

DASCHLE or his designee, and 20 minutes under the control of Senator COVERDELL.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. I yield the floor, Mr. President.

SMALL BUSINESS JOB PROTECTION ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. MOYNIHAN. Mr. President, I am happy to yield 8 minutes to my distinguished friend and fellow member of the Finance Committee, Senator GRAHAM of Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I wish to speak briefly on a provision which I hope will be included in this bill at the time we take our final vote. It is a provision which is of great importance to working parents and their children across America.

For years, one of the major challenges to American families has been how to plan for their children's educational future. This challenge has been exacerbated in recent years due to the continued rising costs of college education.

In response to this challenge, over the past 10 years States have formed innovative partnerships with families. These are typically known as prepaid college tuition plans. These plans, although not structurally identical, share a common purpose. These plans allow parents to pay in advance for a child's tuition at a participating college or university, thereby locking in today's tuition prices, guaranteeing the child's access to a future college education. The State then takes the funds which have been paid by the participant, typically the parent, and invests them in a way that keeps pace with the cost of college education. These programs are designed so that people of moderate means can help their children realize the dream of a college education. For instance, the typical Florida family participating in this program earns approximately \$50,000 a year.

These programs are also tailored to maximize flexibility. Families can either purchase a prepaid tuition contract with a lump sum or, if they choose, they can pay the child's education in monthly installments. These plans, therefore, are affordable. For instance, those families who opt to invest on a monthly basis in my State of Florida put aside an average of about \$53 a month, roughly the price of cable television service.

This affordability has made prepayment programs enormously successful in Florida and across the Nation. Most importantly, at a time when the next generation will struggle to provide for the financial security of its children, prepaid college programs provide a powerful incentive for families to save, to invest in their futures, to provide for some security when an unexpected tragedy occurs.

Let me share with you an example of such an unexpected tragedy. Mr. and Mrs. Daniel Gilliland enrolled their sons, Sean and Patrick, in the Florida program in 1988, the first year of its existence. Four years later, Sean entered the University of Florida as a freshman in the fall of 1992. In 1994, the father, Daniel Gilliland, died unexpectedly, just as the younger son Patrick was about to go to the University of Florida for his freshman year. The death of Daniel Gilliland was devastating to the family, but because the Gillilands were able to participate in the Florida prepaid college program both children were able to go on with their lives and continue their education. I will quote from a letter from Mrs. Gilliland, which I ask unanimous consent be printed in the RECORD immediately after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAHAM. She states, "By expecting the unexpected, we were able to give both sons an education at a fine university that would certainly otherwise have been difficult for me as a single parent."

When Daniel died, I silently offered "thanks that we had the foresight and chance to participate in this program."

Today, Sean is a senior at the University of Florida, ready to graduate with a degree in business. Patrick maintains a 3.6 average, while working toward a degree in athletic training.

Mr. President, it is because of success stories like the Gilliland's that the prepaid college programs are flourishing. Twelve States already have operating programs. Those States are those depicted in green on this map. Four States depicted in yellow will begin tuition programs this year, and a dozen more are moving towards enacting prepaid tuition legislation, those depicted in red.

As an example, the Texas prepaid tuition program, which was set up this year, receives 4,000 inquiries a day and enrolled 40,000 participants within the first few weeks of implementing the program.

In Florida, 376,000 families are currently participating in the program; 40,000 participants join each year.

Why, in the face of this great success, are we considering Federal legislation to affect State prepaid tuition plans? The reason is because early this year the taxation of these plans was called into question by the Internal Revenue Service. The IRS contacted six States with operating programs and informed them that the IRS intended to do two things: First, the IRS stated that it would treat the State fund as a taxable corporation rather than a tax-exempt government entity. Obviously, this action would make it difficult for States to meet their obligation to families under the plan. Second, the IRS stated that families should have to pay tax annually on the interest income earned on amounts transferred to the fund.

Mr. President, it just does not make sense to me that an individual who

purchases a tuition contract should have to pay tax every year on the earnings on the funds. First, the contributor has surrendered control of his funds. He or she can only get money back if a student dies or should not qualify for college. And then, under most plans, the State refunds only the principal. Second, the contributor does not have access to the funds to pay the tax, since the money contributed to the tuition contract now belongs to the fund itself.

Given the fact that most who contribute to the fund are of modest means, it is a tremendous disincentive to investing in education to make contributors pay tax on interest income for up to 18 years before the child goes to college.

Because we felt so strongly about this issue, a bipartisan group of Senators, including Senators MCCONNELL, BREAUX, and SHELBY, decided to do something about it. In discussions with the administration and the Department of Treasury we were able to get the IRS to revisit this issue. I am pleased to report that on June 11 of this year, the IRS issued new rules that will temporarily exempt State tuition plans from interest income taxation. This matter has not been settled. The Department of Treasury has asked for help from Congress, asking us to clarify the tax treatment of these plans. Until we act, the financial future of these plans, along with the education of over a half-million participants nationwide, remains in limbo. This bill will clarify that these State programs are not taxable and that the earnings on the fund will not be taxed until the child goes to college.

Removing the specter of Federal taxation from these plans is particularly appropriate at this time, a time when Congress should be trying to foster innovative programs among the States and encouraging families' efforts to save and invest for their children's future.

I would like to particularly thank Senator ROTH and Senator MOYNIHAN for their support and assistance in including this important provision in the legislation. With enactment of this legislation, parents and children will be able to rest easier, knowing that Congress has done the right thing in protecting their investment and protecting their—and our—Nation's future.

EXHIBIT 1

MRS. DANIEL D. GILLILAND,
Bradenton, FL.

KAREN S. FENTON,
Editor, *College Bound, Florida Prepaid College Program, Tallahassee, FL.*

DEAR MS. FENTON: I am writing to acknowledge your invitation to share "success stories".

My husband Daniel and I enrolled our two sons Sean and Patrick in the College Program in 1988, I believe the first year this was offered.

Sean entered the University of Florida (Honors Program) in the fall of 1992 a graduate of Manatee High School, Bradenton, Florida.

Daniel died suddenly two years later at age 52, so with Sean then a sophomore, and Patrick about to enter his freshman year also at the University of Florida, I did silently offer thanks that we had the foresight and chance to participate in this program.

By expecting the unexpected, we were able to give both son's an education at a fine university that would certainly otherwise have been difficult for me as a single parent.

Today, Sean has reached his senior year pursuing a degree in business, with an area of specialization in Japanese studies.

Patrick presently in his sophomore year maintains a 3.6 average while working towards a degree in Athletic Training.

Thank you for allowing me to share this brief page from our lives with you and other participants of this college program.

Sincerely,

SALLY A. GILLILAND.

Mr. MOYNIHAN addressed the Chair. The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I am sure I can speak for the chairman, Senator ROTH, when I say to Senator GRAHAM of Florida that it is we who are indebted to him for having brought this matter to the committee, set forth the issues with clarity and succinctness, and won unanimous support for obviously an important subject—important not just to Florida but, as the map shows, to States across the Nation.

I see Senator CONRAD has risen. I am happy to yield 8 minutes to him.

The PRESIDING OFFICER. The Senator from New York has 5 minutes remaining at this time.

Mr. MOYNIHAN. I ask unanimous consent if I might use 3 minutes of the leader's time for Senator CONRAD.

The PRESIDING OFFICER. The Senator may do that.

The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I support the Small Business Job Protection Act of 1996 and urge my colleagues to join me in supporting this legislation. The Senate Finance Committee made a series of bipartisan changes in the bill as it came from the House, led by our chairman and ranking member, the Senator from New York. I want to publicly commend them for the outstanding job they did in improving this legislation. I especially want to single out the ranking member who has, as always, made enormous contributions to this finished product. I think this is a significant improvement over what was sent to the committee.

The bill raises the minimum wage by 90 cents over the next 2 years. I think everybody who has been following this debate understands that. The current minimum wage is at a 40-year low in purchasing power. Maybe I need to repeat that, because I think it is a stunning fact. We are not talking about a 4-year low, we are talking about a 40-year low in terms of its purchasing power.

I brought this chart that shows what the minimum wage has been from 1960

to the end of 1995 in purchasing power. As we can see, the minimum wage has been all over the map over this period of time. Without exception, it has been higher than it is today. It is time to act. It is the right thing to do. It is the fair thing to do.

Over the past 2 years, I and many others have supported welfare reform that encourages adult, able-bodied welfare recipients to work. However, any welfare to workfare reform, to be effective, must be accompanied by a living wage for those who do work. I do not know how anybody can seriously advocate welfare reform as it has been talked about in this Chamber and fail to support a living wage for those who do work. That is fair. That is what we ought to do.

The legislation before us also contains numerous provisions to help small businesses. I come from a State of shopkeepers, farmers, and small manufacturers. My State has many very small businesses. I was just telling a colleague that a cousin of mine ran a small gift shop in my hometown of Bismarck, ND. I know something about that business. I know that it provided a modest income. I am not going to use those figures here because back home people would know exactly who I am talking about and I would be breaking faith with a treasured relative. But I can tell you, I know what happens to small businesses. I used to be the tax commissioner of my State.

I have looked at the books and records of literally hundreds of businesses in my State, and I think I understand very, very clearly the pressure that an increase in the minimum wage puts on small business owners. I have evaluated it very carefully, and think I fully appreciate its effects.

Mr. President, I say to those small business owners in my State who have been strong supporters of mine, it is time now to increase this minimum wage. It is the right thing to do. It is the fair thing to do. I know it is going to mean difficulty for some. I regret that. But I also know there are literally thousands of people in my State who are dependent on this minimum wage to provide for their families' incomes.

Today, that family income, for those who are on the minimum wage, is \$8,800 a year. I defy anyone to explain to me how you live on \$8,800 a year, even with a very small family, even if it is a single person—\$8,800 a year.

To offset the effect on small businesses, we have included many provisions to help small businesses. I am strongly supportive of those provisions. The key provision increases the amount of investment small businesses can expense from the current \$17,500 per year to \$25,000 per year. That is a tax savings of up to \$2,900 a year when it is fully phased in.

Mr. President, these sound like modest amounts. They are modest amounts, but when you talk about the very small businesses in my State,

they make a difference. It will be a tremendous help to thousands of small businesses and farmers in North Dakota.

In addition, the legislation contains a series of provisions reforming subchapter S corporations. Again, my State has hundreds and hundreds of subchapter S corporations. My wife, when she was in the private sector, had a subchapter S corporation. I am very familiar with the operations of those businesses. These changes are long overdue.

I think the business community is going to welcome a key provision that increases the number of allowable stockholders from 35 to 75 and allows S corporations to have subsidiaries.

These and other changes will allow S corporations to grow and invest, creating jobs and a better future for literally millions of Americans.

For working families, the most important changes in the bill provide for simplified pension plans for small businesses. Again, not only will the employees be the beneficiaries, the owners of these businesses will be the beneficiaries. Anybody who has gone through the paperwork required of pension plans for small businesses knows what I am talking about. The rules as currently constituted are a nightmare for small business owners. These provisions are going to improve that circumstance dramatically.

Mr. President, I again salute the ranking member of the Finance Committee, the senior Senator from New York, for the outstanding effort that was made in the Finance Committee to improve these provisions.

The savings incentive match plan for employees [SIMPLE] reduces compliance and reporting requirements for small businesses with 100 or fewer employees. Businesses will be able to offer either IRA's or 401(k) plans.

Mr. President, for families in which one spouse decides to stay at home to care for children, this bill allows for a full IRA contribution of up to \$2,000. This will remove the penalty that is in the current code with respect to spouses who are at home.

In this legislation, the Congress recognizes the work of raising children to be productive members of society is just as important—many of us believe more important—than paid work. In fact, it is the most important job of any in our society.

These are dramatic improvements to current law that will allow millions of Americans to provide for their retirement. In doing so, the savings generated will help provide for the investment needed for economic growth and prosperity.

The Senate Finance Committee also provided for the extension of a number of important tax incentives. Specifically, the targeted jobs tax credit is extended and renamed the "work opportunity tax credit." This tax credit provides incentives for businesses to hire difficult-to-place workers.

Second, the research and experimentation tax credit and the orphan drug tax credit are extended. These assure that the private sector is encouraged to develop new technologies and new drugs.

For my State and many others with lignite and low-rank coals, this legislation extends a tax credit incentive to produce and market alternative, environmentally friendly energy products. It will help high-technology energy businesses find investors who are willing to build multimillion dollar plants using new technologies to bring these alternative fuels to market.

In closing, I wish to raise two issues. First, these tax benefits must be paid for. Unfortunately, one of the major sources of the funding is the extension of the airline ticket tax. This tax made sense when airline ticket prices were regulated. Under regulation, prices in small markets served by one or two airlines were basically the same as prices in large, heavily traveled, highly competitive markets. That is no longer true. Deregulation brought higher ticket prices to many rural states and smaller cities. Compounding that inequity, the 10-percent tax places a larger burden for supporting the Federal Aviation Administration on small markets.

That is simply unfair. The airline ticket tax needs a major overhaul. The burden of paying for the FAA should not fall disproportionately on small markets. While this extension of the ticket tax will undoubtedly pass because it is attached to a bill that has so many positive benefits, we need to get about the business of reform before any additional extensions are made. Rural States like North and South Dakota, Montana, and Nebraska as well as small cities in every State will benefit from reform.

We must also begin to develop new approaches to help stabilize the rural economy. Senator HATCH, Senator HARKIN and others have drafted legislation to encourage the development of farmer-owned food-processing cooperatives. While the prices of raw commodities fluctuate wildly from year-to-year depending on the weather, processed-food prices are far more stable. Farmers need to be able to process some of their own production for the market in order to stabilize their incomes. Farmers can do that through farmer-owned cooperatives. I applaud the efforts of Senators HATCH and HARKIN and others. I hope that their legislation can be added to this bill in conference as a way to help bring some economic stability to the highly volatile farm sector.

This small business legislation may be the most important piece of legislation Congress addresses this year. So far, this legislation has enjoyed bipartisan support. I recommend its passage without amendments. That would kill any chance of the legislation becoming law.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I yield 4 minutes of the leader's time to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President, and I thank the Senator from Kansas for her leadership on this very important issue.

Mr. President, I want to speak specifically about the homemaker IRA part of this bill. The homemaker IRA was put forward 3 years ago by myself and Senator MIKULSKI. It now has 62 cosponsors. This is a matter of simple fairness and equity. I cannot believe that we are standing here today talking about this issue, because if you work outside the home, you can set aside \$2,000 a year which accrues tax free for your retirement security. But if you are a homemaker working at home, raising your children, contributing to this country and its stability, you are allowed to set aside \$250 a year.

If we can pass the homemaker IRA and allow the homemakers of this country to be equal in their ability to contribute to their retirement security for a one-income-earner couple, the difference will be \$188,554 for a 30-year accumulation at \$2,000 a year versus \$335,000, a difference of \$150,000, roughly. That is the difference in retirement security that we can make today if we can pass this very important bill.

The homemaker IRA had also been passed in the Balanced Budget Act last year. It was included. It was vetoed by the President. This is a bill I hope we will be able to see signed by the President. It is very important for the many small business advantages, as well as the homemaker advantages in retirement security. It is very important that we send the bill to the President and that he sign it.

This is a big bill. It is a bill that has a lot in it. It has the minimum wage, we have the Bond amendment, and we have the Kennedy amendment. I am very concerned about the potential of adopting the Kennedy amendment, which is a retroactive minimum wage increase and the fact that that could kill the homemaker IRA bill, because I cannot vote for a retroactive increase in wages that someone who is now in the middle of the summer, who might have an inn or a restaurant and has set prices according to what the wage scale is to all of a sudden wake up and find that the costs are 20-percent higher.

I cannot vote for that. I think it is wrong. So I hope that we will be able to pass this bill in a responsible way with some exceptions for small business to give them the ability to continue to compete because they do not have the advantages of the efficiencies of a large business.

I hope that we will be able to pass the Bond amendment which will have a minimum wage increase but one that can be provided and planned for, one that will have some small business exemptions so that they will still be able to compete.

I hope we can put together a package that will be signed by the President that will be bipartisan, that will have the Bond amendment protections of our small business people as we are also protecting the homemakers and the people who are not now allowed to set aside \$2,000 a year for their retirement security but could if they worked outside the home.

I commend Senator KASSEBAUM and Senator MIKULSKI who have been working on homemaker IRA's for 3 years and the many cosponsors that we have for that bill. I hope that we can put together a bill that will not kill the small businesses of our country, and at the same time that we can help the homemakers who are contributing to the stability of our country every day and do not have the same advantages of retirement security that those who work outside the home do. Thank you, Mr. President.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I commend Senator HUTCHISON and Senator MIKULSKI for the leadership they have provided on the homemaker IRA's. I am pleased to have been a cosponsor, along with a number of others. I think it is a very beneficial aspect of the Finance Committee legislation that is before us. Senator HUTCHISON and Senator MIKULSKI have fought some valiant battles to bring this to the public's attention, particularly to the attention of the Congress.

I now will yield the remaining time on the bill to the senior Senator from Missouri, Mr. BOND.

The PRESIDING OFFICER. The senior Senator from Missouri is recognized.

Mr. BOND. I thank the Chair. Might I inquire how much time is available?

The PRESIDING OFFICER. There are 13 minutes 35 seconds remaining.

Mr. BOND. I thank the Chair.

Mrs. KASSEBAUM. Mr. President, I say to my colleague, there are a few minutes more of leader's time if the Senator from Missouri feels he needs a few extra minutes.

Mr. BOND. I thank the distinguished Chair of the Labor Committee.

Mr. President, I rise today to talk about the provisions in my amendment and to give some background to my colleagues on why this amendment is important. I think by now everybody knows it would allow small businesses, the smallest of the small, grossing less than \$500,000, the opportunity to continue to pay the minimum wage at \$4.25. Businesses grossing above \$500,000 would begin paying \$4.75 on January 1, 1997, and \$5.15 on January 1, 1998.

Without this provision, this would be a retroactive minimum wage increase. As the Senator from Texas has already pointed out, it means that businesses who have laid out their plans, issued price lists, or bid on contracts will find that somebody is going around and

reaching into their pockets and pulling out money that might not be there. Without the delayed effective date, it is possible that small businesses or a business of any size might find themselves working under existing arrangements, contracts, price lists, for a loss if we do the unheard of step of imposing a retroactive minimum wage. That alone, I think, mandates the passage of this amendment.

In addition, we provide a training wage. A training wage is important not only to get teenagers and young people into work, but to get people coming off of welfare into a job, getting them started in the habits that make a job a productive commitment and teach the skills that are needed to hold a job.

The most important part of this amendment, however, is the small business exemption. Why do we set out the exemption for the smallest of the small businesses? Mr. President, as chairman of the Small Business Committee, I have had the opportunity to talk with and, most importantly, to listen to many small businesses around this country.

It is obvious to me that my colleagues, who are talking about how it is no problem for small businesses to have a 20-percent increase in what they pay minimum wage workers, have not been listening to the small businesses. They do not know what burdens they are under. These people who are getting started, they have an idea. They are willing to take a risk. They are willing to take it all on their own shoulders. They may work out of their house. They put their savings into their ideas. Most of them work far more than a 40-hour work week. They are just getting started—they are just getting started. If they become successful, like a Microsoft, as soon as they hit \$500,000 annual gross revenue, then the minimum wage goes up to the full amount provided in this bill.

Who does this affect? Well, Mr. President, among the people it affects are the National Association of Women Business Owners, NAWBO. This business organization has pointed out that between 1987 and 1996 the growth of women-owned firms continued to outpace the overall growth of business by nearly 2 to 1 and revenues generated by women-owned enterprises by more than triple. Almost 8 million women-owned businesses exist in the United States, and many of those, as we have heard in testimony before our committee, are very small businesses just getting started. If they are getting started, if they are making a success, we do not want to penalize them and their workers by imposing on those smallest of the small businesses a burden that they cannot handle.

These are Main Street businesses, mom and pop, and in many instances a mom operation, working out of their garage, working out of their basement, with 3 to 4 to 5 to 10 employees. This kind of increase in the minimum wage is a 20-percent increase in their payroll

costs for those minimum wage workers. That is a real problem. That is why the Administrator of the Small Business Administration under President Clinton, Phil Lader, back on March 2, 1995, wrote to Secretary Reich, the Secretary of Labor, saying, "On balance, however, I believe that a tiered system"—a lower minimum wage for the smallest businesses—"would serve two public policy objectives: promoting small businesses and preserving jobs."

It is obvious that since then the ear to small business has lost out in this administration. Organized labor and the Secretary of "organized" Labor have had their way. The Small Business Administration is now saying they no longer support that. But when he was speaking as a person who listens to small business, he said very clearly we need a two-tiered system.

President Clinton has announced, as most of you have heard, that exempting the smallest of the small businesses is a poison pill. I frankly think that shows how little he understands how tight margins these smallest of the small businesses work on. He has promised to veto the legislation for that and a host of other provisions. I have to say that I am very surprised and disappointed about the President's characterization because the small business exemption has traditionally had broad bipartisan support in this body.

Special minimum wage provisions for small businesses are not a new concept. The Fair Labor Standards Act has contained small business exemptions for well over 30 years. When the minimum wage was increased in 1989, Congress made several changes designed to expand small business protections. Congress eliminated the exemption from minimum wage and overtime provisions for retail and service establishments grossing under \$362,500 and replaced it with a \$500,000 threshold for all types of businesses.

Unfortunately, the 1989 amendments did not provide a true exemption. People did not realize at the time they did not provide the exemption and actually expanded coverage of small businesses because Congress failed to amend the portion of the minimum wage provision that covered individual employees. As a result, all employees engaged in commerce are covered by the minimum wage provision regardless of the revenue of their employers, despite the fact that this Congress, people on both sides of the aisle, thought they were giving the small business exemption.

I was stunned to hear Senator KENNEDY call this amendment cynical, devious, and shameful. What a difference an election year makes, Mr. President. It is obvious to me from reading the numerous floor statements made in 1989 that Congress thought it was protecting small businesses grossing under \$500,000 from the Federal minimum wage and overtime provisions.

For example, Senator KENNEDY explained on the Senate floor that the Labor Committee:

really bent over in our committee to try to consider the impact of the increase of the minimum wage on small business. That is why, when we initially considered the \$4.65 minimum wage, we increased the threshold exemption for small business from \$362,000 to \$500,000 . . . we have been responsive, we believe, to the concerns of the small business community.'

Those are Senator KENNEDY's own words. I ask, was that statement cynical, devious, and shameful? If not, what are the statements today?

A number of other people have come to the floor. I saw my good friend from North Dakota speak just a few moments ago on the minimum wage. April 11, 1989, he said on the floor,

The expanded enterprise test will do much to blunt the effect of increasing the minimum wage on small businesses. It is something the administration rightly sought, and I am glad it has been included in both the committee-reported bill and the compromise.

Senator BINGAMAN, during the 1989 minimum wage debates, on November 7, 1989:

This legislation also includes an increase in the exemption for small businesses from \$362,500 to \$500,000. This increase helps alleviate some of the concerns expressed by small businesses throughout the Nation.

Mr. President, those concerns are still there, and even more so, particularly when small business found that the 1989 amendments were not responsive to the concerns of small business because what was billed as a change exempting more businesses, actually resulted in broader coverage, since the businesses grossing under \$362,500 lost their exemption.

Mr. President, this amendment is more modest than what Congress intended in 1989 because no small business with employees engaged in commerce would be completely exempted from the Federal minimum wage and overtime provisions would not be impacted.

My colleague from Arkansas and the ranking member of the Small Business Committee, Senator BUMPERS, introduced in 1991 a bill that would have corrected the problems caused by the 1989 amendments. If enacted, the Bumpers legislation would have provided an exemption from minimum wage and overtime provisions for retail and service establishments grossing under \$362,500. All other small businesses grossing under \$500,000 would have been exempted from the 1989 increase. In essence, a three-tiered system, no minimum wage below \$362,500, the existing minimum wage up to \$500,000, and the increase above. That bill had 48 cosponsors, 26 Republicans and 22 Democrats—Twelve of those Democrats are still in the Senate. I call on them to support a concept less far reaching than what they introduced and sponsored as a bill in 1989.

When Senator BUMPERS introduced his bill on February 5, 1991, he said,

The clear intention was to protect the jobs of those who work in the smallest companies from the backlash of a higher Federal wage. However, the small business exemption has

inadvertently been rendered useless because of a subsequent conforming amendment * * *

Later on he says,

We have, without intending to do so, given small businesses an exemption which is meaningless and which has added to their problems.

Congressional Quarterly, doing a story on June 8, 1996, quoted Senator BUMPERS as saying,

I've been a small businessman with less than \$500,000 in sales and I know this thing could be pretty detrimental.

Senator KERREY, reacting to a statement that Democrats in the House said the proposal would lead to the creation of a new class of exploited workers said, "If they were good Democrats, they were," referring to demagoging the issue.

Senator PRYOR, on February 5, speaking in support of the Bumpers bill said,

While these rates—talking then of a minimum wage increase from \$3.80 to \$4.25—While these rates may not seem high, to a mom and pop enterprise operating on a razor thin profit margin, it could be the final wave that takes them under.

This seemingly innocuous omission in wording has in effect precluded almost all small businesses from qualifying for the exemption Congress obviously intended. If any of my colleagues have any doubt about congressional intent, all they have to do is go back and read the RECORD during the debate. Both proponents and opponents laud the small business exemption.

Now, Mr. President, my amendment does not go as far as the proposal made by Senator BUMPERS in 1991. Unlike the Bumpers amendment, there is no complete exemption from any business from the Federal minimum wage. The amendment does not affect the FLSA overtime provisions. The amendment simply maintains the status quo for America's small business by allowing them to continue to pay \$4.25.

Mr. President, I see I am probably approaching the end of my time, and I ask for 5 minutes of the leader's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, what we have today is an opportunity to correct this mistake made in 1989 by enacting legislation that reflects both Congress intent in 1989 and the Bumpers legislation that had such broad bipartisan support in 1991. This amendment does not go as far as what was intended in 1989 by a Democrat Congress and a Republican President and supported in 1991 by a bipartisan group of Senators. Twelve of the twenty-two Democrats who cosponsored Senator BUMPERS' bill in 1991 are still in the Senate. I call on them today to maintain their earlier position so we can pass this amendment that is so important to America's small business.

Let me focus just a minute on a couple of things that had been stated in the media that this amendment does and does not do. Some statements have been made that the amendment pro-

vides a complete exemption from any minimum wage. I have stated that is simply not true. For those exempted, it keeps the minimum wage at \$4.25.

President Clinton talked about the amendment causing employees of small businesses to be ineligible for an increase in their wages and locked in to the current minimum wage. Who do we think provides wages in this country? Is it Congress in its largess? No; it is the people who have committed their time, resources, energy, and their capital to providing the best jobs they can and the products and services that the marketplace will take. Anybody who understands a market economy knows that everyone in America is eligible for a raise.

The minimum wage is a floor, not a ceiling, and nothing in our capital system or nothing in my amendment sets an upper limit on how much a worker can earn. The purpose of the small business amendment is, in fact, to make sure that America's workers continue to have the opportunity to enter into the small business work force and earn raises in the future.

I also ought to address the statements that have been made on this floor totally, I think, without justification, that some 10.5 million workers would be covered by this minimum wage exemption. That simply is out of whole cloth. There are 10.5 million workers who are employed by businesses grossing under \$500,000, but this amendment does not affect nearly that many. There are 11 States that have higher minimum wages. Those workers would not be affected. It takes it down to 8.8 million. How many of those actually work at minimum wage? We do not have the accurate figures, but the Small Business Administration's advocacy counsel said approximately 10 percent of the workers in small business earn the minimum wage. So we are talking roughly 10 percent of 8 million to 9 million people, or 800,000 to 900,000 people.

Phil Lader, the Administrator of the SBA, agrees with me—has agreed with me in the past before he got his arms twisted—that the small business exemption is a good policy because it impacts a small number of employees while ensuring that firms at the margin will not be forced to cut jobs or not grow. In the letter I cited earlier from Mr. Lader to the Secretary of Labor, he said, "an exemption for the smallest of small businesses makes sense." Mr. Lader went on to state that:

An exemption allowing the minimum wage to stay at its present level for firms would be a way of crediting the smallest employers for 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.

Mr. Lader also pointed out that:

By maintaining the status quo, the smallest of small businesses will be able to continue to provide jobs to the marginally em-

ployable, an important public policy goal during a time of near-full employment.

Mr. Lader concludes by saying he believes that:

rather than penalize 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.

I agree with that position. I think that comes from a good understanding of what small businesses have been saying. I am sorry that he has not been able to maintain that position because the policy of the White House has changed.

If you listen to small businesses, as members of the Small Business Committee have, as I have done, and as the Small Business Administration has done, you will know that small businesses, while they have difficult battles in the marketplace, fear nothing more than the heavy hand of the Federal Government—in this case the mom and pop or the mom operation with 5 and 10 employees getting a 20-percent increase in minimum wage mandated by the Federal Government which could force them to lay off 20 percent of their workers. That is one out of five, two out of 10, four out of 20.

People have called this cruel to say they can be exempt. Mr. President, I think it is far crueler to throw these people out of work by saying to small business that we cannot allow you to continue to pay \$4.25 an hour and make a profit on the business that you have undertaken.

Small businesses under 500,000 deserve an exemption. On a bipartisan basis Congress in the past thought they were giving them that exemption. It is time to make good on the promises made by the statements from our distinguished colleagues on the other side of the aisle, as well as this body.

Mr. Lader and I both believe that an exemption for the smallest of small businesses makes sense because it saves jobs. Unlike a corporation that can pass increased labor costs on to the consumer, the small, local grocery store or florist or hardware store doesn't have that option and the owner is who is dealing with a 5-percent profit margin is not taking home much money himself.

Mr. Lader's point about providing jobs to the marginally employable is even more important today than it was 1-year ago when the letter was written. The Department of Labor just announced that unemployment is at a 6-year low. As Federal and State governments try to maintain this level of employment and struggle to reform our present welfare system, it is vital that we be able to rely on small businesses to continue to provide jobs. I think that we should take Mr. Lader's advice and allow these small businesses to remain at the current minimum wage so that two important public policy goals Mr. Lader mentions—promoting small businesses and preserving jobs—can be met.

My amendment also contains several provisions that have already passed the House. The first two provisions were noncontroversial on the House sides and I believe that the same will hold true on this side. First, the amendment clarifies that employees do not have to be paid for time spent driving to and from work in company vehicles. Second, the overtime exemption for computer professionals making over \$27.63 per hour is maintained.

My amendment also contains the same tip credit provision that passed the House. Tipped employees would continue to be paid at least \$2.13 per hour by their employers and would also earn tips. If the cash wage of \$2.13 and the tips did not add up to the Federal minimum wage, then the employer would make up the difference. Thus, tipped employees, like all other employees, would earn at least the Federal minimum wage.

My amendment contains an opportunity wage that would allow employers to pay first-time employees \$4.25 for 180 consecutive days. This provision is designed to get unskilled people into the job market where they can develop the good work habits that make advancement possible. My amendment expands on the 90-day time period in the House bill because employers are more likely to hire unskilled workers that they have sufficient time to train. Unlike the House provision, my amendment does not include an age limit because unskilled workers of all ages much be permitted to enter the work force more easily.

As my distinguished colleague, Senator CHAFEE, pointed out on the floor recently, Senators from both sides of the aisle are demanding that people get off of welfare and work and we must provide some incentive to employers for hiring unskilled workers. These people will be working at this first jobs and will be provided with the skills they need to advance and earn more.

Mr. KENNEDY said recently that the "downsized, laid-off workers in a time of high unemployment" will be hurt the most by the opportunity wage. I would point again to the figures released recently by the Department of Labor that show that unemployment has fallen to 5.3 percent, the lowest level in 6 years, and that wages are up to \$11.82 per hour on average. President Clinton hailed the numbers as showing that "wages for American workers are finally on the rise again. These figures indicate that the laid-off steelworker and the officeworker with 30 years of experience that Senator KENNEDY spoke of are not going to be earning the opportunity wage. Instead, the opportunity wage is going to allow access to the job market for unskilled workers with little or no job experience, workers who otherwise would not have been hired at all.

My amendment delays the implementation of the minimum wage increase until January 1, 1997. This delay will help small businesses adjust and minimize job loss. This is particularly true

for small retailers that hire more workers during the holiday season. A delay is also important for employers that have committed to hiring teenagers for summer jobs. As Federal funding for summer youth job programs dries up, we must support private efforts.

America's small businesses have been extremely successful and have created the vast majority of new jobs in the last decade. If we want this level of growth to continue, and if we want to give America's workers the opportunity to get in on the ground floor of some of today's most profitable businesses, we must protect these businesses from Federal mandates. I urge you to support my amendment so that the opportunities available in America's small businesses continue grow.

UNANIMOUS-CONSENT AGREEMENT

Mr. BOND. Mr. President, I now ask unanimous consent that, notwithstanding the previous order, at 2:15 p.m. today the Democratic leader be permitted to make a statement utilizing his leader time to be followed by the recognition of the majority leader to make closing remarks on H.R. 3448, also using leader time; further, that immediately following those remarks the Senate then proceed to the previously ordered votes with the first vote limited to the standard 15 minutes and all additional stacked votes reduced to 10 minutes in length.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate at 12:53 p.m. recessed until the hour of 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

SMALL BUSINESS JOB PROTECTION ACT OF 1996

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous agreement, the minority leader is recognized.

Mr. DASCHLE. Mr. President, I ask unanimous consent to use just 2 minutes of my leader time prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, we are about to cast some very important votes this afternoon. I believe it is fair to say the American people are going to be watching very carefully. These are the ones they understand all too well. Many have not had a raise in 5 years. They have not seen an increase in the minimum wage more than once in the last 15. Many of them now have lost ground.

The question before us is very simple: Should 13 million Americans get a raise? It should not matter where you work or how long you have been working. Anyone who works 40 hours a week should not have to live in poverty.

We have all made our speeches as passionately as we know how about the need to improve our welfare system. There is no better way to get people off welfare than to give them a job that pays something beyond a minimum wage, so that they are not relegated to poverty for the rest of their lives. We have all talked about how pro-family we are. Nothing could be more profamily than to ensure parents have a working wage, that instead of working two or three jobs, they can work one and tend to their children at those times when otherwise they would have to work.

So the choice is very clear. Either we vote for this increase or sentence millions of workers to even more poverty and family troubles than they are experiencing right now.

No one should be confused about the amendments. The Bond amendment guts the minimum wage bill. As the National Retail Federation said, this is the best chance to defeat the minimum wage bill. The Kennedy amendment will strengthen it.

We have a chance to do something positive today. We should do it in a bipartisan way. We have done it before and passed votes on the minimum wage in this Chamber. The House of Representatives did it just 6 weeks ago. We can do it, too, this afternoon. Let us vote to give millions of Americans the raise they deserve.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the majority leader is recognized.

Mr. LOTT. Mr. President, I yield 2 minutes to the distinguished chairman of the Finance Committee.

The PRESIDING OFFICER. The Senator from Delaware.

MODIFICATION OF AMENDMENT NO. 4436

Mr. ROTH. Mr. President, I send to the desk a modification to the managers' amendment that has been cleared by the two managers and the two leaders.

The PRESIDING OFFICER. Under the previous order, the Senator has the right to modify the underlying amendment.

The modification is as follows:

On page 26, between lines 6 and 7, insert:
SEC. 1467. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Paragraph (11) of section 415(b), as added by section 1444(a), is amended—

(1) by inserting "or a multiemployer plan (as defined in section 414(f))" after "section 414(d)", and

(2) by inserting "AND MULTIEMPLOYER" after "GOVERNMENTAL" in the heading thereof.

(b) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Subparagraph (I) of section