

PROVIDING FOR THE CONSIDERATION OF H.R. 3448, THE  
SMALL BUSINESS JOB PROTECTION ACT, AND H.R. 1227,  
THE EMPLOYEE COMMUTING FLEXIBILITY ACT

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MAY 21, 1996.—Referred to the House Calendar and ordered to be printed

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Mr. SOLOMON, from the Committee on Rules,  
submitted the following

REPORT

[To accompany H. Res. 440]

The Committee on Rules, having had under consideration House Resolution 440, by a non-record vote, report the same to the House with the recommendation that the resolution be adopted.

BRIEF SUMMARY OF PROVISIONS OF RESOLUTION

The resolution first provides for consideration in the House of H.R. 3448, the Small Business Job Protection Act. All points of order are waived against the bill except those arising under section 425(a) of the Congressional Budget Act, prohibiting unfunded mandates. The rule provides that the amendment in the nature of a substitute recommended by the Ways and Means Committee shall be considered as read. The rule waives all points of order against the committee amendment in the nature of a substitute except those arising under sec. 425(a) of the Budget Act. The rule provides that the bill and committee amendment shall be debatable for one hour, divided between the chairman and ranking minority member of the Ways and Means Committee.

The rule orders the previous question on the bill and committee amendment to final passage without intervening motion except one motion to recommit, with or without instructions. The rule provides that the provisions of clause 5C of rule XXI, requiring a three-fifths vote on bills, amendments, or conference reports containing income tax rate increases, shall not apply to the bill, amendments thereto, or conference reports thereon.

After disposition of H.R. 3448, the rule provides for consideration in the House of H.R. 1227, the Employee Commuting Flexibility Act without intervening point of order except those arising under sec. 425(a) of the Budget Act (prohibiting unfunded mandates). The rule provides that the amendment in the nature of a substitute recommended by the Economic and Educational Opportunities Committee, modified by the amendment printed in section 3 of the rule (adding a short title) is considered as adopted.

The rule orders the previous question to final passage without intervening motion except: (1) 90 minutes of debate divided between the chairman and ranking minority member of the Economic and Educational Opportunities Committee; (2) an amendment printed in part 1 of the report on the rule if offered by Rep. Riggs of California or his designee, debatable for 90 minutes; (3) an amendment printed in part 2 of the report on the rule if offered by Rep. Goodling of Pennsylvania or his designee, debatable for one hour, and subject to a division of the question between subsection 3(d) and the rest of the amendment; and (4) one motion to recommit, with or without instructions. The rule provides that each amendment made in order is considered as read, is not subject to amendment or point of order (except those arising under sec. 425(a) of the Budget Act).

The rule provides that in the engrossment of H.R. 3448, the Clerk shall await disposition of H.R. 1227 and then add the text of H.R. 1227 as passed by the House to H.R. 3448. Upon the addition of the text of H.R. 1227 to the engrossment of H.R. 3448, H.R. 1227 shall be laid on the table.

#### COMMITTEE VOTES

Pursuant to clause 2(l)(2)(B) of House rule XI the results of each rollcall vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

##### RULES COMMITTEE ROLLCALL NO. 320

Date: May 21, 1996.

Measure: Rule for the consideration of the bills H.R. 3448, the Small Business Job Protection Act, and H.R. 1227, the Employee Commuting Flexibility Act.

Motion By: Mr. Beilenson.

Summary of Motion: Make in order the amendment by Rep. Neal to H.R. 3448 to allow an above-the-line deduction of up to \$5,000 for qualified higher education expenses and offset with extension of the airline excise taxes through Dec. 31, 1998.

Results: Rejected, 2 to 7.

Vote by Members: Dreier—Nay; Goss—Nay; Linder—Nay; Pryce—Nay; McInnis—Nay; Greene—Nay; Beilenson—Yea; Frost—Yea; Solomon—Nay.

##### RULES COMMITTEE ROLLCALL NO. 321

Date: May 21, 1996.

Measure: Rule for the consideration of the bills H.R. 3448, the Small Business Job Protection Act, and H.R. 1227, the Employee Commuting Flexibility Act.

Motion By: Mr. Frost.

Summary of Motion: Make in order the amendment by Rep. Rangel to H.R. 3448 striking the provision in the bill relating to termination of the Puerto Rico and possessions tax credit, and offset with a one year extension of the airport and airway trust fund taxes.

Results: Rejected, 1 to 8.

Vote by Members: Dreier—Nay; Goss—Nay; Linder—Nay; Pryce—Nay; McInnis—Nay; Greene—Nay; Beilenson—Nay; Frost—Yea; Solomon—Nay.

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## PART 1

### THE AMENDMENT TO BE OFFERED BY REPRESENTATIVE RIGGS OF CALIFORNIA, OR HIS DESIGNEE

Add at the end the following:

#### SEC. 3. MINIMUM WAGE INCREASE.

(a) SHORT TITLE.—This section may be cited as the “Minimum Wage Increase Act of 1996”.

(b) AMENDMENT.—Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended to read as follows:

“(1) except as otherwise provided in this section, not less than \$4.25 an hour during the period ending on June 30, 1996, not less than \$4.75 an hour during the year beginning on July 1, 1996, and not less than \$5.15 an hour after the expiration of such year;”.

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## PART 2

### THE AMENDMENT TO BE OFFERED BY REPRESENTATIVE GOODLING OF PENNSYLVANIA OR HIS DESIGNEE

Add at the end the following:

#### SEC. 3. FAIR LABOR STANDARDS ACT AMENDMENTS.

(a) COMPUTER PROFESSIONALS.—Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended by striking the period at the end of paragraph (16) and inserting “; or” and by adding after that paragraph the following:

“(17) any employee who is a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker, whose primary duty is—

“(A) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications;

“(B) the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

“(C) the design, documentation, testing, creation, or modification of computer programs related to machine operating systems; or

“(D) a combination of duties described in subparagraphs (A), (B), and (C) the performance of which requires the same level of skills, and who, in the case of an employee who is compensated on an hourly basis, is compensated at a rate of not less than \$27.63 an hour.”

(b) TIP CREDIT.—The next to last sentence of section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended to read as follows: “In determining the wage an employer is required to pay a tipped employee, the amount paid such employee by the employee’s employer shall be an amount equal to—

“(1) the cash wage paid such employee which for purposes of such determination shall be not less than the cash wage required to be paid such an employee on the date of the enactment of this paragraph; and

“(2) an additional amount on account of the tips received by such employee which amount is equal to the difference between the wage specified in paragraph (1) and the cash wage in effect under section 6(a)(1).

The additional amount on account of tips may not exceed the value of the tips actually received by an employee.”

(c) OPPORTUNITY WAGE.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end the following:

“(g)(1) In lieu of the rate prescribed by subsection (a)(1), any employer may pay any employee of such employer, during the first 90 consecutive calendar days after such employee is initially employed by such employer, a wage which is not less than \$4.25 an hour.

“(2) No employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in paragraph (1).

“(3) Any employer who violates this subsection shall be considered to have violated section 15(a)(3).

“(4) This subsection shall only apply to an employee who has not attained the age of 20 years.”

(d) SMALL BUSINESS EXEMPTION.—

(1) SPECIAL INDUSTRY COMMITTEES.—Section 5(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 205(a)) is amended by striking “engaged in commerce or in the production of goods for commerce or employed in any enterprise engaged in commerce or in the production of goods for commerce” each time that it appears and inserting each time the following: “who are (1) engaged in industrial homework subject to 11(d) and are either (A) engaged in commerce, or (B) engaged in the production of goods for commerce, or (2) employed in an enterprise engaged in commerce or in the production of goods for commerce”.

(2) MINIMUM WAGE.—Section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended by striking “who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce” and inserting the following: “who in any workweek is engaged in industrial homework subject to 11(d) and is either engaged in

commerce or engaged in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce”.

(3) WAGE ORDERS.—Section 8(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 208(a)) is amended by striking “employers in American Samoa engaged in commerce or in the production of goods for commerce or” and inserting in lieu thereof “employers in American Samoa”.

(4) MAXIMUM HOURS.—Paragraphs (1) and (2) of section 7(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(a)) are each amended by striking “who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce” and inserting the following: “who in any workweek is (A) engaged in industrial homework subject to 11(d) and is either (i) engaged in commerce, or (ii) engaged in the production of goods for commerce, or (B) employed in an enterprise engaged in commerce or in the production of goods for commerce”.

(6) SEX DISCRIMINATION.—Paragraphs (1) and (2) of section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) are each amended by inserting after “employees subject to any provisions of this section” the following: “or employees engaged in commerce or in the production of goods for commerce”.

(7) HANDICAPPED WORKERS.—Section 14(c)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(c)(1)) is amended by inserting after “injury” the following: “and who are engaged in commerce or in the production of goods for commerce, or who are employed in an enterprise engaged in commerce or in the production of goods for commerce”.

(8) PRESERVATION OF COVERAGE.—In the case of an employee who on May 15, 1996, was subject to section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) and who because of the amendments made by this subsection is not subject to such section, the employer of such employee on such date shall—

(A) pay such employee not less than the minimum wage in effect under such section on May 15, 1996;

(B) pay such employee in accordance with section 7 of such Act (29 U.S.C. 207); and

(C) remain subject to section 12 of such Act (29 U.S.C. 212).

No employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at less than the wage authorized in subparagraph (A) or to avoid the protections of subparagraphs (B) and (C). Any employer who violates the preceding sentence shall be considered to have violated section 15(a)(3) of the Fair Labor Standards Act of 1938.