302-1415

Telephone
(603) 228-1181 (Ofc)
(603) 224-4682 (Home)

Facsimile
(603) 226-3334

DETERMINED TO BE AN
ADMINISTRATIVE MARKING

INITIALS: JM DATE: 11/9/17

2016-0531-F

FAX TRANSMITTAL SHEET

CONFIDENTIAL

Date: June 6, 1996

Phone#: (202) 456-2668

To: Harold Ickes and
Bruce Lindsey

Fax#: (202) 456-6703

Fax#: (202) 456-2983

Total Number of Pages (including cover sheet):

5

Time Sent: 5:20 am/pm

IF YOU DO NOT RECEIVE THIS FAX PROPERLY, PLEASE CONTACT US
AT (603) 228-1181. Return Fax number (603) 226-3334.

Remarks: PLEASE DELIVER TO BRUCE LINDSEY. THANK YOU.

Harold and Bruce:

As you know, like both of you in your prior incarnations, Nancy Richards-Stower and I practice labor and employment law here in New Hampshire. Nancy and I share professional and political concerns that a proposed amendment to the minimum wage bill which would tax virtually all damages in civil rights and employment discrimination cases will have a negative and chilling impact on employees and their rights to bring and settle claims nationwide.

Our memo containing more detail on this issue and some background attachments are faxed herewith. We would greatly appreciate anything either of you could do to help kill this tax provision in the Congress or have it vetoed somehow before it is affixed to the long overdue law to raise the minimum wage. Please do not hesitate to call either of us if you have any questions. Nancy's phone number is 603-881-3312.

Best regards.

Terry Shumaker

cc: Nancy Richards-Stower

[Signature]
Signature of Fax Operator

June 5, 1996

To: Bruce Lindsey, Esq.
White House
Washington, D.C.

Harold Ickes, Esq.
White House
Washington, D.C.

From: Terry Shumaker and Nancy Richards-Stower

Re: Taxation of civil rights damages (Proposed amendment to the Minimum Wage bill)

As you know, Terry represents management in labor litigation and Nancy represents plaintiffs. We join with civil rights advocates nationwide to deplore the inclusion into the minimum wage package the income tax amendment which will tax all civil rights damages retroactive to June 30, 1996.

Simply put, the amendment will tax all emotional distress damages (pain, suffering, humiliation) and is specifically targeted to civil rights cases (the amendment will also reiterate the more logical taxation of lost pay and punitive damages).

If you are hit by a car and suffer physical pain, your damages will not be taxed, but if you are run out of your company because of your race, religion, or because of sexual harassment and you suffer emotional pain, you will be taxed. Thus, mental conditions will be treated differently than physical conditions for tax purposes.

Besides making cases more difficult to resolve, and more expensive to settle (for both sides), the tax provision will cut down on the number of civil rights cases able to be brought (the goal). One New Hampshire Republican colleague has traced the provision to some young Republican senate staffer.

It has passed the house. Anything the White House can do to get this provision out of the bill will advance civil rights. If it stays in, the President will end up signing a bill that discriminates against civil rights victims - something we know he will be loathe to do. Compensatory damages for emotional suffering should not be discriminatorily taxed. (A suggested "offer of proof": When Senator Bob Smith's (R. N.H.) wife slipped in a Washington hotel and sued, her pain and suffering damages were not taxed and would not be taxed under the bill. Why should those of a race discrimination victim be taxed?)

We attach some articles discussing the originally proposed bill of last fall, and the resurrected bill of last week.



WASHINGTON REPORT

NEWS FROM THE NATION'S CAPITAL

By Corry E. Fleming

'Family Leave Act' Is Unlikely to Be Changed, Despite Complaints

Although we reported in our last issue that the "Family and Medical Leave Act" is creating administrative problems for employers and making them afraid to fire workers for absenteeism, it probably won't be changed by Congress.

This is because the "Commission on Family and Medical Leave," which is charged with reporting to Congress on the effect of the Act, issued a glowing report and didn't recommend any significant changes.

Many employers have complained about the Labor Department's regulations, which they say are difficult to administer and full of traps for the unwary. But the Commission didn't study the effect of the regulations as distinct from the general impact of the Act. *Lawyers Weekly USA* is told by Ann Bookman, the Commission's executive director.

The Commission concluded that the Act "has not been a burden to most employers" and has produced a "workable balance" between employees' needs for leave and companies' business concerns.

However, the report also states that:

- 39% of companies find "intermittent leave" very difficult or somewhat difficult to manage;
- 26% find the Act difficult to coordinate with other federal laws;
- 24% find the recordkeeping requirements difficult to comply with;
- 19% find it difficult to coordinate the Act with state leave laws; and
- 11% report a moderate to large increase in administrative costs.

The report also predicts that almost 40% of all workers will need to take leave for a reason specified in the Act within the next five years, with the average leave being 10 days.

Intermittent Leave

Although 39% of companies complained about "intermittent leave" — which allows workers to take uncheduled time off for as little as an hour — Bookman says it's not really a problem. "Only 11.5% of all leaves were taken as intermittent leave," she says. "We're really looking at a very small number of leave takers."

She also says many workers abusing the statute are not, and adds, "It may be that some of the 39% were people for whom this is a new wrinkle who needed to develop a system for administering it."

A few of the individual commentators wrote separately to say that intermittent leave was a problem.

Rep. Steve Gunderson, D-Wis., stated, "I am concerned that the Commission may have approached this part of its final report already having concluded that the Act is working well for everyone, and highlighted that information which supports its conclusion."

Commissioner Mary Tavenner chided the Commission for failing to take seriously employers' confusion over the Act's definition of a chronic illness, the requirement that the company (and not the worker) determine if a worker is taking qualified leave, and the complex notice requirements.

Our earlier article can be found at 96 LWUSA 413, 428. Search word for LWUSA On-Line: Tavenner.

You can obtain a copy of the Commission's report from the Women's Bureau, U.S. Department of Labor, 200 Constitution Avenue, N.W., Suite 5-3002, Washington, DC 20210. Tel.: 202-319-6411.

On Again, Off Again Tax on Damages May Be On Once Again

Federal income tax would be paid on (1) punitive damages and (2) "emotional distress" damages in cases that don't involve a physical injury under a bill that Congressional Republicans now say they plan to attach to an increase in the minimum wage.

This is the latest incarnation of the damages tax proposal which Congress has been considering in various forms since last fall.

The proposal was included in last year's budget bill that was vetoed by President Clinton. We recently reported that the Republicans might try to pass it again by attaching it to the minimum wage hike. (See 96 LWUSA 428; Search word for LWUSA On-Line:

IRS Moves to Settle Cases on 'Independent Contractors'

Disputes with the IRS over whether a worker is an "employee" or a "contractor" can be settled much more quickly now that the Service has released a set of standard settlement forms.

The IRS announced in March that it would begin making standard settlement offers in these cases, and it put all pending cases on hold while it developed the forms. (See 96 LWUSA 290; Search words for LWUSA On-Line: Radically, Colorado.)

Now that the forms have been released, it will start making offers.

The IRS also released detailed instructions to its field auditors on how to use the settlement program and when to make which offer.

You can obtain copies of both the forms and the instructions from *Lawyers Weekly USA* at our regular copying charge rate. The forms are *Lawyers Weekly USA* No. 9908188 (13 pages). The instructions are *Lawyers Weekly USA* No. 9908189 (24 pages). To order, call 800-933-3394.

In a separate development, the IRS has received comments on its

new "training guide" on independent contractor issues for its auditors. It says it will consider the comments and hopes to have a final draft ready for use this summer.

The original draft was discussed at 96 LWUSA 212. Search words for LWUSA On-Line: Uniforms, Claims.

The guide states that, "Either classification — employee or independent contractor — can be a valid and appropriate choice." Most lawyers contacted by this newspaper believe it will make it easier for companies to have the IRS accept their use of contractors.

However, a coalition of business organizations complained to the IRS that the guide is weighted toward determining that workers are employees.

The IRS uses a 20-factor test to determine whether a worker is an employee or a contractor, but the manual only covers 14 of the factors, the coalition notes. And it says the remaining factors can all be strong evidence that a worker is a contractor.

Domestic.)

The bill would also (1) make S corporations more attractive and (2) extend the deduction for employees' educational expenses. In addition, the Republicans may attach a separate bill that changes the rules for overtime pay.

The tax on damages is opposed by both plaintiffs' and defense lawyers, who say it will make cases harder to settle. (See 96 LWUSA 289; Search words for LWUSA On-Line: Dunk, Tic.)

But it is popular with many Republicans in Congress, who say it curbs an "abuse" in the Tax Code.

The tax would apply to all payments made after June 30, 1996.

The bill is expected to pass the House within the next few weeks. However, the Senate hasn't yet included any similar provisions in its minimum wage package.

President Clinton strongly supports the minimum wage increase, but says he'll veto the bill if it contains provisions that are "unacceptable." This might include a tax on damages or the overtime changes.

S Corporations

S corporations would be more attractive to small businesses under the bill, which provides that:

- The maximum number of shareholders would be increased from 35 to 75;
- It would be easier for trusts to hold stock in S corporations;
- S corporations could borrow from banks and other financial institutions;

- S corporations could have subsidiaries; and

- It would be clear that a company wouldn't owe taxes just because it converted from a C corporation to an S corporation.

The S corporation provisions would take effect on January 1, 1997. They are not considered controversial.

Education Deduction

Employees whose companies pay for them to take classes wouldn't have to pay income tax on the first \$3,250 of this expense, at least through the end of 1997, under the proposal.

This tax break expired at the end of 1994. The bill would reinstate it retroactively for all classes taken in 1995, and for classes below the graduate level taken in 1996 and 1997.

The IRS would have to develop an "expedited procedure" for refunding taxes that workers paid on their expenses in 1995.

Overtime

Companies could offer "comp time" instead of overtime pay to their workers under an amendment to the Fair Labor Standards Act that is currently included in a separate bill, H.R. 2791. The Republicans are likely to attach this bill to the minimum wage hike as well.

The amendment would allow employees to accrue up to 240 hours of "compensatory time off" per year before they would have to be paid overtime. Employees couldn't be forced to accept comp time if they'd rather have overtime, and they'd have to be paid for any unused hours at the end

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WASHINGTON REPORT

NEWS FROM THE NATION'S CAPITAL

By Corey E. Fleming

Punitive Damages, Emotional Distress May Be Taxed After June 30

Federal income tax will have to be paid on (1) punitive damages in all cases and (2) "emotional distress" damages in some cases under a bill that has passed the House and is likely to be signed into law.

The bill would take effect after June 30. Therefore, plaintiffs' lawyers with cases involving these types of damages may want to try to settle them before that date.

The bill is part of the minimum wage increase now before Congress. Sources say it's likely to pass the Senate in the next few weeks; President Clinton has said he'll sign it.

The bill is "a powerful incentive to try to get cases settled by June 30," says Chicago defense lawyer Condon McGlothlen.

But McGlothlen warns that beating the deadline could be difficult.

Not only do the cases have to be settled, but the money has to be paid by June 30," he says. Since it often takes a week or two for the money to change hands after a settlement is reached, "What you'll really see is a rush to settle before June 30 so the payments can be made by then."

The bill would apply to all cases involving punitive damages, including those where the IRS might allocate a part of the recovery to punitive. It would also apply to emotional distress awards in cases that don't involve a physical injury, which could include suits for job discrimination, wrongful discharge, defamation, insurance bad faith, civil rights, business-related torts and many other claims.

Even if a settlement is completed by June 30, the IRS could still decide to challenge it, at least with regard to punitive damages, warns David Jaeger, a tax professor at the University of North Florida.

"The IRS could argue that all Congress is really doing is clarifying what the law is now," he says.

But he adds that if you settle by June 30, you will "put yourself in a gray area. If you settle after that date, there isn't any hope."

The bill contains an exception for payments made as part of a settlement that was reached before September 13, 1995.

A similar bill was passed by Congress last fall, but it was attached to the budget package that was vetoed by President Clinton.

Settlements Harder

Both plaintiffs' and defense lawyers have opposed the bill, saying it would raise the cost of settlements and drag

trials out longer.

"It's going to make the price of settlement higher and reduce the likelihood that suits can be settled," complains Robert Fitzpatrick of Washington, D.C., who represents both plaintiffs and defendants in employment cases.

David Cashdan, a plaintiffs' lawyer in Washington, D.C., says, "When clients think about settling, they're always thinking about what is the residual amount left after the attorneys are paid and the government is paid." So if awards are taxed, "The price of settling cases would go up."

The result is that more cases would go to trial, lawyers say.

"This is not the answer to our problems," says Defense Research Institute president Patrick Maloney. "I don't consider this tort reform."

Some plaintiffs' lawyers say the bill would reduce the number of cases they can bring.

"There are some cases that are currently economically viable that won't be if taxes are taken out of them," says Louis Malby, who chairs the ACLU's workplace rights division.

Others say the bill could give defendants more leverage in negotiations, because they could trade a lower settlement amount for an agreement to categorize the award in the way the plaintiff wants for tax purposes.

'Trap' for Lawyers

The bill will be a "trap" for many lawyers who try to give their clients tax advice, experts say.

"There are going to be people who will not immediately pick up on the change, and they're going to make a mistake and open themselves to professional liability," says Fitzpatrick.

Washington, D.C. attorney Victor Schwartz says another problem is that there will be cases where it would be in the client's best interest to settle for "good economic losses" rather than pursue a punitive award that's taxable, but the lawyer could receive a higher fee if he wins the punitive award.

In this situation, it will be very important for plaintiffs' lawyers to "make the tax implications plus their fee implications clear to the client," he says.

Bad for Structured Settlements?

If the bill passes, it may become much harder to set up structured settlements in cases that involve punitive damages or emotional distress.

Since 1991, the IRS has taken the position that if a lawyer gets a struc-

HUD May Finally Act on Real Estate Settlements

HUD appears to be on the verge of revising a 1992 regulation that real estate lawyers have said could put them out of business.

HUD has completed the revision and is merely waiting for approval from the Office of Management and Budget before it's released, *Lawyers Weekly USA* is told by Sarah Rosen, the HUD official who is overseeing the rulemaking.

The agency won't provide any details until it's approved, Rosen says.

The present regulation allows real estate brokers to pay commissions to their salespeople for sending the work to the brokers' in-house settlement companies.

The revision that was proposed by HUD in 1994 would limit payment of commissions. But it has never been finalized, and some lawyers had begun to doubt whether the agency really intended to change the rule at all (See 95 LWUSA 949; Search words for LWUSA On-Line: Adapt, Future).

Rosen says she "can't commit" to a release date, but she notes that a lawsuit challenging the original regulation was put on hold until June 3 to give the agency time to act.

She says, "The court indicated at the last hearing that he was not inclined to give any further extensions, and strongly urged us to get the rule done before June 3. We are hopeful that we will be there, or at least be close."

The Proposed Change

The revision would ban commissions to salespeople who would al-

low managers to be paid a bonus based on the number of referrals that are made to the broker's settlement company.

This compromise failed to satisfy either side when it was released.

In an interview with *Lawyers Weekly USA* last October, Rosen said the agency was looking at changes in three areas, all of which seemed likely to make it harder for real estate lawyers to compete.

She said HUD was concerned about:

- ◆ Making sure that managers can get a "referral bonus" if they have only occasional contact with clients. (The original proposal said that managers couldn't get a bonus if they routinely dealt with the public.)

- ◆ Making sure that brokers are allowed to "cross-market," which the real estate industry argues is the best way to keep costs down.

- ◆ Considering the interests of banks and other financial institutions which have also moved into the settlement business.

Rosen said in October that HUD had circulated drafts of the proposed changes to "affected parties" to get everybody's input.

But Howard Birnfeld, chairman of the Coalition to Retain Independent Services in Settlements (CRISIS), a group of lawyers which brought the lawsuit challenging the regulation, said he hadn't seen the draft.

Birnfeld described the original regulation as "the death knell for small real estate practices."

tured settlement to cover attorney fees, he must pay taxes on the present value of the entire income stream in the year the case is settled.

Experts say that if damages are taxed, plaintiffs who receive a structured settlement will probably be subject to the same tax treatment, and will be liable for an overwhelming tax bill in the first year.

"There's no reason that an award that would be taxable under this new statute would be treated differently from attorney fees," says Jaeger.

This would mean that traditional structured settlements would be virtually useless in cases where the award is taxable.

A 'Clarification'?

A spokesman for the House Ways and Means Committee, where the bill originated, tells *Lawyers Weekly USA* that the bill is merely "a simplification and clarification" of existing law.

The committee has heard from many lawyers who are "supportive" of the change, because, "They like the certainty of it," the spokesman says.

Many lawyers agree that the current law is unclear, but some say the bill isn't perfectly clear either.

"The debate will be over what is a physical injury. Is a stomach disorder? A headache? A neck ache?" asks

Fitzpatrick. "There are a lot of what the personal injury people call 'soft tissue' injuries that there is no way to objectively verify. Are those physical injuries?"

In the committee report accompanying the bill, the Ways and Means committee says: "It would be intended that the term emotional distress would include physical symptoms (e.g., insomnia, headaches, stomach disorders) which may result from such emotional distress."

However, courts vary widely in how much weight they give to the legislative history of a bill, so lawyers are still likely to argue this point, Fitzpatrick says.

Jaeger adds, "Practitioners are going to start playing around with categorizations."

The bill is part of H.R. 3448, the Small Business Job Protection Act. You can read, print or download the full text in the "Treasure Chest of Important Documents" section of *Lawyers Weekly's* Internet site.

<http://www.LWeekly.com>

The bill would also (1) make S corporations more attractive to small businesses and (2) allow employees whose companies pay for them to take classes to exempt their tuition from income tax. These provisions



CURRENT DEVELOPMENTS

Taxation

HOUSE COMMITTEE APPROVES TAX PROPOSAL AFFECTING RECOVERIES FOR EMPLOYMENT BIAS

A proposal that would increase taxation of recoveries from employment discrimination suits was approved May 14 by the House Ways and Means Committee as a little-noticed part of a small business tax incentives bill (HR 3448).

The legislation, entitled the Small Business Job Protection Act of 1996, was approved by a vote of 33-3. The package of proposals was advanced by Republicans as an alternative to the Democrats' push to increase the minimum wage, or to mitigate job losses feared by opponents if the wage hike is enacted. The bill is expected to be combined with the minimum wage measure and sent to the House floor on May 22.

The proposal affecting employment discrimination recoveries is one of several measures intended to offset revenue losses caused by the small business tax breaks. The provision is estimated to bring in an additional \$230 million in revenue through 2000 and \$433 million through 2003, according to a May 14 report on Ways and Means Chairman Bill Archer's (R-Texas) mark of the bill prepared by the Joint Committee on Taxation staff.

The same proposal was included in the budget reconciliation bill (HR 2491) vetoed by President Clinton in December 1995. During committee markup of that bill in fall 1995, Rep. Sam Gibbons (D-Fla) and Sen. Carol Moseley-Braun (D-Ill) offered amendments to strip the proposal that were defeated on party-line votes.

Although a number of amendments were offered during the May 14 committee mark-up session, no attempt was made to strike the employment discrimination proposal, a committee staffer said. The Republican-controlled committee reportedly did not provide Democratic members with copies of the bill until the Friday evening before the markup.

Taxation of employment discrimination recoveries is currently in a state of confusion as a result of the U.S. Supreme Court's 1995 decision in *Commissioner of Internal Revenue v. Schleier* (4 EDR 798, 801, 6/21/95) and the Internal Revenue Service's suspension of an important revenue ruling (5 EDR 157, 8/9/95; 6 EDR 222, 2/21/96).

Taxing Discrimination Recoveries

Section 104(a)(2) of the tax code currently allows an exclusion from gross income for damages received on account of "personal injuries or sickness." Section 1505 of the bill would narrow the exclusion to damages received for "personal physical injuries or physical sickness."

The bill specifically provides that emotional distress should not be considered a physical injury or sickness. The exclusion from gross income is intended to apply only to "damages received based on a claim

of emotional distress that is attributable to a physical injury or physical sickness," according to the Taxation Committee staff's report. However, recovery for the cost of medical care attributable to emotional distress would still be excludable from gross income.

"Thus, the exclusion from gross income would not apply to any damages received (other than for medical expenses [for emotional distress]) based on a claim of employment discrimination or injury to reputation accompanied by a claim of emotional distress," the report states. Damages for injuries from a car accident, for example, would remain excludable from gross income.

The proposal also would subject to income tax all punitive damages received on account of personal injury or sickness, whether or not related to physical injury or sickness. Currently, punitive damages received for a case involving physical injury or sickness are excludable from gross income.

The tax change would apply to amounts received after June 30, 1996, and would not apply to amounts received under a binding agreement, court decree, or mediation award in effect on, or issued on or before, September 13, 1995.

"The bill would intend no inference as to the application of the exclusion to damages prior to the effective date of the bill in connection with a case not involving a physical injury or physical sickness," the report states.

Opposition to Tax Change

G. John Tysse, an attorney with McGuiness & Williams in Washington, D.C., who represents the Equal Employment Advisory Council, a management association, said there is concern that the proposed tax change would increase the costs of settling discrimination cases. However, he is not aware of any organized effort by anyone in the business community to oppose it.

The proposed change has long been viewed as inevitable because of the *Schleier* decision and Congress's continuing search for new sources of revenue, Tysse said.

Terisa E. Chaw, executive director of the National Employment Lawyers Association in San Francisco, a plaintiffs' group, called the proposal "a tax on victims of discrimination."

The tax change will negatively affect both plaintiffs' and defendants' abilities to settle discrimination suits in a timely fashion and not clog the courts, she said.

—By Susan J. McGolrick

OFCCP

TIERED COMPLIANCE, RECORD-KEEPING CHANGES PART OF PROPOSAL FOR FEDERAL CONTRACTORS

Reflecting President Clinton's commitment to "mend, not end" affirmative action, the Labor Depart-

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

May 23, 1996

STATEMENT BY THE PRESIDENT

I commend the House for responding to my challenge and voting to give millions of America's hardest workers a raise.

A bipartisan majority rejected the efforts of the Republican leadership and recognized that raising the minimum wage is the right thing to do. You can't raise a family on \$4.25 an hour.

I am also pleased that the House rejected an effort to defraud the American people with a provision that would have eliminated the minimum wage altogether, as well as overtime protections, for workers hired at fully two-thirds of American businesses. For millions of American workers, this hoax would actually have meant lower wages and even a return to sweatshop conditions.

Senator Dole should bring the minimum wage to the Senate floor for a clean up-or-down vote before he leaves office. That is the way to honor our values of work, family, opportunity, and responsibility.

-30-30-30-

9657444

FR: GER PRASR

5/23/96

11:50 am

Response to Possible Question Regarding
Cong. ESPY Small Business Exemption Bill (1991)

The 1989 Amendments to the Fair Labor Standards Act eliminated a narrowly targeted exemption for only small retail and service businesses (at that time, those retail and service businesses with annual gross revenues of \$362,500 or less). Long before these Amendments -- since 1938 -- employees of all other small businesses who were engaged in interstate commerce were "individually covered" under the FLSA.

Notwithstanding confusion about whether legislation introduced in 1991 was intended to restore the pre-1989 small retail and service business exemption or substantially broaden the small business exemption to all employers, the effect of the Goodling amendment is clear.

The Goodling amendment would have the effect of denying a minimum wage increase to possibly millions of current workers now covered under the FLSA. And even worse, this bill would have the effect of denying any minimum wage and overtime protection to as many as 10 million workers starting work for nearly two-thirds of U.S. businesses in the future. Our enforcement experience in the garment and janitorial service industries, among others, clearly indicates the grave danger of exempting all small employers from minimum wage and overtime protection.



UNITED STATES DEPARTMENT OF LABOR

FACSIMILE TRANSMISSION

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL AND
INTERGOVERNMENTAL AFFAIRS

200 Constitution Avenue, N.W.
Room S-2006
Washington, DC 20210

Confirmation: 202/219-4692

TO:

Gene Sperling (John Orszag)

DEPARTMENT/COMPANY:

FACSIMILE NUMBER:

456-2878

FROM:

Geri Palant

NUMBER OF PAGES INCLUDING COVER:

6

FACSIMILE REPLIES:

IMMEDIATE OFFICE OF THE ASSISTANT SECRETARY

202/219-5288

MESSAGE:

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

The Honorable William F. Goodling
Chairman
Economic and Educational
Opportunities Committee
U.S. House of Representatives
Washington, D.C. 20515

MAY 22 1986

Dear Mr. Chairman:

While a bipartisan majority in the Congress stands ready to give minimum wage workers a raise, the House leadership plans instead to deprive potentially millions of workers of any minimum wage increase. Further, millions of additional workers taking new jobs will be entirely denied minimum wage and overtime protections if the proposed Goodling Amendment is adopted.

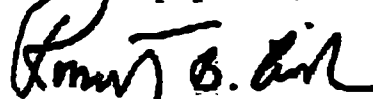
This dramatic leap backwards from current law --- effectively exempting virtually all new employees of two-thirds of all firms from major worker protection provisions of the Fair Labor Standards Act --- threatens the President's efforts to raise working families' incomes. It goes well beyond the small retail and service business exemption that existed in the law prior to 1989. This proposal invites a return to the sweatshop conditions that Americans abhor.

If the Goodling Amendment I have described above --- which would deprive many working families of the minimum wage increase they deserve and repeal basic worker protections for millions of workers --- is included in H.R. 1227, I would recommend that the President veto the bill.

By resurrecting and making permanent a youth subminimum wage without training requirements or other protections, a second proposed amendment could pit young workers against older incumbent workers. In industries where high turnover is common --- like retail --- this type of youth subminimum wage may keep some young workers from graduating to the minimum wage. The Administration strongly opposes the amendment proposing this youth subminimum wage, no minimum wage increase for tipped employees, and new restrictions on the scope of overtime coverage for computer professionals.

Let's put aside this family income reduction package. America's working families deserve a clean vote on making the minimum wage a living wage.

Sincerely yours,



Robert B. Reich

WORKING FOR AMERICA'S WORKFORCE

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 (TTY) — (202) 225-3113

May 22, 1996

The Honorable Robert B. Reich
 Secretary of Labor
 U.S. Department of Labor
 200 Constitution Avenue, NW
 Washington, DC 20210

Dear Mr. Secretary:

I am in receipt of your letter regarding the so-called Goodling en bloc amendment. Although I am not surprised by your veto threat, I am extremely disappointed that once again the Clinton Administration has decided to play politics with important, thoughtful and balanced legislation. Moreover, I am equally disappointed by the misleading and occasionally false statements issued by you and the White House designed simply to scare millions of hardworking American workers.

Let me specifically address several points you offer as justification for the President's veto threat. First, you suggest that my proposal "goes well beyond the small retail and service exemption that existed in the law prior to 1989." However, you ignore the fact that the true intent of the 1989 Amendments to the Fair Labor Standard Act of was to provide small businesses with a uniform and workable exemption. For example, the relevant Committee Report states:

... The Committee bill would amend subsection 3(s) and 13(a) of the Act to create a more uniform small business exemption. Small enterprises whose total volume of sales or business done is less than \$500,000 would no longer be covered. In eliminating several confusing tests to determine applicability of the Act to various industries, the Committee continues to demonstrate its support for the principle of a true small business exemption...

Further, the Department of Labor has acknowledged that the problems my proposal seeks to address were inadvertently created by the 1989 amendments to the Fair Labor Standards Act.

The Honorable Robert B. Reich
May 22, 1996
Page Two

The proposal contained in my amendment, in fact, uses language that was developed by former Secretary of Agriculture Mike Espy (H.R. 1237) to achieve this same goal of creating a more uniform small business exemption. The Espy bill had considerable bipartisan support in the 102nd Congress, including 67 Democrat and 90 Republican co-sponsors.

In his veto statement, the President states that the small business exemption will "eliminate the minimum wage for all workers hired by fully two-thirds of American businesses," falsely implying that many workers would somehow be harmed. In fact, no current employees would be affected at all. The amendment protects, through a "grandfather" provision, all currently employed workers at businesses subject to the exemption and prohibits employers from replacing these workers in order to avoid minimum wage and overtime requirements.

Further, the number of employees employed by businesses covered by the exemption is relatively small, approximately only 12% of total employment. In sum, the small business exemption I proposed is very limited. Indeed, the National Council of Chain Restaurants indicated that the "overwhelming majority of chain restaurants" would not be covered by the exemption. Virtually no McDonald's would be covered.

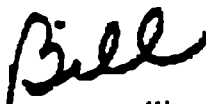
You also base your veto threat on your opposition to several other changes addressed by my amendment. While you provide little reasoning for your objections, I can only gather that your position is again based on political, not substantive, considerations. Study after study suggests that the group most significantly impacted by raising the minimum wage is teenagers. In fact, a 1995 report from University of Chicago and Texas A&M University economists reveals significant reductions in teenage employment nationwide after the federal minimum wage was increased in 1990-1991. The study results show that employment of teenage males fell 5 percent after the wage hike, while employment of teenage women fell 7 percent. As the summer quickly approaches, and numerous American teens seek summer employment, I believe it would be irresponsible not to consider the impact of a wage increase on their employment prospects.

Similarly, I am dismayed that you oppose the proposed changes to the so-called "tip credit," and the changes to the exemption level for highly paid computer professionals. On virtually every occasion that the Congress has adjusted the minimum wage, there has been bipartisan support for an adjustment to the amount of "tip" income that is credited to the minimum wage. With regard to the computer professional wage exemption, I truly cannot believe that this would cause the Administration any concern. This provision would only impact computer professionals who currently make over \$55,000 annually. Without this provision, the cost of the exemption would increase by over \$13,000 per year.

The Honorable Robert B. Reich
May 22, 1996
Page Three

In closing, Mr. Secretary, let me reiterate my disappointment with the Administration's promised veto. Despite your suggestions, nothing in my amendment would significantly undermine the intended scope of the very important protections provided under the Fair Labor Standards Act. I can only hope that for a moment you can put politics aside and govern in the best interests of the country and millions of working families.

Sincerely,



Bill Goodling
Chairman

5/23 - 10:15AM

TALKING POINTS ON ESPY BILL AND GOODLING AMENDMENT

* Then-Congressman Mike Espy introduced legislation in 1991 to "clarify" the 1989 FLSA Amendments "to restore the small business minimum wage exemption for certain small businesses." (Espy "Dear Colleague," April 12, 1991)

* The 1989 Amendments eliminated a narrowly targeted exemption for only small retail and service businesses with annual gross revenues of \$362,500 or less. All other small businesses were subject to "individual coverage"; that is, employees working in interstate commerce for firms with annual gross revenues of less than \$250,000 (raised to \$500,000 in 1989) were covered by the Fair Labor Standards Act's minimum wage and overtime protections.

* Individual coverage under the FLSA (the "interstate commerce" test) has existed in the law since its original passage in 1938. In fact, it was originally the sole basis for coverage.

* Espy's discussion of his technical correction implies the intent to restore only the small retail and service exemption: "Before passage of the new minimum wage law, businesses grossing less than \$362,500 annually were exempt from coverage under the Fair Labor Standards Act (FLSA)." (Espy "Dear Colleague," April 12, 1991) This statement could refer only to small retail and service establishments as they were the only businesses so exempt.

* The legislative language which Representative Espy introduced, however, would have had the effect of exempting all firms with annual gross revenues of less than \$500,000, regardless of whether they were in the retail or service sector.

* However, the Espy Bill was never subjected to hearings or expert testimony. Had these normal legislative processes taken place, the differences between the description of the bill and the legislative language would have been clarified and a policy debate over these differences would have been possible.

* The Goodling Amendment would effectively exempt virtually all new employees of all firms with annual gross revenues of \$500,000 or less from the minimum wage and overtime provisions of the Fair Labor Standards Act. It goes well beyond the small retail and service business exemption that existed in the law prior to 1989. It would also deprive millions of current workers of any minimum wage increase.

* This proposal invites a return to the sweatshop conditions that Americans abhor. Recent enforcement experience in the garment and janitorial industries, among others, clearly indicates the grave danger of exempting all small employers from individual coverage.

M E M O R A N D U M

TO: Geri Palast
Anne Lewis
Vince Trivelli
Mary Ann Richardson
Angela Jackson
Earl Gohl
Liz Gonchar
Leslie Loble
Seth Harris
John Fraser

John Angell
Gene Sperling
Jon Orszag

FROM: Rich Fiesta *RF*

DATE: May 23, 1996

RE: HOUSE MINIMUM WAGE VOTES

=====

Attached are the key roll call votes from today's House minimum wage debate.

1. **Riggs Amendment** - raises the minimum wage by \$.50 to \$4.75 on July 1, 1996 and by an additional \$.40 to \$5.15 on July 1, 1997. The amendment passed 266-162 with 77 Republicans voting for it and 6 Democrats voting against it.

2. **Second Goodling Amendment** - exempts enterprises with less than \$500,000 in annual gross revenues from minimum wage and overtime protections after the date of enactment. Current workers in these enterprises would be frozen at the \$4.25 minimum wage. The amendment was defeated 196-229 with 43 Republicans voting no and 7 Democrats voting yes.

3. **Final Passage** - final passage of H.R. 1227, as amended, with the \$.90 minimum wage increase. The House passed the bill 281-144 with 93 Republicans voting yes and 6 Democrats voting no.

Roll No. 192

Time FINAL

AUTHOR:

Riggs of California amendment

QUESTION:

On Agreeing to the Amendment

BILL TITLE:

RIGGSH R 1227
RECORDED VOTE

	Yea	Nay	Pres	Not Voting
Republican	77	156		3
Democratic	188	6		3
Independent	1			
Totals	266	162		6

Time Remaining FINAL

Barcia

0
Becerra

Ward

Roll 192 3 Democrats Not Voting

Page 1

N Brewster
N GerenN Hall (TX)
N MontgomeryN Rose
N Stenholm

Roll 192 6 Democrats Nay

Page 1

Y Abercrombie
 Y Ackerman
 Y Andrews
 Y Baesler
 Y Baldacci
 Y Barrett (WI)
 Y Beilenson
 Y Bentsen
 Y Berman
 Y Bevill
 Y Bishop
 Y Bonior
 Y Borski
 Y Boucher
 Y Browder
 Y Brown (CA)
 Y Brown (FL)
 Y Brown (OH)
 Y Bryant (TX)
 Y Cardin
 Y Chapman
 Y Clay

Y Clayton
 Y Clement
 Y Clyburn
 Y Coleman
 Y Collins (IL)
 Y Collins (MI)
 Y Condit
 Y Conyers
 Y Costello
 Y Coyne
 Y Cramer
 Y Cummings
 Y Danner
 Y de la Garza
 Y DeFazio
 Y DeLauro
 Y Dellums
 Y Deutsch
 Y Dicks
 Y Dingell
 Y Dixon
 Y Doggett

Y Dooley
 Y Doyle
 Y Durbin
 Y Edwards
 Y Engel
 Y Eshoo
 Y Evans
 Y Farr
 Y Fattah
 Y Fazio
 Y Fields (LA)
 Y Filner
 Y Flake
 Y Foglietta
 Y Ford
 Y Frank (MA)
 Y Frost
 Y Furse
 Y Gejdenson
 Y Gephardt
 Y Gibbons
 Y Gonzalez

Roll 192 188 Democrats Yea

Page 1

Y Gordon
 Y Green (TX)
 Y Gutierrez
 Y Hall (OH)
 Y Hamilton
 Y Harman
 Y Hastings (FL)
 Y Hefner
 Y Hilliard
 Y Hinchey
 Y Holden
 Y Hoyer
 Y Jackson (IL)
 Y Jackson-Lee (TX)
 Y Jacobs
 Y Jefferson
 Y Johnson (SD)
 Y Johnson, E. B.
 Y Johnston
 Y Kanjorski
 Y Kaptur
 Y Kennedy (MA)

Y Kennedy (RI)
 Y Kennelly
 Y Kildee
 Y Kleczka
 Y Klink
 Y LaFalce
 Y Lantos
 Y Levin
 Y Lewis (GA)
 Y Lincoln
 Y Lipinski
 Y Lofgren
 Y Lowey
 Y Luther
 Y Maloney
 Y Manton
 Y Markey
 Y Martinez
 Y Mascara
 Y Matsui
 Y McCarthy
 Y McDermott

Y McHale
 Y McKinney
 Y McNulty
 Y Meehan
 Y Meek
 Y Menendez
 Y Millender-McDonald
 Y Miller (CA)
 Y Minge
 Y Mink
 Y Moakley
 Y Mollohan
 Y Moran
 Y Murtha
 Y Nadler
 Y Neal
 Y Oberstar
 Y Obey
 Y Olver
 Y Ortiz
 Y Orton
 Y Owens

Roll 192 188 Democrats Yea

Page 2

Y Pallone
 Y Pastor
 Y Payne (NJ)
 Y Payne (VA)
 Y Pelosi
 Y Peterson (FL)
 Y Peterson (MN)
 Y Pickett
 Y Pomeroy
 Y Poshard
 Y Rahall
 Y Rangel
 Y Reed
 Y Richardson
 Y Rivers
 Y Roemer
 Y Roybal-Allard
 Y Rush
 Y Sabo

Y Sawyer
 Y Schroeder
 Y Schumer
 Y Scott
 Y Serrano
 Y Sisisky
 Y Skaggs
 Y Skelton
 Y Slaughter
 Y Spratt
 Y Stark
 Y Stokes
 Y Studds
 Y Stupak
 Y Tanner
 Y Taylor (MS)
 Y Tejeda
 Y Thompson
 Y Thornton

Y Thurman
 Y Torres
 Y Torricelli
 Y Towns
 Y Traficant
 Y Velazquez
 Y Vento
 Y Visclosky
 Y Volkmer
 Y Waters
 Y Watt (NC)
 Y Waxman
 Y Williams
 Y Wilson
 Y Wise
 Y Woolsey
 Y Wynn
 Y Yates

Roll 192 188 Democrats Yea

Page 3

Gingrich

Horn

Molinari

Roll 192 3 Republicans Not Voting

Page 1

Y Bachus
 Y Bereuter
 Y Bilbray
 Y Bilirakis
 Y Blute
 Y Boehlert
 Y Bono
 Y Bunn
 Y Buyer
 Y Canady
 Y Castle
 Y Cremeans

Y Frisa
 Y Ganske
 Y Gillmor
 Y Gilman
 Y Greenwood
 Y Gunderson
 Y Hayes
 Y Heineman
 Y Hilleary
 Y Hobson
 Y Hoke
 Y Houghton

Y Longley
 Y Martini
 Y McDade
 Y McHugh
 Y Metcalf
 Y Morella
 Y Neumann
 Y Ney
 Y Quinn
 Y Ramstad
 Y Regula
 Y Riggs

Y Deal
 Y Diaz-Balart
 Y Duncan
 Y English
 Y Ensign
 Y Flanagan
 Y Foley
 Y Forbes
 Y Fox
 Y Franks (NJ)
 Roll 192 77 Republicans Yea

Y Stockman
 Y Tauzin
 Y Torkildsen
 Y Upton

Y Johnson (CT)
 Y Kelly
 Y King
 Y LaHood
 Y LaTourette
 Y Lazio
 Y Leach
 Y Lewis (CA)
 Y Lightfoot
 Y LoBiondo

Y Walsh
 Y Weldon (PA)
 Y Weller
 Y Whitfield

Y Roberts
 Y Rogers
 Y Ros-Lehtinen
 Y Roukema
 Y Schiff
 Y Shaw
 Y Shays
 Y Smith (NJ)
 Y Smith (WA)
 Y Solomon

Page 1

Y Young (AK)
 Y Young (FL)
 Y Zimmer

Roll 192 77 Republicans Yea

Page 2

N Allard
 N Archer
 N Arney
 N Baker (CA)
 N Baker (LA)
 N Ballenger
 N Barr
 N Barrett (NE)
 N Bartlett
 N Barton
 N Bass
 N Bateman
 N Bliley
 N Boehner
 N Bonilla
 N Brownback
 N Bryant (TN)
 N Bunning
 N Burr
 N Burton
 N Callahan
 N Calvert
 Roll 192 156 Republicans Nay

N Camp
 N Campbell
 N Chabot
 N Chambliss
 N Chenoweth
 N Christensen
 N Chrysler
 N Clinger
 N Coble
 N Coburn
 N Collins (GA)
 N Combest
 N Cooley
 N Cox
 N Crane
 N Crapo
 N Cubin
 N Cunningham
 N Davis
 N DeLay
 N Dickey
 N Doolittle

N Dornan
 N Dreier
 N Dunn
 N Ehlers
 N Ehrlich
 N Emerson
 N Everett
 N Ewing
 N Fawell
 N Fields (TX)
 N Fowler
 N Franks (CT)
 N Frelinghuysen
 N Funderburk
 N Gallegly
 N Gekas
 N Gilchrest
 N Goodlatte
 N Goodling
 N Goss
 N Graham
 N Greene (UT)

Page 1

N	Gutknecht	N	Kolbe	N	Nussle
N	Hancock	N	Largent	N	Oxley
N	Hansen	N	Latham	N	Packard
N	Hastert	N	Laughlin	N	Parker
N	Hastings (WA)	N	Lewis (KY)	N	Paxon
N	Hayworth	N	Linder	N	Petri
N	Hefley	N	Livingston	N	Pombo
N	Herger	N	Lucas	N	Porter
N	Hoekstra	N	Manzullo	N	Portman
N	Hostettler	N	McCollum	N	Pryce
N	Hunter	N	McCrery	N	Quillen
N	Hutchinson	N	McInnis	N	Radanovich
N	Hyde	N	McIntosh	N	Rohrabacher
N	Inglis	N	McKeon	N	Roth
N	Istook	N	Meyers	N	Royce
N	Johnson, Sam	N	Mica	N	Salmon
N	Jones	N	Miller (FL)	N	Sanford
N	Kasich	N	Moorhead	N	Saxton
N	Kim	N	Myers	N	Scarborough
N	Kingston	N	Myrick	N	Schaefer
N	Klug	N	Nethercutt	N	Seastrand
N	Knollenberg	N	Norwood	N	Sensenbrenner
Roll 192	156 Republicans	Nay			Page 2

N	Shadegg	N	Stump	N	Walker
N	Shuster	N	Talent	N	Wamp
N	Skeen	N	Tate	N	Watts (OK)
N	Smith (MI)	N	Taylor (NC)	N	Weldon (FL)
N	Smith (TX)	N	Thomas	N	White
N	Souder	N	Thornberry	N	Wicker
N	Spence	N	Tiahrt	N	Wolf
N	Stearns	N	Vucanovich	N	Zeliff

History Roll No. 194 May 23, 1996

AUTHOR:

Rolling of Pennsylvania Amendment

ACTION:

On Agreeing to Subsection D of the Amendment

BILL TITLE:

GOODLING II

~~THRESHOLD~~
SMALLER
ENTERPRISESH R 1227
RECORDED VOTE

	Yea	Nay	Pres	Not Voting
Republican	189	43		4
Democratic	7	185		5
Independent		1		
Totals	196	229		9

Becerra
Collins (MI)Deutsch
McNulty

Ward

Roll 194 5 Democrats Not Voting

Page 1

Y Brewster
Y Geren
Y Hall (TX)Y Montgomery
Y Orton
Y Pickett

Y Stenholm

Roll 194 7 Democrats Yea

Page 1

N Abercrombie
 N Ackerman
 N Andrews
 N Baesler
 N Baldacci
 N Barcia
 N Barrett (WI)
 N Beilenson
 N Bentsen
 N Berman
 N Bevill
 N Bishop
 N Bonior
 N Borski
 N Boucher
 N Browder
 N Brown (CA)
 N Brown (FL)
 N Brown (OH)
 N Bryant (TX)
 N Cardin
 N Chapman

N Clay
 N Clayton
 N Clement
 N Clyburn
 N Coleman
 N Collins (IL)
 N Condit
 N Conyers
 N Costello
 N Coyne
 N Cramer
 N Cummings
 N Danner
 N de la Garza
 N DeFazio
 N DeLauro
 N Dellums
 N Dicks
 N Dingell
 N Dixon
 N Doggett
 N Dooley

N Doyle
 N Durbin
 N Edwards
 N Engel
 N Eshoo
 N Evans
 N Farr
 N Fattah
 N Fazio
 N Fields (LA)
 N Filner
 N Flake
 N Foglietta
 N Ford
 N Frank (MA)
 N Frost
 N Furse
 N Gejdenson
 N Gephardt
 N Gibbons
 N Gonzalez
 N Gordon

Roll 194 185 Democrats Nay

Page 1

N Green (TX)
 N Gutierrez
 N Hall (OH)
 N Hamilton
 N Harman
 N Hastings (FL)
 N Hefner
 N Hilliard
 N Hinchey
 N Holden
 N Hoyer
 N Jackson (IL)
 N Jackson-Lee (TX)
 N Jacobs
 N Jefferson
 N Johnson (SD)
 N Johnson, E. B.
 N Johnston
 N Kanjorski
 N Kaptur
 N Kennedy (MA)
 N Kennedy (RI)

N Kennelly
 N Kildee
 N Kleczka
 N Klink
 N LaFalce
 N Lantos
 N Levin
 N Lewis (GA)
 N Lincoln
 N Lipinski
 N Lofgren
 N Lowey
 N Luther
 N Maloney
 N Manton
 N Markey
 N Martinez
 N Mascara
 N Matsui
 N McCarthy
 N McDermott
 N McHale

N McKinney
 N Meehan
 N Meek
 N Menendez
 N Millender-McDonald
 N Miller (CA)
 N Minge
 N Mink
 N Moakley
 N Mollohan
 N Moran
 N Murtha
 N Nadler
 N Neal
 N Oberstar
 N Obey
 N Olver
 N Ortiz
 N Owens
 N Pallone
 N Pastor
 N Payne (NJ)

Roll 194 185 Democrats Nay

Page 2

N Payne (VA)
 N Pelosi
 N Peterson (FL)
 N Peterson (MN)
 N Pomeroy
 N Poshard
 N Rahall
 N Rangel
 N Reed
 N Richardson
 N Rivers
 N Roemer
 N Rose
 N Roybal-Allard
 N Rush
 N Sabo
 N Sawyer
 N Schroeder

N Schumer
 N Scott
 N Serrano
 N Sisisky
 N Skaggs
 N Skelton
 N Slaughter
 N Spratt
 N Stark
 N Stokes
 N Studds
 N Stupak
 N Tanner
 N Taylor (MS)
 N Tejada
 N Thompson
 N Thornton
 N Thurman

N Torres
 N Torricelli
 N Towns
 N Traficant
 N Velazquez
 N Vento
 N Visclosky
 N Volkmer
 N Waters
 N Watt (NC)
 N Waxman
 N Williams
 N Wilson
 N Wise
 N Woolsey
 N Wynn
 N Yates

Roll 194 185 Democrats Nay

Page 3

DeLay
 Gingrich

Kingston
 Molinari

Roll 194 4 Republicans Not Voting

Page 1

N Blute
 N Boehlert
 N Bunn
 N Deal
 N Diaz-Balart
 N English
 N Flanagan
 N Fox
 N Franks (NJ)
 N Frisa
 N Gilman
 N Greenwood

N Johnson (CT)
 N Kelly
 N King
 N LaHood
 N LaTourette
 N Leach
 N LoBiondo
 N Longley
 N Martini
 N McDade
 N McHugh
 N Metcalf

N Regula
 N Riggs
 N Ros-Lehtinen
 N Roukema
 N Shays
 N Smith (NJ)
 N Stockman
 N Torkildsen
 N Walsh
 N Weldon (PA)
 N Weller
 N Young (AK)

N Hoke
N Horn
N Houghton

N Morella
N Ney
N Quinn

N Zimmer

Roll 194 43 Republicans Nay

Page 1

Y Allard
Y Archer
Y Armey
Y Bachus
Y Baker (CA)
Y Baker (LA)
Y Ballenger
Y Barr
Y Barrett (NE)
Y Bartlett
Y Barton
Y Bass
Y Bateman
Y Bereuter
Y Bilbray
Y Bilirakis
Y Bliley
Y Boehner
Y Bonilla
Y Bono
Y Brownback
Y Bryant (TN)

Y Bunning
Y Burr
Y Burton
Y Buyer
Y Callahan
Y Calvert
Y Camp
Y Campbell
Y Canady
Y Castle
Y Chabot
Y Chambliss
Y Chenoweth
Y Christensen
Y Chrysler
Y Clinger
Y Coble
Y Coburn
Y Collins (GA)
Y Combest
Y Cooley
Y Cox

Y Crane
Y Crapo
Y Cremeans
Y Cubin
Y Cunningham
Y Davis
Y Dickey
Y Doolittle
Y Dornan
Y Dreier
Y Duncan
Y Dunn
Y Ehlers
Y Ehrlich
Y Emerson
Y Ensign
Y Everett
Y Ewing
Y Fawell
Y Fields (TX)
Y Foley
Y Forbes

Roll 194 189 Republicans Yea

Page 1

Y Fowler
Y Franks (CT)
Y Frelinghuysen
Y Funderburk
Y Gallegly
Y Ganske
Y Gekas
Y Gilchrest
Y Gillmor
Y Goodlatte
Y Goodling
Y Goss
Y Graham
Y Greene (UT)
Y Gunderson
Y Gutknecht
Y Hancock
Y Hansen
Y Hastert
Y Hastings (WA)
Y Hayes
Y Hayworth

Y Hefley
Y Heineman
Y Herger
Y Hilleary
Y Hobson
Y Hoekstra
Y Hostettler
Y Hunter
Y Hutchinson
Y Hyde
Y Inglis
Y Istook
Y Johnson, Sam
Y Jones
Y Kasich
Y Kim
Y Klug
Y Knollenberg
Y Kolbe
Y Largent
Y Latham
Y Laughlin

Y Lazio
Y Lewis (CA)
Y Lewis (KY)
Y Lightfoot
Y Linder
Y Livingston
Y Lucas
Y Manzullo
Y McCollum
Y McCrery
Y McInnis
Y McIntosh
Y McKeon
Y Meyers
Y Mica
Y Miller (FL)
Y Moorhead
Y Myers
Y Myrick
Y Nethercutt
Y Neumann
Y Norwood

Roll 194 189 Republicans Yea

Page 2

Y Nussle	Y Sanford	Y Talent
Y Oxley	Y Saxton	Y Tate
Y Packard	Y Scarborough	Y Tauzin
Y Parker	Y Schaefer	Y Taylor (NC)
Y Paxon	Y Schiff	Y Thomas
Y Petri	Y Seastrand	Y Thornberry
Y Pombo	Y Sensenbrenner	Y Tiahrt
Y Porter	Y Shadegg	Y Upton
Y Portman	Y Shaw	Y Vucanovich
Y Pryce	Y Shuster	Y Walker
Y Quillen	Y Skeen	Y Wamp
Y Radanovich	Y Smith (MI)	Y Watts (OK)
Y Ramstad	Y Smith (TX)	Y Weldon (FL)
Y Roberts	Y Smith (WA)	Y White
Y Rogers	Y Solomon	Y Whitfield
Y Rohrabacher	Y Souder	Y Wicker
Y Roth	Y Spence	Y Wolf
Y Royce	Y Stearns	Y Young (FL)
Y Salmon	Y Stump	Y Zeliff

Roll No. 195

Time FINAL

FINAL PASSAGE

QUESTION:

On Passage

BILL TITLE:

Employee Commuting Act

H R 1227
RECORDED VOTE

	Yea	Nay	Pres	Not Voting
Republican	93	138		5
Democratic	187	6		4
Independent	1			
Totals	281	144		9

Time Remaining FINAL

Becerra
Deutsch0
McNulty
Ward

Roll 195 4 Democrats Not Voting

Page 1

N Brewster
N Geren .N Hall (TX)
N MontgomeryN Rose
N Stenholm

Roll 195 6 Democrats Nay

Page 1

Y Abercrombie
 Y Ackerman
 Y Andrews
 Y Baesler
 Y Baldacci
 Y Barcia
 Y Barrett (WI)
 Y Beilenson
 Y Bentsen
 Y Berman
 Y Bevill
 Y Bishop
 Y Bonior
 Y Borski
 Y Boucher
 Y Browder
 Y Brown (CA)
 Y Brown (FL)
 Y Brown (OH)
 Y Bryant (TX)
 Y Cardin
 Y Chapman

Y Clay
 Y Clayton
 Y Clement
 Y Clyburn
 Y Coleman
 Y Collins (IL)
 Y Collins (MI)
 Y Condit
 Y Conyers
 Y Costello
 Y Coyne
 Y Cramer
 Y Cummings
 Y Danner
 Y de la Garza
 Y DeFazio
 Y DeLauro
 Y Dellums
 Y Dicks
 Y Dingell
 Y Dixon
 Y Doggett

Y Dooley
 Y Doyle
 Y Durbin
 Y Edwards
 Y Engel
 Y Eshoo
 Y Evans
 Y Farr
 Y Fattah
 Y Fazio
 Y Fields (LA)
 Y Filner
 Y Flake
 Y Foglietta
 Y Ford
 Y Frank (MA)
 Y Frost
 Y Furse
 Y Gejdenson
 Y Gephardt
 Y Gibbons
 Y Gonzalez

Page 1

Roll 195 187 Democrats Yea

Y Gordon
 Y Green (TX)
 Y Gutierrez
 Y Hall (OH)
 Y Hamilton
 Y Harman
 Y Hastings (FL)
 Y Hefner
 Y Hilliard
 Y Hinchey
 Y Holden
 Y Hoyer
 Y Jackson (IL)
 Y Jackson-Lee (TX)
 Y Jacobs
 Y Jefferson
 Y Johnson (SD)
 Y Johnson, E. B.
 Y Johnston
 Y Kanjorski
 Y Kaptur
 Y Kennedy (MA)

Y Kennedy (RI)
 Y Kennelly
 Y Kildee
 Y Kleczka
 Y Klink
 Y LaFalce
 Y Lantos
 Y Levin
 Y Lewis (GA)
 Y Lincoln
 Y Lipinski
 Y Lofgren
 Y Lowey
 Y Luther
 Y Maloney
 Y Manton
 Y Markey
 Y Martinez
 Y Mascara
 Y Matsui
 Y McCarthy
 Y McDermott

Y McHale
 Y McKinney
 Y Meehan
 Y Meek
 Y Menendez
 Y Millender-McDonald
 Y Miller (CA)
 Y Minge
 Y Mink
 Y Moakley
 Y Mollohan
 Y Moran
 Y Murtha
 Y Nadler
 Y Neal
 Y Oberstar
 Y Obey
 Y Olver
 Y Ortiz
 Y Orton
 Y Owens
 Y Pallone

Page 2

Roll 195 187 Democrats Yea

Y Pastor	Y Schroeder	Y Torres
Y Payne (NJ)	Y Schumer	Y Torricelli
Y Payne (VA)	Y Scott	Y Towns
Y Pelosi	Y Serrano	Y Traficant
Y Peterson (FL)	Y Sisisky	Y Velazquez
Y Peterson (MN)	Y Skaggs	Y Vento
Y Pickett	Y Skelton	Y Visclosky
Y Pomeroy	Y Slaughter	Y Volkmer
Y Poshard	Y Spratt	Y Waters
Y Rahall	Y Stark	Y Watt (NC)
Y Rangel	Y Stokes	Y Waxman
Y Reed	Y Studds	Y Williams
Y Richardson	Y Stupak	Y Wilson
Y Rivers	Y Tanner	Y Wise
Y Roemer	Y Taylor (MS)	Y Woolsey
Y Roybal-Allard	Y Tejeda	Y Wynn
Y Rush	Y Thompson	Y Yates
Y Sabo	Y Thornton	
Y Sawyer	Y Thurman	

Roll 195 187 Democrats Yea

Page 3

DeLay
GingrichHoke
Kingston

Molinari

Roll 195 5 Republicans Not Voting

Page 1

Y Bachus	Y Forbes	Y Kelly
Y Bereuter	Y Fowler	Y King
Y Bilbray	Y Fox	Y Klug
Y Bilirakis	Y Franks (NJ)	Y LaHood
Y Bliley	Y Frelinghuysen	Y LaTourette
Y Blute	Y Frisa	Y Lazio
Y Boehlert	Y Gallegly	Y Leach
Y Bunn	Y Ganske	Y Lewis (CA)
Y Buyer	Y Gilchrest	Y LoBiondo
Y Canady	Y Gillmor	Y Longley
Y Castle	Y Gilman	Y Martini
Y ...	Y Goodling	Y McCrery

Y Cremeans
 Y Deal
 Y Diaz-Balart
 Y Duncan
 Y Ehlers
 Y English
 Y Ensign
 Y Fawell
 Y Flanagan
 Y Foley
 Roll 195 93 Republicans Yea

Y Greenwood
 Y Gunderson
 Y Gutknecht
 Y Hayes
 Y Hilleary
 Y Hobson
 Y Horn
 Y Houghton
 Y Johnson (CT)
 Y Kasich

Y McDade
 Y McHugh
 Y Metcalf
 Y Moorhead
 Y Morella
 Y Neumann
 Y Ney
 Y Petri
 Y Pryce
 Y Quinn

Page 1

Y Ramstad
 Y Regula
 Y Riggs
 Y Roberts
 Y Rogers
 Y Ros-Lehtinen
 Y Roukema
 Y Saxton
 Y Schiff

Y Shaw
 Y Shays
 Y Smith (NJ)
 Y Smith (WA)
 Y Solomon
 Y Stearns
 Y Stockman
 Y Tauzin
 Y Torkildsen

Y Upton
 Y Walsh
 Y Weldon (FL)
 Y Weldon (PA)
 Y Weller
 Y Whitfield
 Y Young (AK)
 Y Young (FL)
 Y Zimmer

Roll 195 93 Republicans Yea

Page 2

N Allard
 N Archer
 N Armey
 N Baker (CA)
 N Baker (LA)
 N Ballenger
 N Barr
 N Barrett (NE)
 N Bartlett
 N Barton
 N Bass
 N Bateman
 N Boehner
 N Bonilla
 N Bono
 N Brownback
 N Bryant (TN)
 N Bunning
 N Burr
 N Burton
 N Callahan
 N Calvert

N Camp
 N Campbell
 N Chabot
 N Chambliss
 N Chenoweth
 N Christensen
 N Clinger
 N Coble
 N Coburn
 N Collins (GA)
 N Combest
 N Cooley
 N Cox
 N Crane
 N Crapo
 N Cubin
 N Cunningham
 N Davis
 N Dickey
 N Doolittle
 N Dornan
 N Dreier

N Dunn
 N Ehrlich
 N Emerson
 N Everett
 N Ewing
 N Fields (TX)
 N Franks (CT)
 N Funderburk
 N Gekas
 N Goodlatte
 N Goss
 N Graham
 N Greene (UT)
 N Hancock
 N Hansen
 N Hastert
 N Hastings (WA)
 N Hayworth
 N Hefley
 N Heineman
 N Herger
 N Hoekstra

Page 1

Roll 195 138 Republicans Nay

N Hostettler	N McIntosh	N Salmon
N Hunter	N McKeon	N Sanford
N Hutchinson	N Meyers	N Scarborough
N Hyde	N Mica	N Schaefer
N Inglis	N Miller (FL)	N Seastrand
N Istook	N Myers	N Sensenbrenner
N Johnson, Sam	N Myrick	N Shadeegg
N Jones	N Nethercutt	N Shuster
N Kim	N Norwood	N Skeen
N Knollenberg	N Nussle	N Smith (MI)
N Kolbe	N Oxley	N Smith (TX)
N Largent	N Packard	N Souder
N Latham	N Parker	N Spence
N Laughlin	N Paxon	N Stump
N Lewis (KY)	N Pombo	N Talent
N Lightfoot	N Porter	N Tate
N Linder	N Portman	N Taylor (NC)
N Livingston	N Quillen	N Thomas
N Lucas	N Radanovich	N Thornberry
N Manzullo	N Rohrabacher	N Tiahrt
N McCollum	N Roth	N Vucanovich
N McInnis	N Royce	N Walker
Roll 195	138 Republicans	Nay
		Page 2
N Wamp	N White	N Wolf
N Watts (OK)	N Wicker	N Zeliff

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

May 22, 1996

STATEMENT BY THE PRESIDENT ON THE MINIMUM WAGE

An increase in the minimum wage would honor our values: work, family, responsibility, and opportunity. You cannot raise a family on \$4.25 an hour. Over the years, both parties have worked together to ensure that the minimum wage keeps up with the cost of living. To continue that commitment to working families, I have challenged Congress to raise the minimum wage by 90 cents. It is clear that a bipartisan majority of the House of Representatives stands ready to pass this increase.

But the House leadership is today proposing a giant fraud on the American people. Their legislation will eliminate the minimum wage for all workers hired by fully two-thirds of American businesses.

I hope Senator Dole will join me in opposing this extreme measure. We must not tolerate sweatshops and a repeal of wage protections for millions of Americans, as a condition of assuring a living wage for some workers.

Let me be clear: Eliminating the minimum wage is no way to raise it. If Congress sends me a bill to eliminate the minimum wage and wage protections for millions of workers, I will veto it. Speaker Gingrich and Majority Leader Dole should allow an honest up-or-down vote on the minimum wage.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

May 22, 1996

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Office of the Press Secretary

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May 22, 1996

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U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

The Honorable Newt Gingrich
Speaker of the House
U.S. House of Representatives
Washington, D.C. 20515

MAY 22 1996

Dear Mr. Speaker:

While a bipartisan majority in the Congress stands ready to give minimum wage workers a raise, the House leadership plans instead to deprive potentially millions of workers of any minimum wage increase. Further, millions of additional workers taking new jobs will be entirely denied minimum wage and overtime protections if the proposed Goodling Amendment is adopted.

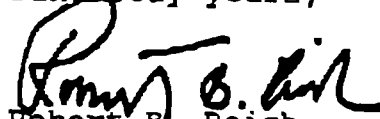
This dramatic leap backwards from current law --- effectively exempting virtually all new employees of two-thirds of all firms from major worker protection provisions of the Fair Labor Standards Act --- threatens the President's efforts to raise working families' incomes. It goes well beyond the small retail and service business exemption that existed in the law prior to 1989. This proposal invites a return to the sweatshop conditions that Americans abhor.

If the Goodling Amendment I have described above --- which would deprive many working families of the minimum wage increase they deserve and repeal basic worker protections for millions of workers --- is included in H.R. 1227, I would recommend that the President veto the bill.

By resurrecting and making permanent a youth subminimum wage without training requirements or other protections, a second proposed amendment could pit young workers against older, incumbent workers. In industries where high turnover is common --- like retail --- this type of youth subminimum wage may keep some young workers from graduating to the minimum wage. The Administration strongly opposes the amendment proposing this youth subminimum wage, no minimum wage increase for tipped employees, and new restrictions on the scope of overtime coverage for computer professionals.

Let's put aside this family income reduction package. America's working families deserve a clean vote on making the minimum wage a living wage.

Sincerely yours,


Robert B. Reich

WORKING FOR AMERICA'S WORKFORCE



CENTER ON BUDGET AND POLICY PRIORITIES

May 8, 1996

RAISING FAMILIES WITH A FULL-TIME WORKER OUT OF POVERTY: THE ROLE OF AN INCREASE IN THE MINIMUM WAGE

By Robert Greenstein

Most Americans would probably agree that if a parent works full time throughout the year, the parent and his or her children should not have to live in poverty. Few policymakers of either party or any ideological stripe would defend the idea that children growing up in a family with a full-time working parent should be poor.

As a result, a bipartisan goal emerged in the late 1980s and early 1990s that full-time minimum wage work should lift a family of four to the poverty line. The Heritage Foundation set forth this goal in early 1989 in *Mandate for Leadership III*, its volume of advice to incoming President George Bush. The centrist Progressive Policy Institute espoused a similar goal in 1989. In addition, President Clinton endorsed this goal in the first major address of his presidency in February 1993.

Specifically, the goal has been that a combination of full-time minimum wage earnings net of payroll taxes, the Earned Income Tax Credit, and food stamps should place a family of four at least at the poverty line. The large expansions of the EITC enacted in 1990 and 1993 were designed in substantial part to help achieve this goal.

But the goal has not been attained. A family of four with a parent working full time year round at the minimum wage remains \$750 below the poverty line in 1996. Furthermore, because the minimum wage is not indexed for inflation and food stamp benefits would be cut across-the-board under all major pending welfare bills — including both Republican and Democratic bills — the family of four with a parent working full time at the minimum wage is likely to fall more than \$1,200 below the poverty line in 1997 if a welfare bill is enacted.

Table 1

The Minimum Wage and the Poverty Line (for a family of four in 1996)	
Poverty Line	\$16,001
Income	15,252
Full-time minimum wage earnings (2000 hours of work)	(8,500)
Payroll taxes	(-650)
EITC	(3,400)
Food Stamps	(4,002)
Amount by which income falls below the poverty line	749

Indeed, working poor families are worse off now than in the 1970s despite the large EITC expansions that have occurred since then. The decline in the purchasing power of the minimum wage, now nearing a 40-year low, has more than outweighed the EITC expansions.

Restoration of part of the lost value of the minimum wage could reduce this erosion in the living standards of working poor families and bring families of four with a full-time minimum wage worker to the poverty line. This analysis finds that an increase in the minimum range to the vicinity of \$5.15 an hour would reach this goal. (Specifically, depending on whether welfare legislation cutting food stamp benefits is enacted and on the assumptions used regarding the number of hours that full-time year-round work entails, the minimum wage would need to be raised to between \$4.92 and \$5.35 an hour to reach the poverty-line goal; \$5.15 is squarely in the middle of this range.) This, of course, is not the sole criterion by which to judge what the appropriate level of the minimum wage should be.

Some policymakers have recently suggested another route involving no adjustment in the minimum wage and an increase in the earned income credit instead. The earned income credit is an extremely valuable tool to help low-income working families. But the earned income credit and the minimum wage are best viewed as complements to one another; neither can do the full job alone. Too great an emphasis on the earned income credit can either raise government costs too high or increase marginal tax rates — and work disincentives — in the income range over which the EITC is phased down as income rises. Similarly, a minimum wage set too high can adversely affect employment. With the EITC having been increased substantially in 1986, 1990, and 1993 and with the minimum wage nearing a 40-year low, an adjustment in the minimum wage now seems appropriate.

Moreover, the new Republican budget reportedly has close to \$20 billion in EITC cuts. Under the budget, the EITC for many working families with children would be reduced, not increased.

How Far Do Families Fall With Minimum Wage Earnings Below the Poverty Line?

Full-time year-round work at the minimum wage pays \$8,500 a year. After payroll taxes are subtracted, this provides disposable income of \$7,850. In 1996, a family of four with \$8,500 in earnings qualifies for an EITC of \$3,400 and, if its assets are low enough, for food stamp benefits of \$4,000. (About half of working poor families with children actually receive food stamps.) The family's total income thus is about \$15,250.

But the poverty line for a family of four is projected to be \$16,000 in 1996.¹ The family falls \$750 below the poverty line.²

This gap will grow wider with each passing year as the purchasing power of the minimum wage continues to erode with inflation. (The poverty line, by contrast, keeps pace with inflation.) In addition, the welfare conference report, the governors' welfare proposal, and the Administration's welfare proposal all contain food stamp benefit reductions that affect the working poor.

By 1997, assuming enactment of the governors' welfare proposal, a family of four with a full-time minimum wage worker will fall \$1,240 below the poverty line in the absence of a minimum wage increase.³ By the year 2000, such a family will fall more than \$2,200 below the poverty line, or more than two-and-a-half times as far below the poverty line as the family is today.

These Families Have Lower Incomes Than in the 1970s Despite EITC Expansions

In 1979, the minimum wage paid \$2.90 an hour. A family of four with a full-time minimum wage worker received \$5,800 in gross earnings, paid \$356 in payroll tax, and qualified for an EITC of \$400. This brought the family's income from wages and taxes to \$5,844, in 1979 dollars.

Adjusting for inflation, this equals \$12,395 in 1996 dollars. By contrast, the income from wages and taxes that a family with full-time minimum wage earnings now receives is \$11,250. In other words, despite the very large expansions in the EITC

¹ The Census Bureau has published poverty line figures through 1994. The Census Bureau computes each year's poverty line simply by taking the poverty line for the previous year and increasing it by the change since the previous year in the Consumer Price Index. Thus, the poverty line for 1995 can now be computed. The poverty line for 1996 and succeeding years can be projected by taking the poverty line for 1995 and increasing it in accordance with the Congressional Budget Office's forecast of the change each year in the CPI.

² These calculations are for a family that works 2,000 hours a year, the standard definition of full-time work. If the family worked 2,080 hours (40 hours a week for 52 weeks), its total income, including taxes and benefits, would be \$327 higher. It would fall below the poverty line by about \$420. Food stamp benefits were calculated assuming that the household's shelter costs were equal to the median shelter cost for a food stamp household of four in fiscal year 1993 with at least \$500 per month of gross earned income, adjusted for inflation between 1993 and 1996.

³ The level of the food stamp benefit reductions affecting a typical family of four with full-time minimum wage earnings are fairly similar in all major welfare proposals. If this computation is done using the food stamp reductions in the vetoed reconciliation bill or in the Administration's budget, the results do not change much.

since 1979, a family of four with a full-time minimum wage earner receives \$1,150 less from wages and taxes today than such a family received in 1979.⁴

The main reason for this is that the decline in the value of the minimum wage since 1979 is greater than the increase in the EITC over this period. Measured in today's dollars, full-time minimum wage earnings have fallen \$3,800 since 1979, while the value of the EITC that a family of four receives if it has full-time minimum wage earnings has increased \$2,550.

Table 2

The Income of a Minimum Wage Family, 1979 vs. 1996
(for a family of four; measured in 1996 dollars)

	<u>1979</u>	<u>1996</u>
Minimum Wage Earnings	\$12,302	\$8,500
Payroll Tax	-755	-650
EITC	<u>848</u> 12,395	<u>3,400</u> 11,250
With Food Stamps	<u>3,105</u>	<u>4,002</u>
Total	\$15,500	\$15,252

As noted earlier, many working poor families do not receive food stamps. For those families with full-time minimum wage earnings that do receive food stamps, food stamp benefits are higher now than in 1979 because the family's earnings are lower. Food stamp benefits decline as income rises, and increase as income falls. Largely as a result, the food stamp benefits such a family could receive today if it qualified and applied for food stamps would be \$900 higher than the benefits it could have received in 1979, measured in today's dollars. Even so, the family's overall disposable income would still be several hundred dollars lower than what it would have received in 1979.

If one looks back to the early 1970s rather than to the late 1970s, the decline in income is sharper for single-parent families. In fact, the income of single-parent minimum wage families is substantially lower now than it was in the early 1970s *before the EITC was created*. An analysis by the Department of Health and Human Services has found that the disposable income of a mother with two children who works full time throughout the year at the minimum wage is \$1,980 — or 12 percent — lower in 1996 than it was in 1972, before the EITC's inception. The income of a mother with two children who works 30 hours a week throughout the year at the minimum wage is now approximately \$2,890 — or 18 percent — below what it was in 1972.⁵ The especially large drop in the income of these families is due both to the erosion in the minimum

⁴ Figures for 1979 are adjusted for inflation using the CPI-U-X1, rather than the regular CPI, which rises more rapidly. If the regular CPI is used instead, the decline in disposable income is several hundred dollars larger.

⁵ The inflation adjustments in the HHS analysis also use the CPI-U-X1.

Table 3

**AVERAGE DISPOSABLE INCOME FOR A MOTHER AND TWO CHILDREN
FROM WAGES, AFDC, FOOD STAMPS, EITC, AND FEDERAL TAXES
(in 1996 dollars)**

Number of Hours Worked Per Week At Minimum Wage Throughout the Year

<u>Year</u>	<u>20 Hours</u>	<u>30 Hours</u>	<u>40 Hours</u>
1972	\$14,643	\$15,860	\$17,004
1980	12,467	13,978	14,980
1990	10,677	11,368	12,500
1996 (under current law)	11,357	12,972	15,026

**Percentage Change in Average Disposable Income
For a Mother and Two Children**

1972-1996	-\$3,286	-\$2,888	-\$1,978
	-22.4%	-18.2%	-11.6%

Source: Center on Budget and Policy Priorities, based on
Department of Health and Human Services data

wage and also to the fact that in the early 1970s, nearly all states provided AFDC as a wage supplement to a family with a parent with earnings at these levels. Only a small number of states do so today.

How Can This Matter Be Addressed?

Some contend that the way to address this problem is through a large expansion of the EITC for families with children, without any adjustment in the minimum wage. The minimum wage and the EITC are best viewed, however, as complementary to one another. They represent a sharing of the burden between the public and private sectors of helping low-wage working families better their conditions. Also, the minimum wage appears in each paycheck, while most families receive the EITC in a lump sum after the end of the year.

In recent years, the EITC has been raised substantially. It now equals 40 percent of the first \$8,890 in wages for a family with at least two children. Raising it to a higher level would further boost the incomes of working poor families but would also create a dilemma for policymakers. To raise the EITC from 40 percent of minimum wage

earnings to a substantially higher percentage — and to do so without increasing the EITC income limit for families with two or more children above its current level of \$28,500 — would both be costly and would require phasing down the EITC more steeply for families in the \$11,600 to \$28,500 range. That, in turn, would increase the already high marginal tax rates that some of these families face and increase work disincentives (a problem raising the minimum wage does not pose). To avoid increasing marginal tax rates, the EITC could be raised for very low-wage workers without phasing it down more steeply for those with incomes above \$11,600. That, however, would require increasing the EITC income limit — probably to more than \$30,000 in 1996 dollars — and increasing EITC costs to a still-greater degree.

A notion advanced by those calling for an EITC increase and a minimum wage freeze — that a significant increase in EITC costs from raising the EITC for working families with children can be avoided by eliminating the small EITC going to very poor adult workers without children — is not correct. The EITC for workers without children accounts for less than three percent of EITC costs. If it were eliminated and the savings spread evenly among all families with children that receive the EITC, each such family would receive an additional EITC benefit of just \$50 a year, the equivalent of a 2.5 cents-per-hour raise for a full-time minimum wage worker. Even if the savings from repealing the EITC for workers without children were targeted on a substantial proportion of — rather than all — families with children receiving the EITC, the effect would be small.

Furthermore, abolishing the EITC for adult workers without children as part of such an approach is unwise. Doing so would deny some of the poorest workers in the country a needed pay raise through a minimum wage increase while increasing their taxes at the same time. Their taxes would increase because the small EITC these workers receive simply offsets some or all of the payroll taxes they pay. Without the EITC, their tax burden would rise. This would be particularly ill-advised, since a Congressional Budget Office analysis has shown that poor workers without children are the single group in the country whose tax burden, measured as a percentage of their income, increased most between 1980 and 1993. (See a separate Center analysis, "The Consequences of Eliminating the EITC for Workers Not Raising Children.")

In short, the EITC for families with children has been expanded to an extent that further substantial increases cannot be made without significant government cost or the risk of adverse policy outcomes. Given recent research indicating that the employment effects of a modest increase in the minimum wage would be small, raising the minimum wage moderately is now the most sensible route to follow.

Table 4

Level of Minimum Wage Increase Is Needed To Bring a Family of Four to the Poverty Line? (for 1998)				
	Full-Time Work = 2000 Hours (40 hours X 50 weeks)		Full-Time Work = 2080 Hours (40 hours X 52 weeks)	
	With Current Law Food Stamps	With Governors' Food Stamp Proposal	With Current Law Food Stamps	With Governors' Food Stamp Proposal
Poverty Line	\$16,992	\$16,992	\$16,992	\$16,992
Assumed Minimum Wage Level	\$5.11	\$5.35	\$4.92	\$5.15
Minimum Wage Earnings	10,220	10,700	10,234	10,712
Payroll Tax	-782	-819	-783	-819
EITC	3,758	3,758	3,758	3,758
Food Stamps	3,798	3,357	3,795	3,345
Total	16,994	16,996	17,004	16,996

Raising the Minimum Wage to Bring Families to the Poverty Line

If the minimum wage is raised in two steps — one in 1996 and one in 1997, as the Clinton Administration has proposed — to what level would it need to be raised to bring a family of four with a full-time minimum wage worker to the poverty line? The best way to answer this question is to examine the figures for 1998, since that is the first full year the minimum wage increase would be fully in effect.

As Table 4 shows, the minimum wage would need to be raised to \$5.35 an hour by 1998 if the food stamp cuts in the governors' welfare proposal are enacted. It would need to be raised to \$5.11 if no food stamp cuts are made.⁶

⁶ If full-time year round minimum wage work is defined as 2,080 hours a year rather than the standard definition of 2,000 hours, the minimum wage would need to be \$5.15 in 1998 if the food stamp cuts in the governors' welfare proposal are made and \$4.92 without any food stamp cuts.

Employee Commuting Flexibility Act (H.R. 1227- Fawell)

The Employee Commuting Flexibility Act removes legal barriers to employee use of employer-provided vehicles. Because of a Department of Labor ruling, many companies which allow employees to use vehicles for commuting may be forced to discontinue such programs. This bill will clarify circumstances under which employers can allow workers to continue to use a company vehicle for commuting to and from work.

A 1994 Department of Labor opinion letter outlined the circumstances under which employees must be paid for time spent commuting between home and the job site in an employer-provided vehicle. Compensation was generally required when the employee used employer provided vehicles, but not when employees used their own vehicles. In response to Congressional opposition, the Department withdrew the letter and modified its position on the issue. In order for an employer not to count commute time between home and work in a company vehicle as compensable, several conditions must be met. Given that the Department of Labor has within a short period issued two different opinions as to how the law should apply in this area, many employers who operate such programs are concerned that they remain vulnerable to back pay lawsuits and as such, may be forced to discontinue such programs.

The bill would clarify the Portal-to-Portal Act of 1947 to allow employers and employees to continue what has been the customary practice in many industries: employee use of company-provided vehicles to commute directly from home to work. In such situations, the use of the vehicle is a matter of convenience for both the employer and the employee.

* The minimum wage amendments will be offered on the floor during debate of H.R. 1227.

GOODLING BLOCK AMENDMENT TO HR 1227

Tip Credit:

Maintains a long-standing requirement that "tipped" employees receive at least the minimum wage, while also cushioning the displacement effects of the proposed increase. The minimum wage is intended to protect low-wage employees, not "tipped" employees who already receive an average of \$7 to \$8 an hour.

The Fair Labor Standards Act currently contains a tip credit system whereby employers of tipped employees may count tips received by the worker toward up to 50 percent of the employer's minimum wage obligation. In the event that an employee does not receive at least the statutory minimum wage, the employer must contribute the amount of wages necessary for the employee to make at least the minimum wage.

The proposal would specify that the tip credit would apply to any amount over \$2.13 per hour, instead of basing the tip credit on a percentage of the applicable minimum wage rate. This would keep the statutory cash wage for tipped employees

employee fails to make at least the minimum wage.

Restoring the Small Business Exemption:

Fixes an inadvertent error made during the 1989 amendments to the Fair Labor Standards Act with regard to the small business exemption. According to then-Secretary of Labor Dole, the effect of this inadvertent error has been to practically eliminate the small business exemption as a policy.

Most small businesses with less than \$500,000 in annual gross sales are exempt from minimum wage and overtime requirements. However, some individual employees of exempt small businesses are covered by minimum wage/overtime requirements if they handle anything that has crossed state lines (interstate commerce).

Changes to the Fair Labor Standards Act in 1989, increased the small business exemption threshold (\$362,900 to \$500,000), but technical errors rendered the exemptions effectively unworkable. Employers must now evaluate each week the involvements of individual employees in interstate commerce in order to determine whether the employee is covered by minimum wage/overtime. Hence, one employee working side-by-side with another employee may be covered while the other is not.

The proposal would effectuate the intent of the 1989 amendments to have a uniform small business exemption and will be based on legislation introduced by former Representative Mike Ezy and co-sponsored by numerous Democrats (H.R. 1237 - 102nd Congress).

Exemption for Computer Professionals:

Ensures that the minimum wage increase does not extend to exempt computer professionals who make at least \$27.63 per hour or over \$55,000 annually. Again, the intent of the minimum wage is to increase the wages of low-wage workers, not highly paid, exempt, computer professionals.

The regulations under the Fair Labor Standards Act contain an exemption from overtime for computer professionals who are paid at least six and one-half times the minimum wage, which would be \$27.63 per hour (or over \$55,000 annually), based on the current minimum of \$4.25. Increasing the minimum wage will lead to a substantial increase in the wage rate required under the computer professional exemption. For example, if the minimum wage were increased by \$1.00 per hour, computer professionals would have to be paid \$6.50 more per hour (or an annualized increase of \$13,520) in order to retain the overtime exemption.

The proposal would specify in the statute that computer professionals have to be paid at least \$27.63 per hour (maintaining current law) in order to qualify for the overtime exemption. This also would keep the threshold for the exemption from increasing automatically each time the minimum wage is increased.

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Opportunity Wage:

The opportunity wage will encourage the hiring of low-skilled, entry-level workers by firms; while simply maintaining the protections of the current minimum wage for a relatively short period of time. This amendment is geared to blunt the impact of the proposed increase on low-skilled workers.

An opportunity wage would permit employers to hire new employees at the existing minimum wage rate and pay that wage for only for the first 90 calendar days of employment. The 1989 amendments to the Fair Labor Standards Act permitted employers to pay eligible employees under the age of 20, a "training wage" for two consecutive 90-day periods. The wage, which was 85 percent of the minimum wage, went into effect on April 1, 1990 and expired on March 31, 1993. Employer use of the training wage was low, primarily because of the burdensome regulations associated with use of the wage.

In contrast, any paperwork requirements associated with an opportunity wage must be kept limited to enable employers to easily use and comply. The proposal would allow employers to pay new hires not less than \$4.25 per hour for the first 90 days (calendar days - not days of work) of the individual's employment. This would aid employers who are looking to hire new workers and in turn help those individuals, especially teenagers or other entry-level workers, who are looking for employment.

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

May 21, 1996

Support the Goodling Amendment
Minimize Job Loss Resulting From Minimum Wage Increase

Dear Colleague:

We writing to urge you to support the Goodling en bloc amendment to H.R. 1227, the Employee Commuting Flexibility Act. Should an amendment increasing the minimum wage be attached to H.R. 1227, the Goodling amendment is necessary to minimize the job loss, particularly in small businesses, that would result from such an increase. The Congressional Budget Office has indicated that at least 100,000, and perhaps as many as 500,000 jobs are endangered by the proposed increase in the minimum wage.

The Goodling amendment has four parts, each designed to blunt the costs to small business in terms of both the administrative burden and the disemployment effect.

- **Tip Credit**

The Fair Labor Standards Act (FLSA) currently contains a tip credit system whereby employers of tipped employees may count tips received by the worker toward up to 50 percent of the employer's minimum wage obligation. In the event that an employee's cash wages and tips do not meet the statutory minimum wage, the employer must contribute the amount of wages necessary for the employee to make at least the minimum wage.

Instead of relying on a percentage of the minimum wage, the Goodling provision would keep the mandatory cash wage paid by employers to tipped employees at \$2.13. Thus, an automatic adjustment of the tip credit would not be required each time the minimum wage is raised. Of course, every employer would still be required to make up the difference in wages and tips to ensure that each employee makes at least the minimum wage. The Goodling provision merely removes from employers, primarily small business men and women in the restaurant industry, the burden of further subsidizing the wages of employees who already receive average wages of \$7 to \$8 per hour.

- **Small Business Exemption**

When the FLSA was amended in 1989, an attempt was made to craft a workable small business exemption to the law. However, as a practical matter, the exemption--which removed small businesses with less than \$500,000 in annual gross sales from minimum wage and overtime requirements--is largely unusable because these same businesses often find that

These small business employers, who are otherwise exempt from the Act, are now forced to evaluate each week the work duties performed by individual employees to determine whether those duties relate to interstate commerce. If so, for that week, the employee is covered by minimum wage/overtime. Depending on their specific duties, one employee working side-by-side with another employee may be covered while the other is not, and each employee's status may change from week to week.

The Goodling provision would effectuate the intent of the 1989 amendments to have a uniform \$500,000 small business exemption and will be based on legislation introduced by former Representative Mike Espy and co-sponsored by numerous Democrats (H.R. 1237 --

102nd Congress). The provision contains several new protections, however. First, it guarantees that all employees currently covered by the minimum wage and overtime requirements will retain their right to overtime compensation and will continue to be paid at a wage not less than the current minimum wage. Second, the provision prohibits employers from displacing currently employed workers in order hire new employees and avoid the requirements of the FLSA.

- Computer Professionals Exemption

The regulations under the FLSA contain an exemption from overtime for computer professionals who are paid at least six and one-half times the minimum wage, which would be \$27.63 per hour (or over \$55,000 annually), based on the current minimum of \$4.25. Increasing the minimum wage will lead to a substantial increase in the wage rate required under the computer professional exemption. For example, if the minimum wage were increased by \$1.00 per hour, computer professionals would have to be paid \$6.50 more per hour (or an annualized increase of \$13,520) in order to retain the overtime exemption.

The proposal would specify in the statute that computer professionals have to be paid at least \$27.63 per hour (maintaining current law) in order to qualify for the overtime exemption. This also would keep the threshold for the exemption from increasing automatically each time the minimum wage is increased.

- Opportunity Wage

The Goodling provision would allow employers to pay new hires under 20 years of age not less than \$4.25 per hour for the first 90 days (calendar days - not days of work) after the employee is hired. This will encourage employers to hire new workers, and in turn, help low-skilled and entry-level workers maintain a foothold in the job market. The Goodling provision contains important protections for current workers by prohibiting employers from taking any action to displace any employee--either by an outright dismissal or a reduction in hours--in order to hire a worker at the opportunity wage.

Although modeled on the now expired "training wage" provision in the 1989 amendments to the FLSA, the Goodling opportunity wage obviates the burdensome paperwork requirements associated with that earlier wage. Offering employers an easy to comply with opportunity wage option ensures that small business owners will continue to be the engines of job creation fueling economic growth for our nation.

Sincerely,



BILL GOODLING
Member of Congress



CHARLES W. STENHOLM
Member of Congress

May 22, 1996 7:35 am

Possible Proposed FLSA Changes

These changes would all have the affect of denying minimum wage/overtime protection to certain classes of employees currently protected.

1. **Portal Act (Travel Time) Amendment:** Eliminates pay for home to work travel by employees in an employer-provided vehicle, and activities performed by an employee which are "incidental to the use of such vehicle for commuting," if the travel is within the "normal commuting area of the employer's business" and use of the vehicle is "subject to an agreement" between the employer and employee or employee's representative. The proposal would apply retroactively to pending actions. This will exclude more than just ordinary travel time from home to work. It is not clear which activities are "incidental to the use of such vehicle for commuting." The proposal lacks sufficient safeguards to ensure that use of the employer's vehicle is strictly voluntary by employees. This may disrupt some ongoing practices where the travel time is paid for, lowering compensation for some workers. We have already clarified "home-to-work" travel in company vehicles through our April 3, 1995, interpretation. Codification of the DOL interpretation as provided in the Andrews substitute would be acceptable.

2. **Youth "Opportunity" Wage:** Establish a permanent (no sunset), fixed sub-minimum wage -- at the flat rate of \$4.25, not 85 percent of the minimum wage -- for youth under 20 years of age in their first 90 days of employment with any employer (not just the first employer). Includes no employer training requirements.

3. **Tip Credit:** Eliminate the existing provision which requires employers of tipped employees (e.g., waiters and waitresses) to pay at least 50% of the statutory minimum wage in cash and replace it with a provision which locks the cash wage at the current standard -- \$2.13 -- even after the statutory minimum wage goes up. This proposal denies tipped employees any benefit from this minimum wage increase and, because it replaces an "index" formula with a fixed rate, it denies any automatic future increases in the minimum wage.

4. **Computer Exemption:** Eliminate the existing provision exempting certain "computer professionals" from requirements that they receive overtime pay if they earn more than 6.5 times the minimum wage and replace it with a provision exempting these workers from overtime if they earn more than \$27.63 per hour. Here again, this replaces an index formula with a fixed rate. This proposal means that no additional computer professionals will be protected by the FLSA's "time and one-half" overtime requirement and, over time, fewer and fewer computer professionals will be subject to this protection.

5. **Small Business Coverage Threshold:** Current law covers any worker engaged in interstate commerce, the production of goods for interstate commerce, or in any activity closely related or directly essential to producing goods for interstate commerce, as well as

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5. **Small Business Coverage Threshold:** Current law covers any worker engaged in interstate commerce, the production of goods for interstate commerce, or in any activity closely related or directly essential to producing goods for interstate commerce, as well as

employees of covered "enterprises". Employees would be covered by the FLSA (minimum wage, overtime, etc.) under this proposal only if they worked for a firm with annual gross revenues of more than \$500,000, and eliminates "individual coverage" of employees who work in interstate commerce for firms with gross revenues less than \$500,000. It goes beyond the pre-1989 exemption which exempted only employees of small retail/service establishments, and only for minimum wage and overtime. This would remove a substantial number of previously-protected low-wage workers from FLSA coverage (garment industry sweatshops, industrial homework, sheltered workshops, farmworkers, etc.), and would remove child labor protection in many industries in the future. The proposal would sanction the return of exploitative labor conditions (low wages, no overtime pay, long work hours, child labor abuses) as smaller companies in all industries seek a competitive edge over businesses regulated by FLSA. The proposed grandfather provision for currently-covered workers would create a two-tier wage system and, therefore, leave these employees outside the scope of future minimum wage increases.

H.R. 1227. Fawell Bill to Amend the Portal-to-Portal Act

Differences with Current Law

Under existing law, travel from home before the regular work day begins, and return travel to home after the work day ends, is ordinary "home-to-work" travel, which is not compensable. But all time spent in travel as part of an employee's principal activity, such as travel from job site to job site during the work day, is compensable work time. Where an employee is required to report at a meeting place to receive instructions, to pick up tools, or to perform other work, the travel time from the meeting place to the work place is also compensable work time.

Until August 1994, DOL held that if an employee received instructions or work assignments at home and then drove the employer's vehicle from home to the first job site, the travel time was compensable hours of work. Investigations of employers in the home heating oil industry in the New York metropolitan area revealed that certain employer practices had evolved contrary to FLSA's requirements, and the industry had overlooked long-settled interpretations of compensable travel time. Enforcement actions generated a groundswell of resistance from various firms and intense Congressional interest and pressure, prompting DOL to issue a letter ruling in April 1995 holding that violations would no longer be asserted for travel between home and the worksite ("home-to-work" travel) in an employer-provided vehicle if: (1) the driving is strictly voluntary and not a condition of employment; (2) the vehicle is a type that would normally be used for commuting; (3) the employee incurs no cost for driving or parking the vehicle at home or elsewhere; and (4) the worksites are within the normal commuting area of the employer's establishment.

H.R. 1227 was introduced three weeks before DOL issued its April 3, 1995, interpretative statement of policy.

- ▶ There are situations where employees perform work while traveling by conducting business for the employer or the employer's customers — for example, making telephone contacts to clients. This would be a compensable activity under current law but would be excluded under the bill.
- ▶ The bill would exclude travel time from home to work, as well as "activities performed by an employee which are incidental to the use of such vehicle for commuting." It is not entirely clear what is intended to be excluded from compensable work time, so there is potential that litigation could construe the exception quite broadly.
- ▶ The exception would apply under this bill if the travel is within the "normal commuting area of the employer's business" and use of the vehicle is "subject to an agreement" between the employer and employee or employee's representative. Under DOL's April 1995 ruling, additional limitations apply:

Youth "Opportunity" Wage

Proposal: To establish a 90 day youth sub-minimum wage, with no training requirements.

Background: The 1989 FLSA Amendments temporarily authorized a sub-minimum "training wage" (in effect from April 1990 through March 1993). The provision allowed employers to pay eligible employees under age 20 a training wage of 85% of the minimum wage (\$3.61 per hour from 4/91 through 3/93) for up to 90 days.

A youth paid the sub-minimum training wage for an initial 90 day period could be employed by a different employer at the same sub-minimum wage for an additional 90 day period if the employer met certain on-the- job training requirements.

The Department found very little use of the training wage by employers. The most common reason cited by employers for their nonuse was the inability to attract workers at that wage; administrative burden, government regulations and the undesirability of paying workers doing the same job at different rates were also cited as significant reasons for nonuse. There was no discernable use of the second 90 day provision.

Effect: A proposal to permanently reestablish the 90 day youth sub-minimum wage would permanently resurrect a failed experiment (allowed to sunset in 1993) embodied in the 1989 FLSA Amendments.

The proposal would add to the existing FLSA youth sub-minimum wage provisions (full time students, learners and apprentices) and parallel State-level programs (employers were able to fully utilize the "sunsetted" FLSA training wage in only 27 States, due to various restrictions imposed by State labor laws). The confusing interaction of these various programs with different thresholds, criteria, etc. is one reason employers cited for not utilizing the federal training sub-minimum wage when it was previously available.

This new youth sub-minimum wage would provide employers an incentive to hire youth rather than older workers.

Tip Credit

Proposal: To change the current minimum cash wage for tipped employees from 50 percent of the minimum wage to its current dollar equivalent -- \$2.13 per hour -- so an increase in the minimum wage will not increase their wage or costs to employers of tipped employees, now or in the future.

Background: The original tip credit provisions were added by the 1966 FLSA Amendments, at 50% of the applicable minimum wage. This allows employers to take credit for 1/2 of their minimum wage obligation through the tips received by their employees. Only employees who customarily and regularly received more than \$20 (raised to \$30 on 1/1/78) in tips a month were covered by the tip credit.

Tip credit provisions were then modified by the 1977 and 1989 FLSA Amendments:

<u>Date</u>	<u>Minimum Wage</u>	<u>Max Tip Credit</u>	<u>Cash Wage Required</u>
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	\$2.12½ (50%)	\$2.12½

Effect: A proposal to change the cash minimum wage for tipped employees -- by locking it at the current \$2.13 an hour rather than 50% of the statutory minimum wage -- would deny the benefit of any statutory minimum wage increases, now or in the future, to all tipped employees.

The proposal would deny minimum wage increases to vast numbers of employees most in need of a "living wage" to make work pay and escape the cycle of poverty, i.e., delivery personnel, waitpersons, servers and buspersons.

Tipped employees have seen their required cash wages being eroded by inflation over the years, even as the minimum wage has been increased. In the last 15 years, since 1981, they have seen their legally-required cash wage increase by only 11.5 cents per hour -- while the full minimum wage increased by 90 cents per hour.

Computer Exemption

Proposal: To change the current FLSA minimum wage/overtime exemption for certain computer "professionals" from being based on earning at least 6.5 times the minimum wage to its current dollar equivalent — \$27.63 per hour — so an increase in the minimum wage will not reduce the current population of such exempt employees and, thereby, not increase costs to employers of these computer personnel, now or in the future.

Background: Public Law 101-583, enacted 11/15/90, directed that regulations be promulgated to alter the minimum wage and overtime exemption for "professionals" to permit certain computer-related occupations to qualify for the exemption if such computer employees were paid an hourly rate at least 6½ times greater than the FLSA minimum wage. This enactment was a significant departure for two reasons: (1) the "professional" exemption traditionally encompassed only the "learned" and "artistic" professions, meaning doctors, lawyers, engineers, architects, etc., where an advanced academic degree was generally required for entry into the field, or artists, painters, sculptors, etc., and the named computer-related occupations would be the first not subject to an advanced academic degree requirement; and, (2) employees paid on an hourly basis could not previously qualify as "salaried" exempt professionals, but now they could if employed in the named occupations and paid at (or above) the specified rate.

Effect: "Locking in" the compensation level for exempting computer-related "professionals" will mean that the basis for qualifying for exemption will not keep pace with other general changes in the economy. As a result, what Congress originally intended as a narrow, targeted exemption will grow larger and larger as more employees become exempt as wages rise generally. There would be no minimum wage related incentive to increase the wage levels for these exempt workers, now or in the future.

This industry already enjoys special accommodation under the "professional" exemption, and this proposal will eliminate one of the principal built-in trade-offs that made up the basis for the exemption. Freezing the minimum wage level for the exemption will mean that, over time as wage levels rise, more and more computer workers will qualify for the exemption and, therefore, will only have to be paid "straight-time" wages no matter how many hours they work in a week. This also eliminates one incentive to create more employment in these fields.

Small Business Coverage Threshold

Proposal: To eliminate "individual coverage" based on a worker being involved in interstate commerce and cover only workers in "enterprises" meeting the current \$500,000 ADV (annual dollar volume) coverage test.

Background: The FLSA never really contained a "small business exemption" per se. Starting in 1938, the FLSA covered any worker engaged in interstate commerce, the production of goods for interstate commerce, or in any activity closely related and directly essential to producing goods for interstate commerce — i.e., workers were subject to "individual coverage." In 1961, a second way that employees could be subject to FLSA's protections was added by providing that all employees in an enterprise with an annual dollar volume of \$1 million or more would be covered, even if they were not individually engaged in commerce. This "enterprise coverage" threshold was changed over the years by later amendments, and is currently \$500,000 based on the 1989 FLSA Amendments.¹

Employees of all retail and service establishments were initially exempt from minimum wage and overtime. In 1961, this exemption was narrowed to exempt only small retail and service firms. Before the 1989 FLSA Amendments, the exemption applied only to employees of small retail or service establishments that were not part of a covered "enterprise" (i.e., "enterprises" comprised exclusively of retail or service establishments whose combined ADV was less than \$362,500).

The 1989 Amendments eliminated the exemption from "individual coverage" for employees of these retail and service firms to accompany the increase to \$500,000 in the ADV test for enterprise coverage. As a result, some employees in small retail and service firms became individually-covered by FLSA's minimum wage and overtime for the very first time (while other employees — of firms with an ADV below \$500,000 — were no longer covered).

Effect: Eliminating all individual coverage would go well beyond restoring how the law applied before the 1989 Amendments. In 1989, only smaller retail and service establishments qualified for the exemption from individual coverage for purposes of minimum wage and overtime only (not child labor), which was eliminated by the 1989 Amendments. The proposed "preservation of coverage" (grandfather) provision will only preserve the existing \$4.25 per hour minimum wage and overtime for those

¹ Also, under current law, all employees of hospitals, schools and institutions of higher education, and Federal, State and local governments are covered irrespective of the annual dollar volume of business done.

specific employees individually covered as of May 1, 1996, but will not protect any employees hired after that date. For employees in American Samoa, former individually-covered workers — those in most businesses in American Samoa — will lose all protections and they are not protected by the preservation of coverage rule. (A three tier wage system will result: some employees not covered by any wage requirement, some frozen at \$4.25, and some subject to the new and future increases.)

This proposal will eliminate from FLSA protections a substantial number of previously-protected workers in enterprises below the \$500,000 coverage threshold in the future, including many low-wage workers in industries that have always been covered by the law. These include low-wage and often exploited workers in garment industry sweatshops, farmworkers, workers in sheltered workshops, and many more. In addition, for new businesses starting after May 1, 1996; this provision would remove child labor protections for many of our Nation's working youth, placing them in unregulated work environments detrimental to their health, safety and general well-being. We could see a return to the exploitative conditions which FLSA was designed to eradicate — low wages, long work hours, and child labor abuses — by smaller companies in all industries seeking a competitive edge.

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

MAY 22 1996

The Honorable Newt Gingrich
Speaker of the House
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

While a bipartisan majority in the Congress stands ready to give minimum wage workers a raise, the House leadership plans instead to deprive potentially millions of workers of any minimum wage increase. Further, millions of additional workers taking new jobs will be entirely denied minimum wage and overtime protections if the proposed Goodling Amendment is adopted.

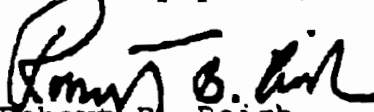
This dramatic leap backwards from current law --- effectively exempting virtually all new employees of two-thirds of all firms from major worker protection provisions of the Fair Labor Standards Act --- threatens the President's efforts to raise working families' incomes. It goes well beyond the small retail and service business exemption that existed in the law prior to 1989. This proposal invites a return to the sweatshop conditions that Americans abhor.

If the Goodling Amendment I have described above --- which would deprive many working families of the minimum wage increase they deserve and repeal basic worker protections for millions of workers --- is included in H.R. 1227, I would recommend that the President veto the bill.

By resurrecting and making permanent a youth subminimum wage without training requirements or other protections, a second proposed amendment could pit young workers against older incumbent workers. In industries where high turnover is common --- like retail --- this type of youth subminimum wage may keep some young workers from graduating to the minimum wage. The Administration strongly opposes the amendment proposing this youth subminimum wage, no minimum wage increase for tipped employees, and new restrictions on the scope of overtime coverage for computer professionals.

Let's put aside this family income reduction package. America's working families deserve a clean vote on making the minimum wage a living wage.

Sincerely yours,


Robert B. Reich

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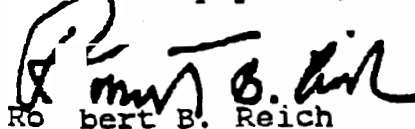
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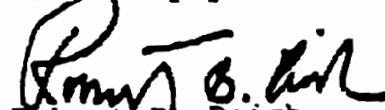
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