which plainly states Congress does, in fact, support a new direction in Iraq. I commend the efforts of the bipartisan group of Senators who worked together to provide a positive framework for protecting our national security, supporting our troops, and defining our mission in Iraq. That compromise resolution reflects the will of the American people that we must, in fact, chart a new course of success in Iraq.

I especially commend the leadership and the great efforts of Senator WARNER, Senator NELSON, Senator COLLINS, Senator LEVIN, Senator BIDEN, Senator HAGEL, and others who have been involved in this effort over the last several days.

Until now, the debate over our mission in Iraq has been dominated by essentially what has been a false choice. On the one hand, we have had before Congress and before the American people plan A, which is the President's plan, which essentially has been to say, stay the course, plus, add another 21,500 troops into the fight in Baghdad. This would be a mistake. It would put more American troops into the middle of a civil war and places too much faith in what has been, to us, an incompetent Iraqi Government that has failed to do its work in securing the peace for its people and their country.

On the other hand, we have plan B, which is advocated by some Members of Congress, both in the House and this Senate, which calls for a more or less precipitous withdrawal from Iraq. From my point of view, this, too, is a bad choice. It could open the door to even more bloodshed and to a dangerous regionwide military escalation not only in Iraq but throughout the Middle East.

In my view, what we need is a plan C. That plan C should reflect the bipartisan opposition to the President's proposal to send an additional 21,500 troops to Iraq and also propose an alternative strategy for success in Iraq. That is exactly what we have accomplished with this compromise resolution which would make clear the following: First, that a bipartisan majority of Senators disagrees with the President's plan to increase the number of United States troops in Iraq as he has proposed; second, that the primary objective of a United States strategy in Iraq should be to encourage the Iraqi leaders to make the political compromises that are necessary to improve security, foster reconciliation, strengthen the Government, and end the violence; third, that the United States has an important role to play in helping to maintain the territorial integrity of Iraq, conducting counterterrorism activities, promoting regional stability and training and equipping the Iraqi troops; and, finally, that the United States should engage the nations in the Middle East to develop a regional, internationally sponsored peace and reconciliation diplomatic process and initiative within Iraq and throughout the region.

I will briefly elaborate on some of these points. The President's plan to simply surge or increase the number of troops in Iraq by 21,500 would be a mistake. First, the violence in Iraq is becoming increasingly sectarian, even intrasectarian. I worry that the American troops we are sending there are being placed in what is the midst of a civil war.

Second, I also worry that the larger American military presence will discourage the Iraqis from taking responsibility for their own security. As General John Abizaid said in this Capitol last November:

> . . . it's easy for the Iraqis to rely upon us to do this work. I believe that more American forces prevent the Iraqis from taking more responsibility for their own future.

As we enter the debate over the next several days and weeks in this Senate, we should not forget those words:

> I believe that more American forces prevent the Iraqis from taking more responsibility for their own future.

Furthermore, I am concerned that the plan places too much faith in the present Iraqi Government, which has so far shown little willingness to make the difficult decisions necessary to stop the bloodshed and the violence within their own country.

Finally, we have recent experience where the additional troops who have been sent into Iraq indicate that the results of those operations of the last 7 to 8 months have not been successful. Last year, we tried two separate surges—one was named Operation Together Forward I and the other was Operation Together Forward II—and neither stopped or slowed the violence in Iraq.

In fact, the bipartisan Iraq Study Group found that the violence had escalated during that same time period by 43 percent.

Adding to this is all the additional strain that a troop increase will place on our service men and women and their families.

For these reasons, I oppose the President's plan to increase our troop presence in Iraq. I am proud to be a cosponsor of the resolution that will be before this Senate. This resolution is more than about opposing the President's plan. It proposes a new strategy by calling for an enhanced diplomatic effort, a new focus on maintaining the territorial integrity of Iraq, maintaining the territorial integrity of Iraq, so that the weapons that are flowing from Iran and from Syria into that country can, in fact, be stopped. Stopping the flow of weapons and terrorists into that country will be part of bringing about the security that is needed in that country.

It also calls for a renewed focus on helping the Iraqis achieve a political settlement which is, at the end, a precondition to any successful outcome in Iraq.

We need a new direction in Iraq. We need to speak in a bipartisan voice. We, as an institution, need to fulfill our constitutional duty as a coequal branch of Government as we move forward with what is one of the most important questions that today faces the American Nation.

The resolution I hope will be considered in the Senate this next week is a first step in that direction. I am proud to be a sponsor and a supporter of that resolution.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. SALAZAR. On behalf of the majority leader, I ask unanimous consent the Senate now stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 2:29 p.m., recessed until 3:26 p.m., and reassembled when called to order by the Presiding Officer (Ms. KLOBUCHAR).

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

FAIR MINIMUM WAGE ACT OF 2007—Continued

Mr. HARKIN. Madam President, I rise to discuss an amendment I have filed to eliminate a provision that was added to the minimum wage bill regarding employee leasing firms, also known as professional employer organizations, or PEOs.

I have fought for a clean minimum wage bill, on the grounds that workers have been waiting 10 long years for this raise. During that time, businesses have seen record profits and productivity—and that has been equally the case in States and regions that have raised the minimum wage. Yet now we are being asked to include this aggressively anti-worker PEO provision in order to pass a minimum wage increase in the Senate.

For my colleagues and others who may not know what a PEO is, let me explain. It is an organization that handles administrative details for workers who actually do work for another company. For example, I might technically be employed by Tristate PEO, but I actually show up to work every day at Main Street Construction Company. Companies use PEOs so they don't have to handle the tax-and-benefits paperwork for many of their workers.

The language in the PEO provision, however, seeks to make these PEOs the ''employer of record'' for tax purposes. PEOs have sought to become the ''employer of record'' under various laws because they would like to be able to tell employers that the PEOs can independently take care of payroll taxes, workers' compensation, unemployment

insurance, and the like. However, in the past, PEOs have misrepresented what jobs are covered by workman's compensation—for instance, by characterizing construction workers as clerical. Under current law, legal responsibility for employer obligations typically remains partly or wholly with the worksite employer.

Making a PEO the sole employer makes the evasion of labor and employment standards much easier. The National Employment Law Project and other worker-rights advocates have concluded that the language now in the bill would make it harder for employees to go to an arbiter and get unpaid overtime, unemployment insurance benefits, or workman's compensation benefits if the PEO collapses. And this is by no means hypothetical. Such collapses have happened not just with small, fly-by-night operations, but with large PEOs like Administaff and Simplified Employment Services, SES.

For example, when SES allowed health insurance premiums to go unpaid and then went bankrupt, it left employees like Melanie Martin out in the cold. She said ''We trusted him to pay our insurance premiums, and now I'm stuck with a $7,000 surgery bill. Every time I think about this, I cry.''

In 2004, when MidAtlantic Postal Express in Roanoke, VA, went bankrupt, the U.S. Treasury wasn't the only one left holding the bag. Employees were left wondering where to turn for thousands of dollars in back pay. Victory Compensation Services was the PEO handling the workers' pay and benefits, and admitted that workers had no workman's compensation coverage even though MidAtlantic had paid Victory premiums. But Victory blamed MidAtlantic for the unpaid payroll.

Now, let's say that you are newly unemployed trucker who is owed $7,000 in back pay. This is a complicated mess for a worker to try to navigate just to get a paycheck that he or she is owed.

This is part of a larger, systemic problem. Working people in the United States feel less and less empowered in our you're-on-your-own society. Seventy percent of families are headed by either dual-income couples or a single parent. The housing bubble is bursting. Globalization is sending American jobs overseas. Pensions are being frozen at an unprecedented pace. The national savings rate has actually gone into negative figures. Women are working an average of 500 more hours more per year than in 1979. But productivity has increased 70 percent since then. People are working harder and getting paid less.

In this context of economic anxiety, we shouldn't be making it even harder for workers to organize, negotiate or enforce contracts, or fight for their rights under law. But that will be the sure-fire result if the final bill has this PEO provision in it.

I urge my colleagues to strip this provision from the bill. We must not sacrifice worker rights in exchange for this modest and long-overdue increase in the wages for those at the lowest rungs of the economic ladder.

Mr. LEVIN. Madam President, I have long supported an increase in the minimum wage. I am pleased that, with the leadership of the new majority in Congress, this minimum wage increase will be passed by a bipartisan majority.

In 1996 Congress raised the minimum wage by 90 cents an hour in two steps to $5.15 an hour. That increase was enacted more than 10 years ago. Since then, the real value of that wage has eroded by 21 percent and the nearly 5.5 million workers earning the minimum wage have already lost all of the gains from the 1996–1997 increase. Since then, Gallup polls have shown that 86 percent of small business owners do not think that the minimum wage affects their business, and nearly half of small business owners think that the minimum wage should be increased. Since then, 29 States, including Michigan, as well as the District of Columbia have recognized the importance of keeping our working families out of poverty by increasing State minimum wages.

Unfortunately, since the 1970s, poverty has increased by 50 percent among full-time, year-round workers. Currently, 37 million Americans, including 13 million children, live in poverty. As the most prosperous nation in the world, our minimum wage should be a living wage, and it is not. When a father or mother works full time, 40 hours a week, year-round, they should be able to lift their family out of poverty. A full-time minimum wage laborer working 40 hours a week for 52 weeks earns $10,700 per year—more than $6,000 below the Federal poverty guidelines for a family of three.

I believe that a full-time minimum wage job should provide a minimum standard of living in addition to giving workers the dignity that comes with a paycheck. These lower paid workers, many of whom have entered the workforce due to the welfare reform, should be rewarded for entering the workforce, not penalized by a poverty wage. A higher minimum wage has the potential to ensure that lower paid workers will be protected from falling into poverty and possibly back on the welfare rolls. The minimum wage increase during the recession in 1991 provided much needed income to poor people and helped to increase spending in the economy. 58 percent of the benefit of the 1996 increase went to families in the bottom 40 percent of income groups. Over one-third of the benefit went to the poorest families—those in the bottom 20 percent of income groups.

Today the real value of the minimum wage is $4.00 below what it was in 1968. To have the purchasing power it had in 1968, the minimum wage would have to be at least $9.37 an hour today, not $5.15. According to the United States Department of Labor, over 60 percent of minimum wage earners are women; almost 40 percent are minorities, and nearly 80 percent are adults. These hardworking Americans deserve a fair deal.

In addition to the long overdue minimum wage provision, this bill contains a package of tax provisions. I am pleased that these include a number of measures to crack down on abusive tax dodges, including an improvement to current law to end the tax benefits received by companies that reincorporate and set up shell headquarters in offshore tax havens.

I am also pleased that the bill extends the work opportunity tax credit, which allows employers credit against wages for hiring workers from targeted groups such as recipients of public assistance, qualified veterans, and ''high risk'' youth. I have heard from a number of Michigan companies that the WOTC program is important to them in their hiring members of these targeted groups, and I am pleased that this provision will be extended through the end of 2012.

I am also pleased that the tax provisions would put in place a limit on the amount that corporate executives and other highly paid employees can place tax-free into deferred compensation plans. Under current law, public companies cannot deduct more than $1 million per year for compensation paid to their top officers. However, compensation that is ''deferred,'' meaning the employee doesn't have immediate access to it, is not subject to this $1 million limit; so deferred compensation packages have become a main way that company executives can get multi-million dollar compensation packages while their companies continue to take a tax write-off.

We have seen these excessive packages time and again in recent stories about runaway executive compensation totaling tens of millions of dollars. Tens and even hundreds of millions of dollars have been salted away in this fashion for corporate executives, and companies have simply found another way to game the system by excluding this ''deferred compensation'' from those individuals' income for the year. It is more than time for Congress to put an end to this game which has fueled excessive executive pay.

This bill would set a limit on the amount of compensation that could receive tax deferral at the lower of $1 million annually or the average of the previous 5 years compensation. The ability of corporate executives to defer tax on up to $1 million in compensation is still a significant benefit that stands in stark contrast to the minimum wage we are attempting to raise for those at the lowest end of the pay scale.

It is only right that those who are at the low end of the pay scale who work hard should receive a fair wage and be able to support their families. These people do not always have the leverage to negotiate a fair salary. This bill to increase the minimum wage will help to move them to a more livable wage.

Mr. INHOFE. Madam President, I will unavoidably miss the final vote on

the minimum wage bill but I come down here now to ask unanimous consent that the RECORD reflect, immediately after the vote, my announcement that I would have voted against this bill.

In so doing, I remain consistent on the issue. Government is best when it is does not pick winners and losers—when it does not competitively advantage one group of people over another or one set of States over another.

Senator DEMINT offered an amendment to equally and fairly increase the minimum wage by $2.10 for each State over what the wage is today.

The fact that the liberals voted against the DeMint amendment is proof that their bill as now constituted is really about damaging the competitiveness of middle America—the so-called red States, disparagingly called ''fly-over country'' by liberals—compared to the liberal fringe States.

Without this amendment, the underlying legislation would partially exempt minimum wage workers in higher-cost States that already have State minimum wage rates greater than the Federal level of $5.15 an hour, and completely exempt minimum wage workers in highest-cost States that have State minimum wage rates near $7.25 an hour.

The DeMint amendment would increase the Federal minimum wage equally for workers in all States at the same rate as H.R. 2 would increase the minimum wage from the current Federal minimum wage rate.

Senator KENNEDY's arguments against this amendment have been both confusing and contradictory. On the one hand, he said that we need a one-size-fits-all mandate, and then he said that Massachusetts has a higher cost of living.

I will not stand for people in Washington, DC, damaging the competitiveness of Oklahoma against other States. If Oklahomans vote to change our own laws, that is one thing, but we are not going to buckle under to DC and the liberal fringe States.

Thus I would vote nay.

I ask unanimous consent that the following chart be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

State	Current MinWage In Effect	Kennedy Proposal			$ Wage Hike	DeMint Proposal			$ Wage Hike
		2007 $5.85	2008 $6.55	2009 $7.25		2007 $0.70	2008 $1.40	2009 $2.10	
Alabama	$5.15	$5.85	$6.55	$7.25	$2.10	$5.85	$6.55	$7.25	$2.10
Alaska	7.15	7.15	7.15	7.25	0.10	7.85	8.55	9.25	2.10
Arizona	6.75	6.75	6.75	7.25	0.50	7.45	8.15	8.85	2.10
Arkansas	6.25	6.25	6.55	7.25	1.00	6.95	7.65	8.35	2.10
California	7.50	7.50	8.00	8.00	0.50	8.20	8.90	9.60	2.10
Colorado	6.85	6.85	6.85	7.25	0.40	7.55	8.25	8.95	2.10
Connecticut	7.65	7.65	7.65	7.65	—	8.39	9.10	9.80	2.15
Delaware	6.65	6.65	7.15	7.25	0.60	7.35	8.05	8.75	2.10
District of Columbia	7.00	7.00	7.55	8.25	1.25	8.70	9.40	10.10	3.10
Florida	6.67	6.67	6.67	7.25	0.58	7.37	8.07	8.77	2.10
Georgia	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
Hawaii	7.25	7.25	7.25	7.25	—	7.95	8.65	9.35	2.10
Idaho	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
Illinois	6.50	7.50	7.75	8.00	1.50	7.20	7.90	8.60	2.10
Indiana	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
Iowa	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
Kansas	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
Kentucky	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
Louisiana	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
Maine	6.75	7.00	7.00	7.25	0.50	7.45	8.15	8.85	2.10
Maryland	6.15	6.15	6.55	7.25	1.10	6.85	7.55	8.25	2.10
Massachusetts	7.50	7.50	8.00	8.00	0.50	8.30	9.00	9.70	2.10
Michigan	6.95	7.15	7.40	7.40	0.45	7.65	8.35	9.05	2.10
Minnesota	6.15	6.15	6.55	7.25	1.10	6.85	7.55	8.25	2.10
Mississippi	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
Missouri	6.50	6.50	6.55	7.25	0.75	7.20	7.90	8.60	2.10
Montana	6.15	6.15	6.55	7.25	1.10	6.85	7.55	8.25	2.10
Nebraska	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
Nevada	6.15	6.85	7.65	8.25	2.10	7.85	8.55	9.25	2.10
New Hampshire	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
New Jersey	7.15	7.15	7.15	7.25	0.10	7.85	8.55	9.25	2.10
New Mexico	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
New York	7.15	7.15	7.15	7.25	0.10	7.85	8.55	9.25	2.10
North Carolina	6.15	6.15	6.55	7.25	1.10	6.85	7.55	8.25	2.10
North Dakota	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
Ohio	6.85	6.85	6.85	7.25	0.40	7.55	8.25	8.95	2.10
Oklahoma	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
Oregon	7.80	7.80	7.80	7.80	—	8.50	9.20	9.90	2.10
Pennsylvania	6.25	6.25	6.55	7.25	1.00	6.95	7.65	8.35	2.10
Rhode Island	7.40	7.40	7.40	7.40	—	8.10	8.80	9.50	2.10
South Carolina	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
South Dakota	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
Tennessee	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
Texas	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
Utah	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
Vermont	7.53	7.53	7.53	7.53	—	8.23	8.93	9.63	2.10
Virginia	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10
Washington	7.93	7.93	7.93	7.93	—	8.63	9.33	10.03	2.10
West Virginia	5.85	5.85	6.55	7.25	1.40	6.55	7.25	7.95	2.10
Wisconsin	6.50	6.50	6.55	7.25	0.75	7.20	7.90	8.60	2.10
Wyoming	5.15	5.85	6.55	7.25	2.10	5.85	6.55	7.25	2.10

22 States—Fully Impacted.
18 States—Partially Impacted.
10 States—Not Impacted.

Mr. FEINGOLD. Madam President, I speak today in support of passage of H.R. 2, the Fair Minimum Wage Act of 2007. The Federal minimum wage has not been increased in almost 10 years and an increase is long overdue. I have been a strong supporter of an increase in the Federal minimum wage for many years and I am delighted the Senate is finally about to vote for an increase in the Federal minimum wage.

This much-needed increase is projected to benefit close to 13 million Americans either with a direct increase in their minimum wage or indirectly by promoting higher wages for other working Americans earning more than the minimum wage. This increase is sorely needed because the current minimum wage cannot adequately support workers as its value has eroded significantly since the last increase in 1997. Furthermore, the Center on Budget and Policy Priorities notes that after adjusting for inflation, the value of the minimum wage is at its lowest level since 1955. As the costs of housing, health care, energy, and education continue to skyrocket, we must raise the minimum wage to provide millions of hard-working Americans the respect and dignity their work demands.

More and more of these working Americans find themselves mired in poverty or living on the cusp of poverty. Right now, there are 37 million Americans living in poverty, including 13 million children. Since the 1970s, poverty has increased by 50 percent for full-time, year-round workers. Minimum wage workers who work full time earn $10,700 a year, which is almost $6,000 below the Federal poverty guidelines for a family of three. No American should work full-time, year-

round, and still live in poverty. While this modest increase in the Federal minimum wage will not eliminate poverty, it will provide hard-working Americans with a well-deserved increase in their wages. This increase will provide more money for workers to purchase prescription drugs, to pay utilities and rent, to provide child care for their children, and to invest in higher education opportunities. This increase is needed because the majority of the low income people in our country are working and are holding down low-paying jobs with stagnant wages that do not allow them to break free from poverty.

Even with this increase in the Federal minimum wage, workers in Wisconsin and throughout the country will still struggle to afford housing. The National Low Income Housing Coalition estimates that the fair market rent for a two-bedroom apartment in Wisconsin is $666 a month and calculates that a worker in Wisconsin needs to make $12.80 an hour to avoid paying more than 30 percent of his or her income on housing. According to NLIHC data, a full-time minimum wage employee earning the current $5.15 an hour needs to work 79 hours a week, 52 weeks a year to afford a two-bedroom apartment. Madam President, 79 hours a week is almost the equivalent of two full-time minimum wage workers and the number of hours of work required to cover the costs of an apartment are even higher in States with higher housing costs. It is a disgrace that in many cases, minimum wage workers working full time cannot afford adequate housing or are forced to pay a huge share of their income to cover housing costs. While this increase will alleviate some of the housing affordability burdens facing workers, more needs to be done this year to promote affordable housing, including expanding rental assistance and affordable housing production.

Unfortunately hunger and food insecurity are also a reality for far too many minimum wage workers. Even in a State known for its diverse agricultural production, many Wisconsinites periodically face hunger. Food Stamps, or FoodShare as it is known in Wisconsin, serves over 25 million nationwide and 329,000 Wisconsinites. Even with this and other Federal nutrition assistance programs combined with the dedicated work of food pantries, soup kitchens and even many religious organizations, 9 percent—or 1 out of 11 of households in Wisconsin lack sufficient food. Many of these food assistance recipients are working at low-wage jobs, so increasing the minimum age is an important step. But even with this improvement, it will not fully solve this problem and I will continue to work to provide improved Federal support in the Farm Bill and elsewhere to reduce hunger.

Housing costs are not the only necessity of life that minimum wage workers have to provide for themselves and their families. They also have to purchase groceries, provide health care, pay for higher education, pay for increasingly expensive gas and electric costs, and provide child care for their children. Some Americans may think that the majority of minimum wage workers are teenagers in the first job; that perception is incorrect. The Economic Policy Institute notes that over 70 percent of minimum wage workers are adults and in Wisconsin, over 80 percent of minimum wage workers are adults. Moreover, of these adult minimum wage workers, over 30 percent are the sole breadwinners of their families.

I think it is unconscionable that in the almost 10 years that we have not raised the minimum wage, Congress has voted to increase its own pay by $31,600. People in Wisconsin find it hard to understand why Members of Congress received substantial pay raises at a time when the real value of the minimum wage has eroded by 20 percent since 1997. As my colleagues know, I have long fought against automatic congressional pay increases and will continue to do so. I have introduced legislation that would put an end to automatic cost-of-living adjustments for congressional pay. Mr. President, we have Americans who are working full time, 52 weeks a year and they cannot afford health care, housing, and child care. They don't have the power to automatically raise their pay—they are dependent on Congress to raise the Federal minimum wage. But instead of working to raise the minimum wage during the past 10 years, we in Congress worked to protect our automatic pay raises.

Opponents of increasing the minimum wage argue that it hurts the economy and job growth, but past increases in the minimum wage do not support that argument. In the 4 years after the previous minimum wage increase, nearly 12 million new jobs were created. A 1998 Economic Policy Institute study did not find significant job loss associated with the 1997 minimum wage increase. Additionally, the Center on Wisconsin Strategy examined job growth after the June 2005 increase in Wisconsin's minimum wage and found that Wisconsin had an average growth of 30,000 more jobs, not a job loss.

This increase is a great start, but more needs to be done for the American worker. I am pleased an amendment I offered was accepted into the underlying package that seeks to support American manufacturers. I thank my colleague, Senator KENNEDY, for his leadership in moving this bill through the Senate and both he and his staff for their assistance in getting my Buy American reporting requirement amendment accepted into the Senate package. This amendment is based on past Buy American reporting requirements that I have been successful in getting enacted in various appropriations bills from fiscal year 2004 through fiscal year 2006.

This Buy American reporting requirement requires Federal agencies to submit annual reports that include the following information: (a) the dollar value of any articles, materials, or supplies purchased that were manufactured outside of the United States; (b) an itemized list of all waivers of the Buy American Act granted with respect to such articles, materials, or supplies, and a citation to the treaty, international agreement, or other law under which each waiver was granted; (c) if any articles, materials, or supplies were acquired from entities that manufacture articles, materials, or supplies outside the United States, the specific exemption under the Buy American Act that was used to purchase such articles, materials, or supplies; and (d) a summary of total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States.

The amendment also requires that these reports should be made publicly available to the maximum extent possible and contains a common sense exception for members of the intelligence community.

I have long believed that an important way Congress can support American manufacturers and workers is to ensure that the Federal Government buys American-made goods whenever reasonably possible. Congress enacted such a policy when it passed the Buy American Act of 1933. That act requires government agencies to purchase American-made goods but allows these requirements to be waived in certain specified cases. I am concerned that those waivers may be being used excessively. Unfortunately, right now, only the Department of Defense is required to permanently report on its use of waivers of domestic procurement laws. I hope that this Buy American reporting language can help ensure that the entire government buys American-made goods in every possible circumstance, and is able to explain its reasons when it does not do so. This is a straightforward way to help ensure that the Federal Government—and American taxpayer dollars—support American workers.

My State has suffered a huge loss of manufacturing jobs over the past 6 fyears. According to statistics from the Department of Labor, Wisconsin lost over 90,000 manufacturing jobs between January 2000 and November 2006. Unfortunately, many other manufacturing states around the country are facing similarly tough times. The Economic Policy Institute reported that the August 2006 level of manufacturing employment is ''at near lows not seen since the 1950s.'' The continued loss of high-paying manufacturing jobs underscores the need for the Federal Government to support American workers and businesses by buying American-made goods.

American workers need our support on a range of issues, whether it is by

increasing the minimum wage, fighting against bad trade policies, or encouraging the purchase of American-made goods. The Senate took a good first step with the passage of this legislation. I was proud to vote for the 1996–1997 increase bringing the minimum wage to its current level of $5.15 an hour and I am pleased to now support the increase in the Federal minimum wage from $5.15 to $7.25.

When the minimum wage was established in 1938, its purpose was to ensure that American workers were fairly compensated for a day's work. Despite the passage of this increase, far more work needs to be done to support hard-working American families. I look forward to working with my colleagues in this new Congress to promote housing, education, and health care policies that support the working men and women of this country. This is a great victory for families in Wisconsin and throughout the Nation and it is my hope that this first step paves the way for additional legislative victories for working Americans this year.

Mr. DOMENICI. Madam President, I rise today in support of the Fair Minimum Wage Act of 2007, H.R. 2.

It has been 10 years since Congress last voted to raise the minimum wage. In the meantime, our cost of living has increased annually and working families have struggled to meet their most basic needs. The current Federal minimum wage just isn't sufficient. Now is the time to raise the minimum wage. It is time to give America's hard-working, low-wage workers a raise.

This bill will increase the Federal minimum wage by $2.10 an hour to $7.25 an hour. This increase will be done in three phases over a 26 month period. The minimum wage has proven to be an important tool in fighting poverty in our country and I believe that this modest increase will help to improve the situation of low-wage workers and their families.

The Fair Minimum Wage Act also contains several key tax credits. These tax credits will encourage small businesses to continue to explore new investments and make improvements to their business property. This bill will extend the tax credit provided to employers who hire workers who have experienced barriers to entering the workforce, such as low-income workers welfare and food stamp recipients, and high-risk youth. The work opportunity tax credit will also apply to the hiring of veterans disabled after the September 11, 2001, attacks. I believe that these tax credits will be of benefit to our small businesses owners and I hope that my colleagues will support this package.

Mr. SMITH. Madam President, I rise today to support the Fair Minimum Wage Act of 2007 to increase the Federal minimum wage.

The Fair Minimum Wage Act of 2007 will increase the Federal minimum wage by $2.10 to $7.25. Oregon's minimum wage, which is $7.80 and adjusted annually for inflation, will not be impacted by this boost. Nevertheless, I support the increase of the Federal minimum wage for our Nation's employees. I also support the inclusion of the small business tax relief in the legislation. I believe this is a valuable legislative package, helping both our Nation's employees and small businesses and strengthening America's workforce and economy.

The bill before us today will have a positive impact on our low-income workers. An estimated 14 million workers will receive a pay increase if the minimum wage were raised from $5.15 to $7.25. There are roughly 3.9 million families with children under 18 that will benefit from this minimum wage increase, including 1.4 million single parents.

I am proud that we had this debate on the Senate floor. By engaging in this bipartisan discussion, we were able to reach a compromise that benefits low-income American workers. After 10 years, hard-working Americans, many of whom are working full-time jobs, will be in a better position to pay their bills, take care of their families, and reinvest in the economy.

I also support the tax relief included in this bill for our Nation's small businesses. As a small business owner, I know first hand what it takes to meet a payroll and to sign the front of a paycheck. Small businesses are the backbone of the American economy, employing more than half of all private sector employees and generating 60 to 80 percent of net new jobs annually. Targeted tax and regulatory relief is vital to helping these businesses continue to create new jobs, stay competitive, and keep our economy growing.

I applaud the Senate leadership for bringing forth the minimum wage bill to help our Nation's workers. I am honored to support the Fair Minimum Wage Act of 2007.

Mr. GRASSLEY. Madam President, I wish to speak briefly on a revenue provision contained in the minimum wage bill. Senator BAUCUS and I worked closely on the tax bill, both on the provisions providing relief to small businesses affected by the minimum wage but also the offsets that made sure the package was in balance.

One of the offsets, that dealing with limiting the amounts of annual deferrals under nonqualified deferred compensation plans, has attracted some concern and raised some questions.

I thought it would be useful to my colleagues for me to provide a brief sketch of where we have been on this issue. The issue of nonqualified deferred compensation came to the attention of the Finance Committee in response to the Joint Committee on Taxation's investigation into Enron—done at the request of the Finance Committee. The Enron report highlighted a number of abuses by top executives involving nonqualified deferred compensation.

In the American Jobs Creation Act that Congress passed in 2004, there were included provisions that limited deferred nonqualified compensation plans. In brief, the legislation limited when and under what circumstances distributions could be made.

More recently, in the Pension bill passed last year, Congress restricted funding of nonqualified deferred compensation plans if the employer had underfunded certain other retirement plans.

In addition, the Finance Committee last September had a hearing that looked closely at executive compensation that covered a wide range of pay issues involving top employees.

As my colleagues can see, the issue of executive compensation and particularly nonqualified deferred compensation has been of long-standing interest for the Finance Committee. I expect that these matters will continue to command the attention of the committee this Congress.

The majority of concerns that have been raised about this most recent provision contained in the minimum wage bill is its possible impact on middle management. I appreciate those calling for caution. The Finance Committee's Republican staff is reviewing the legislation and seeking to get more and better numbers about who is affected by this legislation. In addition, there have been bipartisan discussions at the staff level.

In discussions with Joint Committee on Taxation I have asked them what would be the impact of eliminating the 5-year average compensation limitation so that the aggregate amounts deferred under a nonqualified deferred compensation plan would be limited to $1 million annually.

JCT informs me that this would reduce the current $806 million score by less than $100 million—so it would only be a small shave off the score. This suggests to me, that the vast majority of individuals—90 percent—who would be affected by this reform are among the wealthiest—i.e., those individuals receiving more than $1 million annually in nonqualified deferrals. I hope this information will help inform members as we discuss this matter in the near future.

Finally, I think it is important for members to bear in mind that ERISA does not apply to so-called ''top hat'' plans, these top hat plans being those for top management. There is a concern that if a nonqualified plan is widely applicable, as widely applicable as some of the opponents of this provision contend, it raises other red flags.

The issue raised is the fact that a widely applicable plan should be treated as an ERISA plan. If these widely applicable nonqualified deferred compensation plans are actually ERISA plans, they then should come under the protections that Congress has put in place under ERISA to provide workers retirement security.

I will continue to look at this provision and bear in mind the issues raised by my colleagues.

Madam President, we are finishing up debate on the Senate minimum wage/small business tax relief bill.

The Senate invoked cloture on the Baucus substitute amendment. It contained two basic components. The first one is the proposed increase in the Federal minimum wage. The second component is tax incentives to assist workers and businesses burdened by the increased Federal minimum wage. That part of the package was approved, on a bipartisan basis, by the Finance Committee late last month.

Now, by approving the Baucus substitute on an overwhelmingly bipartisan vote, the Senate has made its will clear: a minimum wage increase must be linked to small business tax relief package.

In the normal course of events, after Senate passage, the amended House bill would either go into conference or go back to the House as amended. We call the latter procedure ''pingpong.''

Since tax matters were linked and the House bill doesn't have tax provisions, the House Democratic leadership and tax writers have threatened to send the Senate bill back to the Senate. They will claim that they are protecting prerogatives of the House.

We find ourselves stuck on minimum wage because the House Democrats have threatened to use the ''blue slip'' procedure.

So, no one should be mistaken. It is House Democrats, not Senate Republicans, who are delaying passage of the minimum wage.

If House Democrats send us a suitable revenue bill, Senate Republicans will be ready to move expeditiously to the next step. Right now, we can not move.

Now, if the House Democrats send us a minimum wage-related revenue bill, what happens next?

That is up to our Democratic and Republican leaders.

There are two basic avenues to take. One is a conference. The other is to amend the House revenue bill back with the Senate-passed bill and send it to the House.

On tax bills, we have used both approaches over the last few years. For instance, the Hurricane Katrina tax relief measures never went to conference. On the other hand, we had conferences on the tax relief reconciliation bill and the pension bill.

Still another approach would be for the House to combine its minimum wage bill with the Senate tax relief package and send it over here. That route, though unusual, has also worked.

In this case, I have indicated to my Republican leadership that I am wary about the conference option.

The Senate Democratic leadership only came to linking minimum wage with small business tax relief after Chairman BAUCUS relayed the Republican position to them. It took a cloture vote to prove Chairman BAUCUS right.

So, if we go to conference, the Senate Democratic leadership and House Democratic leadership might be perfectly willing to scrap the Senate's position.

Apparently, at a pen and pad session with reporters today, the majority leader indicated as much. He told reporters he wanted a ''clean'' minimum wage bill to come out of conference. Now, I am told the majority leader's press operation has attempted to change the impression those remarks left.

Let's just say I am reasonably suspicious of those kinds of ''clarifications.'' Apparently, the majority leader also said he would be prepared to dare Republicans to filibuster a clean minimum wage conference report. By ''clean,'' he appears to be referring to the term used by House and Senate Democratic leadership to mean no linked small business tax relief.

Make no mistake—the easiest and quickest way to send a minimum wage bill to the President would be for the House to send the Senate a bill identical to the Senate-passed bill.

An alternative quick option would be for the House to send us a revenue bill and the Senate would amend the bill and send it to the House. The House could then send the bill to the President's desk.

The conference option could be troublesome. It could be drawn out. Or, it could be a way for the House and Senate Democratic leadership to subvert the Senate position. That would not be a good way to start out the new session. In a conference setting, it would mean the Senate Democratic leadership acting in a manner that is at odds with how it said it was going to conduct business.

I counsel my leadership and the Democratic leadership to consider my concerns about the next step.

Mr. BAUCUS. Madam President, I am grateful to the people of Montana for sending me to Washington as their Senator. I never forget whom I am here to represent.

That is why my staff and I continually meet and talk with small business owners and CPAs from across the State. In anticipation of legislation to increase the minimum wage, I wanted to know how Montana's small businesses would be affected, I wanted to know what tax benefits would help small businesses, and I wanted to make sure that the Senate substitute to H.R. 2 would benefit Montanans.

In particular, I thank James McHugh of Hammer Jack's in Missoula; Robert Walter of Walter's IGA and ACE in Sheridan; James Whaley of Whaley & Associates in Missoula; Ken Walsh of Ruby Valley National Bank in Twin Bridges; Micki Frederikson of Bingham, Campbell, Amrine, and Nolan in Missoula; Dan Vuckovich of Hamilton Misfeldt & Company in Great Falls; Ronald Yates, Jr. of Eide Bailly in Billings; David Johnson of Anderson Zurmuehlen & Co. in Helena; and Leslee Tschida of M.A.R.S. Stout in Missoula.

I thank the men and women of Montana for their hard work, for their input into the formulation of this legislation, for their dedication to grow their companies, and for their confidence in me to deliver for Montana.

Madam President, today the Senate will increase the minimum wage and provide tax relief to the Nation's small businesses. This important legislation will help millions of working Americans and those who employ them. It has been a decade since the last minimum wage increase. It is long overdue.

I am very pleased we added a package of tax incentives for small businesses because many worry that a minimum wage increase will place a burden on small businesses. I want to take a moment to thank the individuals who worked so hard on the tax package.

First, I want to thank my good friend Senator GRASSLEY, the chairman of the Finance Committee, for his leadership on this bill. I also appreciate the hard work and cooperation of his staff, especially Kolan Davis, Mark Prater, Dean Zerbe, Elizabeth Paris, Chris Javens, Cathy Barre, Anne Freeman, Grant Menke, Stanford Swinton and Nick Wyatt.

Second, I thank the staff of the Joint Committee on Taxation and Senate Legislative Counsel for their service. I also want to recognize two staff members of the Joint Committee on Taxation who are leaving Congress, Patricia McDermott and Gray Fontenot.

Patricia McDermott will be retiring from her position as legislation counsel with the Joint Committee of Taxation and moving to the private sector. Tricia was qualified plans branch chief in the Office of Associate Chief Counsel at IRS before she came to Joint Tax as a detailee in July of 2000. She joined the JCT staff when the detail ended in 2001. Tricia has advised us on many projects, but I especially want to thank her for the expertise and tireless effort she brought to our work on the Pension Protection Act of 2006. Tricia's knowledge—and her patience—were invaluable and will not be easily replaced.

And we bid farewell to Gray Fontenot, an accountant with the Joint Tax Committee, who will be leaving this week to head to the private sector. Gray has been an essential adviser, particularly on the Katrina tax relief bills. As a native of New Orleans, whose extended family was personally affected by the hurricane, he truly understood the needs of the Gulf Zone, and his expertise was greatly appreciated by the members and staff of the Finance Committee.

Finally, I thank my staff for their tireless effort and dedication, including Russ Sullivan, Bill Dauster, Pat Heck, Rebecca Baxter, Melissa Mueller, Judy Miller, Pat Bousliman, Ryan Abraham, Carol Guthrie, and Erin Shields.

I also thank our dedicated fellows, Mary Baker, Thomas Louthan, and Sara Shepherd, and our talented interns, David Ashner, Larry Boyd, Sarah Butler, Gretchen Hector, Molly Keenan, and Ryan Majerus.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, as I have said during the course of the last 9 days, on this side of the aisle we are prepared to go ahead and vote. We have been prepared to vote since the first day we were on this legislation. It only took 4 hours for the House of Representatives to debate this issue and then to proceed to a vote. We have been on this for 9 days. We have debated an increase to the minimum wage 16 other days since the last increase. Twenty-five days of debate about the increase in the minimum wage. Imagine that, 25 days taking up the time of the United States Senate.

With all the challenges we face in education, in energy, in health, and jobs, all the challenges we are facing in terms of environmental issues and foreign policy issues, we have spent 25 days on whether we are going to increase the minimum wage. Twenty-five days during this period of time. On this side, we are prepared to move ahead. We are prepared to move ahead.

The President of the United States made this talk yesterday on Wall Street, and it was well received and cheered on Wall Street, as he talked about how well the economy has been proceeding. Well, I took a few moments earlier in the day to talk about the increase in the number of families who are living in poverty. We have close to 2 million more children living in poverty today than we had 5 years ago. Two million more families living in poverty than we had 5 years ago. That is according to the census. That is not some speech writer's concept, those are hard facts.

President John Adams, one of our great Founders, said facts are stubborn things. Those numbers are stubborn things. Facts speak. Increased numbers of Americans have gone into poverty over the last 5 years, with an increase in the number of children who have gone into poverty.

Other countries have addressed the problems of poverty and have lifted children out of poverty, lifted families out of poverty, and most of them have used an increase in the minimum wage to do it. You have to understand the problem in order to address it, and this President, evidently, doesn't understand the kinds of pressures that are on working families and middle-income families.

Members of some of our great churches in this country have strongly supported the increase in the minimum wage. We have over 1,000 different organizations that have supported the increase in the minimum wage. I have included most of their letters of support in the RECORD.

Here is one from the Urban League:

> Passing this wage hike represents a small but necessary step to help lift America's working poor out of the ditches of poverty and onto the road toward economic prosperity and will narrow the financial gap between Americans of color and whites.

That is the National Urban League president, President Morial.

Here we have an extraordinary group of business owners and executives for a higher minimum wage. They are some of the large companies in the country and some of the small companies. It is six pages long in terms of the companies themselves, ranging from Mr. Alex Von Bidder, president of the Four Seasons Restaurant in New York, a very high-cost restaurant, to some of the small mom-and-pop stores, but all of them expressing the view that:

> We expect an increased minimum wage to provide a boost to local economies. Businesses and communities will benefit as low-wage workers spend their much-needed pay raises at businesses in the neighborhoods where they live and work. Higher wages benefit business by increasing consumer purchasing power, reducing costly employee turnover, raising productivity, improving product quality, customer satisfaction, and company reputation.

In a recent National Consumers' League survey, 76 percent of American consumers said how well a company treats and pays its employees influences what they buy.

I also have a letter from the president of Catholic Charities, Father Larry Snyder, and included in his letter are these words:

> Over the last several years, our agencies have been coping with steady increases of 20 percent each year in requests for emergency assistance because low-wage workers simply cannot earn enough to cover rent, child care, food, utilities, and clothing for their families. Many people served by Catholic Charities agencies are poor despite full-time employment at the bottom of the labor market: cleaning houses and office buildings, harvesting and preparing food, watching over children of working parents. They contribute to our Nation's economic prosperity. Yet the current minimum wage leaves them nearly $6,000 below the poverty line. People who work full time should not live in poverty.

Then he continues:

> Our Catholic tradition teaches that society, acting through government, has a special obligation to consider first the needs of the poor. Catholic social teaching tells us that a just wage is not just an economic issue—it is a moral issue. The United States Conference of Catholic Bishops stated in its pastoral letter, Economic Justice for All, ''all economic institutions must support the bonds of community and solidarity that are essential to the dignity of persons.''

The dignity of persons, that is what the increase in the minimum wage is about. It will help those 6 million children get a chance to maybe buy a book and read a little more, maybe even participate in a birthday party, maybe have a chance to spend a little more time with their parent because their parent will not have to have two or three jobs. Here they are talking about the importance of dignity, ''essential to the dignity of persons.'' That is what this debate is about, the dignity of persons.

And the list goes on. Virtually all of the churches of faith have all recognized the importance of this issue, and interestingly, they have all pointed out what this letter says from Catholic Charities; that over the past several years their agencies have been coping with steady increases of 20 percent each year in requests for emergency assistance because low-income workers simply cannot afford the necessities.

That is true about my food bank in Boston. I was there just a few weeks ago talking to those who run it. It is an extraordinary institution. They have the same kinds of demands. We hear it all over the country. Yet we have the President talking on Wall Street about everything is fine.

So what are some of the facts? We are finding out what is happening. First of all, the Bush economy fails American families' wallets. This is the median household income: $47,599 in 2000 and $46,326 in 2005. These numbers are from the Bureau of the Census. Imagine people opening up their newspapers and seeing the pictures of the President being cheered on Wall Street talking about how well the economy is going.

No one is doubting that the economy is working well for Wall Street. We are not talking about that. If you are asking the Census Bureau, not a speech writer but the Census Bureau, these are their figures, and this is what has been happening to the median household income. It has declined $1,273. That is from the Bureau of the Census. That is what has happened to the median household income across this country.

We have those members of our various faiths talking about the increase in demand, the 20-percent increase in demand. Yet we are seeing these kinds of figures. We see this kind of drop in real income. Yet let's look at the cost of the things these individuals have to buy. We have the decline in the family income, but look at what has happened. Gas has gone up 36 percent; health insurance, 33 percent, which is a very modest estimate; nationwide college tuition, 35 percent; housing, 38 percent. And I would say, for the most part, these are rather modest. They come from the Kaiser Family Foundation and the College Board's Annual Survey of Colleges.

In my district, certainly in New England, those numbers are a great deal higher. But, nonetheless, it makes the point that real income has gone down and the cost of everything that a family has to buy, in terms of gasoline, health insurance for their family, college tuition, and housing has gone up. Look at the end of this chart. Wages stagnant across the way; up 1 percent. These are the figures. We haven't put the food in there, but these are strong indicators, and certainly food has gone up, although perhaps not as high as these indicators.

Let's look at the other side and see what has been happening down there on Wall Street. My goodness, look at

this chart. Look what has happened to corporate profits during this same time. While real family income has been going down, these corporate profits have grown by 80 percent, 80 percent they have gone up. Eighty percent. Real income for the family has gone down over the last 5 years, but corporate profits have gone up 80 percent.

No wonder the President was cheered on Wall Street. No wonder. And look on the bottom line. That is the minimum wage. It slows, the extraordinary explosion in corporate profits. Yet the minimum wage has not gone up because our Republican friends refuse to let it go up. This is not any mystery. The Democrats are ready to vote. We are ready to vote this afternoon. We were ready to vote when it first came up, or at any time, but we can't get an agreement to vote. We are going to have to get it because the time is going to run out sometime tonight.

So these are the corporate profits that have gone up. Here is the minimum wage worker that has to work more than a day just to fill up his tank with gasoline. These are the kinds of things that they are faced with. And as we have pointed out earlier, more than a thousand Christian, Jewish, and Muslim faith leaders say that minimum wage workers deserve a prompt, clean, minimum wage increase, with no strings attached. This is Let Justice Roll, January of this year.

I have given the statistics, the flow lines, the charts, and so, Madam President, let me wind up this part of my presentation by mentioning what it means in real people's terms.

An increase in the minimum wage helps Constance Martin of Pittsburgh, PA. Constance used to have a good job that paid a decent wage. Then her son got cancer. She was forced to choose between that job and taking care of her child. So now she works for $5.50 an hour at Kentucky Fried Chicken. Her job has no health care or other health benefits. She can barely afford to pay the rent and utilities, much less to give her son the care he needs. When Pennsylvania raised its minimum wage at the State level last year, it was a help but still not enough to keep pace with the cost of living. A Federal raise would allow her to pay off her bills and provide for her son's future instead of living day to day and hand to mouth just to get by.

A raise in the minimum wage would help Tonya Schmidt. Tonya is a single mother with two children, ages 8 and 11. She works at Little Caesar's pizza. It is hard work, but she likes her job and is good at it. Tonya talked about how hard it is for her to get by each month. Her family lives in a converted motel room, but she has trouble making rent. She doesn't have a car but relies on friends and family to take her to the grocery store to buy food for her children.

Tonya can't afford the basic necessities for her children. She often cannot afford to buy her children the clothes they need to go to school. Tonya says a higher minimum wage would help her provide her kids with these basic necessities, and it might help her get a few steps ahead to buy a used car or pay for car insurance so that she could go to the grocery store on her own.

A raise in the minimum wage would help Gina Walter from Ohio. Gina, a 44-year-old single mother, works in a retail job at a thrift store. Gina earns $6.25 an hour, just over $12,000 per year. She has no car or health insurance and hasn't taken a vacation in 6 years. It takes Gina 2 full days of work just to pay her gas bill every month. She cuts her own hair because she can't afford to get a haircut. But Gina goes to work every day. She works hard and tries to build a better life for her family.

That is the typical statement: working hard, trying to provide for their family.

This bill will help Gina provide better opportunities for her 18-year-old daughter. It will help pay her gas bill and be able to go get a haircut. It might even help her finally take that vacation she so richly deserves.

Madam President, this is what we are talking about on the floor of the Senate. I will speak later about what I really think about this increase in the minimum wage in terms of it being the defining aspect of our country's humanity and a reflection of our sense of decency and our sense of fairness. But it is a scandal that we have not increased our minimum wage over a 10-year period. Hopefully we will have an opportunity to do it before the day is out.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. ENZI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ENZI. Madam President, I rise today to speak in support of final passage of H.R. 2, as amended. I think it is a very exciting time. I appreciate the wise direction this body has decided upon with regard to the minimum wage. Yesterday, 88 Members of the Senate correctly concluded that raising the minimum wage, without providing relief for small business that must pay for that increase, is simply not an option. Rather the option we did strongly decide on included tax benefits to help offset the impact on small business.

I wish to reiterate my hope that our colleagues in the House will not derail this bipartisan approach to offering real support and relief to the middle class and to the minimum wage earner. The minimum wage increase will shortly be in their hands. I hope they will be judicious and perhaps even forgo some of their jurisdictional concerns in order to see that this is done for the people of America.

The Senate's reasonable approach recognizes that small businesses have been the steady engine of our growing economy and that they have been a source of new job creation, and a source of job training. People with no skills often go to work at minimum wage and get the training they need to advance to higher levels of pay and to other more skilled jobs. That is all training which is done for free by small business.

The Senate's approach also recognizes that small businesses are middle-class families, too. I am proud that this body has chosen a path which attempts to preserve this segment of the economy, which employs so many working men and women. The Senate has acknowledged the simple fact that a raise in the minimum wage is of no benefit to a worker who doesn't have a job or a job seeker who doesn't have a prospect.

As this Congress moves forward, we will need to confront a range of issues facing working families: the rising cost of health insurance and the availability of such insurance, the necessity and costs of education and job training, and the desire to achieve an appropriate balance between work and family life. The lessons we have learned in this debate should not be forgotten as we approach new and equally complex issues.

In addressing minimum wage, we have rejected the notion that it will be a clean bill. Ultimately, we did so because it is not a clean issue, it is a very complicated issue, and around here, clean more often than not means ''do it my way'' and doesn't respect the democratic process of the Senate and allow the Senate to work its will.

There were claims that no Democrats offered amendments to the bill. That is false. The chairman of the Committee on Small Business, Senator John Kerry, offered two amendments, and the Senator from Wisconsin, Mr. FEINGOLD, offered an amendment on ''Buy American'' standards. In fact, it is my understanding that part of the delay we are experiencing on final passage is that a Democrat was trying to figure out a way to get a vote for a third cloture and a Republican is also trying to do something very similar. While I believe these have now been resolved, that is kind of what has been holding us up here in waiting for a final vote. Throughout this debate, Members on both sides of the aisle were not aiming to delay passage but were offering amendments to improve the bill.

I remember when I first went into the Wyoming Legislature and presented my first bill, I thought it was a pretty simple bill. It only had three sentences in it. It dealt with unemployment insurance for business owners. Well, this little, simple, three-sentence bill, when it went to committee, got

two amendments, and when it went to the floor, it got three more amendments. When it went to the Senate, it made it out of committee without any additional amendments but had two more added on the floor. However, what I realized through the process was we had all of these different people from different backgrounds looking at the same problem from different perspectives, and every one of those amendments improved the bill. They looked at the bill and saw things that I hadn't seen.

Afterwards I hoped that in the future, as I went through the process of legislating, I would see those things and see bills from other people's perspective. But that is the beauty of the system we have here—100 Senators take a look at a bill and 435 people in the House take a look at a bill and that should result in some changes. No bill I have ever seen winds up the same as it started.

Of course, sometimes the biggest animosity around here is between the House and the Senate, and that is true in State legislatures, too. I finally figured out the reason for that is we here in the Senate work on a bill, we make it perfect, we send it over there, and they decide something else has to be done to it. That creates animosity. And they do bills and send them here, and we decide there ought to be changes to them, and that creates animosity here. Fortunately, we have a conference committee process that is supposed to get the two sides together to work out the differences. That also works, although it takes more time. So we are not the fastest in governing, but I think we are the most inclusive in governing. I think this bill has gone through a very similar process.

I am pleased we have proven to the American people that we can indeed work together and provide solutions to complex and difficult problems. The Senate chose the right course of coupling an increased minimum wage with provisions that will assist small business employers who will face the greatest difficulties in paying such increased costs. I hope we do not forget the wisdom of this approach as we address other workplace, economic, and social issues.

It has been mentioned that 10 years ago when the last minimum wage raise was done, that was the first time there were things put on the bill to offset the impact on small businesses. I was running for office and in Washington at the time that bill was being conferenced and finally debated, and I was pleased to see the former Senator from Wyoming, Mr. Simpson, was the chair on the conference committee, along with Senator KENNEDY. The two of them worked out a package that had a raise in the minimum wage and some offsetting things for small business. When the bill was signed in the Rose Garden, then-President Clinton commented on what a great compromise it was that it would drive our economy. Senator KENNEDY received a lot of the compliments for that, as he will this time. Senator BAUCUS and Senator GRASSLEY will be complimented as well.

I can't emphasize enough how pleased I am that the two of them worked together to put this tax package together. It is not an easy job. In fact, I think tax provisions are some of the most difficult and complex matters there are to work on. The Senator from Montana, Mr. BAUCUS, and the Senator from Iowa, Mr. GRASSLEY, have worked together on most of the Finance Committee issues. I have noticed through the years that they are most successful when they work together.

I tried to build on that knowledge when I became the chairman of the Health, Education, Labor, and Pensions Committee. It worked well for us for the last 2 years, to work in a very bipartisan way. Almost every issue the Committee had came through this body unanimously. Oh, we had the pension bill, which was a 980-page bill and very complicated and very difficult. And that one wasn't unanimous; it was only 98 to 2. I think my colleagues can see my point on this—that when we work together, we have amazing things happen in fairly short order. That bill took an hour of debate with two amendments and a final vote, and that was all agreed to before it was even brought to the floor. So when we work together, there can be good things, such as the bill we have right now.

The Senate has chosen the right course of coupling an increased wage with provisions that will assist those small business employers who will face the greatest difficulty in paying those increased costs. I hope we don't forget the wisdom of that approach, as I mentioned before. I am also heartened that in the course of this debate, we have begun to recognize what I know from my own life to be true; that is, that working families are not only those who are employed by businesses, they are also those who own the businesses.

I know from personal experience that all small businesses have two families—their own and the people who work for them. I also know that small business owners feel the pressure of rising costs, the dilemma of difficult options, and the uncomfortable squeeze of modern life in both of their families, as many workers do on their own. And I know that the smaller the business, the more likely it is that the employees and the employers recognize each other's difficulties and how interdependent and sometimes fragile their businesses and their jobs actually are. I think there is a greater tendency for them to work together under those circumstances.

America has heard a lot of partisan rhetoric during the course of this debate, such as the talk of the so-called war on the middle class and the claim of leaving people out. I would like to note for the record that such rhetoric got us nowhere. There wasn't an attempt to leave anybody out. The middle class is actually made up of those small businessmen who we are trying to help, and in some cases the employees who are working for them.

We didn't try to start a war over statistics, although we were tempted. I do have to mention there were some charts out here to show that wages used to be pretty close together, and the chart had five quintiles. I am more used to quartiles than quintiles, but this had five quintiles. So each 20 percent of the wage capability of the population was shown on the chart, and it showed that from 1943 until 1980, the numbers were pretty close together. Then we saw another chart, and it had this bar on the end which extended far beyond any of the quintiles. I paid a little bit of attention to that chart. It didn't just have quintiles on it; it had quintiles, plus one. If you look at the quintiles, they were almost the same today as they were at the time of the 1943 chart. However this big bar graph at the end—made it look so skewed that it made people look really rich and I guess by association holding the rest of the people down.

Well, instead of just having quintiles on there, the chart had quintiles plus the top 1 percent earners in the United States. I am pretty sure that if you go back to 1943 through whatever date you want and you take the top 1 percent earners in the United States, you will find that they earn drastically more than even the highest quintile. So the chart doesn't treat the wage data equally. I suspect that Bill Gates himself skewed that chart pretty badly. The top 1 percent always makes a lot more money than everybody else and I think that is pretty much the case through the history of the United States. So if we are going to talk about quintiles, we need to talk about the quintiles equally.

That is just one example of how we could have spent more time concentrating on the charts and arguing back and forth. But our point wasn't whether to increase the minimum wage; our point was whether we could do it and keep the economy moving by eliminating some of the impact of the increase on the small businesses that employ those minimum wage workers.

We are ending the consideration of this issue basically where it began and for many of us where we have been for the last few years—with the majority of the Senate supporting a minimum wage increase as long as there are provisions to soften the impact of that increase on the small businesses which create minimum wage jobs. Every time I have had to debate this, I have had a bill that had an increase in the minimum wage and it also had some amendments that offset the impact. Now, I didn't take the Finance Committee offsets; I took some other offsets to do it.

One of the things I have noticed around here is that if you ever do an amendment on a bill like this, it will

be considered a poison pill, and the second time you try to do that bill, even if you have changed the wording, the arguments will be exactly the same as before you changed the wording. So we sometimes get locked into the concept and the history of what has gone on around here.

We could have had this increase done earlier had there been some willingness to offset it with a package, as was done the last time the minimum wage was increased and as I suspect will happen every time in the future that the minimum wage is increased because a higher wage is of no use when the job itself is gone.

The Senate chose to look at the whole picture this time around. The minimum wage could have been raised years ago had some on the other side been willing to accept the important role that working families and small businesses—those are a lot of the same people—play in providing employment in this country. Some people like to talk about two Americas. What the Senate is preparing to do today recognizes that there is one America. We are all in this together, and we don't need to do great injury to one group of Americans just to aid another. That kind of partisan rhetoric isn't accurate, and it is aimed at spreading a very skewed view of America. It is aimed to divide rather than unite Americans around the simple solution.

Mandating the wage increase without proper relief to the working families who employee many of America's low-skilled workers is an assault on the middle class. Let's get our facts straight. Passing the Senate's bipartisan minimum wage and small business relief package is good for low-skilled workers and it is good for the middle class working families of America.

It is time we did this. I hope we will have the vote soon. I look forward to the speeches we can do afterwards, thanking all of the people that have made this possible. I am very confident that is exactly what is going to happen.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REID. Madam President, I ask unanimous consent that the time until 5 p.m. today be equally divided and controlled between Senators KENNEDY and ENZI or their designees; that at 5 p.m., all time postcloture be considered yielded back; and without further intervening action or debate, the Senate proceed to vote on passage of H.R. 2, the minimum wage bill, as amended; that upon passage of the bill, the motion to reconsider be laid upon the table; that there then be 4 minutes of debate, equally divided and controlled between the two leaders or their designees, prior to a vote on the motion to invoke cloture on the motion to proceed to S. Con. Res. 2.

I would say to all Senators, prior to the Chair considering the unanimous-consent request, that we may not have the second vote. Unless there is unanimous consent that we not have it, we will have it. We will make that decision during the vote that takes place beginning at 5 o'clock.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Chair recognizes the Republican leader.

Mr. MCCONNELL. Madam President, let me just echo the remarks of the majority leader. We are continuing to discuss the consent request under which we would consider various options for our Iraq debate beginning next week. We are making substantial progress and, hopefully, we will have something soon to announce on that issue.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Madam President, I want to say, Senator KENNEDY is not here, and I am sorry that is the case. But he spent the last week or two on the Senate floor. I want to express how much I appreciate the attitude and demonstration of bipartisanship shown by Senator KENNEDY and Senator ENZI. I have said before they are an example of how people with different political philosophies can do things constructive in nature to get us to a point where we are today. They are both outstanding legislators, and they are very fine individuals, as indicated by their ability to get along on the most contentious issues.

A person does not have to be disagreeable to disagree. And these two gentlemen certainly epitomize, in my estimation, how we should all work together in spite of our political differences, to work toward a common good to do things that are good for the American people.

So, Senator ENZI, who is here, thank you very much.

Senator KENNEDY, who is not here, I appreciate very much his work.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Madam President, I, too, commend the distinguished Senator from Wyoming for an outstanding job in helping to craft this bill and representing our side very skillfully in putting together this package.

I also want to extend my thanks on behalf of all of our colleagues to Senator GRASSLEY, the ranking member of the Finance Committee, for his important contribution to this bill that we think made it significantly better than it might otherwise have been.

So I commend them both for their outstanding work.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Madam President, Senator MCCONNELL certainly jogs my memory that I should have mentioned my friend Senator BAUCUS. He and Senator GRASSLEY also have an exemplary relationship. This bill is half from the HELP Committee and half from the Finance Committee, and Senator BAUCUS certainly has lifted a big load for us over here.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Madam President, I would like to thank both the leaders for their kind words. I thank them on behalf of both Senator KENNEDY and myself. We do have a philosophy of working together, and it does work. I am pleased we are at this point today. The bill the Senate has crafted is the right approach to take on this issue. The approach is combining an increase in the minimum wage with provisions that will assist those small business employers who face the greatest difficulties in paying such increased costs. The Senate has not forgotten that while we may be able to mandate a wage, we cannot mandate the existence of a job. I hope our colleagues in the House will not forget that either.

In legislating, it is often important to find a third way. The third way is represented by the substitute amendment that was the product of extensive bipartisan cooperation. Democrats and Republicans working together acknowledged the fact that mandated cost increases can have negative economic effects, and together we developed a means of addressing those concerns in the form of the bipartisan substitute amendment. It will affect millions of Americans. I am glad we are at this point.

I would like to thank all of the staffs who have been involved in this issue, doing research and getting information that will help us to be as sure as we can be that we have made the right decisions on the best information possible.

From my staff, that includes my staff director, Katherine McGuire, and Brian Hayes, Kyle Hicks, Ilyse Schuman, Amy Shank, Shana Christrup, Andrew Patzman, Randi Reid, Tara Ord, Greg Dean, Craig Orfield, and Michael Mahaffey. That is a lot of people, but it takes a lot of people to do something like the tax package and the bill we have before us, plus all of the other things that were considered during the process.

From the Republican leader's office, I thank Mike Solon, Malloy McDaniel, and Rohit Kumar. I also thank Ed Egee with Senator ISAKSON. From the Finance committee, I thank Russ Sullivan and Mark Prater; and from the Republican whip's office, Manny Rossman and John O'Neill.

But I would be very remiss if I did not thank those in Senator KENNEDY's office and his staff: Michael Myers, Holly Fechner, Portia Wu, Missy Rohrbach, and Lauren McGarity. They have

done just an outstanding job of keeping us on track and also searching through all of the different things we have had to consider, even those that nobody ever saw discussed here on the Senate floor. It was tireless work, which often goes on late into the nights, well beyond the time Senators are around here—of course, I do not want to give you the impression that Senators are necessarily going home. Sometimes they are working late as well, just in a different building. We get to spend our days here and our nights in our office building. But without the help of all of those people, this bill would not be at the point it is now. We really appreciate their work.

I yield the floor and suggest the absence of a quorum, with the time equally divided.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KENNEDY. Madam President, in just a few moments the Senate will vote on the issue of increasing the minimum wage. We have been debating this issue for some time. At the final moments here, I, first of all, thank my friend and colleague from Wyoming, Senator ENZI, for his willingness to work together. We do not always agree, but we agree more often than one might expect, and we have gotten good things done in our committee.

I always enjoy working with him. We have had some differences on this issue, but we always know we have a good deal of respect for each other; I certainly for him. I know it is not appropriate to make personal comments on the floor of the Senate, but I am, in any event. It is Senator ENZI's birthday today, and we wish him the very best on this particular occasion.

Mr. ENZI. Thank you.

Mr. KENNEDY. Just finally, I think those of us who are in this Chamber understand we want to be one country with one history and one destiny. We want to make sure that for all people, in all parts of our Nation, they are going to have a part of the American dream. We, as a nation, do not want to have a subclass, a subclass of workers who cannot emerge out of a minimum wage for themselves or for their families. We recognize that work has to pay.

What we are trying to do with the increase in the minimum wage is to say to men and women of dignity—primarily to women because women are the greatest recipients of the minimum wage, to their families and their children, to men and women of color—that we understand if you work hard in the country that has the strongest economy in the world, you should not have to live in poverty. You should not have to live in poverty. And raising the minimum wage is going to help to make sure that particularly those children—those 6 million children—are going to have a more hopeful future.

Additionally, we want to send a very important message to all of those children. This is really just the beginning. We have a change in direction in this country, as we have seen in the House of Representatives and here in the Senate. And we want to give assurances to those families that hopefully are going to get some boost in the minimum wage that we are going to work on the education for those children. We are going to work to make sure they are going to get the kind of help and assistance so that education is going to be available to them. We are going to work to make sure we get a reauthorization of the SCHIP program, an expansion of the Medicaid Programs, because we want to make sure they are going to be healthy, they are going to have the opportunities for education. We are going to make sure as well, to the extent we can, they are going to be able to live in safe and secure neighborhoods.

We have a responsibility in this country of ours to make sure—particularly for children in this Nation, but for workers in this country—that their work is going to be recognized, respected, and they are going to be treated justly and fairly. That is what the minimum wage is all about. It is a moral issue, as the members of the church have all told us about. And we, hopefully, will get a resounding vote of support for a long-awaited increase in the minimum wage.

Mr. KENNEDY. Madam President, we have now spent 8 long days debating whether to raise the minimum wage by $2.10 per hour. During this time, we have had quite a bit to say about quite a variety of issues. We have talked about education. We have talked about heath care. We have talked about tax policy and immigration policy. We have actually talked very little about raising the minimum wage.

We have not had nearly enough debate about what this bill would actually do, so I can honestly say that I am pleased when my colleagues on the other side of the aisle come down the floor with the intent of actually talking about the Fair Minimum Wage Act.

Unfortunately, while I applaud them for addressing the issue at hand, their criticisms of the Fair Minimum Wage Act are woefully misplaced. My Republican colleagues are perpetuating some of the most common misconceptions about raising the minimum wage, and it is important to set the record straight.

My colleague from Tennessee, Senator ALEXANDER, raised concerns about the private sector costs of raising the minimum wage. He argued that an increase will prove detrimental to the economy in general, or to the business community in specific. He is correct that the Congressional Budget Office has estimated that the bill will cost the private sector more than $10 billion over 5 years. However, this is a mere drop in the bucket of the national payroll. All Americans combined earn $5.4 trillion a year. A minimum wage increase to $7.25 would be less than one-fifth of 1 percent of this national payroll—far too trivial to cause inflation or other economic harm.

The simple fact is that employers can afford to increase wages in the current economy. Workers are producing more, but earning less. Productivity has increased by 31 percent since 1997, yet minimum-wage workers have not received a raise. This increase ensures that minimum-wage workers, not just employers, benefit from the fruits of their labor.

Now Senator ALEXANDER also suggests that we shouldn't interfere with the market forces that set wages for low-wage workers. But we need to intervene when there's a market failure that needs correcting, and that's clearly the case with our stagnant minimum wage. Low-skilled workers, unlike high-skilled workers, do not generally have the bargaining power to demand wage increases. Even if they work harder, all their extra efforts are going into profits. Corporate profits have grown by 80 percent since Bush took office, while wages are stagnant. We need to act to make sure minimum wage workers don't get left behind.

My colleague also expresses concern about the effect of a minimum wage on small business. He claims that the majority of minimum wage workers are employed by small businesses, and that small businesses will suffer if the minimum wage is raised.

But the small business community doesn't agree. A recent Gallup poll found that 80 percent of small business owners do not think that the minimum wage affects their business, and three out of four small businesses said that a 10 percent increase in the minimum wage would have no effect on their company. Additionally, nearly half of small business owners think that the minimum wage should be increased, and only 16 percent of owners think the minimum wage should be reduced or eliminated entirely.

In fact, historical evidence suggests that a minimum wage increase can actually be beneficial to small business. A 2005 study by the Fiscal Policy Institute found States with minimum wages above the Federal level are generating more small businesses than states with a minimum wage at the Federal level. Between 1998 and 2003, the number of small businesses rose 5.4 percent in the ten States, including at had a minimum wage higher than the Federal level, compared to 4.2 percent in the other 40 States. The number of small retail businesses also grew faster in these States.

I appreciate Senator ALEXANDER's concerns about the economic impacts of a minimum wage raise, those concerns are misguided. The economic

doomsday scenario that Senator ALEXANDER predicts simply will not materialize from this long-overdue increase in the minimum wage. The Senator doesn't have to take my word for it—over 650 prominent economists, including 5 Nobel Prize winners, agree that a modest increase in the minimum wage—like the one proposed in the Fair Minimum Wage Act—''can significantly improve the lives of low-income workers and their families, without the adverse effects that critics have claimed.''

In addition to arguing about the economic impacts this bill, several of my colleagues have argued that raising the minimum wage is not an effective anti-poverty program, but instead will benefit primarily secondary earners and families well above the poverty line. This counterintuitive assertion is not borne out by the facts. The vast majority of minimum wage workers are hard-working Americans struggling to get by on what the minimum wage pays them for their contribution to our economy. And that is not easy.

A minimum wage increase benefits poor American families. According to the Economic Policy Institute, almost 70 percent of those who would benefit are adult workers, not teenagers seeking pocket change. Nearly half of these adults are sole breadwinners for their families. Nearly 40 percent of the benefits from a minimum wage increase would go to households with an average annual income of less than $17,000.

It is important to remember that those earning the minimum wage are not just starting out in the workforce. Many hardworking people become trapped in low-paying jobs and have trouble getting ahead. A report from the Center for Economic Policy Research shows a third of minimum wage earners from ages 25 and 54 will still be earning the minimum wage three years later. Only 40 percent of them will have moved out of the low-wage workforce 3 years later.

Certainly raising the minimum wage is only one of many steps that we should take to address the problem of poverty in this nation. Several of my Republican colleagues have suggested that we should examine ways to improve the Earned Income Tax Credit, and I look forward to working with them on this issue.

But none of this changes the fundamental fact that the Federal minimum wage is at its lowest real value in 50 years and continues to fall further and further behind each day. Minimum wage workers have been waiting longer than ever before in history for an increase, and a raise is long-overdue.

Now, my colleague from South Carolina, Senator DEMINT, went so far as to suggest that raising the minimum wage will actually harm poor workers, because it will cause them to lose other government benefits. That's just not the case.

The Fair Minimum Wage Act will bring working families out of poverty. The minimum wage increase—plus food stamps and the earned income tax credit—brings a family of four with one minimum wage earner from 11 percent below the poverty line to 5 percent above the poverty line.

Now it's true that some minimum wage workers may lose a portion of their food stamp benefits, but their increased earnings and the increased benefits they receive through the earned income tax credit will more than offset any loss of benefits and provide them with additional flexibility to meet their family's needs. They will also remain eligible for housing assistance and other essential government programs.

Minimum wage workers will also benefit from a raise in the long run. They will be earning higher wages, paying more into Social Security, and ultimately receiving more in retirement and disability benefits.

Finally, I'd like to address some comments made just this morning by my colleague from Iowa, Senator GRASSLEY. Now as Senator GRASSLEY knows, I have always taken the position that we should do this minimum wage bill ''clean''—without any add-ons or tax giveaways. Because it's just a myth that minimum wage increases hurt the business community, there is certainly no need to pay off the business community when we give minimum wage workers a raise. We've raised the minimum wage nine times since the Fair Minimum Wage act was enacted in 1938, and only once have we included a tax package for business. That was during the Clinton administration—an era when we had substantial government surpluses, not the dramatic deficits we're facing now. It's just not responsible to pass unnecessary tax giveaways in the current fiscal environment. Democrats are united in this position. While Senator GRASSLEY suggested this morning that Democrats wanted taxes added to this bill, I remind him that every Democrat in the Senate voted for cloture on the underlying bill—a clean increase in the minimum wage with no tax giveaways.

I admit that the tax package contained in the Baucus substitute is not particularly large or offensive, and I understand that it's something we'll likely have to take to get this bill done. But I don't support it, and I certainly don't support any additional tax giveaways being added to this bill.

Senator GRASSLEY suggested this morning that tax breaks are a necessary part of any increase in the minimum wage. I would remind the Senator that an overwhelming bipartisan majority in both Houses of the Iowa State Legislature just voted to increase the Iowa state minimum wage to $7.25—the same level provided in this bill—with no tax breaks included. The Senator's State leaders hold the same views as a majority of the U.S. Congress—that minimum wage workers deserve an immediate raise, with no strings attached.

I hope that these comments lay to rest the fears of my Republican colleagues. I hope that they can join me in supporting a fair increase in the minimum wage for hardworking Americans across the country.

Madam President, I understand the time has expired. Is it necessary to ask for the yeas and nays?

It is necessary.

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. KENNEDY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. One minute remains on the Republican side.

Mr. ENZI. Madam President, I yield back.

The PRESIDING OFFICER. All time has been yielded back.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

Mr. LOTT. The following Senator was necessarily absent: the Senator from Oklahoma (Mr. INHOFE).

Further, if present and voting, the Senator from Oklahoma (Mr. INHOFE) would have voted ''nay.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 3, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—94

Akaka	Craig	Levin
Alexander	Crapo	Lieberman
Allard	Dodd	Lincoln
Baucus	Dole	Lott
Bayh	Domenici	Lugar
Bennett	Dorgan	Martinez
Biden	Durbin	McCain
Bingaman	Ensign	McCaskill
Bond	Enzi	McConnell
Boxer	Feingold	Menendez
Brown	Feinstein	Mikulski
Brownback	Graham	Murkowski
Bunning	Grassley	Murray
Burr	Gregg	Nelson (FL)
Byrd	Hagel	Nelson (NE)
Cantwell	Harkin	Obama
Cardin	Hatch	Pryor
Carper	Hutchison	Reed
Casey	Inouye	Reid
Chambliss	Isakson	Roberts
Clinton	Kennedy	Rockefeller
Cochran	Kerry	Salazar
Coleman	Klobuchar	Sanders
Collins	Kohl	Sessions
Conrad	Landrieu	Shelby
Corker	Lautenberg	Smith
Cornyn	Leahy	Snowe

Specter	Thomas	Webb
Stabenow	Thune	Whitehouse
Stevens	Vitter	Wyden
Sununu	Voinovich	
Tester	Warner	

NAYS—3

Coburn	DeMint	Kyl

NOT VOTING—3

Inhofe	Johnson	Schumer

The bill (H.R. 2), as amended, was passed, as follows:

H.R. 2

Resolved, That the bill from the House of Representatives (H.R. 2) entitled ''An Act to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

TITLE I—FAIR MINIMUM WAGE

SEC. 100. SHORT TITLE.

This title may be cited as the ''Fair Minimum Wage Act of 2007''.

SEC. 101. MINIMUM WAGE.

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than—

''(A) $5.85 an hour, beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2007;

''(B) $6.55 an hour, beginning 12 months after that 60th day; and

''(C) $7.25 an hour, beginning 24 months after that 60th day;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

SEC. 102. APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) IN GENERAL.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

(b) TRANSITION.—Notwithstanding subsection (a), the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(1) $3.55 an hour, beginning on the 60th day after the date of enactment of this Act; and

(2) increased by $0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 6 months after the date of enactment of this Act and every 6 months thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this subsection is equal to the minimum wage set forth in such section.

TITLE II—SMALL BUSINESS TAX INCENTIVES

SEC. 200. SHORT TITLE; AMENDMENT OF CODE.

(a) SHORT TITLE.—This title may be cited as the ''Small Business and Work Opportunity Act of 2007''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Small Business Tax Relief Provisions

PART I—GENERAL PROVISIONS

SEC. 201. EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESSES.

Section 179 (relating to election to expense certain depreciable business assets) is amended by striking ''2010'' each place it appears and inserting ''2011''.

SEC. 202. EXTENSION AND MODIFICATION OF 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS; 15-YEAR STRAIGHT-LINE COST RECOVERY FOR CERTAIN IMPROVEMENTS TO RETAIL SPACE.

(a) EXTENSION OF LEASEHOLD AND RESTAURANT IMPROVEMENTS.—

(1) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) (relating to 15-year property) are each amended by striking ''January 1, 2008'' and inserting ''April 1, 2008''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property placed in service after December 31, 2007.

(b) MODIFICATION OF TREATMENT OF QUALIFIED RESTAURANT PROPERTY AS 15-YEAR PROPERTY FOR PURPOSES OF DEPRECIATION DEDUCTION.—

(1) TREATMENT TO INCLUDE NEW CONSTRUCTION.—Paragraph (7) of section 168(e) (relating to classification of property) is amended to read as follows:

''(7) QUALIFIED RESTAURANT PROPERTY.—The term 'qualified restaurant property' means any section 1250 property which is a building (or its structural components) or an improvement to such building if more than 50 percent of such building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to any property placed in service after the date of the enactment of this Act, the original use of which begins with the taxpayer after such date.

(c) RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN IMPROVEMENTS TO RETAIL SPACE.—

(1) 15-YEAR RECOVERY PERIOD.—Section 168(e)(3)(E) (relating to 15-year property) is amended by striking ''and'' at the end of clause (vii), by striking the period at the end of clause (viii) and inserting '', and'', and by adding at the end the following new clause:

''(ix) any qualified retail improvement property placed in service before April 1, 2008.''.

(2) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—Section 168(e) is amended by adding at the end the following new paragraph:

''(8) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—

''(A) IN GENERAL.—The term 'qualified retail improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

''(i) such portion is open to the general public and is used in the retail trade or business of selling tangible personal property to the general public, and

''(ii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

''(B) IMPROVEMENTS MADE BY OWNER.—In the case of an improvement made by the owner of such improvement, such improvement shall be qualified retail improvement property (if at all) only so long as such improvement is held by such owner. Rules similar to the rules under paragraph (6)(B) shall apply for purposes of the preceding sentence.

''(C) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

''(i) the enlargement of the building,

''(ii) any elevator or escalator,

''(iii) any structural component benefitting a common area, or

''(iv) the internal structural framework of the building.''.

(3) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

''(I) Qualified retail improvement property described in subsection (e)(8).''.

(4) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(viii) the following new item:

''(E)(ix) ..... 39''.

(5) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 203. CLARIFICATION OF CASH ACCOUNTING RULES FOR SMALL BUSINESS.

(a) CASH ACCOUNTING PERMITTED.—

(1) IN GENERAL.—Section 446 (relating to general rule for methods of accounting) is amended by adding at the end the following new subsection:

''(g) CERTAIN SMALL BUSINESS TAXPAYERS PERMITTED TO USE CASH ACCOUNTING METHOD WITHOUT LIMITATION.—

''(1) IN GENERAL.—An eligible taxpayer shall not be required to use an accrual method of accounting for any taxable year.

''(2) ELIGIBLE TAXPAYER.—For purposes of this subsection, a taxpayer is an eligible taxpayer with respect to any taxable year if—

''(A) for each of the prior taxable years ending on or after the date of the enactment of this subsection, the taxpayer (or any predecessor) met the gross receipts test in effect under section 448(c) for such taxable year, and

''(B) the taxpayer is not subject to section 447 or 448.''.

(2) EXPANSION OF GROSS RECEIPTS TEST.—

(A) IN GENERAL.—Paragraph (3) of section 448(b) (relating to entities with gross receipts of not more than $5,000,000) is amended to read as follows:

''(3) ENTITIES MEETING GROSS RECEIPTS TEST.—Paragraphs (1) and (2) of subsection (a) shall not apply to any corporation or partnership for any taxable year if, for each of the prior taxable years ending on or after the date of the enactment of the Small Business and Work Opportunity Act of 2007, the entity (or any predecessor) met the gross receipts test in effect under subsection (c) for such prior taxable year.''.

(B) CONFORMING AMENDMENTS.—Section 448(c) of such Code is amended—

(i) by striking ''$5,000,000'' in the heading thereof,

(ii) by striking ''$5,000,000'' each place it appears in paragraph (1) and inserting ''$10,000,000'', and

(iii) by adding at the end the following new paragraph:

''(4) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2008, the dollar amount contained in paragraph (1) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2007' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under this subparagraph is not a multiple of $100,000, such amount shall be rounded to the nearest multiple of $100,000.''.

(b) CLARIFICATION OF INVENTORY RULES FOR SMALL BUSINESS.—

(1) IN GENERAL.—Section 471 (relating to general rule for inventories) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) SMALL BUSINESS TAXPAYERS NOT REQUIRED TO USE INVENTORIES.—

''(1) IN GENERAL.—A qualified taxpayer shall not be required to use inventories under this section for a taxable year.

''(2) TREATMENT OF TAXPAYERS NOT USING INVENTORIES.—If a qualified taxpayer does not use inventories with respect to any property for any taxable year beginning after the date of the enactment of this subsection, such property shall be treated as a material or supply which is not incidental.

''(3) QUALIFIED TAXPAYER.—For purposes of this subsection, the term 'qualified taxpayer' means—

''(A) any eligible taxpayer (as defined in section 446(g)(2)), and

''(B) any taxpayer described in section 448(b)(3).''.

(2) CONFORMING AMENDMENTS.—

(A) Subpart D of part II of subchapter E of chapter 1 is amended by striking section 474.

(B) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by striking the item relating to section 474.

(c) EFFECTIVE DATE AND SPECIAL RULES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer changing the taxpayer's method of accounting for any taxable year under the amendments made by this section—

(A) such change shall be treated as initiated by the taxpayer;

(B) such change shall be treated as made with the consent of the Secretary of the Treasury; and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period (not greater than 4 taxable years) beginning with such taxable year.

SEC. 204. EXTENSION AND MODIFICATION OF COMBINED WORK OPPORTUNITY TAX CREDIT AND WELFARE-TO-WORK CREDIT.

(a) EXTENSION.—Section 51(c)(4)(B) (relating to termination) is amended by striking ''2007'' and inserting ''2012''.

(b) INCREASE IN MAXIMUM AGE FOR DESIGNATED COMMUNITY RESIDENTS.—

(1) IN GENERAL.—Paragraph (5) of section 51(d) is amended to read as follows:

''(5) DESIGNATED COMMUNITY RESIDENTS.—

''(A) IN GENERAL.—The term 'designated community resident' means any individual who is certified by the designated local agency—

''(i) as having attained age 18 but not age 40 on the hiring date, and

''(ii) as having his principal place of abode within an empowerment zone, enterprise community, or renewal community.

''(B) INDIVIDUAL MUST CONTINUE TO RESIDE IN ZONE OR COMMUNITY.—In the case of a designated community resident, the term 'qualified wages' shall not include wages paid or incurred for services performed while the individual's principal place of abode is outside an empowerment zone, enterprise community, or renewal community.''.

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 51(d)(1) is amended to read as follows:

''(D) a designated community resident,''.

(c) CLARIFICATION OF TREATMENT OF INDIVIDUALS UNDER INDIVIDUAL WORK PLANS.—Subparagraph (B) of section 51(d)(6) (relating to vocational rehabilitation referral) is amended by striking ''or'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting '', or'', and by adding at the end the following new clause:

''(iii) an individual work plan developed and implemented by an employment network pursuant to subsection (g) of section 1148 of the Social Security Act with respect to which the requirements of such subsection are met.''.

(d) TREATMENT OF DISABLED VETERANS UNDER THE WORK OPPORTUNITY TAX CREDIT.—

(1) DISABLED VETERANS TREATED AS MEMBERS OF TARGETED GROUP.—

(A) IN GENERAL.—Subparagraph (A) of section 51(d)(3) (relating to qualified veteran) is amended by striking ''agency as being a member of a family'' and all that follows and inserting ''agency as—

''(i) being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date, or

''(ii) entitled to compensation for a service-connected disability incurred after September 10, 2001.''.

(B) DEFINITIONS.—Paragraph (3) of section 51(d) is amended by adding at the end the following new subparagraph:

''(C) OTHER DEFINITIONS.—For purposes of subparagraph (A), the terms 'compensation' and 'service-connected' have the meanings given such terms under section 101 of title 38, United States Code.''.

(2) INCREASE IN AMOUNT OF WAGES TAKEN INTO ACCOUNT FOR DISABLED VETERANS.—Paragraph (3) of section 51(b) is amended—

(A) by inserting ''($12,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii))'' before the period at the end, and

(B) by striking ''ONLY FIRST $6,000 OF'' in the heading and inserting ''LIMITATION ON''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 205. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

(a) EMPLOYMENT TAXES.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by adding at the end the following new section:

''SEC. 3511. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.

''(a) GENERAL RULES.—For purposes of the taxes, and other obligations, imposed by this subtitle—

''(1) a certified professional employer organization shall be treated as the employer (and no other person shall be treated as the employer) of any work site employee performing services for any customer of such organization, but only with respect to remuneration remitted by such organization to such work site employee, and

''(2) exclusions, definitions, and other rules which are based on the type of employer and which would (but for paragraph (1)) apply shall apply with respect to such taxes imposed on such remuneration.

''(b) SUCCESSOR EMPLOYER STATUS.—For purposes of sections 3121(a)(1), 3231(e)(2)(C), and 3306(b)(1)—

''(1) a certified professional employer organization entering into a service contract with a customer with respect to a work site employee shall be treated as a successor employer and the customer shall be treated as a predecessor employer during the term of such service contract, and

''(2) a customer whose service contract with a certified professional employer organization is terminated with respect to a work site employee shall be treated as a successor employer and the certified professional employer organization shall be treated as a predecessor employer.

''(c) LIABILITY OF CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION.—Solely for purposes of its liability for the taxes, and other obligations, imposed by this subtitle—

''(1) a certified professional employer organization shall be treated as the employer of any individual (other than a work site employee or a person described in subsection (f)) who is performing services covered by a contract meeting the requirements of section 7705(e)(2), but only with respect to remuneration remitted by such organization to such individual, and

''(2) exclusions, definitions, and other rules which are based on the type of employer and which would (but for paragraph (1)) apply shall apply with respect to such taxes imposed on such remuneration.

''(d) TREATMENT OF CREDITS.—

''(1) IN GENERAL.—For purposes of any credit specified in paragraph (2)—

''(A) such credit with respect to a work site employee performing services for the customer applies to the customer, not the certified professional employer organization,

''(B) the customer, and not the certified professional employer organization, shall take into account wages and employment taxes—

''(i) paid by the certified professional employer organization with respect to the work site employee, and

''(ii) for which the certified professional employer organization receives payment from the customer, and

''(C) the certified professional employer organization shall furnish the customer with any information necessary for the customer to claim such credit.

''(2) CREDITS SPECIFIED.—A credit is specified in this paragraph if such credit is allowed under—

''(A) section 41 (credit for increasing research activity),

''(B) section 45A (Indian employment credit),

''(C) section 45B (credit for portion of employer social security taxes paid with respect to employee cash tips),

''(D) section 45C (clinical testing expenses for certain drugs for rare diseases or conditions),

''(E) section 51 (work opportunity credit),

''(F) section 51A (temporary incentives for employing long-term family assistance recipients),

''(G) section 1396 (empowerment zone employment credit),

''(H) 1400(d) (DC Zone employment credit),

''(I) Section 1400H (renewal community employment credit), and

''(J) any other section as provided by the Secretary.

''(e) SPECIAL RULE FOR RELATED PARTY.—This section shall not apply in the case of a customer which bears a relationship to a certified professional employer organization described in section 267(b) or 707(b). For purposes of the preceding sentence, such sections shall be applied by substituting '10 percent' for '50 percent'.

''(f) SPECIAL RULE FOR CERTAIN INDIVIDUALS.—For purposes of the taxes imposed under this subtitle, an individual with net earnings from self-employment derived from the customer's trade or business is not a work site employee with respect to remuneration paid by a certified professional employer organization.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATION DEFINED.—Chapter 79 (relating to definitions) is amended by adding at the end the following new section:

''SEC. 7705. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS DEFINED.

''(a) IN GENERAL.—For purposes of this title, the term 'certified professional employer organization' means a person who has been certified by the Secretary for purposes of section 3511 as meeting the requirements of subsection (b).

''(b) GENERAL REQUIREMENTS.—A person meets the requirements of this subsection if such person—

''(1) demonstrates that such person (and any owner, officer, and such other persons as may be specified in regulations) meets such requirements as the Secretary shall establish with respect to tax status, background, experience, business location, and annual financial audits,

''(2) computes its taxable income using an accrual method of accounting unless the Secretary approves another method,

''(3) agrees that it will satisfy the bond and independent financial review requirements of subsection (c) on an ongoing basis,

''(4) agrees that it will satisfy such reporting obligations as may be imposed by the Secretary,

''(5) agrees to verify on such periodic basis as the Secretary may prescribe that it continues to meet the requirements of this subsection, and

''(6) agrees to notify the Secretary in writing within such time as the Secretary may prescribe

of any change that materially affects whether it continues to meet the requirements of this subsection.

''(c) BOND AND INDEPENDENT FINANCIAL REVIEW REQUIREMENTS.—

''(1) IN GENERAL.—An organization meets the requirements of this paragraph if such organization—

''(A) meets the bond requirements of paragraph (2), and

''(B) meets the independent financial review requirements of paragraph (3).

''(2) BOND.—

''(A) IN GENERAL.—A certified professional employer organization meets the requirements of this paragraph if the organization has posted a bond for the payment of taxes under subtitle C (in a form acceptable to the Secretary) in an amount at least equal to the amount specified in subparagraph (B).

''(B) AMOUNT OF BOND.—For the period April 1 of any calendar year through March 31 of the following calendar year, the amount of the bond required is equal to the greater of—

''(i) 5 percent of the organization's liability under section 3511 for taxes imposed by subtitle C during the preceding calendar year (but not to exceed $1,000,000), or

''(ii) $50,000.

''(3) INDEPENDENT FINANCIAL REVIEW REQUIREMENTS.—A certified professional employer organization meets the requirements of this paragraph if such organization—

''(A) has, as of the most recent review date, caused to be prepared and provided to the Secretary (in such manner as the Secretary may prescribe) an opinion of an independent certified public accountant that the certified professional employer organization's financial statements are presented fairly in accordance with generally accepted accounting principles, and

''(B) provides, not later than the last day of the second month beginning after the end of each calendar quarter, to the Secretary from an independent certified public accountant an assertion regarding Federal employment tax payments and an examination level attestation on such assertion.

Such assertion shall state that the organization has withheld and made deposits of all taxes imposed by chapters 21, 22, and 24 of the Internal Revenue Code in accordance with regulations imposed by the Secretary for such calendar quarter and such examination level attestation shall state that such assertion is fairly stated, in all material respects.

''(4) CONTROLLED GROUP RULES.—For purposes of the requirements of paragraphs (2) and (3), all professional employer organizations that are members of a controlled group within the meaning of sections 414(b) and (c) shall be treated as a single organization.

''(5) FAILURE TO FILE ASSERTION AND ATTESTATION.—If the certified professional employer organization fails to file the assertion and attestation required by paragraph (3) with respect to any calendar quarter, then the requirements of paragraph (3) with respect to such failure shall be treated as not satisfied for the period beginning on the due date for such attestation.

''(6) REVIEW DATE.—For purposes of paragraph (3)(A), the review date shall be 6 months after the completion of the organization's fiscal year.

''(d) SUSPENSION AND REVOCATION AUTHORITY.—The Secretary may suspend or revoke a certification of any person under subsection (b) for purposes of section 3511 if the Secretary determines that such person is not satisfying the representations or requirements of subsections (b) or (c), or fails to satisfy applicable accounting, reporting, payment, or deposit requirements.

''(e) WORK SITE EMPLOYEE.—For purposes of this title—

''(1) IN GENERAL.—The term 'work site employee' means, with respect to a certified professional employer organization, an individual who—

''(A) performs services for a customer pursuant to a contract which is between such customer and the certified professional employer organization and which meets the requirements of paragraph (2), and

''(B) performs services at a work site meeting the requirements of paragraph (3).

''(2) SERVICE CONTRACT REQUIREMENTS.—A contract meets the requirements of this paragraph with respect to an individual performing services for a customer if such contract is in writing and provides that the certified professional employer organization shall—

''(A) assume responsibility for payment of wages to such individual, without regard to the receipt or adequacy of payment from the customer for such services,

''(B) assume responsibility for reporting, withholding, and paying any applicable taxes under subtitle C, with respect to such individual's wages, without regard to the receipt or adequacy of payment from the customer for such services,

''(C) assume responsibility for any employee benefits which the service contract may require the organization to provide, without regard to the receipt or adequacy of payment from the customer for such services,

''(D) assume responsibility for hiring, firing, and recruiting workers in addition to the customer's responsibility for hiring, firing and recruiting workers,

''(E) maintain employee records relating to such individual, and

''(F) agree to be treated as a certified professional employer organization for purposes of section 3511 with respect to such individual.

''(3) WORK SITE COVERAGE REQUIREMENT.—The requirements of this paragraph are met with respect to an individual if at least 85 percent of the individuals performing services for the customer at the work site where such individual performs services are subject to 1 or more contracts with the certified professional employer organization which meet the requirements of paragraph (2) (but not taking into account those individuals who are excluded employees within the meaning of section 414(q)(5)).

''(f) DETERMINATION OF EMPLOYMENT STATUS.—Except to the extent necessary for purposes of section 3511, nothing in this section shall be construed to affect the determination of who is an employee or employer for purposes of this title.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 3302 is amended by adding at the end the following new subsection:

''(h) TREATMENT OF CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—If a certified professional employer organization (as defined in section 7705), or a customer of such organization, makes a contribution to the State's unemployment fund with respect to a work site employee, such organization shall be eligible for the credits available under this section with respect to such contribution.''.

(2) Section 3303(a) is amended—

(A) by striking the period at the end of paragraph (3) and inserting ''; and'' and by inserting after paragraph (3) the following new paragraph:

''(4) if the taxpayer is a certified professional employer organization (as defined in section 7705) that is treated as the employer under section 3511, such certified professional employer organization is permitted to collect and remit, in accordance with paragraphs (1), (2), and (3), contributions during the taxable year to the State unemployment fund with respect to a work site employee.'', and

(B) in the last sentence—

(i) by striking ''paragraphs (1), (2), and (3)'' and inserting ''paragraphs (1), (2), (3), and (4)'', and

(ii) by striking ''paragraph (1), (2), or (3)'' and inserting ''paragraph (1), (2), (3), or (4)''.

(3) Section 6053(c) (relating to reporting of tips) is amended by adding at the end the following new paragraph:

''(8) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—For purposes of any report required by this subsection, in the case of a certified professional employer organization that is treated under section 3511 as the employer of a work site employee, the customer with respect to whom a work site employee performs services shall be the employer for purposes of reporting under this section and the certified professional employer organization shall furnish to the customer any information necessary to complete such reporting no later than such time as the Secretary shall prescribe.''.

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 25 is amended by adding at the end the following new item:

''Sec. 3511. Certified professional employer organizations.''.

(2) The table of sections for chapter 79 is amended by inserting after the item relating to section 7704 the following new item:

''Sec. 7705. Certified professional employer organizations defined.''.

(e) REPORTING REQUIREMENTS AND OBLIGATIONS.—The Secretary of the Treasury shall develop such reporting and recordkeeping rules, regulations, and procedures as the Secretary determines necessary or appropriate to ensure compliance with the amendments made by this section with respect to entities applying for certification as certified professional employer organizations or entities that have been so certified. Such rules shall be designed in a manner which streamlines, to the extent possible, the application of requirements of such amendments, the exchange of information between a certified professional employer organization and its customers, and the reporting and recordkeeping obligations of the certified professional employer organization.

(f) USER FEES.—Subsection (b) of section 7528 (relating to Internal Revenue Service user fees) is amended by adding at the end the following new paragraph:

''(4) CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—The fee charged under the program in connection with the certification by the Secretary of a professional employer organization under section 7705 shall not exceed $500.''.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to wages for services performed on or after January 1 of the first calendar year beginning more than 12 months after the date of the enactment of this Act.

(2) CERTIFICATION PROGRAM.—The Secretary of the Treasury shall establish the certification program described in section 7705(b) of the Internal Revenue Code of 1986, as added by subsection (b), not later than 6 months before the effective date determined under paragraph (1).

(h) NO INFERENCE.—Nothing contained in this section or the amendments made by this section shall be construed to create any inference with respect to the determination of who is an employee or employer—

(1) for Federal tax purposes (other than the purposes set forth in the amendments made by this section), or

(2) for purposes of any other provision of law.

PART II—SUBCHAPTER S PROVISIONS

SEC. 211. CAPITAL GAIN OF S CORPORATION NOT TREATED AS PASSIVE INVESTMENT INCOME.

(a) IN GENERAL.—Section 1362(d)(3) is amended by striking subparagraphs (B), (C), (D), (E), and (F) and inserting the following new subparagraph:

''(B) PASSIVE INVESTMENT INCOME DEFINED.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'passive investment income' means gross receipts derived from royalties, rents, dividends, interest, and annuities.

''(ii) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.—The term 'passive investment income' shall not include interest on any obligation acquired in the ordinary course of the corporation's trade or business from its sale of property described in section 1221(a)(1).

''(iii) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term 'passive investment income' shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

''(iv) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.

''(v) EXCEPTION FOR BANKS, ETC.—In the case of a bank (as defined in section 581) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)), the term 'passive investment income' shall not include—

''(I) interest income earned by such bank or company, or

''(II) dividends on assets required to be held by such bank or company, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.''.

(b) CONFORMING AMENDMENT.—Clause (i) of section 1042(c)(4)(A) is amended by striking ''section 1362(d)(3)(C)'' and inserting ''section 1362(d)(3)(B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 212. TREATMENT OF BANK DIRECTOR SHARES.

(a) IN GENERAL.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

''(f) RESTRICTED BANK DIRECTOR STOCK.—

''(1) IN GENERAL.—Restricted bank director stock shall not be taken into account as outstanding stock of the S corporation in applying this subchapter (other than section 1368(f)).

''(2) RESTRICTED BANK DIRECTOR STOCK.—For purposes of this subsection, the term 'restricted bank director stock' means stock in a bank (as defined in section 581) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)), if such stock—

''(A) is required to be held by an individual under applicable Federal or State law in order to permit such individual to serve as a director, and

''(B) is subject to an agreement with such bank or company (or a corporation which controls (within the meaning of section 368(c)) such bank or company) pursuant to which the holder is required to sell back such stock (at the same price as the individual acquired such stock) upon ceasing to hold the office of director.

''(3) CROSS REFERENCE.—

''For treatment of certain distributions with respect to restricted bank director stock, see section 1368(f)''.

(b) DISTRIBUTIONS.—Section 1368 (relating to distributions) is amended by adding at the end the following new subsection:

''(f) RESTRICTED BANK DIRECTOR STOCK.—If a director receives a distribution (not in part or full payment in exchange for stock) from an S corporation with respect to any restricted bank director stock (as defined in section 1361(f)), the amount of such distribution—

''(1) shall be includible in gross income of the director, and

''(2) shall be deductible by the corporation for the taxable year of such corporation in which or with which ends the taxable year in which such amount in included in the gross income of the director.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

(2) SPECIAL RULE FOR TREATMENT AS SECOND CLASS OF STOCK.—In the case of any taxable year beginning after December 31, 1996, restricted bank director stock (as defined in section 1361(f) of the Internal Revenue Code of 1986, as added by this section) shall not be taken into account in determining whether an S corporation has more than 1 class of stock.

SEC. 213. SPECIAL RULE FOR BANK REQUIRED TO CHANGE FROM THE RESERVE METHOD OF ACCOUNTING ON BECOMING S CORPORATION.

(a) IN GENERAL.—Section 1361, as amended by this Act, is amended by adding at the end the following new subsection:

''(g) SPECIAL RULE FOR BANK REQUIRED TO CHANGE FROM THE RESERVE METHOD OF ACCOUNTING ON BECOMING S CORPORATION.—In the case of a bank which changes from the reserve method of accounting for bad debts described in section 585 or 593 for its first taxable year for which an election under section 1362(a) is in effect, the bank may elect to take into account any adjustments under section 481 by reason of such change for the taxable year immediately preceding such first taxable year.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 214. TREATMENT OF THE SALE OF INTEREST IN A QUALIFIED SUBCHAPTER S SUBSIDIARY.

(a) IN GENERAL.—Subparagraph (C) of section 1361(b)(3) (relating to treatment of terminations of qualified subchapter S subsidiary status) is amended—

(1) by striking ''For purposes of this title,'' and inserting the following:

''(i) IN GENERAL.—For purposes of this title,'', and

(2) by inserting at the end the following new clause:

''(ii) TERMINATION BY REASON OF SALE OF STOCK.—If the failure to meet the requirements of subparagraph (B) is by reason of the sale of stock of a corporation which is a qualified subchapter S subsidiary, the sale of such stock shall be treated as if—

''(I) the sale were a sale of an undivided interest in the assets of such corporation (based on the percentage of the corporation's stock sold), and

''(II) the sale were followed by an acquisition by such corporation of all of its assets (and the assumption by such corporation of all of its liabilities) in a transaction to which section 351 applies.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006 .

SEC. 215. ELIMINATION OF ALL EARNINGS AND PROFITS ATTRIBUTABLE TO PRE-1983 YEARS FOR CERTAIN CORPORATIONS.

In the case of a corporation which is—

(1) described in section 1311(a)(1) of the Small Business Job Protection Act of 1996, and

(2) not described in section 1311(a)(2) of such Act,

the amount of such corporation's accumulated earnings and profits (for the first taxable year beginning after the date of the enactment of this Act) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under subchapter S of the Internal Revenue Code of 1986.

SEC. 216. EXPANSION OF QUALIFYING BENEFICIARIES OF AN ELECTING SMALL BUSINESS TRUST.

(a) NO LOOK THROUGH FOR ELIGIBILITY PURPOSES.—Clause (v) of section 1361(c)(2)(B) is amended by adding at the end the following new sentence: ''This clause shall not apply for purposes of subsection (b)(1)(C).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Revenue Provisions

SEC. 221. MODIFICATION OF EFFECTIVE DATE OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.

(a) LEASES TO FOREIGN ENTITIES.—Section 849(b) of the American Jobs Creation Act of 2004 is amended by adding at the end the following new paragraph:

''(5) LEASES TO FOREIGN ENTITIES.—In the case of tax-exempt use property leased to a tax-exempt entity which is a foreign person or entity, the amendments made by this part shall apply to taxable years beginning after December 31, 2006, with respect to leases entered into on or before March 12, 2004.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of the American Jobs Creation Act of 2004.

SEC. 222. APPLICATION OF RULES TREATING INVERTED CORPORATIONS AS DOMESTIC CORPORATIONS TO CERTAIN TRANSACTIONS OCCURRING AFTER MARCH 20, 2002.

(a) IN GENERAL.—Section 7874(b) (relating to inverted corporations treated as domestic corporations) is amended to read as follows:

''(b) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—Notwithstanding section 7701(a)(4), a foreign corporation shall be treated for purposes of this title as a domestic corporation if such corporation would be a surrogate foreign corporation if subsection (a)(2) were applied by substituting '80 percent' for '60 percent'.

''(2) SPECIAL RULE FOR CERTAIN TRANSACTIONS OCCURRING AFTER MARCH 20, 2002.—

''(A) IN GENERAL.—If—

''(i) paragraph (1) does not apply to a foreign corporation, but

''(ii) paragraph (1) would apply to such corporation if, in addition to the substitution under paragraph (1), subsection (a)(2) were applied by substituting 'March 20, 2002' for 'March 4, 2003' each place it appears,

then paragraph (1) shall apply to such corporation but only with respect to taxable years of such corporation beginning after December 31, 2006.

''(B) SPECIAL RULES.—Subject to such rules as the Secretary may prescribe, in the case of a corporation to which paragraph (1) applies by reason of this paragraph—

''(i) the corporation shall be treated, as of the close of its last taxable year beginning before January 1, 2007, as having transferred all of its assets, liabilities, and earnings and profits to a domestic corporation in a transaction with respect to which no tax is imposed under this title,

''(ii) the bases of the assets transferred in the transaction to the domestic corporation shall be the same as the bases of the assets in the hands of the foreign corporation, subject to any adjustments under this title for built-in losses,

''(iii) the basis of the stock of any shareholder in the domestic corporation shall be the same as the basis of the stock of the shareholder in the foreign corporation for which it is treated as exchanged, and

''(iv) the transfer of any earnings and profits by reason of clause (i) shall be disregarded in

determining any deemed dividend or foreign tax creditable to the domestic corporation with respect to such transfer.

''(C) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this paragraph, including regulations to prevent the avoidance of the purposes of this paragraph.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 223. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(C) by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

''(h) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred on or after the date of the enactment of this Act.

SEC. 224. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

A taxpayer shall not meet the requirements of subparagraph (A) solely by reason an identification under subparagraph (B). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(b) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050V the following new section:

''SEC. 6050W. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050V the following new item:

''Sec. 6050W. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SEC. 225. REVISION OF TAX RULES ON EXPATRIATION OF INDIVIDUALS.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2007, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2006' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

''(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(7) INTEREST.—For purposes of section 6601—

''(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

''(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

''(1) EXEMPT PROPERTY.—This section shall not apply to the following:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

''(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

''(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

''(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

''(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

''(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

''(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

''(D) APPLICABLE PLANS.—This paragraph shall apply to—

''(i) any qualified retirement plan (as defined in section 4974(c)),

''(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

''(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes citizenship, and

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

''(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and

as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) TREATMENT OF GIFTS AND INHERITANCES.—

''(A) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date.

''(B) DETERMINATION OF BASIS.—Notwithstanding sections 1015 or 1022, the basis of any property described in subparagraph (A) in the hands of the donee or the person acquiring such property from the decedent shall be equal to the fair market value of the property at the time of the gift, bequest, devise, or inheritance.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.

''(3) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(50) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation) is inadmissible.''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—Section 6103(p)(4) (relating to safeguards) is amended by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(3) EFFECTIVE DATES.—The amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(h) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after the date of the enactment of this subsection.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(C) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4) Section 6039G(a) is amended by inserting ''or 877A'' after ''section 877(b)''.

(5) The second sentence of section 6039G(d) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''section 877(a))''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after the date of the enactment of this Act.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after the date of the enactment of this Act, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 226. LIMITATION ON ANNUAL AMOUNTS WHICH MAY BE DEFERRED UNDER NONQUALIFIED DEFERRED COMPENSATION ARRANGEMENTS.

(a) IN GENERAL.—Section 409A(a) of the Internal Revenue Code of 1986 (relating to inclusion of gross income under nonqualified deferred compensation plans) is amended—

(1) by striking ''and (4)'' in subclause (I) of paragraph (1)(A)(i) and inserting ''(4), and (5)'', and

(2) by adding at the end the following new paragraph:

''(5) ANNUAL LIMITATION ON AGGREGATE DEFERRED AMOUNTS.—

''(A) LIMITATION.—The requirements of this paragraph are met if the plan provides that the aggregate amount of compensation which is deferred for any taxable year with respect to a participant under the plan may not exceed the applicable dollar amount for the taxable year.

''(B) INCLUSION OF FUTURE EARNINGS.—If an amount is includible under paragraph (1) in the gross income of a participant for any taxable year by reason of any failure to meet the requirements of this paragraph, any income (whether actual or notional) for any subsequent taxable year shall be included in gross income under paragraph (1)(A) in such subsequent taxable year to the extent such income—

''(i) is attributable to compensation (or income attributable to such compensation) required to be included in gross income by reason of such failure (including by reason of this subparagraph), and

''(ii) is not subject to a substantial risk of forfeiture and has not been previously included in gross income.

''(C) AGGREGATION RULE.—For purposes of this paragraph, all nonqualified deferred compensation plans maintained by all employers treated as a single employer under subsection (d)(6) shall be treated as 1 plan.

''(D) APPLICABLE DOLLAR AMOUNT.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable dollar amount' means, with respect to any participant, the lesser of—

''(I) the average annual compensation which was payable during the base period to the participant by the employer maintaining the nonqualified deferred compensation plan (or any predecessor of the employer) and which was includible in the participant's gross income for taxable years in the base period, or

''(II) $1,000,000.

''(ii) BASE PERIOD.—

''(I) IN GENERAL.—The term 'base period' means, with respect to any computation year, the 5-taxable year period ending with the taxable year preceding the computation year.

''(II) ELECTIONS MADE BEFORE COMPUTATION YEAR.—If, before the beginning of the computation year, an election described in paragraph (4)(B) is made by the participant to have compensation for services performed in the computation year deferred under a nonqualified deferred compensation plan, the base period shall be the 5-taxable year period ending with the taxable year preceding the taxable year in which the election is made.

''(III) COMPUTATION YEAR.—For purposes of this clause, the term 'computation year' means any taxable year of the participant for which the limitation under subparagraph (A) is being determined.

''(IV) SPECIAL RULE FOR EMPLOYEES OF LESS THAN 5 YEARS.—If a participant did not perform services for the employer maintaining the nonqualified deferred compensation plan (or any predecessor of the employer) during the entire 5-taxable year period referred to in subparagraph (A) or (B), only the portion of such period during which the participant performed such services shall be taken into account.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006, except that—

(A) the amendments shall only apply to amounts deferred after December 31, 2006 (and to earnings on such amounts), and

(B) taxable years beginning on or before December 31, 2006, shall be taken into account in determining the average annual compensation of a participant during any base period for purposes of section 409A(a)(5)(D) of the Internal Revenue Code of 1986 (as added by such amendments).

(2) GUIDANCE RELATING TO CERTAIN EXISTING ARRANGEMENTS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance providing a limited period during which a nonqualified deferred compensation plan adopted before December 31, 2006, may, without violating the requirements of section 409A(a) of such Code, be amended—

(A) to provide that a participant may, no later than December 31, 2007, cancel or modify an outstanding deferral election with regard to all or a portion of amounts deferred after December 31, 2006, to the extent necessary for the plan to meet the requirements of section 409A(a)(5) of such Code (as added by the amendments made by this section), but only if amounts subject to the cancellation or modification are, to the extent not previously included in gross income, includible in income of the participant when no longer subject to substantial risk of forfeiture, and

(B) to conform to the requirements of section 409A(a)(5) of such Code (as added by the amendments made by this section) with regard to amounts deferred after December 31, 2006.

SEC. 227. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—'', and

(2) by adding at the end the following new subsection:

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''Any person'' and inserting the following:

''(a) IN GENERAL.—Any person'', and

(ii) by striking ''$25,000'' and inserting ''$50,000'',

(B) in the third sentence, by striking ''section'' and inserting ''subsection'', and

(C) by adding at the end the following new subsection:

''(b) AGGRAVATED FAILURE TO FILE.—

''(1) IN GENERAL.—In the case of any failure described in paragraph (2), the first sentence of subsection (a) shall be applied by substituting—

''(A) 'felony' for 'misdemeanor',

''(B) '$500,000 ($1,000,000' for '$25,000 ($100,000', and

''(C) '10 years' for '1 year'.''.

''(2) FAILURE DESCRIBED.—A failure described in this paragraph is a failure to make a return described in subsection (a) for a period of 3 or more consecutive taxable years if the aggregate tax liability for such period is not less than $100,000.''.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$500,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

SEC. 228. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection—

(A) IN GENERAL.—The term ''applicable taxpayer'' means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of offshore payment mechanisms (including credit, debit, or charge cards) issued by banks or other entities in foreign jurisdictions, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has neither signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003–11 nor voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) AUTHORITY TO WAIVE.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) to any taxpayer if the Secretary or the Secretary's delegate determines that the use of such offshore payment mechanisms is incidental to the transaction and, in addition, in the case of a trade or business, such use is conducted in the ordinary course of the type of trade or business of the taxpayer.

(C) ISSUES RAISED.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(b) APPLICABLE PENALTY.—For purposes of this section, the term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if, as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

SEC. 229. INCREASE IN PENALTY FOR BAD CHECKS AND MONEY ORDERS.

(a) IN GENERAL.—Section 6657 (relating to bad checks) is amended—

(1) by striking ''$750'' and inserting ''$1,250'', and

(2) by striking ''$15'' and inserting ''$25''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to checks or money orders received after the date of the enactment of this Act.

SEC. 230. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'', and

(2) by adding at the end the following new paragraph:

''(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

''(A) IN GENERAL.—In the case of a debt instrument which—

''(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

''(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed-rate debt instrument shall be applied as if the regulations require that such comparable yield be determined by reference to a noncontingent fixed-rate debt instrument which is convertible into stock.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.''.

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

''For the treatment of contingent payment convertible debt, see section 1275(d)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

SEC. 231. EXTENSION OF IRS USER FEES.

Subsection (c) of section 7528 (relating to Internal Revenue Service user fees) is amended by striking ''September 30, 2014'' and inserting ''September 30, 2016''.

SEC. 232. MODIFICATION OF COLLECTION DUE PROCESS PROCEDURES FOR EMPLOYMENT TAX LIABILITIES.

(a) IN GENERAL.—Section 6330(f) (relating to jeopardy and State refund collection) is amended—

(1) by striking ''; or'' at the end of paragraph (1) and inserting a comma,

(2) by adding ''or'' at the end of paragraph (2), and

(3) by inserting after paragraph (2) the following new paragraph:

''(3) the Secretary has served a levy in connection with the collection of taxes under chapter 21, 22, 23, or 24,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to levies issued on or after the date that is 120 days after the date of the enactment of this Act.

SEC. 233. MODIFICATIONS TO WHISTLEBLOWER REFORMS.

(a) MODIFICATION OF TAX THRESHOLD FOR AWARDS.—Subparagraph (B) of section 7623(b)(5), as added by the Tax Relief and Health Care Act of 2006, is amended by striking ''$2,000,000'' and inserting ''$20,000''.

(b) WHISTLEBLOWER OFFICE.—

(1) IN GENERAL.—Section 7623 is amended by adding at the end the following new subsections:

''(c) WHISTLEBLOWER OFFICE.—

''(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Whistleblower Office' which—

''(A) shall at all times operate at the direction of the Commissioner and coordinate and consult with other divisions in the Internal Revenue Service as directed by the Commissioner,

''(B) shall analyze information received from any individual described in subsection (b) and either investigate the matter itself or assign it to the appropriate Internal Revenue Service office,

''(C) shall monitor any action taken with respect to such matter,

''(D) shall inform such individual that it has accepted the individual's information for further review,

''(E) may require such individual and any legal representative of such individual to not disclose any information so provided,

''(F) in its sole discretion, may ask for additional assistance from such individual or any legal representative of such individual, and

''(G) shall determine the amount to be awarded to such individual under subsection (b).

''(2) FUNDING FOR OFFICE.—There is authorized to be appropriated $10,000,000 for each fiscal year for the Whistleblower Office. These funds shall be used to maintain the Whistleblower Office and also to reimburse other Internal Revenue Service offices for related costs, such as costs of investigation and collection.

''(3) REQUEST FOR ASSISTANCE.—

''(A) IN GENERAL.—Any assistance requested under paragraph (1)(F) shall be under the direction and control of the Whistleblower Office or the office assigned to investigate the matter under subparagraph (A). No individual or legal representative whose assistance is so requested may by reason of such request represent himself or herself as an employee of the Federal Government.

''(B) FUNDING OF ASSISTANCE.—From the amounts available for expenditure under subsection (b), the Whistleblower Office may, with the agreement of the individual described in

subsection (b), reimburse the costs incurred by any legal representative of such individual in providing assistance described in subparagraph (A).

''(d) REPORTS.—The Secretary shall each year conduct a study and report to Congress on the use of this section, including—

''(1) an analysis of the use of this section during the preceding year and the results of such use, and

''(2) any legislative or administrative recommendations regarding the provisions of this section and its application.''.

(2) CONFORMING AMENDMENT.—Section 406 of division A of the Tax Relief and Health Care Act of 2006 is amended by striking subsections (b) and (c).

(3) REPORT ON IMPLEMENTATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit to Congress a report on the establishment and operation of the Whistleblower Office under section 7623(c) of the Internal Revenue Code of 1986.

(c) PUBLICITY OF AWARD APPEALS.—Paragraph (4) of section 7623(b), as added by the Tax Relief and Health Care Act of 2006, is amended to read as follows:

''(4) APPEAL OF AWARD DETERMINATION.—

''(A) IN GENERAL.—Any determination regarding an award under paragraph (1), (2), or (3) may, within 30 days of such determination, be appealed to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).

''(B) PUBLICITY OF APPEALS.—Notwithstanding sections 7458 and 7461, the Tax Court may, in order to preserve the anonymity, privacy, or confidentiality of any person under this subsection, provide by rules adopted under section 7453 that portions of filings, hearings, testimony, evidence, and reports in connection with proceedings under this subsection may be closed to the public or to inspection by the public.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to information provided on or after the date of the enactment of this Act.

(2) PUBLICITY OF AWARD APPEALS.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 406 of the Tax Relief and Health Care Act of 2006.

SEC. 234. MODIFICATIONS OF DEFINITION OF EMPLOYEES COVERED BY DENIAL OF DEDUCTION FOR EXCESSIVE EMPLOYEE REMUNERATION.

(a) IN GENERAL.—Paragraph (3) of section 162(m) is amended to read as follows:

''(3) COVERED EMPLOYEE.—For purposes of this subsection, the term 'covered employee' means, with respect to any taxpayer for any taxable year, an individual who—

''(A) was the chief executive officer of the taxpayer, or an individual acting in such a capacity, at any time during the taxable year,

''(B) is 1 of the 4 highest compensated officers of the taxpayer for the taxable year (other than the individual described in subparagraph (A)), or

''(C) was a covered employee of the taxpayer (or any predecessor) for any preceding taxable year beginning after December 31, 2006.

In the case of an individual who was a covered employee for any taxable year beginning after December 31, 2006, the term 'covered employee' shall include a beneficiary of such employee with respect to any remuneration for services performed by such employee as a covered employee (whether or not such services are performed during the taxable year in which the remuneration is paid).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

Subtitle C—General Provisions

SEC. 241. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by striking subsection (a) and inserting the following:

''(a) COMPLIANCE GUIDE.—

''(1) IN GENERAL.—For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule and shall entitle such publications 'small entity compliance guides'.

''(2) PUBLICATION OF GUIDES.—The publication of each guide under this subsection shall include—

''(A) the posting of the guide in an easily identified location on the website of the agency; and

''(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

''(3) PUBLICATION DATE.—An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

''(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

''(B) not later than the date on which the requirements of that rule become effective.

''(4) COMPLIANCE ACTIONS.—

''(A) IN GENERAL.—Each guide shall explain the actions a small entity is required to take to comply with a rule.

''(B) EXPLANATION.—The explanation under subparagraph (A)—

''(i) shall include a description of actions needed to meet the requirements of a rule, to enable a small entity to know when such requirements are met; and

''(ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that may assist a small entity in meeting such requirements, except that, compliance with any procedures described pursuant to this section does not establish compliance with the rule, or establish a presumption or inference of such compliance.

''(C) PROCEDURES.—Procedures described under subparagraph (B)(ii)—

''(i) shall be suggestions to assist small entities; and

''(ii) shall not be additional requirements, or diminish requirements, relating to the rule.

''(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.

''(6) REPORTING.—Not later than 1 year after the date of enactment of the Fair Minimum Wage Act of 2007, and annually thereafter, the head of each agency shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Small Business of the House of Representatives, and any other committee of relevant jurisdiction describing the status of the agency's compliance with paragraphs (1) through (5).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 211(3) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by inserting ''and entitled'' after ''designated''.

SEC. 242. SMALL BUSINESS CHILD CARE GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall establish a program to award grants to States, on a competitive basis, to assist States in providing funds to encourage the establishment and operation of employer-operated child care programs.

(b) APPLICATION.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that the funds required under subsection (e) will be provided.

(c) AMOUNT AND PERIOD OF GRANT.—The Secretary shall determine the amount of a grant to a State under this section based on the population of the State as compared to the population of all States receiving grants under this section. The Secretary shall make the grant for a period of 3 years.

(d) USE OF FUNDS.—

(1) IN GENERAL.—A State shall use amounts provided under a grant awarded under this section to provide assistance to small businesses (or consortia formed in accordance with paragraph (3)) located in the State to enable the small businesses (or consortia) to establish and operate child care programs. Such assistance may include—

(A) technical assistance in the establishment of a child care program;

(B) assistance for the startup costs related to a child care program;

(C) assistance for the training of child care providers;

(D) scholarships for low-income wage earners;

(E) the provision of services to care for sick children or to provide care to school-aged children;

(F) the entering into of contracts with local resource and referral organizations or local health departments;

(G) assistance for care for children with disabilities;

(H) payment of expenses for renovation or operation of a child care facility; or

(I) assistance for any other activity determined appropriate by the State.

(2) APPLICATION.—In order for a small business or consortium to be eligible to receive assistance from a State under this section, the small business involved shall prepare and submit to the State an application at such time, in such manner, and containing such information as the State may require.

(3) PREFERENCE.—

(A) IN GENERAL.—In providing assistance under this section, a State shall give priority to an applicant that desires to form a consortium to provide child care in a geographic area within the State where such care is not generally available or accessible.

(B) CONSORTIUM.—For purposes of subparagraph (A), a consortium shall be made up of 2 or more entities that shall include small businesses and that may include large businesses, nonprofit agencies or organizations, local governments, or other appropriate entities.

(4) LIMITATIONS.—With respect to grant funds received under this section, a State may not provide in excess of $500,000 in assistance from such funds to any single applicant.

(e) MATCHING REQUIREMENT.—To be eligible to receive a grant under this section, a State shall provide assurances to the Secretary that, with respect to the costs to be incurred by a covered entity receiving assistance in carrying out activities under this section, the covered entity will make available (directly or through donations from public or private entities) non-Federal contributions to such costs in an amount equal to—

(1) for the first fiscal year in which the covered entity receives such assistance, not less than 50 percent of such costs ($1 for each $1 of assistance provided to the covered entity under the grant);

(2) for the second fiscal year in which the covered entity receives such assistance, not less

than 66⅔ percent of such costs ($2 for each $1 of assistance provided to the covered entity under the grant); and

(3) for the third fiscal year in which the covered entity receives such assistance, not less than 75 percent of such costs ($3 for each $1 of assistance provided to the covered entity under the grant).

(f) REQUIREMENTS OF PROVIDERS.—To be eligible to receive assistance under a grant awarded under this section, a child care provider—

(1) who receives assistance from a State shall comply with all applicable State and local licensing and regulatory requirements and all applicable health and safety standards in effect in the State; and

(2) who receives assistance from an Indian tribe or tribal organization shall comply with all applicable regulatory standards.

(g) STATE-LEVEL ACTIVITIES.—A State may not retain more than 3 percent of the amount described in subsection (c) for State administration and other State-level activities.

(h) ADMINISTRATION.—

(1) STATE RESPONSIBILITY.—A State shall have responsibility for administering a grant awarded for the State under this section and for monitoring covered entities that receive assistance under such grant.

(2) AUDITS.—A State shall require each covered entity receiving assistance under the grant awarded under this section to conduct an annual audit with respect to the activities of the covered entity. Such audits shall be submitted to the State.

(3) MISUSE OF FUNDS.—

(A) REPAYMENT.—If the State determines, through an audit or otherwise, that a covered entity receiving assistance under a grant awarded under this section has misused the assistance, the State shall notify the Secretary of the misuse. The Secretary, upon such a notification, may seek from such a covered entity the repayment of an amount equal to the amount of any such misused assistance plus interest.

(B) APPEALS PROCESS.—The Secretary shall by regulation provide for an appeals process with respect to repayments under this paragraph.

(i) REPORTING REQUIREMENTS.—

(1) 2-YEAR STUDY.—

(A) IN GENERAL.—Not later than 2 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine—

(i) the capacity of covered entities to meet the child care needs of communities within States;

(ii) the kinds of consortia that are being formed with respect to child care at the local level to carry out programs funded under this section; and

(iii) who is using the programs funded under this section and the income levels of such individuals.

(B) REPORT.—Not later than 28 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(2) 4-YEAR STUDY.—

(A) IN GENERAL.—Not later than 4 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine the number of child care facilities that are funded through covered entities that received assistance through a grant awarded under this section and that remain in operation, and the extent to which such facilities are meeting the child care needs of the individuals served by such facilities.

(B) REPORT.—Not later than 52 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(j) DEFINITIONS.—In this section:

(1) COVERED ENTITY.—The term ''covered entity'' means a small business or a consortium formed in accordance with subsection (d)(3).

(2) INDIAN COMMUNITY.—The term ''Indian community'' means a community served by an Indian tribe or tribal organization.

(3) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms ''Indian tribe'' and ''tribal organization'' have the meanings given the terms in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

(4) SMALL BUSINESS.—The term ''small business'' means an employer who employed an average of at least 2 but not more than 50 employees on the business days during the preceding calendar year.

(5) STATE.—The term ''State'' has the meaning given the term in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n).

(k) APPLICATION TO INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—In this section:

(1) IN GENERAL.—Except as provided in subsection (f)(1), and in paragraphs (2) and (3), the term ''State'' includes an Indian tribe or tribal organization.

(2) GEOGRAPHIC REFERENCES.—The term ''State'' includes an Indian community in subsections (c) (the second and third place the term appears), (d)(1) (the second place the term appears), (d)(3)(A) (the second place the term appears), and (i)(1)(A)(i).

(3) STATE-LEVEL ACTIVITIES.—The term ''State-level activities'' includes activities at the tribal level.

(l) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, $50,000,000 for the period of fiscal years 2008 through 2012.

(2) STUDIES AND ADMINISTRATION.—With respect to the total amount appropriated for such period in accordance with this subsection, not more than $2,500,000 of that amount may be used for expenditures related to conducting studies required under, and the administration of, this section.

(m) TERMINATION OF PROGRAM.—The program established under subsection (a) shall terminate on September 30, 2012.

SEC. 243. STUDY OF UNIVERSAL USE OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.

Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall report to Congress on a study of the benefits, costs, risks, and barriers to workers and to businesses (with a special emphasis on small businesses) if the advance earned income tax credit program (under section 3507 of the Internal Revenue Code of 1986) included all recipients of the earned income tax credit (under section 32 of such Code) and what steps would be necessary to implement such inclusion.

SEC. 244. SENSE OF THE SENATE CONCERNING PERSONAL SAVINGS.

(a) FINDINGS.—The Senate finds that—

(1) the personal saving rate in the United States is at its lowest point since the Great Depression, with the rate having fallen into negative territory;

(2) the United States ranks at the bottom of the Group of Twenty (G–20) nations in terms of net national saving rate;

(3) approximately half of all the working people of the United States work for an employer that does not offer any kind of retirement plan;

(4) existing savings policies enacted by Congress provide limited incentives to save for low- and moderate-income families; and

(5) the Social Security program was enacted to serve as the safest component of a retirement system that also includes employer-sponsored retirement plans and personal savings.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) Congress should enact policies that promote savings vehicles for retirement that are simple, easily accessible and provide adequate financial security for all the people of the United States;

(2) it is important to begin retirement saving as early as possible to take full advantage of the power of compound interest; and

(3) regularly contributing money to a financially-sound investment account is one important method for helping to achieve one's retirement goals.

SEC. 245. RENEWAL GRANTS FOR WOMEN'S BUSINESS CENTERS.

(a) IN GENERAL.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following:

''(m) CONTINUED FUNDING FOR CENTERS.—

''(1) IN GENERAL.—A nonprofit organization described in paragraph (2) shall be eligible to receive, subject to paragraph (3), a 3-year grant under this subsection.

''(2) APPLICABILITY.—A nonprofit organization described in this paragraph is a nonprofit organization that has received funding under subsection (b) or (l).

''(3) APPLICATION AND APPROVAL CRITERIA.—

''(A) CRITERIA.—Subject to subparagraph (B), the Administrator shall develop and publish criteria for the consideration and approval of applications by nonprofit organizations under this subsection.

''(B) CONTENTS.—Except as otherwise provided in this subsection, the conditions for participation in the grant program under this subsection shall be the same as the conditions for participation in the program under subsection (l), as in effect on the date of enactment of this Act.

''(C) NOTIFICATION.—Not later than 60 days after the date of the deadline to submit applications for each fiscal year, the Administrator shall approve or deny any application under this subsection and notify the applicant for each such application.

''(4) AWARD OF GRANTS.—

''(A) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall make a grant for the Federal share of the cost of activities described in the application to each applicant approved under this subsection.

''(B) AMOUNT.—A grant under this subsection shall be for not more than $150,000, for each year of that grant.

''(C) FEDERAL SHARE.—The Federal share under this subsection shall be not more than 50 percent.

''(D) PRIORITY.—In allocating funds made available for grants under this section, the Administrator shall give applications under this subsection or subsection (l) priority over first-time applications under subsection (b).

''(5) RENEWAL.—

''(A) IN GENERAL.—The Administrator may renew a grant under this subsection for additional 3-year periods, if the nonprofit organization submits an application for such renewal at such time, in such manner, and accompanied by such information as the Administrator may establish.

''(B) UNLIMITED RENEWALS.—There shall be no limitation on the number of times a grant may be renewed under subparagraph (A).

''(n) PRIVACY REQUIREMENTS.—

''(1) IN GENERAL.—A women's business center may not disclose the name, address, or telephone number of any individual or small business concern receiving assistance under this section without the consent of such individual or small business concern, unless—

''(A) the Administrator is ordered to make such a disclosure by a court in any civil or criminal enforcement action initiated by a Federal or State agency; or

''(B) the Administrator considers such a disclosure to be necessary for the purpose of conducting a financial audit of a women's business center, but a disclosure under this subparagraph shall be limited to the information necessary for such audit.

''(2) ADMINISTRATION USE OF INFORMATION.—This subsection shall not—

''(A) restrict Administration access to program activity data; or

''(B) prevent the Administration from using client information (other than the information described in subparagraph (A)) to conduct client surveys.

''(3) REGULATIONS.—The Administrator shall issue regulations to establish standards for requiring disclosures during a financial audit under paragraph (1)(B).''.

(b) REPEAL.—Section 29(l) of the Small Business Act (15 U.S.C. 656(l)) is repealed effective October 1 of the first full fiscal year after the date of enactment of this Act.

(c) TRANSITIONAL RULE.—Notwithstanding any other provision of law, a grant or cooperative agreement that was awarded under subsection (l) of section 29 of the Small Business Act (15 U.S.C. 656), on or before the day before the date described in subsection (b) of this section, shall remain in full force and effect under the terms, and for the duration, of such grant or agreement.

SEC. 246. REPORTS ON ACQUISITIONS OF ARTICLES, MATERIALS, AND SUPPLIES MANUFACTURED OUTSIDE THE UNITED STATES.

Section 2 of the Buy American Act (41 U.S.C. 10a) is amended—

(1) by striking ''Notwithstanding'' and inserting the following:

''(a) IN GENERAL.—Notwithstanding''; and

(2) by adding at the end the following:

''(b) REPORTS.—

''(1) IN GENERAL.—Not later than 180 days after the end of each of fiscal years 2007 through 2011, the head of each Federal agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report on the amount of the acquisitions made by the agency in that fiscal year of articles, materials, or supplies purchased from entities that manufacture the articles, materials, or supplies outside of the United States.

''(2) CONTENTS OF REPORT.—The report required by paragraph (1) shall separately include, for the fiscal year covered by such report—

''(A) the dollar value of any articles, materials, or supplies that were manufactured outside the United States;

''(B) an itemized list of all waivers granted with respect to such articles, materials, or supplies under this Act, and a citation to the treaty, international agreement, or other law under which each waiver was granted;

''(C) if any articles, materials, or supplies were acquired from entities that manufacture articles, materials, or supplies outside the United States, the specific exception under this section that was used to purchase such articles, materials, or supplies; and

''(D) a summary of—

''(i) the total procurement funds expended on articles, materials, and supplies manufactured inside the United States; and

''(ii) the total procurement funds expended on articles, materials, and supplies manufactured outside the United States.

''(3) PUBLIC AVAILABILITY.—The head of each Federal agency submitting a report under paragraph (1) shall make the report publicly available to the maximum extent practicable.

''(4) EXCEPTION FOR INTELLIGENCE COMMUNITY.—This subsection shall not apply to acquisitions made by an agency, or component thereof, that is an element of the intelligence community as specified in, or designated under, section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''.

SEC. 247. SENSE OF THE SENATE REGARDING REPEAL OF 1993 INCOME TAX INCREASE ON SOCIAL SECURITY BENEFITS.

It is the sense of the Senate that Congress should repeal the 1993 tax increase on Social Security benefits and eliminate wasteful spending, such as spending on unnecessary tax loopholes, in order to fully offset the cost of such repeal and avoid forcing taxpayers to pay substantially more interest to foreign creditors.

SEC. 248. SENSE OF THE SENATE REGARDING PERMANENT TAX INCENTIVES TO MAKE EDUCATION MORE AFFORDABLE AND MORE ACCESSIBLE FOR AMERICAN FAMILIES.

It is the sense of the Senate that Congress should make permanent the tax incentives to make education more affordable and more accessible for American families and eliminate wasteful spending, such as spending on unnecessary tax loopholes, in order to fully offset the cost of such incentives and avoid forcing taxpayers to pay substantially more interest to foreign creditors.

SEC. 249. RESPONSIBLE GOVERNMENT CONTRACTOR REQUIREMENTS.

Section 274A(e) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)) is amended by adding at the end the following new paragraph:

''(10) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

''(A) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

''(i) IN GENERAL.—Subject to clause (iii) and subparagraph (C), if an employer who does not hold a Federal contract, grant, or cooperative agreement is determined to have violated this section, the employer shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 7 years.

''(ii) PLACEMENT ON EXCLUDED LIST.—The Secretary of Homeland Security or the Attorney General shall advise the Administrator of General Services of the debarment of an employer under clause (i) and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of 7 years.

''(iii) WAIVER.—

''(I) AUTHORITY.—The Administrator of General Services, in consultation with the Secretary of Homeland Security and the Attorney General, may waive operation of clause (i) or may limit the duration or scope of a debarment under clause (i) if such waiver or limitation is necessary to national defense or in the interest of national security.

''(II) NOTIFICATION TO CONGRESS.—If the Administrator grants a waiver or limitation described in subclause (I), the Administrator shall submit to each member of the Committee on the Judiciary of the Senate and of the Committee on the Judiciary of the House of Representatives immediate notice of such waiver or limitation.

''(III) PROHIBITION ON JUDICIAL REVIEW.—The decision of whether to debar or take alternative action under this clause shall not be judicially reviewed.

''(B) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

''(i) IN GENERAL.—Subject to clause (iii) and subclause (C), an employer who holds a Federal contract, grant, or cooperative agreement and is determined to have violated this section shall be debarred from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 10 years.

''(ii) NOTICE TO AGENCIES.—Prior to debarring the employer under clause (i), the Secretary of Homeland Security, in cooperation with the Administrator of General Services, shall advise any agency or department holding a contract, grant, or cooperative agreement with the employer of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 10 years.

''(iii) WAIVER.—

''(I) AUTHORITY.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Administrator of General Services, in consultation with the Secretary of Homeland Security and the Attorney General, may waive operation of clause (i) or may limit the duration or scope of the debarment under clause (i) if such waiver or limitation is necessary to the national defense or in the interest of national security.

''(II) NOTIFICATION TO CONGRESS.—If the Administrator grants a waiver or limitation described in subclause (I), the Administrator shall submit to each member of the Committee on the Judiciary of the Senate and of the Committee on the Judiciary of the House of Representatives immediate notice of such waiver or limitation.

''(III) PROHIBITION ON JUDICIAL REVIEW.—The decision of whether to debar or take alternate action under this clause shall not be judicially reviewed.

''(C) EXEMPTION FROM PENALTY FOR EMPLOYERS PARTICIPATING IN THE BASIC PILOT PROGRAM.—In the case of imposition on an employer of a debarment from the receipt of a Federal contract, grant, or cooperative agreement under subparagraph (A) or (B), that penalty shall be waived if the employer establishes that the employer was voluntarily participating in the basic pilot program under section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) at the time of the violations of this section that resulted in the debarment.''.

Mr. DURBIN. Madam President, I move to reconsider the vote.

Mrs. FEINSTEIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Madam President, after great effort by many people, the Senate has adopted the Fair Minimum Wage Act as amended by the Baucus substitute amendment containing the Small Business and Work Opportunity Act of 2007. This bipartisan small business package will help ensure that small businesses are able to cope with an increase in the minimum wage.

Credit must go to the dedicated members of my staff, who spent many hours helping to put this package together. Kolan Davis, Mark Prater, Dean Zerbe, Elizabeth Paris, Chris Javens, Cathy Barre, Anne Freeman, Grant Menke, Stanford Swinton, and Nick Wyatt showed great dedication to the tasks before them.

Of course this package could not have been put together without the efforts of Chairman BAUCUS and his staff. I particularly want to thank Russ Sullivan, Bill Dauster, Pat Heck, Judy Miller, Rebecca Baxter, Melissa Mueller, Pat Bousliman, and Ryan Abraham.

Mr. MCCONNELL. Madam President, I rise to applaud the Senate for its keen sense of balance and judgment in passing H.R. 2, a bill to increase the minimum wage. After important input from both sides, we have met the needs of both America's workers, who will earn a higher wage, and America's small businesses, which fuel our economy.

The President and the Republican Congress were clear on the need to couple an increase in the minimum wage with small-business tax relief, and this legislation does just that. This is a testament to what we can accomplish when we work together to move critical legislation forward.

The American people that keep this economy running have created more than 7.2 million new jobs since August 2003—that's 40 months straight of job growth. The economy added 167,000 new jobs last December, exceeding market expectations.

Our unemployment rate is a staggeringly low 4.5 percent or as I like to put it, our employment rate is 95.5 percent. A 4.5 percent unemployment rate is lower than the 5.1 percent average unemployment rate of 2005, which was already a great year.

And a low rate of 4.5 percent is lower than the average unemployment rate of the 1960s, the 1970s, the 1980s, and even lower than the average unemployment rate of the boom years my friends on the other side of the aisle like to point to, the 1990s.

America's small businesses are the key to unlocking this economic success. Small businesses employ half of all private-sector employees and have generated between 60 to 80 percent of net new jobs annually over the last 10 years.

Here's the bottom line. Since August 2003, the American people have created over 7.2 million new jobs, more than the entire European Union plus Japan combined.

So understandably, this side of the aisle had this objective in mind regarding this bill: What is the best way to raise the minimum wage while keeping our high-flying economy aloft?

How could we encourage economic growth and not hinder it? How could we make sure that an increase in wages wouldn't create a decrease in jobs?

This Senate has successfully done that, by linking an increase in the hourly minimum wage, from $5.15 to $7.25 over slightly more than 2 years, with targeted tax and regulatory relief to small businesses, so that the small businesses that create the lion's share of new jobs in this country can remain competitive and employ even more people.

The President last December emphasized the need to pair minimum wage increase legislation with just this kind of targeted tax and regulatory relief.

In my initial speech to the Senate of the 110th Congress last month, I said we Republicans were open and willing to get things done with Democrats. And I said one of the first goals we should accomplish, working together, was increasing the minimum wage while providing relief for small businesses.

Around the same time, the distinguished majority leader struck a similar note, pledging that when it came to a wage increase plus small-business tax relief, ''we are going to do it.''

I am pleased to report that we have done it. An overwhelming majority of Senators acknowledged that creating new jobs and expanding the economy are more important than partisan wrangling.

And most importantly, we have taken care of the workers who will benefit from a higher wage and the small businesses that grow the economy at the same time.

I am pleased this Senate is doing that, and in doing so reinforcing a vital precedent. I note that the last time the minimum wage was increased, under a Republican Congress and a Democrat President, the same precedent was set.

We look forward to working with the House of Representatives to send a final bill to the President that will be a victory for both those who earn the minimum wage and those who pay it.

When that happens, we will prove that the words of bipartisanship and comity during this Senate's first days were more than empty rhetoric.

We will demonstrate that this Senate can come together to exercise balance and judgment, and improve the lives of both the workers who earn the minimum wage and the small businesses that employ them and keep America's economy running.

And we will show that divided government need not be divisive.

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

BIPARTISAN CONCURRENT RESOLUTION ON IRAQ—MOTION TO PROCEED

Mr. REID. Madam President, first of all, I ask unanimous consent that the next cloture vote be vitiated.

Mr. MCCONNELL. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Madam President, this next vote is not necessary. As a result of yesterday's breakthrough in negotiations, the base bill for the Iraq debate will be the Warner-Levin legislation and not S. Con. Res. 2. So I will vote against cloture and urge both sides of the aisle to do likewise.

The most important question that I have been asked, by popular demand, is when are we going to have a vote on Monday. I have conferred with the Republican leader on more than one occasion. We can still vote at 4:30 and complete the 30 hours prior to Wednesday, which would be our goal. So we are going to vote at 4:30 on Monday on cloture on the Levin-Warner measure, unless we work something out beforehand. Again, that is 4:30 Monday.

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on the motion to proceed to Calendar No. 12, S. Con. Res. 2, a bipartisan concurrent resolution on Iraq.

Harry Reid, Patty Murray, Herb Kohl, Jeff Bingaman, Benjamin L. Cardin, Frank R. Lautenberg, Charles E. Schumer, Dick Durbin, Christopher J. Dodd, Bernard Sanders, Jack Reed, Joseph R. Biden, Chuck Hagel, Robert Menendez, Olympia Snowe, Ron Wyden, Debbie Stabenow.

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes of debate equally divided between the leaders or their designees.

Who yields time?

Mr. REID. Madam President, we yield back our time.

Mr. MCCONNELL. Madam President, we yield back our time.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, is it the sense of the Senate that debate on the motion to proceed to S. Con. Res. 2, a concurrent resolution expressing a bipartisan resolution on Iraq, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from New York (Mr. SCHUMER) are necessarily absent.

Mr. LOTT. The following Senator was necessarily absent: the Senator from Oklahoma (Mr. INHOFE).

Further, if present and voting, the Senator from Oklahoma (Mr. INHOFE) would have voted ''nay.''

The PRESIDING OFFICER (Mr. NELSON of Florida). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 0, nays 97, as follows:

[Rollcall Vote No. 43 Leg.]

NAYS—97

Akaka	Domenici	Menendez
Alexander	Dorgan	Mikulski
Allard	Durbin	Murkowski
Baucus	Ensign	Murray
Bayh	Enzi	Nelson (FL)
Bennett	Feingold	Nelson (NE)
Biden	Feinstein	Obama
Bingaman	Graham	Pryor
Bond	Grassley	Reed
Boxer	Gregg	Reid
Brown	Hagel	Roberts
Brownback	Harkin	Rockefeller
Bunning	Hatch	Salazar
Burr	Hutchison	Sanders
Byrd	Inouye	Sessions
Cantwell	Isakson	Shelby
Cardin	Kennedy	Smith
Carper	Kerry	Snowe
Casey	Klobuchar	Specter
Chambliss	Kohl	Stabenow
Clinton	Kyl	Stevens
Coburn	Landrieu	Sununu
Cochran	Lautenberg	Tester
Coleman	Leahy	Thomas
Collins	Levin	Thune
Conrad	Lieberman	Vitter
Corker	Lincoln	Voinovich
Cornyn	Lott	Warner
Craig	Lugar	Webb
Crapo	Martinez	Whitehouse
DeMint	McCain	Wyden
Dodd	McCaskill	
Dole	McConnell	

NOT VOTING—3

Inhofe	Johnson	Schumer

The motion was rejected.

The PRESIDING OFFICER. On this vote, the yeas are 0, the nays are 97. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.