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Senate

The Senate met at 10 a.m. and was called to order by the Honorable JON TESTER, a Senator from the State of Montana.

PRAYER

The PRESIDING OFFICER. Today's prayer will be offered by former Senate Chaplain Dr. Lloyd Ogilvie of Los Angeles, CA.

The guest chaplain offered the following prayer:

''Wait on the Lord; take courage, and He shall strengthen your heart. Wait, I say, on the Lord.''

Gracious God, Sovereign of our Nation, Lord of our lives and source of inspiration and courage for the high calling of political leadership, the bracing admonition of the psalmist sounds in our souls. Wait on You Lord? That is not easy for us to do. Then we realize that waiting on You is not for You to catch up with us to bless what we have already decided but for us to linger in Your presence until we think Your thoughts, experience Your love, will to do Your will, and receive Your supernatural guidance for the great issues we face. Thank You for stopping us in our tracks, capturing our minds, quieting our stress-strained emotions, and interrupting our flow of words with Your Word, ''Be still and know that I am God.''

Father, we need You more than our next breath and we depend on You more than the thump of our next heartbeat.

We really believe there is no problem too big for You to solve, no division so complex that there is no solution through creative compromise, and no struggle for political power that You cannot turn into a stepping stone.

On this day of the State of the Union Address, bless our President as he speaks and the Members of Congress as they listen, that unified by patriotism, they may lead our beloved Nation through this turbulent time. We thank You for the patriotic Americans who lead this Senate: ROBERT BYRD, HARRY REID, MITCH MCCONNELL, DICK DURBIN, and TRENT LOTT. We wait on You. Grant us courage and strengthen our hearts. You are our Lord and Savior. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON TESTER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 23, 2007.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON TESTER, a Senator from the State of Montana, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. TESTER thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

WELCOME BACK TO REVEREND OGILIVIE

Mr. REID. Mr. President, it is very good to have back Reverend Ogilivie, our former Senate Chaplain. A lot of thoughts came to my mind. I sat here for 6 years and listened to almost every one of his prayers. My mind goes back to some of the tragedies that had come to the Senate during his tenure, including the death of Governor Carnahan, the death of Paul Wellstone, and the death of Paul Coverdell. I mention Paul Coverdell because I traveled to his funeral in Georgia, and the Chaplain at that time, Chaplain Ogilivie, delivered the eulogy and was in charge of the services there in Georgia. I will always remember the dignity, compassion, and the understanding in the words of Reverend Ogilivie. It is good to have you back. Thank you very much for all you do for our country. I am sure you are doing good things in California, as you did here for so many years.

Mr. MCCONNELL. Mr. President, if the majority leader will allow me an observation about Dr. Ogilivie and his extraordinary service to this body and to the Nation, it was truly exemplary. I know I speak for all of the Members on this side of the aisle when I say to Dr. Ogilivie, thank you for your years of service here. It is wonderful to see you again.

SCHEDULE

Mr. REID. Mr. President, this morning, we will be in a period of morning business for 60 minutes. The first half of the time will be under the control of the Republicans and the second half of the time will be under the control of the Democrats.

Following morning business, we will resume consideration of H.R. 2, the minimum wage bill. We will be in recess today from 12:30 to 2:15 for the party luncheons. As I indicated, we have two cloture motions that have been filed. The first vote, on line-item veto, will take place tomorrow. If cloture is not invoked, we will then proceed to a vote on the underlying bill, which is S. 2.

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

There have been a number of amendments filed and that is very good. We are looking at a number of them closely to see if we can schedule a vote on one of them sometime this morning.

Looking at the schedule, we are going to have a couple of votes Friday morning, and everyone should understand that. The only way I can see that we will not have votes Friday morning is if we can figure out a way to finish minimum wage on Thursday. That is certainly possible. I am impressed with the seriousness of the amendments that have been offered. To this point, five amendments have been offered, and we certainly could complete this bill this week if we put our minds to it. I hope we can do that. If we cannot, it will spill over into next week. I am not sure that is good; we have so many things that we have to do. I have had a number of conversations with the Republican leader and we are going to have debate on Iraq. We are going to make that as meaningful as possible. We are going to work together to see if we can limit the subject matter of the debate on Iraq. We hope we can do that. We also have other things that are facing us down the road, not the least of which is stem cell research and negotiation on Medicare. But more importantly, we have to make sure the Government has money after February 15. That is something, again, I have had a number of conversations on with the distinguished Republican leader. The Appropriations Committee, with Democrats and Republicans, has worked very well on that. Senator COCHRAN has been fully engaged and all of the subcommittee chairs and ranking members have been engaged.

I think we are at a point where we have a pretty good idea of the subject matter of the CR. There will be no earmarks, zero, not a single earmark on the CR. That is what we have agreed upon. Senator MCCONNELL agrees with that, as I do, and the two appropriating bodies agree with that. So we are going to move forward on the CR. It is not going to be fun. I have been an appropriator here for many years, as has Senator MCCONNELL. We like to do the regular process, but in my opinion we cannot get to that unless we get the CR out of the way and work on the budget and get the appropriations bills done.

It is my goal to work very hard to get the appropriations bills done this year. It has been done before and we can do it again. It has been done under Republican leadership and under Democratic leadership in the Senate. We have been working on it on a bipartisan basis. I think we can get it done.

As a reminder, first-degree amendments must be filed at the desk by 2:30 p.m. this afternoon.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

CLOTURE

Mr. MCCONNELL. Mr. President, let me focus my remarks on the second cloture vote that will occur tomorrow. Were cloture to be invoked on what is generally referred to as a ''clean minimum wage,'' the bipartisan compromise that has been put together between Senator BAUCUS and Senator GRASSLEY and Senator ENZI and others would be wiped out. So I think it is extremely important to mention to Members, those who would like to continue to go forward on a bipartisan basis, if cloture were to be invoked, that would eliminate the possibility of going forward on a bipartisan basis on minimum wage. I hope cloture will not be invoked—the second cloture vote would not be invoked, so that we can proceed with the substitute, which seems to enjoy broad, bipartisan support in the Senate.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the first half of the time under the control of the minority and the second half of the time under the control of the majority.

The Senator from Oregon is recognized.

HEALTH CARE

Mr. SMITH. Mr. President, it is always an exciting time when a new Congress takes its oath of office and the President comes to Capitol Hill to give his State of the Union Address. It is a time when our Nation takes its pulse and checks its health.

As we contemplate what the President might say and the agenda that this Congress might pursue, it occurs to me that this is a good time to express what I hope will be a priority of this Congress, and it relates to health.

I think, undoubtedly, the President will focus some of his remarks on Iraq. That continues as a major focus of public attention and a legitimate cause of its concern. But I think the American people would also very much appreciate our turning our focus to home, on things that affect the lives of everyday Americans and their families and on their individual concerns.

There is probably no greater individual concern than health care. I do hope the President will address health care because I know moms and dads are addressing it every day.

There are three issues I would like to speak to as it relates to health care, to what I hope will be a focus of the 110th Congress.

When I think of health care in this Congress, the issues that come to mind are stem cells, mental health, and the uninsured. When I think of stem cells, I immediately think of some of the most loathesome diseases that affect humankind. Obviously, Parkinson's disease, which has certainly taken its toll in my family; Alzheimer's, which afflicts so many of our seniors and puts incredible burdens upon their caregivers; and diabetes. It is heartrending to meet with children afflicted with diabetes at an early age, that directs them down a path of lifelong suffering and dependence upon injections.

I think of cardiovascular disease. Heart disease is probably our greatest killer as a people. Then, of course, there are those who, through accidents or other causes, suffer spinal cord injuries. All of these terrible afflictions have mystified our best and brightest minds in the scientific community, and yet stem cell research, in all of its forms—embryonic, adult stem cells, and some of the new breakthroughs that have been discovered through amniotic fluid—all hold great promise.

It does seem to me that one of the first steps of this Congress ought to be to return to this debate. The time is now to make progress. The time is now for us as a people to have the vast majority view heard and enacted into law. It is important for the Federal Government to show up to work on this issue. It is important because the Federal Government can provide the seed money. The Federal Government can provide the moral boundaries. The Federal Government can help to provide world leadership on this important biomedical ethical issue.

So as we enter this Congress, I do hope that by large majorities in the House and the Senate, we will pass embryonic stem cell research and further those other avenues in stem cell research that hold out so much promise. I have always believed that an ethic of life includes concern for the living as well. I believe it is time for us to unshackle the hands of our scientists so that we can unlock with the key of science these great mysteries.

Next, Mr. President, I speak of mental health. It has always been troubling to me, but especially in light of my family's history, that physical health is held at one level but mental health has always occupied a subordinate level. Because of the embarrassment and then the shame that attends mental health, a great stigma has attached to this issue, and because stigma attaches to it, society has caused those who suffer debilitating mental health issues not to seek treatment or to hide their afflictions. Yet it seems to me obvious that such issues as schizophrenia, bipolar condition, postpartum depression—it is hard to imagine anyone in this modern day and age who says these are not legitimate afflictions of

humankind. And if they are legitimate, then the Congress of the United States should begin to treat them as legitimate.

It seems to me that in all of its manifestations, these biases against mental health need to be removed. We find them in our statutes relative to Medicaid and Medicare. When it comes to copays, when it comes to reimbursement, the Federal Government has a prejudice against mental health. Why would that be? If you do not have mental health but you have physical health, you do not have health. The mind and body interact in a very direct way, and both are necessary if the American people are to have health.

I do believe the Congress needs to address the biases against mental health. I do believe we should enact mental health parity in insurance law. It is a source of pride to me that my own State of Oregon this past legislative session enacted mental health parity, so that on January 1 of this year, all Oregonians woke up to know that as a matter of law their health care covers mental health as well. And we should do no less as the Federal Government. We need to change this aspect. We need to change it in Medicaid, Medicare, in insurance law, in teaching parity in our medical schools, in our pharmaceutical policies—all of these things must elevate mental health to the same level as physical health.

Another part of mental health, in my own calculation, is a very personal passion of mine; that is, the reauthorization and full funding of the Garrett Lee Smith Memorial Act. There is a plague in this country, an epidemic, if you will, of youth suicide. It begins as depression and sometimes leads to the most tragic of results. It is my hope that this 110th Congress, the House and the Senate, united, will reauthorize and fully fund this great and important act. It is not the whole answer, but it is an important beginning because it incentivizes States to enact prevention and intervention programs—not just States but tribes, colleges, universities—to be able to respond to this issue which is costing the lives of over 3,000 young people a year. I hope we will do that. It is one of the actions the Congress before took which was truly bipartisan, which truly has made a difference in saving hundreds, perhaps thousands, of lives.

Finally, let me speak to access. I think it is a source of some national shame that 46 million Americans are uninsured. It is true that probably half of that number are uninsured by choice. They tend to be young people who would want to spend their money in other ways. But of that 46 million, 9 million of these are children, and that is a national shame.

I believe we need to reauthorize the SCHIP program. SCHIP, along with Medicaid, is one of the central strands in our public safety net. I believe we need to do this because of the 6 million children who are insured by this, some 3 million more are eligible but are not enrolled.

I believe, in addition to this, we need to look at all the good ideas we can find in this Congress to provide insurance coverage for the uninsured. Senator WYDEN of Oregon and I have a proposal for universal catastrophic coverage. We believe that, at least in America, if you lose your health, you should not lose your home.

Mr. President, I believe my time is up. I thank you for the time, and I focus our Nation's attention on a most pressing and urgent family and national urgency, which is health care.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

WASTEFUL SPENDING AMENDMENT

Mr. CORNYN. Mr. President, I rise in support of the amendment pending on the floor, the second look at wasteful spending amendment, otherwise known as the Gregg amendment, after the distinguished Senator from New Hampshire. The truth is, we might call this really the Daschle amendment or the Byrd amendment or the Levin amendment or Murray or Dodd, other Senators who have supported virtually this same proposal on previous occasions. I will explain that more in just a moment.

If we look at this amendment, compared with one offered by the former majority leader, Senator Tom Daschle, when the Democrats were, again, in leadership, we can see how the Gregg amendment corresponds virtually, precisely with the proposal made by then-Democratic majority leader Tom Daschle. It established a fast-track congressional process for consideration of Presidential rescissions. It required congressional affirmation of rescissions. It allowed the President to suspend funds for a maximum of 45 days. It does not permit the President to resubmit rescissions once rejected by the Congress. It allowed rescissions of discretionary funding and targeted tax benefits. It did not allow rescissions of new mandatory programs. That is one area where this differs from the Daschle amendment. The Gregg amendment would permit rescission of new mandatory spending.

I interject, if we are going to get a handle on runaway Federal spending, it is not going to be in discretionary spending alone. We have actually—contrary, perhaps, to popular perception—done a pretty good job limiting nondefense, nonhomeland security discretionary spending. But to paraphrase, that is not where the money is. Where the money is actually in mandatory spending—in entitlement spending, such as Medicare, Medicaid, and Social Security.

So the Gregg amendment quite appropriately addresses rescission of new, not existing, new mandatory spending programs. We can see here that in virtually every respect except two—the one I just mentioned and that only four rescission packages would be permitted annually under the Gregg amendment—there is virtual identity between these two amendments.

Why is this so important? I have to tell my colleagues that as I travel around my State of Texas, there are issues people talk to me about, as with other Members. They are concerned about our lack of border security. They are concerned, obviously, about the war on terror and the way forward in Iraq. But one of the really top three issues that my constituents talk to me about is Federal spending. They worry about the deficit. They worry about the long-term obligation under Social Security and Medicare, a bill that is going to be paid by our children and grandchildren, about the morality of basically putting this burden on their backs in the future. So what this amendment does, this second look at wasteful spending, it allows us to cut out some of the pork, cut out some of the waste in a way that I think responds to this very realistic concern by the American people.

You will note that in 1995, when Senator Daschle offered this amendment, this was, of course, during the Clinton administration—I want to note that—we had 21 Democratic Senators—virtually all of whom, I guess, are still in the Senate—who supported that Daschle amendment. My hope is they would vote for cloture so we can have an up-or-down vote on this Gregg amendment, which, as I showed a moment ago, is virtually identical.

Let's look at some of the quotes back then by distinguished Members of the Senate in support of the Daschle amendment. My hope would be that Senators would remember, perhaps have their recollection refreshed by this exercise in a way that would encourage them to have at least an open mind and possibly even embrace the Gregg amendment today as they did the Daschle amendment back in 1995.

Senator BYRD, the distinguished chairman of the Senate Appropriations Committee, someone who respects congressional prerogative and understands the separation of powers perhaps better than anybody else in this body, said:

> I have no problem with giving the President another opportunity to select from appropriations bills certain items which he feels for his political or for whatever reasons, I have no problem with his sending them to the two Houses and our giving him a vote.

That was on March 22, 1995.

Then there is this comment by Senator FEINSTEIN, the distinguished Senator from California. She said:

> Really, what a line-item veto is all about is deterrence, and that deterrence is aimed at the porkbarrel. I sincerely believe that a line-item veto will work.

What we are talking about, this so-called rescission provision, is in essence a version of the line-item veto, something Presidents have called for in

the past on both sides of the aisle and something I believe, obviously, there has existed bipartisan support for in the Senate.

Then there is Senator DORGAN, who has said:

Fully 43 Governors have the line-item veto, which suggests to me that it is a power that the President can safely wield . . . That is why I voted for it, and why I am pleased it is now the law of the land.

This was back on April 25, 1996.

Of course, we know what happened to the line-item veto. It ultimately was struck down by the U.S. Supreme Court. That is why we have had to come back with this modification of this rescission package in order to address the Court's concerns and to ensure its constitutionality.

Then there is the distinguished Senator from Delaware, Senator JOE BIDEN, who said:

Mr. President, I have long supported an experiment with the line-item veto power for the President.

That was Senator BIDEN on March 27, 1996.

Then there is Senator DODD who has said:

I support the substitute offered by Senator Daschle.

That is the Daschle amendment.

I believe it is a reasonable line-item veto alternative. It requires both Houses of Congress to vote on a President's rescission list and sets up a fast-track procedure to ensure that a vote occurs in a prompt and timely manner.

There are just a couple of more. Mr. FEINGOLD, the Senator from Wisconsin, said this:

The line-item veto is about getting rid of those items after the President has them on his desk. I think this will prove to be a useful tool in eliminating some of the things that have happened in Congress that have been held up to public ridicule.

That obviously goes with the pork spending, the embarrassing earmarks that we have heard so much about from our constituents, particularly leading up to this last election.

Senator MURRAY said:

I want to give the President the ability to line-item veto all those portions of the appropriations bills that have not been through the hearing and authorization process. All those pork items contribute to our deficit.

I think we have one more from Senator DORGAN, but we have already heard from him. There is one last one from Mr. LEVIN, the distinguished Senator from Michigan. He said:

That so-called expedited rescission process, it seems to me, is constitutional and is something which we can in good conscience, at least I in good conscience, support.

My point is obvious, perhaps, but let me, at the risk of beating a dead horse, say it again. If this was good policy back in 1995 and 1996, what has changed in 2007? I submit the only thing that has changed is that our deficit has increased for many years, part of which is porkbarrel spending which can be eliminated with the kind of cooperation that this particular amendment would allow. I suggest to our Democratic colleagues—in the spirit of bipartisanship in which we have started this new Congress with the overwhelming bipartisan passage of an ethics and lobby reform bill and consideration of this minimum wage bill with appropriate relief for small businesses when it comes to regulations and tax relief that will attenuate some of the blow—this is an appropriate amendment for us to consider and pass.

I hope the spirit of bipartisanship does not end so early on in this session of the Senate. I know there are many cynics who believe it will die an early death. I am not one of them. I remain hopeful and optimistic that our colleagues on both sides of the aisle will embrace this opportunity to do the right thing for the people of this great country.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, how much time is remaining?

The ACTING PRESIDENT pro tempore. Ten minutes.

Mr. ISAKSON. Mr. President, first of all, I commend the Senator from Texas on his remarks. I commend Senator JUDD GREGG on the submission of this amendment. I commend Senator MCCONNELL, the Republican leader, for his insistence on bringing this amendment to the floor of the Senate early. It had been my preference that it be debated during the lobbying reform and ethics bill, S. 1, which we debated last week because the remarks I am going to make tell you how much I think the enhanced rescission and a second look at wasteful spending is so important to end, curb, and finally do away with what has been an abuse in this body for a long time, and that is the abuse of earmarks.

In fact, I want to tell a story. When I first came to the Congress of the United States in 1999, the first budget that I voted on and was passed was a voluminous, huge budget—appropriations bill. It had spending in thousands of different categories, many of which I never even looked at, A, because I was not on the committee that had jurisdiction or, B, because so much of it went into last-minute negotiations in the conference committee on the appropriations bill.

I will never forget a telephone call I got at 8 o'clock in the morning from a reporter, shortly after—about 2 weeks after the passage of an Omnibus appropriations bill. A newspaper reporter called and said to me:

Congressman, why did you vote for a $50,000 appropriation for a tatoo removal parlor in California?

I said:

I didn't vote for any such a thing.

The reporter said:

Yes, you did. Didn't you vote for the Omnibus budget?

I said:

Yes, I did.

The reporter said:

Well, it was right there in clear view.

I said:

Well, it wasn't in clear view to me.

Well, it turned out, after going through that embarrassing experience, which all of us in this business go through from time to time, I started digging around trying to find the $50,000 appropriation for a tatoo removal parlor in California. Finally, I found it. It went into the budget on the appropriations bill on the last night of negotiations. It was on something like page 1186, line 33, in small print. The appropriations act we voted on was put on our desk about 8 hours before we voted on it.

I am not a fast reader anyway, but I couldn't read 1,100 pages in 8 hours. I would go blind. And the fact is, Congress was embarrassed, the Representative who put it in there was very embarrassed, but this Representative was very embarrassed. So I introduced legislation the next year to basically put an end to the last-minute earmark that said the earmark had to be in bold type, large fonts, and on the front page of each appropriations act, and had to lay on the desk for 24 hours to at least give us a chance to look at it.

What Senator GREGG has proposed today is the opportunity for us to not only get a second look, but in the case of a lot of these earmarks a first look, at wasteful appropriations. That is why I thought it should have gone on the previous bill we debated last week, the lobbying reform and ethics bill for, you see, if a President of the United States had gotten that omnibus budget and had the right of rescission, that President could have said: I think we ought to strike the $50,000 for a tatoo removal parlor in California. And under the Gregg proposal, it would come back to the Senate and the House, and we would have to affirm that. I do not think there is a single person in either party, including the author of that earmark 9 years ago, who would not have voted to affirm the President's rescission.

The light of day, sunshine, the power of knowledge, facts are stubborn things. But so often in the appropriations process facts get obliterated or not seen. Appropriations get written in late at night in negotiations between conferees, and we end up with wasteful spending.

This is an outstanding proposal by Senator GREGG. As Senator CORNYN has said, and others who have spoken today have said, it actually reflects what has been approved by Members of both parties in this Senate before. But it makes good, common, horse sense and passes the constitutional test, which is so important.

The President gets four times a year to send rescissions to the Congress. The Congress has to fast-track its response within 8 days. The Congress has to affirm the rescission, which is the

key point in the balance of power between each of the bodies of Government that are so important to our Constitution. It does not give a President unilateral authority, but it forces the light of day on a Presidential decision for us to take a second look at what was probably a mistake that this body might have made.

Lastly, I have had some experience with this process. I had the privilege of representing the great State of Georgia for 17 years in its statehouse, in its State senate. At the time I was in the minority, and the Democratic Party in Georgia was in the majority. A dear friend of mine, a fellow against whom I ran for Governor of Georgia in 1990, and who came to this Senate, Zell Miller, and whom I later replaced in this Senate, a great Georgian—I watched him use the line-item veto, which is legal in Georgia, to cause accountability on the part of legislators, to let the light of day shine on appropriations and, most importantly, to see to it that Georgia was run in a fiscally sound way and we didn't get away with things that we should not have gotten away with.

If it is good enough for the States, it is good enough for the Federal Government. If it passes the constitutional test of the division of power in our Government—legislative, executive, judicial—it ought to be a part of the body of law, and this proposal does.

Most important of all, although all the promotion pieces I have read call this a second look at the budget process, in many cases because of the volume it gives us, as individuals, a first look at a mistake we made. Instead of current law, where once that mistake is made it is there, under this right of recision we have a second chance at what was a first impression, and we can make the right decision and do the right thing.

The money, when it is struck, goes where it ought to go—to deficit reduction. This country has a serious deficit problem, and it has had a serious spending problem. Enhanced rescission places the responsibility on the President to delineate a mistake and forces us to affirm if that, in fact, was a mistake, and the benefit from that savings goes to reduce the deficit, which is the mortgage on our children's future and the future of our grandchildren.

I am delighted to come to the floor today as a cosponsor of the enhanced rescissions amendment proposed by Senator GREGG to speak in its favor, and I encourage every Member of the Senate to take a second look at this proposal.

It makes sense. It is constitutional. It is the right thing to do.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

IRAQ

Mr. DURBIN. Mr. President, there is one moment each year when America comes together, when the leader of our country, our President, in his State of the Union Address, speaks of our experience in the past, our history, and his vision of our Nation's future. It is a rare moment on Capitol Hill, House and Senate together on a bipartisan basis, the Supreme Court, the Cabinet, the diplomatic corps. It is quite a festive and historic—sometimes solemn—gathering. Tonight will be an opportunity for us to gather again for the State of the Union Address. I am looking forward to it.

It comes at a moment in American history when there is a strong emotion across this country, a strong feeling about the war in Iraq. It is a feeling that was made even more intense by the events of this last weekend where we lost so many of our brave soldiers: a helicopter crash from the sky, lives were taken on the ground. At the end of the day, we had lost 3,059 of our best and bravest soldiers, marines, airmen, and sailors in this war in Iraq.

The President will speak of many things this evening. That is his responsibility—from energy to health care to education and beyond. But the issue most dominant in the minds of America is the issue of Iraq. It was certainly the most dominant issue in the November election when the message came through loudly and clearly that it was time to change, it was time for America to step back and reassess our role in Iraq and where we go from here.

Since that election, many important things have happened. The Secretary of Defense, Donald Rumsfeld, resigned, replaced by Robert Gates. The military leadership in Iraq was changed and the President came forward, after a time of deliberation, with his own proposal. That proposal, which we heard a little over a week ago, called for adding more troops in the theater of war in Iraq, some 21,000 more Americans, to join the 144,000 soldiers who are there today.

Most of us have spoken publicly about that in disagreement with the President: our belief that the escalation of the number of troops in Iraq is the wrong way, the wrong direction for our Nation; our belief that 21,000 soldiers cannot stop the civil war that has 14 centuries of fighting behind it; and our belief that 21,000 American lives are too many to ever lose in this kind of dangerous situation.

The President, undoubtedly, will speak to Iraq this evening and the American people will listen closely. But that is not the end of the conversation. The conversation will continue in the Senate where men and women representing States, as I have the honor to do in representing Illinois, will engage for the first meaningful debate on the war in Iraq in more than 4 years since we passed the use-of-force resolution.

Circumstances have changed dramatically. Reading the resolution today, one would wonder if it even justifies our current presence because it spoke of removing Saddam Hussein, dealing with weapons of mass destruction, stopping the march of nuclear weapons into Iraq. We now know all of those things were either wrong in that original resolution or have become moot by the events that have transpired.

There is an effort underway to make sure this debate on Iraq represents the bipartisan feeling of America, represents the fact that there are Democrats and Republicans and Independents who feel intensely that the current strategy, the current plan the President is pursuing is not the right plan.

The first resolution will be considered by the Foreign Relations Committee this week and is sponsored by Senators BIDEN and LEVIN on the Democratic side and Senator HAGEL on the Republican side.

Yesterday, there was another resolution brought to the attention of the American people, introduced by three Members I respect. Senator JOHN WARNER, former chairman of the Committee on Armed Services, a Republican Senator from Virginia, the lead sponsor, Senator BEN NELSON, a Democrat from Nebraska, and Senator SUSAN COLLINS, a Republican from Maine, are about to introduce a resolution that clearly expresses the sense of Congress about this strategy in Iraq. Much has been written about it. The resolution should speak for itself because these Senators, two Republicans and a Democrat, resolve:

That it is the sense of Congress that—

(1) the Senate disagrees with the ''plan'' to augment our forces by 21,500, and urges the President instead to consider all options and alternatives for achieving the strategic goals set forth below with reduced force levels than proposed.

The important thing about these resolutions, though they are different in wording, is they all reach the same conclusion. The conclusion is the President's policy, the escalation or augmentation, virtually the same word, is the wrong way to move in Iraq today.

I hope at the end of the day we can come together on a bipartisan basis, that we can cooperate in finding ways to blend these resolutions so we do speak as much as possible with a common bipartisan voice in the Senate. We need to call for the kind of change in the President's policy that the American people asked for in this election.

Our call is not based on politics but based on reality—the reality of the deaths which American troops have endured in this conflict and the reality of the war on the ground, a war which becomes more serious and more violent by the day.

We know the military experts have disagreed with the White House for a long time. GEN Eric Shinseki in 2003, as Army Chief of Staff, said we would need many more troops than the administration was prepared to send and more allies to secure peace ultimately in Iraq. Not only did the administration ignore General Shinseki's advice, they invited him to leave. We now know he was the one who had the insight they should have followed.

General Abizaid, the commander of all our forces in Iraq and Afghanistan, has told us that every divisional and corps commander in the theater has told him we should not send more troops. That is what the President has chosen to do despite this advice from his top generals. General Abizaid testified before Congress that he is convinced that:

. . . more American forces prevent the Iraqis from doing more, from taking more responsibility for their own future.

General Abizaid and others have also repeatedly stated that the solution to the violence in Iraq is not military, it is political. We have to turn to Prime Minister Maliki and his Cabinet to make the political decisions which will make the difference.

General Abizaid is not alone. The Iraqis themselves appear to agree with his conclusion. Iraqi Prime Minister Nuri al-Maliki stated on November 27 last year:

The crisis is political, and the ones who can stop the cycle of aggravation and bloodletting of innocents are the politicians.

The Iraqi Prime Minister has said what he needs most is weapons and equipment, not American soldiers. When Prime Minister Maliki met with President Bush in Jordan in November, he didn't ask for more American troops; rather, he said he needed support by way of equipment and weapons. In fact, Prime Minister Maliki suggested we should reduce the presence of American troops in his country. The President has done just the opposite.

A United States official was quoted as saying that ''The message in Amman was that Maliki wanted to take the lead and put an Iraqi face on it. He wanted to control his own forces.''

The answer to all of Iraq's problems is not simply to deliver more American soldiers. But American weaponry and equipment can be helpful. President Bush has disagreed. Although he steadfastly said as the Iraqis stand up, our forces will stand down, exactly the opposite has occurred. As the Prime Minister of Iraq has offered to stand up more forces to defend his own country, the President of the United States has said we are going to send 21,000 more of our best and bravest into the face of danger.

Our troops have fought brilliantly and courageously. Over the weekend, Senator JOHN MCCAIN, a man whom I respect and count as a friend, made a statement on one of the talk shows, I believe it was ''Meet the Press,'' that he felt the resolutions we were debating were a vote of confidence on whether we trusted America's troops to get the job done. As much as I respect Senator MCCAIN, I could not disagree more. This vote is not about our faith in our troops. Trust me, if a vote came to the Senate on our commitment and respect for our American military service men and women, it would be 100 to 0. We all stand in awe and admiration of the contributions they have made to our country and the courage they show every day. We have confidence that given an assignment that can be physically accomplished, they will do it better than any military force in the world.

But the debate is not over our troops. The debate is over the President's policy. Those troops didn't write the policy that sent too few troops to Iraq initially. Those soldiers didn't write the requisitions to send humvees that have become, sadly, opportunities for roadside bombs to maim and kill our soldiers. Those troops didn't make the critical decisions about disbanding the Iraqi Army. They didn't make the political decisions along the way. They did their duty. And they continue to do so.

What we are debating here is the policy decisions being made by this administration, and a larger and larger number of Democratic and Republican Senators are speaking out that these decisions have been wrong and that the President's plans continue to make the wrong decision.

The Iraq Study Group was a bipartisan effort to try to find a way through this, to come out with a plan that will work so we can truly bring our troops home successfully. They talked about the fact that adding more troops would not be a good move. In fact, bringing troops home should be our goal. They established the date of April 1, 2008, for most of those troops to be gone. And they called for something that this administration continues to ignore: They called for a surge in diplomacy—not a surge in the military but a surge in diplomacy.

Baker and Hamilton, a Republican and a Democrat, with credentials of real experience at the highest levels of our Government, said it is time for us to open a dialog with the Syrians and with the Iranians about the stability of the Middle East and to try to find common ground. There are no guarantees of success with diplomatic dialog, but there is a guarantee that if you don't try, you won't succeed.

Sadly, this administration has refused to try at the diplomatic level. Their responses continue to be military when we know time and again the solution is political within Iraq and diplomatic outside Iraq.

The Baker-Hamilton study group issued its report. It was received cordially by the White House and then ignored. Many Members believe we should return to it, begin the redeployment of American forces, start them coming home, as Prime Minister al-Malaki has asked, start moving the Iraqis into a position of more responsibility and leadership, call on the al-Malaki government in Iraq to make the political concessions to try to bring an end to the sectarian strife, the civil war that has caused all this violence and continues to on a day-to-day basis.

There is one thing we should stop and assess as well. That is the real cost of this war. I have come to the floor of the Senate many times and talked about $2 billion a week that is not being spent in America, $2 billion being spent on this war. I voted for the money to support our troops, and I will continue to, but we have to be honest about the costs of the war. Our Defense bill for the coming year, according to the Wall Street Journal last week, may top $600 billion. That figure does not include the extra $100 billion in emergency appropriations that Congress will soon be asked to vote on to sustain current operations in Iraq and Afghanistan.

The costs of the war in Iraq have been extraordinary, whether measured in dollars or human lives. I went through a long list last week of what we could have done in America with $400 billion, the $400 billion we have spent in Iraq, what we could have done by way of extending the opportunity for health care and health insurance to millions of Americans currently uninsured, offering to pay for college education for students coming out of high school who are accepted at the best colleges. All of these things could have been done and weren't done because, instead, we have invested the money in this war.

The administration's view is, we will continue with no end in sight to spend these dollars at great expense to America and lost opportunities to our people. An open-ended commitment, as this administration has suggested, means these costs are also open-ended. It is time to break this cycle, to address our real security needs in America, to implement the 9/11 recommendations at some expense but, really, to protect our people from any future possible terrorist attack. The bipartisan resolution that will come before the Senate in the coming days states that our goal in Iraq should be to maximize our chances of success. An open-ended commitment of U.S. forces in Iraq reduces these chances rather than increasing them. Here in the safety and comfort of Washington, we owe to it our troops not to forget that today they stand in danger risking their lives.

Soon we will vote on whether we support the escalation of the war that the President has called on. Let no one confuse that issue with the question of whether we support our troops, whether we have confidence in our troops.

Let me make something else clear: The resolution we are debating is not a vote of confidence on the President,

nor on the troops. It is about a policy. It is a deliberation about a policy and a strategic decision. That is why we are here. That is why we were elected. We cannot shy away from that responsibility. We all support our men and women in uniform. But like a majority of Americans, we also support the changes in policy that will lead to the redeployment of U.S. forces, ultimately bringing them home to safety.

That is the change that was called for in the last election. That is the new direction that is needed at this point in our history.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. SNOWE. Mr. President, I ask unanimous consent to proceed as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMPLIANCE ASSISTANCE FOR SMALL BUSINESSES

Ms. SNOWE. Mr. President, I wish to take this opportunity to discuss an amendment that is pending before the Senate, which was offered by the ranking member of the committee, Senator ENZI, which I have introduced along with Senators ENZI and LANDRIEU. It is a bipartisan amendment to enhance compliance assistance for small businesses. Before I address the amendment, I wish to make a few comments about the minimum wage package we are currently considering on the floor.

I thank the leadership on both sides of the political aisle for working together to develop a bipartisan consensus to raise the minimum wage. From the outset, Senator REID and Senator MCCONNELL set a bipartisan tone in forging a path to increasing the minimum wage. I also thank Chairman KENNEDY and the ranking member, Senator ENZI, for working together to develop this bipartisan legislation as well. I think this is a very encouraging beginning to the 110th Congress and hopefully a time we can reach across partisan divides to enact meaningful legislation.

I also commend Chairman BAUCUS of the Finance Committee, along with Senator GRASSLEY, for working to draft the small business tax package that is also incorporated in the minimum wage bill. It was especially refreshing to see both Chairman BAUCUS and Ranking Member Grassley working so closely together to forge a compromise that addresses concerns on both sides of the aisle.

By enacting the minimum wage, we will accomplish a legislative win-win by increasing the minimum wage but also at the same time providing small businesses with significant tax and regulatory relief in a way that does not add to our Nation's deficit. That is a great example of the social and fiscal responsibility we must embrace.

Small business tax and regulatory relief and increasing the minimum wage do not have to be mutually exclusive. I believe it is time to raise the minimum wage. It is certainly long overdue, since the last time the minimum wage was raised was back in 1997. Given the significant increases in the cost of living since then, most notably the rise in prices in housing, energy, and health care, families need to support themselves, and they certainly cannot do it on less than $11,000 annually.

I am deeply concerned as well about the widening wage gap in America, which is creating a burgeoning economic divide when it comes to income. As the chart behind me shows—and I think it is very important because hopefully one of the priorities in this Congress will be to explore policies that will narrow the wage gap in America—according to the latest census data, in 2005, a household in the 90th percentile earned $114,000 more—or 11 times as much—than a family in the 10th income percentile. Moreover, income for households at the top has grown over the last 30 years, while income for households at the bottom has remained flat.

A recent BusinessWeek article reported that increasing the minimum wage to $7.25 an hour could raise the pay for 16 percent of the Nation's workforce. So I am unequivocally supportive of this initiative. I also believe, as the ranking member of the Small Business Committee and previously chair of the committee, that we need to balance the minimum wage increase with a robust package of small business tax and regulatory reform to relieve many of the burdens small businesses continue to face.

The fact is, small business is the engine that is driving the economy. It is the one segment of the economy that is actually creating jobs. Three-quarters of all of the net new jobs are created by a small business; therefore, it is in our interest to make sure we can guarantee for the future that this segment of the economy is going to continue to create jobs and to restore the long-term economic vitality of small businesses.

Over the past 20 years, which is the subject of this amendment today, the number and complexity of Federal regulations has multiplied at an alarming rate. In 2004, for example, the Federal Register contained 75,675 pages, an all-time record, and 4,101 rules. These rules and regulations impose a much more significant impact on smaller businesses than larger businesses. As illustrated by the chart behind me, it demonstrates unequivocally the disproportionate burden borne by small businesses versus large corporations in order to absorb the impact of more regulations and more rules. It illustrates the conclusion found in a recent report that was prepared by the Small Business Administration's Office of Advocacy that said in 2004 that the per-employee cost of Federal regulations for small businesses with fewer than 20 employees was $7,647. In contrast, the per-employee cost of Federal regulations for firms with 500 or more workers was $5,282. This results in a 44-percent increase in burden for smaller businesses compared to their larger counterparts. Clearly, we must find ways to ease the regulatory burden for our Nation's small businesses so they may continue to create jobs and drive economic growth.

As the leading Republican on the Small Business Committee, I continue to hear from small businesses across the country, in addition to my home State of Maine, which is essentially a small business State where 98 percent of all employers are small businesses. But to give an example of the impact of the regulatory burden, I cite one company, Hammond Lumber Company, which faces the increased cost of regulatory compliance. It is a shining example of the American dream come true. It has been a family-owned company for three generations. They have been thriving in the State of Maine and serving not only Maine but all of New England for more than 50 years. It grew from a company of 41 employees in 1976 to over 300 employees in 2006. Hammond Lumber exemplifies the tremendous spirit of the American entrepreneur. It also demonstrates the pivotal role small businesses play in creating jobs and driving our Nation's economy. However, as Hammond Lumber has grown, so has its regulatory burden. In 1976, its total regulatory cost per employee equaled $98. Last year, it was $441 per employee. I had the opportunity to tour the company. I talked to the owners and talked to the employees. Unquestionably, it is a thriving company. They told us that the burden they were enduring as a result of the regulatory compliance was clearly having adverse consequences.

So we need to level the playing field for small businesses and make it easier for them to comply with complex regulations. All too often, small businesses don't maintain staff, don't have the financial resources to comply with Federal complexities, rules, and regulations. This places them at a disadvantage compared to larger companies. It also reduces the effectiveness of the agency's regulations. If the agency cannot describe how to comply with its regulations, how can we expect a small business to figure it out? That is why I have offered this amendment, along with Senator ENZI and Senator LANDRIEU, which would clarify the small business requirement that exists under Federal law.

Our amendment is drawn directly from recommendations put forward by the GAO and is intended only to clarify an already existing requirement which

passed unanimously in the Senate, became law, back in 1996 when we passed the model legislation to ease the impact on small businesses with respect to the Federal bureaucracy creating rules and regulations. That legislation that became law was intended to ensure that the Federal Government and all of the agencies consider the impact to small businesses of these proposed rules and regulations.

One of the most important provisions of this act was a requirement that Federal agencies work to produce compliance assistance materials to help small businesses satisfy their regulatory obligations. Unfortunately, the GAO has discovered that Federal agencies have ignored these requirements or failed miserably in their attempt to satisfy them. GAO also discovered that the language of the act is unclear in some places about what is actually required of small businesses. Consequently, small businesses were forced to figure out all these complicated regulations on their own. Obviously, this makes compliance that much more difficult to achieve. So my amendment is drawn specifically and directly from the GAO. It clarifies when a small business compliance guide is required, how a guide shall be designated, how and when a guide shall be published, and that the agency make the guide available on the Internet. These are commonsense, good government reforms, which will provide major relief for small businesses at virtually no cost to the Federal Government.

I think it is very important that this amendment be adopted because all too often we have discovered—as underscored by GAO in their recent report—that the agencies find ways or discover loopholes to circumvent the requirement. It is that much easier because they don't want to have to bother to help small businesses comply with regulations, and they use the rationale—or the excuse, I might say—of the ambiguity in law that doesn't allow them to be clear or to provide the assistance directly to small businesses. So we want to remove the ambiguity and we want to be sure that the amendment as represented here today, which would be translated into the statute, will be abundantly clear and specific in terms of how the agencies are going to allow small businesses to comply with these regulations, with the assistance that could be provided by these agencies as well.

I think it is also important to stress that this amendment does not place any additional arduous requirements on small businesses. There are no additional enforcement measures. We are just saying that this is important to clarify, so that agencies don't have an excuse for avoiding compliance with this regulation and also providing assistance to small businesses, and doesn't undercut an agency's ability to enforce its regulation to the fullest extent they currently enjoy.

Furthermore, this amendment was introduced in the form of a bill that enjoyed broad bipartisan support. It was also included last year in the Small Business Reauthorization Act that was unanimously reported out of the Senate Small Business Committee in the 109th Congress. This isn't any new ground. It is straightforward. It will help small businesses, which are doing so much to create jobs in our economy. Frankly, we ought to do more for small businesses. I think this is a sector of our economy which we have overlooked and ignored.

There are so many resources that we could make available to small businesses for a minimal cost that I think could leverage job creation throughout this country. I know, in working with the new chair of the Small Business Committee, Senator KERRY, that we are going to look to the future to see what kind of programs we can build upon, what kind of efforts we can make that can help small businesses thrive and flourish and create the jobs that so many parts of our country desperately need and require.

I am looking forward to working with Chairman KERRY in that regard, also with Chairman BAUCUS and the Senate Finance Committee because the underlying bill includes some very significant tax relief measures. Unfortunately, they will expire in the future. In the short term, in some cases, such as small business expensing, I think we have to consider ways to make that expensing requirement permanent because small businesses clearly deserve to have continuity of that provision and the certainty that it is going to be there.

I applaud Chairman BAUCUS for undertaking this initiative as the first action as chair of the Finance Committee in the markup, and it clearly is going to go a long way toward helping to bolster a very significant part of our economy, and that is, of course, small business growth.

We want to do more, we should do more, and we can do more.

Again, I urge Members of the Senate to support this amendment.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

FAIR MINIMUM WAGE ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 2) to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

Pending:

Reid (for Baucus) amendment No. 100, in the nature of a substitute.

McConnell (for Gregg) amendment No. 101 (to amendment No. 100), to provide Congress a second look at wasteful spending by establishing enhanced rescission authority under fast-track procedures.

Enzi (for Snowe) amendment No. 103 (to amendment No. 100), to enhance compliance assistance for small businesses.

Sessions amendment No. 106 (to amendment No. 100), to express the sense of the Senate that increasing personal savings is a necessary step toward ensuring the economic security of all the people of the United States upon retirement.

Sessions amendment No. 107 (to amendment No. 100), to impose additional requirements to ensure greater use of the advance payment of the earned income credit and to extend such advance payment to all taxpayers eligible for the credit.

Sessions amendment No. 108 (to amendment No. 100), to authorize the Secretary of the Treasury to study the costs and barriers to businesses if the advance earned income tax credit program included all EITC recipients.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

AMENDMENT NO. 103, AS MODIFIED

Mr. KENNEDY. Mr. President, if I can have the attention of the Senator from Maine, what I would like to do now is to ask that the amendment be modified with the modification that is at the desk, if that is agreeable with the Senator.

Ms. SNOWE. It certainly is.

The ACTING PRESIDENT pro tempore. Without objection, the amendment is modified.

The amendment (No. 103), as modified, is as follows:

At the appropriate place, insert the following:

SEC. ___. 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''.

Mr. KENNEDY. Mr. President, I will take a moment or two to thank the Senator from Maine and thank the Senator from Wyoming. If one will take a few moments and look through this amendment and the modification, they will understand what the good Senators have been talking about. It talks about posting to make sure the information is going to be available to small businesses. It talks about distribution, to make sure there is going to be a generous distribution. It talks about a timely distribution, so we are not going to have a final date, and then the Agency is going to delay in terms of posting and distribution.

It explains what is necessary for small businesses to be able to comply with the rules and the regulations. It doesn't affect those regulations that have been set and established. And it makes the requirement that it be put in plain English language so that any person is able to understand what is intended and what the rule is covering, and then it has the provision to inform Congress, the appropriate committees, as to what they have done over previous years.

This makes a lot of good sense. I commend the Senator from Maine and the Senator from Wyoming, and my colleague, Senator KERRY, who has been involved in this effort, and Senator LANDRIEU as well. I am very grateful to all of them for working with us. This is a very useful and extremely important and valuable addition to the legislation.

I know the Senator from Pennsylvania is desirous to address the overall issue. Mr. President, as I understand it, under the previous order, at noontime, we are going to vote on this amendment; is that correct?

The ACTING PRESIDENT pro tempore. There is no order to that effect.

Mr. KENNEDY. As I understand, shortly, there will be, I expect. At the appropriate time, we will ask for the yeas and nays. We intend to have the vote, for the information of offices, at that time.

I see both the Senator from New Hampshire and the Senator from Pennsylvania are here.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

AMENDMENT NO. 112

Mr. SUNUNU. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 112 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, the clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. SUNUNU] proposes an amendment numbered 112.

Mr. SUNUNU. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prevent the closure and defunding of certain women's business centers)

At the appropriate place, insert the following:

SEC. ___. RENEWAL GRANTS FOR WOMEN'S BUSINESS CENTERS.

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—

''(A) has received funding under subsections (b) and (l); and

''(B) is not eligible under the programs under such subsections for the first fiscal year after the end of the period of financial assistance under subsection (l).

''(3) APPLICATION AND APPROVAL CRITERIA.—

''(A) CRITERIA.—The Administrator shall develop and publish criteria for the consideration and approval of applications by nonprofit organizations under this subsection.

''(B) 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 less than $90,000 and 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 priority over first-time applications under subsection (b).

''(5) RENEWAL.—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.''.

Mr. SUNUNU. Mr. President, this is an important debate and important discussion, especially in regard to the points made by Senator SNOWE of Maine; that is, if we raise the minimum wage, we need to understand both the potential impact on small businesses and recognize those small businesses are creating most of the job opportunities in our country. They fuel our economy. Over the long term, as those smaller entrepreneurial firms grow, they provide support for a growing wage base, for benefits, and for support of the families who depend on those small businesses for their jobs.

I welcome her amendment that deals with small business regulation. It is an important step in the right direction, and I certainly hope it continues to receive bipartisan support in the Senate. I think many of the provisions that are in the substitute that deal with support for small business will receive bipartisan support.

Senator SNOWE also mentioned the importance of tax treatment for small business investments and capital spending, and that they be allowed to expense that, in turn, allowing them to find additional resources to continue that pattern of investment.

The amendment I have called up also deals with the issue of small business, entrepreneurship and job creation and a small, but important, program in our Government called the Women's Business Centers. There are about 100 Women's Business Centers across the country. There is one in Portsmouth, NH, that was among the very first created in the United States, and it deals with a range of issues from providing an incubator for women entrepreneurs just starting out a firm, to providing training and counseling, support for marketing services, information about Government procurement, so many of the issues that have already been addressed on the floor.

What this amendment does is to simply ensure that those high-performing Women's Business Centers that have continued to serve a strong, important

clientele and have supported entrepreneurship and investment in their community continue to be eligible for funding.

Under the current restrictions, some of those centers, after 5 years of sustainability grants, lose the opportunity for additional funding. My amendment would create a new program within the WBC program that allows those centers to apply for a 3-year continuation of Federal funding, provided they continue to meet high standards, serve their clients effectively, and attract sources of funding from the community.

I think it is a reasonable approach, one that makes sense. Look at the great example that has been set in Portsmouth. With the limited amount of Federal funding and other community resources, in the past year, it has served over 1,300 individual entrepreneurs. That, as we like to say in Washington, is real leverage, real performance.

This does not require additional funding. It is a straightforward way to ensure that an important need continues to be met and that this bill has the appropriate balance and support for the small business community.

I commend the work of the Senator from Maine, for her work on small business generally within the Small Business Committee. This is something they have tried to address before and the Senate has supported in the past. I hope it is something that will continue to receive bipartisan support.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, with regard to the amendment of the Senator from New Hampshire, it seems by both the explanation and a first look, this is something that will be very useful and valuable. If the Senator will work with us—I am not prepared, at this time, to recommend the amendment, but we will work on it with him and indicate what our position is in the very near future. But it certainly seems, trying to give some focus and attention to small businesses that are initiated by women, to make a good deal of sense, and it is subject to an authorization, so there is no point of order.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I thank the chairman for his comments. Obviously, I just called up the amendment. I don't expect him to endorse it wholeheartedly. I think he will find he has supported it in the past and many in the Chamber have supported it in the past and it is worthy of our consideration.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

AMENDMENT NO. 115 TO AMENDMENT NO. 100

Mr. KYL. Mr. President, I seek recognition for the purpose of laying down an amendment and not speaking to it. I ask unanimous consent that the pending amendment be laid aside for that purpose.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KYL. Mr. President, I send to the desk an amendment that deals with extending some current provisions and adding additional provisions to assist small businesses to pay for a minimum wage increase, should one be adopted. I will speak to this later. I appreciate others allowing me to lay it down.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 115 to amendment No. 100.

Mr. KYL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To extend through December 31, 2008, the depreciation treatment of leasehold, restaurant, and retail space improvements)

On page 4, line 21, strike ''April 1, 2008'' and insert ''January 1, 2009''.

On page 6, lines 5 and 6, strike ''April 1, 2008'' and insert ''January 1, 2009''.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I rise today in support of H.R. 2 which, as we know, will increase the minimum wage from $5.15 an hour to $7.25 an hour. I thank my colleague, Senator KENNEDY, and the bipartisan work that went into developing this issue.

I speak today of an issue which I believe is one of economic justice. Those earning the minimum wage have not had an increase in 10 years. We should ask ourselves today not only about the information in the bill and the data, as important as that is, we should ask ourselves who are these Americans who have not had an increase in 10 long years?

Most, of course, we know are adults working full time. In fact, in my home State of Pennsylvania, 71 percent of the workers whose wages would be raised directly by an increase in the minimum wage are adults ages 20 and older.

Also, these Americans in many cases are women. Sixty percent of those who would be affected by an increase in the minimum wage are women, working every day to make ends meet, to support their children. In fact, if the minimum wage is raised, 6 million children will benefit.

Recently, the Children's Defense Fund reported that a single parent working full time at the current minimum wage of $5.15 an hour earns enough to cover only 40 percent—just 40 percent—of the cost of raising children.

Those who earn the minimum wage are not people who are connected to the wealthy and the powerful. They don't have high-paid lobbyists in Washington advocating for them. No, these people are Americans who lead quiet, triumphant lives of struggle and sacrifice, overcoming hardships and setbacks every day. They do hard work, very hard work, such as the waitresses we see every day carrying heavy trays, on their feet hour after hour, as they dream of a better life for themselves and for their children. And at the end of a long day, these Americans return to work and go home at the end of a long day often exhausted, often working not one job but two jobs or three, and the dignity of their labor gives meaning to their lives. We know, and they would tell us that if they were standing here today next to me. So that work they do gives meaning to their lives without a doubt.

But no one, no matter how hard they work, can keep pace with the avalanche of cost increases we have seen over the last 10 years. Let me take my colleagues through a couple of those cost increases.

Since 1997, congressional pay has increased 24 percent, about $31,000. This has occurred while the value of the minimum wage has been eroded by 20 percent.

Let me say that again: Congressional pay up 24 percent, the value of the minimum wage down 20 percent. We cannot say that enough. The cost of living is up 26 percent, the cost of food up 23 percent, the cost of housing up 29 percent, the cost of gasoline up over 130 percent, the cost of health care up 43 percent. Families who are listening to this today know this. The average premium for a family of four costs over $10,000, almost $11,000, which is more than a minimum wage worker earns in a year.

The cost of raising a child since 1997 has increased 52 percent; the cost of educating those children has risen 61 percent; the cost of heating a home has increased by 120 percent.

What we are talking about here is an issue, indeed, of economic justice. Raising the Federal minimum wage will give our workers more than $4,000 per year. Let's consider what that could buy for a family in America. You can buy almost 2 years of childcare with over $4,000, full tuition at a community college, 2 years of health care, 1 year of groceries, 1½ years of heat and electricity, and 8 months of rent. That is how we affect, in a positive way, people's lives, the lives of hard-working men and women in America today.

Those who argue against an increase in the minimum wage will say that an increase will hurt small business and/or the economy. I do not agree with that because if you look at the data, when the minimum wage was increased in 1997, what happened in the aftermath? Millions and millions of jobs were created and raising the minimum wage did not slow that down one iota.

Recently, over 650 economists issued a statement calling for an increase in

the minimum wage. We do not have time today to go through that, but it is an important statement from leading economists in America. With an increase in minimum wage, employers will get a lot in return: higher productivity they will get with an increase in the minimum wage; lower turnover; and, of course, increased worker morale.

Mr. President, you know as well as I do that more than 28 States now have increased the minimum wage, including my home State of Pennsylvania. In July of this year it will increase to $7.15 an hour, as a result of State legislation. That should not have had to take place. The Federal Government long ago—we are years overdue on this—should have taken the responsibility for increasing the minimum wage, but that did not happen here in Washington. There were other priorities, other interests, more powerful interests that took precedence.

More than 400,000 Pennsylvanians will be affected positively by an increase in the minimum wage. I am thinking of them today as I am of families across America who will be affected positively by an increase in the minimum wage. Yes, I do believe that small businesses across Pennsylvania and America do need help. However, in my judgment, based upon the people to whom I have spoken in my State, the No. 1 priority or the No. 1 burden faced by small business owners, men or women, is the cost, the crushing cost of health care. We need to deliver health care relief to those small businesses, and that as well is long overdue, because those small business owners and their workers deserve the same kind of economic justice I talked about today.

I fervently urge support for this legislation, and I appreciate this time.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank my friend from Pennsylvania for speaking in favor of this minimum wage amendment. This was an issue, I know, out in the State of Pennsylvania during the course of the campaign. Senator CASEY was resolute in his commitment to the working families in his State and I am very grateful for his comments and strong support for this issue.

As I understand it, we expect Senator GRASSLEY is going to speak to the Senate, and my friend and colleague from Hawaii, Senator AKAKA, is going to address the Senate. We are working out the consent agreement for the time for the vote. It had initially been set tentatively for noontime. Now, I want to tell our colleagues, it is going to be after the caucuses. We are working out the final time and we will make that announcement in a very few moments. But for the information of our colleagues, and their schedules, we will not be voting prior to the caucuses. We will be voting after the caucuses and we will be more precise in a very short period of time.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I want to address two aspects of this legislation because they are necessarily connected. One is, obviously, the increase in the minimum wage. The other one is the small business tax provisions that have come out of the committee Senator BAUCUS chairs and on which I am the ranking member, the Finance Committee. I want to deal with the minimum wage part of this issue first.

Popular support for raising the minimum wage is based on a number of widely held beliefs: First, that no one can support a family at $5.15 an hour; second, minimum wage earners will not get a pay raise unless Congress gives them one; and third, raising the minimum wage helps millions of poor workers and hurts no one.

Unfortunately, these popular beliefs are in some cases misleading and in some cases outright wrong. First, minimum wage earners are not trying to support a family—or you might argue a small percentage of them are trying to support a family, but I want to say why most are not. Those who are, of course, can get additional benefits through Government programs to supplement family income; thus, no one has to rely solely on the minimum wage to support a family.

Second, minimum wage jobs are generally entry level jobs. Most workers who start at the minimum wage quickly earn more. Few workers remain stuck at the minimum wage for very long and, unfortunately, those who do are most at risk of losing their jobs from a minimum wage increase.

Third, the benefits of a minimum wage increase do not go exclusively to poor families. Only 15 percent of the proposed minimum wage increase would go to those living below the poverty level, as an example. Increasing the minimum wage would result in higher prices for consumers of minimum wage products, higher unemployment among the least skilled minimum wage workers—and that particularly affects minority groups within our country—increased poverty among minimum wage families, and in some cases it could be a combination of these three things I mentioned.

Much of the popular support for the minimum wage is based on a fallacy, that the Government can help the poor without hurting anyone else. But if the Government can increase wages with no ill effects, then why stop at $7.25, as is currently proposed? Why not make it $10.25? Why not make it $20.25, or even more? The fact is, this does have limited impact and it does have some negative consequences, so that is why these occasional increases are justified.

Popular support for increasing the minimum wage is tempered by the fact that virtually everyone agrees that there is some level at which the minimum wage would produce obvious negative effects. In the past, policymakers have attempted to mitigate any negative effects by limiting the size of the minimum wage increase, providing tax credits to employers who hire at-risk workers, and providing tax or regulatory relief to business generally, particularly small businesses.

However, additional research in recent years has cast some doubt on the effectiveness of these previous efforts. First, research suggests raising the minimum wage does not reduce poverty among minimum wage earners. Instead, it most likely increases poverty.

Second, legislative action by various States to adopt their own higher minimum wage has led to significant differences within our 50 States.

Third, research shows that the earned income tax credit could provide a cost-effective way to help poorest workers and be more effective than even increasing the minimum wage.

I am pleased that over the last few years we have enhanced the earned income credit for many families by making the child tax credit refundable. That is through the work of the Senate Finance Committee.

Before I go on to my next point I would say parenthetically there are studies that have been updated quite frequently over the last 20 or 25 years, where economists have followed people in quintiles: the lowest, the second, you know, for five quintiles from the lowest income up to the highest income. Following people over a period of years, they have been able to study the mobility of the American worker. In other words, once you are in the workforce, most people work themselves up the economic ladder—some way up, some part way up. But we find that only about 2 percent of our population seems to be stuck in the lowest quintile of income for long periods of time—a very small percentage. But other people go from the second quintile—from the first to the second to the third, and we also find that there is a larger percentage of our population that moves up from the lower two quintiles into the third or the fourth quintiles—a lot more rapidly and with a lot more mobility than we find people moving from the fourth to the top. While there are some people moving down from the highest to a lower quintile, history proves the mobility of the workforce in America is very much upward.

Despite some serious policy concerns, public support for increasing the minimum wage remains strong. That is why the Senate is taking up a minimum wage increase. The political reality is a majority of Senators support a minimum wage increase.

So a lot of economists would make an argument that you should not have any increase in the minimum wage at all and that the mistakes, going back to the 1930s, were mistakes; that you should not interfere with the marketplace. But Congress has decided for 70 years to do that. We are in the process for doing it. Regardless of the economic arguments, as long as this is a

political issue, without a doubt, from time to time it is going to be raised and I suppose you could make an argument that, as long as it is political it ought to be raised, or else you should not even have a minimum wage.

Now I would go to the tax incentive portions we hope stay in this bill when it goes to the other body. Tax incentives targeted to small business and other businesses impacted by a minimum wage increase have been linked to the minimum wage legislation. We have done this in the past decade. Democrats have at times joined Republicans supporting this language.

I would quote from two former chairmen on this committee in their opening remarks on the conference agreement on the last piece of legislation that went through this body to raise the minimum wage. Senator Roth, then the chairman of the committee, described taxes as the sand that grinds the gears of small business. So he saw merit in small business tax relief as a separate matter. Senator Roth went on to say:

[We will] proceed to the legislation on the minimum wage and small business taxes. We're anxious to move ahead on the small business tax legislation.

Senator Moynihan, who at times was chairman of the committee and at times the ranking Democrat, said, at the same time Senator Roth was speaking:

My distinguished chairman, as always, has so stated the facts. But there is a small semantic issue here. Some call this a small business relief act; others on this side call it the minimum wage bill. But we will not resolve that tonight, nor need we.

Now, the next time the Senate deals with this, about 8 or 9 years since we last dealt with it, it is still the same issue. Senators Roth and Moynihan were right then, and if they were still living today, I would tell them they are right now.

To different groups of Senators, these topics carry their own benefits or burdens. Many on my side don't like the idea of second-guessing the labor market with a federally mandated minimum wage. I pointed out some of the related issues that should give us pause, arguments put forth by economists when considering this legislation, that it is not all positive.

Many on the Democratic side want a straight minimum wage hike and refuse to consider the burden that policy puts on employers and workers. Those Members do not want any linkage between the minimum wage policy and small business tax relief. As Senator Moynihan said, however, we don't have to agree now whether the upcoming legislation will be a minimum wage or a small business tax relief bill.

Some, mostly Democrats, will call it a minimum wage bill. Some, mostly Republicans, will call it a small business tax relief bill. Still others will call it both a minimum wage and small business tax relief bill. President Bush, like President Clinton, the last President who signed an increase in the minimum wage bill years ago, will recognize both parts of the package. If my friends on the other side review the statement made by President Clinton, they will see that he saw merit in small business tax relief.

Our Committee on Finance chairman, Senator BAUCUS, recognizes the linkage. I told him Republicans will insist on a small business tax relief package. He, in his cooperative way, as I hope I have been cooperative with him in the past, has heard us. Some in his caucus, their labor union friends and sympathetic ears of the east coast media, attacked Senator BAUCUS—which I don't understand—for recognizing a basic reality, as Senator Moynihan and Senator Roth worked together a decade ago to do, to see that there is some negative impact on small business from an increase in the minimum wage so you ought to offset that with some benefit to small business through the tax portions of the legislation.

Those folks who are criticizing Senator BAUCUS don't have the responsibility to find the middle ground and evidently think we can get a bill through the Senate that can get the votes without finding the middle ground. It can't be done.

Now, if I were chairman—and I am not chairman, and I am not crying about that—I would have tilted this package a little bit more toward the depreciation incentive and less toward the work opportunity tax credits. The reality is, Republicans don't have a majority on the Committee on Finance or in the full Senate, so chairman BAUCUS has struck a balance between majority Democrats and minority Republicans.

I will assist Senator BAUCUS in defending the tax relief package that goes for the offsets and the revenue-losing provisions. We should not disturb the core structure of this package. I am hopeful, however, that we will improve the package by enhancing the package on the depreciation side, as Senator KYL has suggested. It is important these incentives coincide with the time when the minimum wage increase will take effect. In seeking this objective we will need to find appropriate offsets, obviously. There may be other improvements.

The bottom line is the Committee on Finance package is a well-known set of small business tax relief measures, things we have done before—extending, mostly. These proposals have merit by themselves, but a minimum wage increase is not likely to pass the Senate without them. I hope everyone understands that.

As many know, I am a working family farmer. For farmers, fields look familiar because we work our fields every year. This linkage, then, to put a commonsense touch on it, is that the linkage between minimum wage and small business relief is a familiar feel. I can quote Roth and Moynihan ad infinitum to prove it. It is not something new that is coming up with Baucus and Grassley. We have plowed this ground before. This is well-known common ground.

I referred to President Clinton in a signing ceremony about 10 years ago. That legislation was founded on a small business tax relief package twice this size. I emphasize it was twice the size of what people are complaining about now that we are presenting to the Senate. It was supported at that time by many seeking cloture on the bill that is before the Senate.

President Clinton singled out the work opportunity tax credit and the depreciation proposals in his remarks. My friend, Senator KENNEDY, attended the signing ceremony and was recognized by President Clinton for the great product they brought to President Clinton. And John Sweeney was recognized, the head of the AFL–CIO.

I ask unanimous consent the remarks be printed in the RECORD.

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

THE WHITE HOUSE,
OFFICE OF THE PRESS SECRETARY,
August 20, 1996.

REMARKS BY THE PRESIDENT AT SIGNING OF THE SMALL BUSINESS JOB PROTECTION ACT OF 1996

The President: Thank you very much. Cathy, it may be your birthday, but I would say that everybody feels that you have given us a great gift today by reminding us about what this is all about. And we wish you and your fine children well. And I don't think being in the band will hurt them a bit. I'm glad you're going to do that. (Laughter.)

I want to thank the members of our administration who are here—Secretary Reich, Small Business Administrator Phil Lader and others. I want to thank all the members of Congress who are here, especially Senator Kennedy who, himself, probably broke the wage in hour laws by working so hard to pass this bill. If we'd been paying him by the hour we'd be underpaying him in the last year. Thank you very much. (Applause.)

There are a lot of people who worked hard on this bill who aren't here—Senator Daschle, Congressman Gephardt, Congressman Bonior, Congressman Clay, in particular did. I want to join with others and thank the countless labor unions who have championed this bill, led by the truly tireless John Sweeney. (Applause.)

I'd like to remind the American people of something, because sometimes our unions are criticized for looking out for their members too much. There are very few unions in America that have minimum wage workers. Most of these unions did this because they thought it was the right thing to do. They spent their time and their money and their energy trying to help other people who do not belong to their organization, and I thank you for that. (Applause.)

I'd like to thank the religious groups, the economists, the business people who have made this their cause of concern. Again, I thank the members, including members of both parties, who supported this legislation.

I'll say more in a moment about the rest of the bill, but let me just begin by saying this is a truly remarkable piece of legislation. It is pro-work, pro-business and pro-family; it raises the minimum wage; it helps small businesses in a number of ways that I will

explain in a moment, including retirement and incentive to invest; and it promotes adoption in two very sweeping ways that have long needed to be done in the United States. This is a cause for celebration for all Americans of all parties, all walks of life, all faiths. This bill represents the very best in our country.

It will give 10 million Americans, as Cathy said, a chance to raise stronger families and build better futures. By coming together across lines that have too often divided us and finding common ground, we have made this a real season of achievement for the people of America.

At its heart, this bill does reaffirm our most profoundly American values—offering opportunity to all, demanding responsibility from all, and coming together as a community to do the right thing. This bill says to the working people of America: If you're willing to take responsibility and go to work, your work will be honored. We're going to honor your commitment to your family, we're going to recognize that $4.25 an hour is not enough to raise a family.

It's harder and harder to raise children today and harder and harder for people to succeed at home and at work. And I have said repeatedly, over and over again to the American people: We must not force our families to make a choice. Most parents have to work. We have a national interest in seeing that our people can succeed at home where it counts the most in raising their children, and succeed at work so they'll have enough income to be able to succeed at home. We must do both, and this bill helps us achieve that goal. (Applause.)

These 10 million Americans will become part of America's economic success story. A success story that in the last four years has led us to 900,000 new construction jobs; a record number of new businesses started, including those owned by women and minorities; a deficit that is the smallest it's been since 1981, and 60 percent less than it was when I took office; 10 million new jobs; 12 million American families who have been able to take advantage of Family and Medical Leave; almost 4.5 million new homeowners and 10 million other Americans who refinanced their homes at lower mortgage rates. And, most importantly of all, perhaps, real hourly wages, which fell for a decade, have finally begun to rise again. America is on the move. (Applause.)

But our challenge, my fellow Americans, is to make sure that every American can reap the rewards of a growing economy, every American has the tools to make the most of his or her own life, to build those strong families and to succeed at home and at work. As the Vice President said, the first step was taken in 1993 with the passage of the Family and Medical Leave Law and with the Earned Income Tax Credit, which cut taxes for 15 million working families. Today, that earned income tax credit is worth about $1,000 to a family of four with an income under $28,000 a year.

Well, today, we complete the second half of that effort. Together with our tax cut for working families, this bill ensures that a parent working full-time at the minimum wage can lift himself or herself and their children out of poverty. Nobody who works full-time with kids in the home should be in poverty. If we want to really revolutionize America's welfare system and move people from welfare to work and reward work, that is the first, ultimate test we all have to meet. If you get up every day and you go to work, and you put in your time and you have kids in your home, you and your children will not be in poverty. (Applause.)

We have some hard working minimum wage people here today supporting Cathy. Let me tell you about them. Seventy percent of them are adults, six of 10 are working women, and for them, work is about more than a paycheck, it's about pride. They want a wage they can raise their families on. By raising the minimum wage by 90 cents, this bill, over two years, will give those families an additional $1,800 a year in income—enough to buy seven months of groceries, several months of rent, or child care. Or, as Cathy said, to pay all of the bills from the utilities in the same month.

For many, this bill will make the difference between their ability to keep their families together and their failure to do so. These people reflect America's values, and it's a lot harder for them than it is for most of us to go around living what they say they believe in. It's about time they got a reward and, today, they'll get it. (Applause.)

I would also like to say a very special word of thanks to the business owners, especially the small business owners who supported this bill. Many of the minimum wage employers I talk to wanted to pay their employees more than $4.25 an hour and would be happy to do so as long as they can do it without hurting their businesses, and that means their competitors have to do the same thing. This bill will allow them to complete and win, to have happier, more productive employees, and to know they're doing the right thing. For all of those small businesses, I am very, very appreciative. (Applause.)

I would also like to say that this bill does a remarkable number of things for small businesses. In each of the last three years, our nation has set a new record in each succeeding year in the number of new businesses stated. And we know that most of the new jobs in America are being created by small- and medium-sized businesses. In 1993, I proposed a $15,000 increase in the amount of capital a small business can expense, to spark the kind of investment that they need to create jobs. Well, in 1993 we only won half that increase, but today I'll get to sign the second half into law, and I thank the Congress for passing that, as well. (Applause.)

As the Vice President said, this bill also includes a Work Opportunity Tax Credit to provide jobs for the most economically disadvantaged working Americans, including people who want to move from welfare to work. Now, there will be a tightly drawn economic incentive for people to hire those folks and give them a chance to enter the workforce, as well. It extends the research tax credit to help businesses stay competitive in the global economy. It extends a tax incentive for businesses to train and educate their employees. That's good news for people who need those skills, and it's good news for America because we have to have the best educated workforce in the world in the 21st century.

This legislation does even more to strengthen small business by strengthening the families that make them up. It helps millions of more Americans to save for their own retirement. It makes it much easier for small businesses to offer pension plans by creating a new small business 401(k) plan. It also lets more Americans keep their pensions when they change jobs without having to wait a year before they can start saving at their new jobs. As many as 10 million Americans without pensions today could now earn them as a result of this bill.

I'm delighted we are joined today, among others, by Shawn Marcell, the CEO of Prima Facie, a fast-growing video monitoring company in Pennsylvania, which now has just 17 employees—but that's a lot more than he started with. He stood with me in April and promised that if we kept our word and made pensions easier and cheaper for small businesses like his, he'd give pensions to all of his employees. Today, he has told us he's making good on that pledge. I'd like him to stand up, and say I predict that thousands more will follow Shawn's lead. Thank you, Shawn. Please stand up. Let's give him a hand. God bless you, sir. Thank you. (Applause.)

I'd also like to say a special word of thanks to our SBA Administrator, Phil Lader, and to the White House Conference on Small Business. When the White House Conference on Small Business met, they said one of their top priorities was increasing the availability and the security of pensions for small business owners in America. This is a good thing. It is also pro-work, pro-family and pro-business.

Finally, this bill does something else that is especially important to me and to Hillary—and I'm glad she's here with us today. It breaks down the financial and bureaucratic barriers to adoption, giving more children what every child needs and deserves—loving parents and a strong, stable home. (Applause.)

Two weeks ago, we had a celebration for the American athletes who made us so proud in Atlanta at the Centennial Olympics. Millions of Americans now know that one of them—the Decathlon Gold medalist, Dan O'Brien—speaks movingly about having been an adopted child and how much the support of his family meant in his life. Right now, there are tens of thousands of children waiting for the kind of family that helped to make Dan O'Brien an Olympic champion. At the same time, there are thousands of middle class families that want to bring children into their homes but cannot afford it. We're offering a $5,000 tax credit to help bring them together. It gives even more help to families that will adopt children with disabilities or take in two siblings, rather than seeing them split up.

And, lastly, this bill ends the long-standing bias against interracial adoption which has too often meant an endless, needless wait for America's children. (Applause.)

You know, as much as we talk about strong, loving families, it's not every day that we here in Washington get to enact a law that literally creates them or helps them stay together. This is such a day. Although he can't be with us today, I also want to thank Dave Thomas, himself adopted, who went on to found Wendy's and do so much for our country. Perhaps more than any other American citizen, he has made these adoption provisions possible, and we thank him.

Lastly, I'd like to point out that we do have some significant number of adoptive families here with us today, including some who are on the stage. And so I'd just like to acknowledge the Weeks (ph.) family, the Wolfington (ph.) family, the Outlaw (ph.) family, the Fitzwater (ph.) family, and ask them and anyone else here from the adoptive family community to stand up who'd like to stand. We'd like to recognize you and thank you for being here. Thank you all for being here. Thank you. (Applause.)

Beside me, or in front of me now, is the desk used by Frances Perkins—Franklin Roosevelt's labor secretary and the very first woman ever to serve in the Cabinet. She was one of our greatest labor secretaries. It was from her desk that many of America's pioneering wage, hour and workplace laws originated—including the very first 25 cent an hour minimum wage signed into law by President Roosevelt in 1938.

Secretary Perkins understood that a living wage was about more than feeding a family or shelter from a storm. A living wage makes it possible to participate in what she called the culture of community—to take part in the family, the community, the religious life we all cherish. Confident in our ability to

provide for ourselves and for our children, secure in the knowledge that hard work does pay. A minimum wage increase, portable health care, pension security, welfare to work opportunities—that's a plan that's putting America on the right track.

Now, we have to press forward, giving tax cuts for education and child-rearing and child care, buying a first home, finishing that job of balancing the budget without violating our obligations to our parents and our children and the disabled and health care, to education and the environment and to our future. That's a plan that will keep America on the right track, building strong families and strong futures by working together.

For everyone here who played a role in this happy day, I thank you, America thanks you, and our country is better because of your endeavors. God bless you. Thank you. (Applause.)

(The bill is signed.) (Applause.)

Mr. GRASSLEY. President Clinton said in the signing ceremony:

I want to thank all the Members of Congress who are here, especially Senator KENNEDY who, himself, probably broke the wage in hour laws by working so hard to pass this bill.

And then in another place:

There are a lot of people who worked hard on this bill who aren't here—Senator Daschle, Congressman Gephardt—

He went on to name other Members—

led by truly tireless John Sweeney.

And there was applause. Now, some of the same people are objecting to what we are doing now.

Another quote:

I would also like a very special word of thanks to the business owners, especially the small business owners who supported this bill. Many of the minimum wage employers I talked to wanted to pay their employees more than $4.25 an hour and would be happy to do so as long as they can do it without hurting their businesses, and that means their competitors have to do the same thing. This bill will allow them to compete and win, to have happier, more productive employees, and to know they are doing the right thing. For all those small businesses, I am very, very appreciative.

Continuing:

I would also say that this bill does a remarkable number of things for small businesses. . . .[a]nd we know that most of the new jobs in America are being created by small- and medium-sized businesses. In 1993 I—

Meaning President Clinton—

proposed a $15,000 increase in the amount of capital a small business can expense, to spark the kind of investment that they need to create jobs.

As the Vice President said—

Meaning at that time Mr. Gore—

this bill also includes a Work Opportunity Tax Credit to provide jobs for the most economically disadvantaged working Americans, including people who want to move from welfare to work. Now, there will be a tightly drawn economic incentive for people to hire those folks and give them a chance to enter the workforce, as well.

Well, if Senators who were on the stage at that time thought that the work opportunity tax credit was a good thing to have, why isn't it a good thing to have it here, to extend it? Why not?

This is a win-win situation. There is a win for the workers, a win for small business. Why should we chortle over a little thing such as increasing the minimum wage or having a tax provision in it?

The PRESIDING OFFICER (Mr. CASEY). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that at 2:45 today the Senate proceed to a vote on or in relation to Snowe amendment No. 103, as modified, with time from 2:15 to 2:45 equally divided and controlled in the usual form, with no second-degree amendments in order prior to the vote.

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

APPOINTMENT OF COMMITTEE TO ESCORT THE PRESIDENT OF THE UNITED STATES

Mr. KENNEDY. I ask unanimous consent that the Presiding Officer of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House to escort the President of the United States into the House Chamber for the joint session to be held at 9 p.m. Tuesday.

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

Mr. KENNEDY. Mr. President, I see my friend and colleague from Hawaii wishes to address the Senate on morning business time.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I ask unanimous consent to speak for 10 minutes as if in morning business.

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

(The remarks of Mr. AKAKA and Mr. KENNEDY are printed in today's RECORD under ''Morning Business.'')

Mr. KENNEDY. Mr. President, we are going to go into a recess in a moment. We will come out of the party caucuses at 2:15. We are working on some additional amendments. The amendments of the Senator from Alabama, the Sessions amendments, we will try to include, if necessary, votes on those issues as well around the 2:45 hour. We are making some progress. We have a shorter evening tonight because of the President's State of the Union, but we want to move this legislation. It is not complicated. Everyone in this body, new Members who have arrived here, understands what the increase in the minimum wage is all about. It is not complex. Is it not difficult. It is not hard to understand. There is no reason we can't move this process quickly. If it is necessary to have votes, we are prepared to move along on those issues.

We have listened this morning to those who believe that raw economic arguments ought to control the question of the minimum wage. We as a country have moved away from that. We have accepted the great traditions of Judeo-Christian teachings as well as the underlying teachings of all the religions that talk about responsibilities we all have for the least among us. In the Constitution of the United States, they have what is called the general welfare clause. The general welfare clause was written into the Constitution for those very purposes.

The fact is, this country has rejected the law of the jungle as it applies to economic conditions for workers. In my State of Massachusetts, we had individuals at the turn of the last century, children, 10, 11, 12 years old, who were working 12, 15 hours a day, 6½ days a week. We had the exploitation of children, of women, the exploitation of workers. We, as a country and a society, have recognized that we can be the strongest economy in the world and treat people with respect and dignity. That is why the members of Let Justice Roll, an extraordinary number of religious leaders representing a wide group of churches, talk about what the Scriptures say about poverty in their letter.

I ask unanimous consent to print the letter in the RECORD.

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

JANUARY 5, 2007.

DEAR MEMBERS OF CONGRESS, We, the undersigned religious leaders, in partnership with the Let Justice Roll Living Wage Campaign, call on the 110th Congress to raise the minimum wage! Let Justice Roll is a nonpartisan coalition of more than 80 faith, community and labor organizations working to raise the minimum wage at the state and federal level. In 2006, we played a major role in increasing the minimum wage throughout the country at the state level.

We strongly support the Miller/Kennedy bill that increases the minimum wage from $5.15 to $7.25 an hour. Furthermore, we strongly oppose any attempts to add provisions to the bill. We urge you to vote for this clean minimum wage bill.

The Prophet Amos proclaims, ''Let justice roll down like waters, and righteousness like an everflowing stream'' (5:24, NRSV). We are morally outraged by the number of people living in poverty in the United States, and believe that now is the time to give hard-working low-wage workers a raise and take the first step toward a true living wage for America's workers.

It has been nearly 10 years since the last federal increase in the minimum wage, and low-wage workers urgently need a raise. A minimum wage employee—making $5.15 an hour, working 40 hours a week, 52 weeks a year, earns about $10,700 a year—about $6,000 below the federal poverty line for a family of three. This situation is unconscionable and immoral, as the wealth of our nation continues to be built on the backs of the working poor. Working poor families in America are struggling to meet the rising costs of health care, gasoline and housing, and $5.15 an hour is simply not enough.

Minimum wage legislation in the past has stalled in Congress because of attempts to attach unrelated provisions such as tying the minimum wage to a repeal of the estate tax, rolling back over-time protections or reducing the minimum wage of tip workers. In addition, such provisions are harmful to the very workers that a minimum wage increase is intended to help. The strong victory on all the minimum wage ballot initiatives is evidence that there is strong and widespread support from Americans for a prompt, clean minimum wage increase at the federal level.

We appreciate the commitment made by the leadership of the 110th Congress to address the woefully inadequate federal minimum wage. We will continue to raise our

voices on behalf of ''the least of these'' and proclaim that a job should keep you out of poverty, not keep you in it.

Signed, Rev. Dr. Paul Sherry, National Coordinator, Let Justice Roll, Cleveland, OH, Rev. Dr. Bob Edgar, General Secretary, National Council of Churches, New York, NY, The Most Rev. Katharine Jefferts Schori, Presiding Bishop, The Episcopal Church, NY, NY, Rev. Jim Wallis, President and CEO, Sojourners/Call to Renewal, Washington, DC, Rev. John H. Thomas, General Minister and President, United Church of Christ, Cleveland, OH, Rabbi David Saperstein, Director, Religious Action Center of Reform Judaism, Washington, DC, Rev. Dr. Roy Medley, Gen. Secretary, American Baptist Churches in the USA, Valley Forge, PA.

Rev. Jennifer Butler, Executive Director, Faith in Public Life, Washington, DC; Mary Ellen McNish, General Secretary, American Friends Service Committee, Philadelphia, PA; Rev. William G. Sinkford, President, Unitarian Universalist Association, Boston, MA; The Rev. Dr. James A. Forbes, Senior Minister, The Riverside Church, New York, NY; The Rev. Clifton Kirkpatrick, Stated Clerk of the Presbyterian Church USA, Louisville, KY; Rev. Dr. Sharon E. Watkins, Gen. Minister and President, Christian Church (Disciples of Christ); Rev. Roy Riley, Chair of the Conference of Bishops and Bishop of the NJ Synod ELCA, NJ; Bishop Thomas J. Gumbleton, Archdiocese of Detroit, MI; Rev. Dr. Stan Hastey, Executive Director, The Alliance of Baptists, Washington, DC; James E. Winkler, General Secretary, United Methodist Church, Gen. Board of Church in Society, Washington, DC; Rev. Michael Livingston, President, National Council of Churches and Executive Director, ICCC, Trenton, NJ; Rev. John L. McCullough, Executive Director, Church World Service; Charlie Clements, President, Unitarian Universalist Service Committee, Cambridge, MA; Rabbi Rebecca Alpert, Temple University, Philadelphia, PA.

Most Reverend Gabino Zavala, Auxiliary Bishop, Archdiocese of Los Angeles, Los Angeles, CA; Rev. Dr. Rita Nakashima Brock, Director, Faith Voices for the Common Good, Christian Church (Disciples of Christ), Oakland, CA; David A. Robinson, Executive Director Pax Christi USA: National Catholic Peace Movement, Washington, DC; Simon Greer, President and CEO, Jewish Funds for Justice, New York, NY; Dr. Michael Kinnamon, Chair, Justice and Advocacy Commission, National Council of Churches, St. Louis, MO; Sr. Catherine McDonnell, OP, Prioress of the Dominican Sister of Hope, Ossining, NY; Rev. Kim Bobo, Executive Director, Interfaith Worker Justice, Chicago, IL; Rev. Tom Youngblood, United Methodist, Decatur, AL; The Rt. Rev. Mark MacDonald, Episcopal Bishop of Alaska and Navajoland, AK; Rev. Trina Zelle, Arizona Interfaith Worker Justice, Tempe, AZ; Rev. Briget Nicholson, Pastor, First Congregational United Church of Christ, Tucson, AZ; Rev. Stephen Copley, President, Arkansas Interfaith Conference, United Methodist Church, North Little Rock, AR; Imam Ali Siddiqui, Corona Valley, CA.

The Rev. Dr. Rick Schlosser, Executive Director, CA Council of Churches, California Church IMPACT, Sacramento CA; Bishop Allan C. Bjornberg, Rocky Mountain Synod, ELCA, Denver, CO; Fidel ''Butch'' Montoya, Minister Confianza, An Association of Latino Ministers, Denver, CO; Sister Maureen McCormack, President, The Interfaith Alliance of Colorado, Denver, CO; The Right Rev. James E. Curry, Bishop Suffragan, Episcopal Diocese of Connecticut, Hartford, CT; Rev. Dr. Davida Foy Crabtree, Conference Minister, Connecticut Conference, United Church of Christ, Hartford, CT; Rev. Dr, William L. Rhines, Jr., Harriet R. Tubman United Methodist Church, New Castle, DE; The Rt. Rev. Philip M. Duncan, II, Bishop, Diocese of the Central Gulf Coast, Pensacola, FL; Rev. John F. Stanton, Associate Priest, Trinity Episcopal Cathedral, Miami, FL; Rev. Charles Buck, Conference Minister, Hawaii Conf. United Church of Christ, Honolulu, HI; The Rt. Rev. Harry B. Bainbridge, III, Bishop, Episcopal Diocese of Idaho, Boise, ID; Bishop Paul R. Landahl, Metropolitan Chicago Synod, Evangelical Lutheran Church in America, Chicago, IL; The Rev. Dr. Larry L. Greenfield, Executive Minister, American Baptist Churches of Metro Chicago, Chicago, IL; Megan M. Ramer, Pastor, Chicago Community Mennonite Church, Chicago, IL; The Rt. Rev. Catherine Waynick, Bishop of Indianapolis, IN.

Rev. Stephen C. Gray, Conf. Minister, Indiana-Kentucky Conference, UCC, Indianapolis, IN; Rev. Dick Clark, Pastor, St. Timothy's United Methodist Church, Cedar Falls, IA; Sr. Joy Peterson, PBVM, President, Sisters of the Presentation of BVM, Dubuque, IA; Rev. David Hansen, Conference Minister, Kansas-Oklahoma Conference, United Church of Christ, Wichita, KS; Rev. Albert M. Pennybacker, Former National Chair, Clergy and Laity Network, Former Natl. President, The Interfaith Alliance, Christian Church (Disciples of Christ), Lexington KY; Sr. Margaret Stallmeyer, CDP, Thomas More College President, Congregation of Divine Providence, Melbourne, KY; Rev. David F. Kniker, Kewanee, LA; Rabbi Darah R. Lerner, Congregation Beth El, Bangor, ME; Rev. David R. Gaewski, Conference Minister, Maine Conference, United Church of Christ, Yarmouth, ME; The Right Reverend Robert W. Ihloff, Episcopal Bishop of Maryland.

Sr. Gayle Lwanga Crumbley, National Coordinator, National Advocacy Center of the Sisters of the Good Shepherd, Silver Spring, MD; The Rev. Dr. Jim Antal, Conference Minister and President, Massachusetts Conference, United Church of Christ, Framingham, MA; Rabbi David Lerner, Temple Emunah, Lexington, MA; Johanna Chao Rittenburg, Economic Justice Program Manager, Unitarian Universalist Service Committee, Cambridge, MA; Rev. Dr. Kent J. Ulery, Conference Minister, Michigan Conference United Church of Christ, East Lansing MI; Lucinda Keils, Executive Director, Detroit Metropolitan Interfaith Committee on Worker Issues, Detroit, MI; Rev. Peg Chemberlin, Executive Director, Minnesota Council of Churches, Minneapolis, MN; Rev. Dr. Karen Smith Sellers, Conference Minister, Minnesota Conference United Church of Christ, Minneapolis, MN; Rev. Charlene B. Burch, Interim Conference Minister, Missouri Mid-South Conference, United Church of Christ, St. Louis. MO; Rev. W. Audrey Hollis, Organizer, St. Louis Area Jobs With Justice, St. Louis, MO.

The Rev. Randall Hyvonen, Conference Minister, Montana-Northern Wyoming Conference, United Church of Christ, Billings, MT; Rev. F. Vernon Wright, Minister, UCC, Helena, MT; Rev. Dr. Dallas Dee Brauninger, Burwell, NE; Mr. David Lamarre-Vincent, Exec. Dir., New Hampshire Council of Churches, Concord, NH; The Rev. Eleanor McLaughlin, Ph.D. Rector, St. Barnabas Episcopal Church, Berlin, NH; The Rev. Bruce H. Davidson, Dir., Lutheran Office of Governmental Ministry in NJ, Trenton, NJ; Frank McCann, Director, Just Neighbors Program, Summit, NJ; The Reverend Elizabeth Purdum, Pastor, St. Luke Lutheran Church, Albuquerque, NM; The Reverend Arthur Meyer, Manager, Pastoral Care Dept, San Juan Regional Medical Center, Farmington, NM; The Rt. Rev. Jack McKelvey, Episcopal Bishop of Rochester, NY.

The Rt. Rev. Catherine S. Roskam, Bishop Suffragan of the Episcopal Diocese of New York; Rev. Ned Wight, Executive Director, Unitarian Universalist Veatch Program at Shelter Rock, Manhasset, NY; Rabbi Jill Jacobs, Director of Education, Jewish Funds for Justice, New York, NY; Rev. Nelson Johnson, Board Chair, Interfaith Worker Justice, Greensboro, NC; Rev. Ginny N. Britt, Director, The Advocacy for the Poor, Winston-Salem, NC; Rev. Dr. Charles R. Traylor, Executive Presbyter, Presbytery of the Northern Plains, Presbyterian Church (USA), Fargo, ND; Rt. Rev. Kenneth Price, Bishop, Episcopal Diocese of Southern Ohio, Columbus, OH; Rev. Callon Holloway, Jr., Bishop for Southern Ohio Synod, ELCA, Columbus, OH.

Rev. Rebecca Tollefson, Executive Director, Ohio Council of Churches, Columbus, OH; Rev. Ron Hooker, Chair of Church in the World Commission, Central-Southeast Association of the Ohio Conference UCC, Columbus, OH; Fr. Clark Sheckelford, Rector, Emmanuel Episcopal, Shawnee, OK; Rev. Robin Meyers, Pastor, Mayflower UCC, Oklahoma City, OK; Rev. John M. Gantt, interim Conference Minister, Central Pacific Conference of the United Church of Christ, Portland, OR; Norene Goplen, Director, Lutheran Advocacy Ministry of Oregon, Portland OR; Gary Straughan, President, Eastern District Executive Board, Moravian Church, Northern Province, Bethlehem, PA; Rev. Sandra L. Strauss, Director of Public Advocacy, Pennsylvania Council of Churches, Harrisburg, PA; Rabbi Gail Glicksman, Dean of Students, Reconstructionist Rabbinical College, Wyncote, PA.

Rev. Christopher H. Bender, Pastor, Dormition of the Theotokos Greek Orthodox Church, Aliquippa, PA; Father Jack O'Malley, Labor Religion Coalition of Western PA; Rev. John Zehring, Kingston Congregational Church, Kingston, RI; Rev. Peter E. Lanzillotta, Ph.D., Minister, The Unitarian Church in Charleston, Charleston, SC; Bishop Craig B. Anderson (VIII South Dakota)—Retired, SD; Rev. Rebekah Jordan, Executive Director, Mid-South Interfaith Network for Economic Justice, Memphis, TN; Dr. Nabil Bayakly, Muslims in Memphis, Memphis, TN; Rev. Janet Wolf, United Methodist Clergy, Hobson United Methodist Church, Chair, Division of Church Vocations, American Baptist College, Nashville, TN; The Reverend Jeff St. Clair, Pastor, New Hope Lutheran Church, EI Paso, TX.

Rev. Tom VandeStadt, Pastor, Congregational Church of Austin United Church of Christ, TX; Linda Hilton, Director, Coalition of Religious Communities, Salt Lake City, UT; Kay Miller, Salt Lake City Police Dept Chaplain, All Saints Episcopal Church, Salt Lake City; The Rt. Rev. Neff Powell, Bishop, Episcopal Diocese of Southwestern Virginia, Roanoke, VA; Rev. C. Douglas Smith, Executive Director, Virginia Interfaith Center for Public Policy, Richmond, VA; Francis X. Doyle, (retired) Associate General Secretary, U.S. Conference of Catholic Bishops, Ashburn, VA; Rev. Paul Benz, Director, Lutheran Public Policy Office of Washington State Don Kelly, Co-chair, UU Voices for Justice, Seattle, WA.

Fr. James E. Hug, S.J, President, Center of Concern, Washington, DC; Rev. Marvin M. Silver, United Church of Christ Justice & Witness Ministries, Washington, DC; Rev. Dr. Ken Brooker Langston, Director, Disciples Justice Action Network, Coordinator, Disciples Center for Public Witness, Washington, DC; Mr. Curtis Ramsey-Lucas, National Coordinator of Public and Social Advocacy, National Ministries, American Baptist Churches USA, Washington, DC; Rev. Elenora Giddings Ivory, Director, Washington Office, Presbyterian Church (USA), Washington, DC; Rev. Romal J. Tune, CEO,

Clergy Strategic Alliances, LLC, Washington, DC; Alexia Kelley, Executive Director, Catholics in Alliance for the Common Good, Washington DC; Rev. Ernest S. Lyght, Bishop, West Virginia Conf., United Methodist Church, Charleston, WV; Rev. Lori Fell, Morgantown, WV; Scott Anderson, Executive Director, Wisconsin Council of Churches, Sun Prairie, WI; Rev. Robert Chapman, Pastor, Mount of Olives Lutheran Church, Rock Springs, WY.

For a complete list of signatories in formation, please visit http://www.letjusticeroll.org/pdfs/20070105NationalMinWageletter.pdf

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I am a member of NETWORK, A Catholic Social Justice Lobby, and I support S. 2, the Fair Minimum Wage Act of 2007—to increase to the minimum wage from $5.15 to 7.25. Long overdue, this bill provides a first step towards a dignified life for low-wage workers in poverty. I urge you to support a ''clean'' bill to raise the federal minimum wage—one that does not attempt to add provisions of any kind and instead allows it to pass as a stand-alone issue.

Catholic Social Teaching reminds us that all persons are created by God, which is the basis for their dignity. In justice and to live with dignity, each human person working full time should be compensated enough to support him/herself and a family. It has been almost ten years since Congress voted to increase the minimum wage. Currently, a minimum wage employee who works 40 hours a week, 52 weeks in a year makes $10,700 for that year. For a single parent with two children, that amount is thousands of dollars below the poverty line. This is unconscionable. Workers who provide security, clean hotels, wash dishes and haul supplies should not have to rely on charity or government assistance to get by. The proposed minimum wage increase to $7.25 an hour (from $5.15/hr.) would give an additional $4,368 per year to a full-time worker making minimum wage. This would bring them a step closer to obtaining a livable wage which would provide for a family's basic needs: food, shelter, health care, clothing, education and recreation.

The minimum wage should be increased without any extra provisions or tax breaks in order avoid establishing such a precedent. Since the last minimum wage increase, congress has passed no fewer than five tax relief packages which have provided small businesses with up to $36 billion in tax breaks. While congress has had no problem providing tax breaks for small businesses without considering raising the minimum wage, it seems impossible for some that the minimum wage be raised without a tax break for small businesses. Given the urgency of the minimum wage increase it is best to avoid linking it to other issues and pass it as a stand-alone ''clean'' bill.

The American people have spoken out on the urgency of this bill. With strong victories in all six minimum wage ballot initiatives this election, voters have shown concern for hardworking people in poverty. People who work full-time should earn enough to support themselves and their families. Consequently, I call on you to act justly, and challenge your other members to do the same. I urge you to quickly pass the minimum wage bill with no extra add-on provisions as it comes up this January.

Mr. KENNEDY. They mention Matthew's great teachings. The questioner says: When did I fail to treat you well? And the Lord says: When you failed to treat the least of these among us.

We are talking about a minimum wage, not an optimum wage. As the charts show, it has declined dramatically over a period of years, now at $5.15, far away from what it was in the 1960s and 1970s, right through the 1980s. We believe that in this country, with the strongest economy in the world, people who work hard 40 hours a week, 52 weeks of the year, should not have to live in poverty. An increase in the minimum wage is long overdue. Hopefully, we will have an opportunity in this body to express our views on this in the near future.

If there are no further speakers, I suggest that we recess, according to the leadership's earlier request.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2:15 p.m.

Thereupon, at 12:25 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

FAIR MINIMUM WAGE ACT OF 2007—Continued

AMENDMENT NO. 103

The PRESIDING OFFICER. Under the previous order, there are now 30 minutes equally divided on amendment No. 103, as modified. Who yields time?

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. ENZI. Mr. President, I rise today in support of the amendment offered by Senator SNOWE, Senator LANDRIEU, and others, to provide regulatory assistance to our Nation's small businesses.

This amendment requires that when Federal agencies issue new rules and regulations that impact small business, they also must issue compliance guides for small businesses. The amendment also requires that the compliance guides be written in plain English and made available in a timely manner.

I think this is a commonsense requirement. It not only reduces the administrative costs for small business, but it also increases the level of compliance with such new rules and regulations. I think the work opportunity tax credit is an example. That isn't a program that a lot of small businesses have taken advantage of. Part of it is because they don't know about it, and part is they don't know how to comply with it. They don't have the opportunity to hire the specialists that might be needed to understand it or to do the recordkeeping on it. So they don't take advantage of it to the level they could. It is a provision in the tax bill that could make quite a difference to small employers.

Many small employers simply lack the resources, the outside consultants, the experts necessary to continually advise them of changes in Federal rules that impact the way they must run their business. As it now stands, smaller businesses currently pay disproportionate per employee compliance costs when compared to larger employers. The average per employee cost for Federal regulatory compliance in a business with less than 20 employees is 45 percent higher than the same cost for a business with 500 or more employees. So it is about $7,600 for a small business to comply versus $5,200 for a big business to comply. Those numbers stagger me—the cost for small business to comply with Federal rules and regulations. That doesn't count the cost of complying with the Tax Code, which is a whole other range of costs.

Cost mandates, such as a minimum wage increase, impose significant financial burdens on our small employers. We must do everything we can to help alleviate this burden and ensure that small businesses remain the well-run engine of our economy, and providing the kind of compliance assistance called for in Senator SNOWE's amendment is one of the ways we can assist small businesses in meeting the administrative costs associated with Federal regulation.

I commend Senator SNOWE for her efforts on behalf of small businesses and am proud to be a cosponsor of this legislation with her. She has put in diligent efforts to hold hearings and get this into place in the committee that she chaired, the Small Business Committee, on which she is now the ranking member.

I urge my colleagues to support this amendment that not only provides assistance that reduces employer costs but also assistance that increases employer compliance. That is two goals. This amendment will do both of those. I ask for your support.

I yield the floor and suggest the absence of a quorum, and I ask unanimous consent that the time be equally divided between the sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. 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. Mr. President, we still anticipate a vote at 2:45 p.m. As I mentioned, we are going to urge the Senate to accept the amendment offered by Senator SNOWE. I think it is an important contribution to small businesses and their understanding of the kinds of rules and regulations that have been out there and do it in ways that are understandable and in a timely way and to ensure that the relevant committee is going to find out how that is being implemented. We are certainly in strong support of that concept and idea. I commend those who have been involved in it.

We are going to vote at 2:45. We have amendments that are related to the Finance Committee. I talked with Senator BAUCUS during the noon hour. His staff is working on some that have been offered by Senator SESSIONS, and we are in the process of trying to work with the Senator to see what progress can be made, and the Finance Committee staff, as well as Senator BAUCUS, is attentive to those issues.

Senator ROBERTS has an amendment dealing with childcare and small business. It was a subject matter he talked about during our hearing in the Health, Education, Labor, and Pensions Committee. He will come over to the floor now and address the Senate about that issue. We have been trying to work with him. We think most of us have been strong supporters in terms of childcare. Senator DODD has been a real leader with Senator HATCH in the past with the block grant childcare program.

We have a childcare program that is also tied in with the Social Security program, and we have a very effective childcare program in the military which receives awards. It is very close, actually, to the bill that was initially introduced by Senator DODD a number of years ago.

We will have a chance to consider those amendments in a short period of time. I will take a few minutes now to review for the Senate what will be the first vote tomorrow, and that will be on what we call the line-item veto amendment.

We had an excellent debate and discussion on that amendment yesterday. I refer any of those interested to read the RECORD, the excellent comments that were made on this issue by the chairman of the Appropriations Committee, Senator BYRD, and also the chairman of the Budget Committee, Senator CONRAD, enormously, I think, comprehensive comments on it. I urge they read the comments of Senator GREGG as well, who is the proponent of the amendment.

Senator CONRAD and Senator BYRD made excellent presentations. We will be considering that early tomorrow. I hope those who are interested in the amendment will take a few moments and look back at the RECORD. It is a very complete record on that issue. I stand with Senator CONRAD and Senator BYRD, for the reasons they have outlined, in opposition to the Gregg amendment.

Next we will have a chance to vote on what we call a clean increase in the minimum wage. That means a vote on the increase in the minimum wage over a 2-year period to rise from $5.15 to $7.25 an hour.

I strongly urge our colleagues to vote for what we call a clean bill on the minimum wage. I do so for a number of reasons.

First, this is the area of need. It is among workers who haven't gotten a raise in the last 10 years. For 10 years, the longest time since we had a minimum wage increase, they have lost effectively 20 percent of their purchasing power, and they are working in tough and difficult jobs. These are men and women of great pride and dignity. They do hard, difficult, trying work, and they do it to the best of their ability. They deserve to have a raise.

I don't think any of us in this country thought the minimum wage would be a permanent wage for millions of Americans, and yet, nonetheless, if one looks at the figures, effectively 40 percent of those earning the minimum wage were earning the minimum wage 4 years ago. That they have been able to make ends meet over this amount of time is extraordinary, particularly when they have members of their family to look after.

This country has said if one works hard 40 hours a week, 52 weeks of the year, one shouldn't have to live in poverty in the richest nation in the world. That is an issue of fairness. It is a moral issue.

As we demonstrated earlier, the Members of the great face of this country have all spoken about the morality of this issue. It is part of our Constitution that talks about the general welfare, how are we going to treat each other. It is as old as the Mayflower Compact. In my State of Massachusetts, before landing, the Pilgrims gathered together near Provincetown. Most people think they landed at Plymouth Rock, but they landed at Provincetown, MA. Before they landed—they had been at sea for close to 100 days, and many had died and many suffered from disease—they got together and talked about their Compact, their willingness to work together for a common purpose and common respect for their fellow human beings. That was going to be the essence of their whole life experiment in the United States.

It is reflected in the actions that have been taken in this body with the minimum wage. On only one occasion in the last nine occasions when we raised the minimum wage have we added a tax provision.

Again, the minimum wage has lost 20 percent of all of its purchasing power. It was a good deal higher in the sixties, seventies, and eighties. It has dropped and dropped significantly over time and has lost that purchasing power.

Secondly, only once in 1996 did we pair a minimum wage increase with tax cuts. Previous increases had strong bipartisan support, despite the lack of tax cuts. In 1989, the minimum wage was raised with no tax cuts and passed by a margin of 89 to 8. In 1977, with no giveaways, an increase passed 63 to 24. We have seen what has happened. Only one time—it didn't happen in 1938, 1949, 1955, 1961, 1966, 1974, 1977, 1989—only in 1996. And look in the last 10 years what has happened in terms of the reduction of taxes for corporations and for small businesses. In corporations, it is $276 billion in tax breaks; small businesses, $36 billion; and no raise for minimum wage workers.

We didn't hesitate. We were around here to provide tax benefits to small businesses and large corporations. Where were the voices to say let's give the minimum wage workers a little boost?

Now, all of a sudden, we are trying to get minimum wage workers a little boost, and everybody is running around to get an increase in tax provisions. Fair is fair, Mr. President; fair is fair.

We have seen what has happened in productivity. Over the last 10 years—here are the statistics from the Bureau of Labor Statistics—profits are up 45 percent, productivity is up 29 percent, and the minimum wage is down 20 percent. These minimum wage workers haven't even had the opportunity to get an increase in their salaries in spite of the fact that we have seen a real increase in productivity. Historically, when we saw an increase in productivity, that was reflected in an increase in the minimum wage. That was all true in the 1960s, 1970s, up to the 1980s. As productivity increased, so did the minimum wage increase over a considerable period of time, but not in the last few years.

As I have pointed out, a recent Gallup Poll found that 86 percent of small business owners do not think the minimum wage affects their businesses. Three out of four small businesses said an increase in the minimum wage would have no effect on their company. Many small businesses are already paying higher wages to recruit and retain quality workers. A higher minimum wage actually benefits them because it levels the playing field and allows them to compete with the bigger business.

What we have found over time, when we provide a decent wage to workers—and this is demonstrated; I mentioned it here, I spelled it out in some greater degree on yesterday—what we find is we get workers who are loyal to the business. We find there is less of a turnover when there was an increase in the minimum wage to a living wage.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Our time has expired. That is interesting. Have we reserved the last 5 minutes for debate on the Snowe amendment?

The PRESIDING OFFICER. That was not the unanimous consent agreement. There is 30 minutes equally divided.

Mr. KENNEDY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. The Senator has 6½ minutes remaining.

Mr. ENZI. I thank the Chair.

I appreciate the comments of the Senator from Massachusetts and the diligence with which he has worked on this issue and the number of times we have debated it. I appreciate the majority leader making it possible for us to consider amendments on this bill. I understand how some people would like

to have this as a clean amendment, that we just do the increase. The debate the last three times we have done it has been about whether we can have some provisions for small businesses to offset the impact of the raise in the minimum wage.

I want to bring a more personal face to this small business. We confuse that sometimes even with General Motors and some of the airlines. Those are big corporations. In fact, the ones I am particularly concerned about are the ones with 50 employees or less, and even more concerned about the ones that only have 2 or 3 employees. The impact and their ability to adjust is much more limited. We are talking about the inventors in their garages who have an idea and who will employ another person to help put their product together and market it. We are talking about the corner grocery store. We are talking about the laundry. We are talking about the little shoe store, the independent one.

These are families that are eking out a living. These are not families that are getting rich. These are families that took on a lot of risk for the American dream. They are hoping that with all of the loans they put in place to be able to do this business that they always dreamed of doing, they might make a return on their investment and enough to keep their family going. But there is no guarantee.

These are the people who—and I know; I used to be a small businessman. I used to own shoe stores. One of my definitions of a small businessman is the guy who wakes up, sits up straight in bed in the middle of the night and says: Tomorrow is payday; how do I meet payroll? And they figure out a way because the employees get paid first.

These are people worrying about how to stay in business, how to make a living, and taking on a whole lot of risk to make sure other people have jobs.

We have to remember that the small businessman will be forced to come up with additional funds to pay his or her workers on what we are mandating today. Those funds don't come from a money tree or some pot of gold at the end of the rainbow. They come out of the pockets of the Nation's small businessmen. It is the penalty they pay for taking the risk associated with running a small business.

I have about 3 minutes. I yield the remainder of the time to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 3 minutes.

Ms. SNOWE. Mr. President, I thank the Senator from Wyoming for his leadership on this amendment that is so important to the small business sector of our economy. I also thank Chairman KENNEDY as well for bringing this legislation to the floor.

I rise today in support of the pending modified amendment we will be voting on shortly that has been offered by the Senator from Wyoming, Mr. ENZI, the Senator from Louisiana, Ms. LANDRIEU, as well by the Senator from Massachusetts, Mr. KENNEDY, to enhance compliance assistance for small businesses. I truly appreciate all those joining me in this effort.

I ask unanimous consent to add Senators KERRY, BOND, SUNUNU, and ROBERTS as cosponsors to this amendment.

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

Ms. SNOWE. Mr. President, I want to say to Members of the Senate, this amendment would significantly help to reduce the regulatory burden imposed on small businesses throughout this country. The amendment is designed to clarify an existing Federal law that the Senate unanimously passed back in 1996. The Government Accountability Office has suggested that we needed to have further clarification to the existing law because many Federal agencies are circumventing the law. These agencies are using loopholes to ignore requirements under the law that the agencies publish small business compliance guides so that small businesses know how to comply with complex Federal regulations. The agencies have used ambiguity in the law as a rationale for not assisting small businesses.

This amendment would clarify existing Federal rules and regulations, by requiring that Federal agencies produce compliance assistance materials to help small businesses satisfy their regulatory obligations. Because the GAO has found widespread and pervasive disregard of this law by agencies, we felt it was very important to clarify the law so that small business not only gets the assistance it requires but also can meet the regulatory requirements promulgated by the Federal government. As we well know, small businesses face a disproportionate burden of the impact of regulations in rules issued by Federal agencies. In fact, employers with 20 or fewer employees face 44.8 percent more of a regulatory burden than companies with 500 or more employees, in terms of compliance costs per employee.

So you can see that for our Nation's small businesses, we clearly need to do better so they can continue to drive our economy, by creating three-quarters of all the net new jobs each year. This amendment will go a long way toward easing the impact of the cost of small business regulatory compliance and making sure the agencies comply with requirements under existing law to provide the support small businesses rightly deserve.

Mr. President, I yield the floor.

The PRESIDING OFFICER. All time has expired.

Mr. KENNEDY. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 20 Leg.]

YEAS—99

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

NOT VOTING—1

Johnson

The amendment (No. 103), as modified, was agreed to.

Mrs. LINCOLN. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

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

Mr. KENNEDY. Madam President, the Senator from Kansas has an amendment. He has brought it up during the course of meetings of our Health, Education, Labor, and Pensions Committee, and he has been advocating for it for some period of time. He wishes to address the Senate at this time, if we could have order so that the Senator could be heard.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

AMENDMENT NO. 102

Mr. ROBERTS. Madam President, I rise today to offer amendment No. 102.

As we debate the issue of minimum wage, we can't forget the impact on the employers who hire these minimum wage workers. Small businesses pay 45 percent of the payroll in the United States, and they have created 60 to 80 percent of new jobs over the last decade. In my home State of Kansas, small businesses actually employ the brunt of hard-working families. I often hear from these employers who agree with their workers that they deserve a fair wage for a fair day's work, but they

admit, however, that they struggle to offer the basic benefits to their employees such as childcare. With a mandated increase in the minimum wage, that struggle will only grow. So affordable childcare oftentimes becomes a factor in keeping a job for many Americans in small communities such as Dodge City, my hometown, and other very similar communities. Childcare facilities are very scarce, limiting the possibilities for families to earn——

Mr. KENNEDY. Madam President, if the Senator will yield, maybe we could have order. We are making good progress on this legislation. This is an important amendment. The Senator has spent a good deal of time, and we welcome the opportunity to hear him on it. We would ask our colleagues and friends if they would be good enough to take their conversations to another part of the Senate so we can hear the Senator.

The PRESIDING OFFICER. Senators, please remove your conversations out of the well.

The Senator from Kansas is recognized.

Mr. ROBERTS. I thank the Senator from Massachusetts and I thank the Presiding Officer and I thank my colleagues to my right who, hopefully, will take their conversation from the floor of the Senate.

Unfortunately, small businesses generally do not have the resources required to start up and support a childcare center like happens in many areas in urban America and big cities.

When I came to the Senate in 1997, one of the first bills I introduced was the Small Business Child Care Act, which authorized a short-term flexible grant as a program to encourage small businesses to work together or with other local childcare agencies to provide childcare services for their employees. This amendment includes the bipartisan language of the Small Business Child Care Act that was passed out of the HELP Committee in August of 2005 as part of the larger childcare and development block grant.

Under the amendment, small businesses are eligible for grants up to $500,000 for startup costs and training and scholarships and other related activities, with priority given to grantees who work with other small businesses or local childcare organizations. These grants all have a matching requirement which encourages self-sustaining facilities that will go on well after the program ends.

In many small Kansas towns, childcare facilities can be very scarce, as I have said before. This amendment would alleviate the strain on working families who often have to close the door on the opportunity to be a double-income family because of the lack of childcare options in their communities.

When I first ran for the House back in 1980, I was going door to door in Dodge City. I was in south Dodge and I knocked on a door and a young lady came to the door and two children were immediately right there with her. I handed her a brochure, and I said: I am running for Congress. What can I do for you? Is there anything I can do for you as a candidate?

She looked at me with the two kids behind her—she was obviously a single mother—and she said: Mr. ROBERTS, it's your world, I'm just living in it.

That made a big impression on me.

I said: What do you need more than anything else?

She said: If there could be a possibility that there could be any childcare for these two children, I could go to work. I could go back to work.

But that was not the case at that particular time. Then I promised myself that we would try our very best so that in a small community with a bank, the implement dealer, and, say, a restaurant, they could come together, and with these kinds of grants offer affordable childcare.

So I am very hopeful we can get this amendment passed. It is a small change that will make a big difference in the lives of many employees and employers who see a need for childcare in their communities. I hope my colleagues will join me in supporting this amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I rise to thank the Senator from Kansas for offering this amendment. Back about 20 years ago, the Senator from Utah and I, along with Senator KENNEDY and others, authored the first childcare development block grant ever to be proposed by the Congress. We had hoped in those days that we would be able to expand the availability, affordability, and quality of childcare to millions of Americans and their children who are lacking those resources.

Over the years, we have provided some good assistance. I am grateful to my colleagues over the years who have been supportive.

We have gone stale on the commitment over the last 5 or 6 years. The funding has not gone up at all and demand continues to grow. We have done a fairly good job in serving some of the working poor. We must do better, however. We have not done a good job, in my view, on the most critical issue most parents and others care about, and that is the quality of childcare. This amendment gets to the quality of child care by providing small businesses the opportunity to use the grant for facilities and to create partnerships with local organizations such as health departments.

What is happening with our colleague's amendment is that it is trying to expand opportunities for families, and I am grateful to him for proposing it. Everyday I hear about the communities in which the demand for child care for exceeds the supply. This amendment would increase the supply and allow more parents to go to work knowing that their children are safe.

I am supporting it. I think it is worthwhile, and it will help make a difference of expanding quality and access.

It is good for everyone involved. A lot of times we offer legislation with winners and losers. Here, everybody wins. From a business standpoint, they are retaining good employees, allowing parents' minds to be focused on their jobs. In no small measure, this depends on how you feel, where your children are, who is caring for them, and what the conditions are. In terms of productivity and retention, all the elements businesses desire for employees, childcare is a major component. For the parents, obviously, not to be worried or concerned about the quality of the care their children receive and whether they can afford it is a major issue. I am preaching to the choir for those who understand what I am talking about. Obviously, from the child's perspective, it's essential to be able to have that good, nurturing environment. There is not a guarantee they will get it in every case, but it is more likely if this amendment passes.

The difficult area is with smaller businesses. Many larger corporations have installed childcare facilities onsite. In fact, in some cases they have offered less in salaries and wages in exchange for providing better childcare; I am not saying that is great, but people are so hungry to have a good, safe, childcare environment, they will opt for lesser wage or salary in exchange for the assurance their children are in a safe place. Smaller businesses cannot do that. Some of them are at shopping malls, and they develop consortiums and set aside space. There are a lot of creative ideas. But it is the hardest thing in the world for smaller business to provide child care. It is not that they do not recognize the need for it. They understand the value of it. This amendment, from a child's perspective, from a parent's perspective, and from a business perspective is a win for all. I commend my colleague. We have talked of this in the past and agreed on its importance. I thank Senator ENZI.

While I am here, I would like to talk about the underlying bill, to raise the minimum wage. Exactly because of what the Senator from Kansas has offered, it is important to know that his amendment is a related matter when it comes to children. The increase in the minimum wage has a huge impact on children.

So I am taking advantage of a couple of minutes on his amendment to highlight this point. In the last 5 years, we have watched child poverty in this country increase by 1.3 million children. This figure is from the U.S. Census Bureau, not a private think tank making this up. Nearly 12.9 million children in this country live in poverty.

Obviously, that is a matter of great concern, I hope to all of us. What is bothersome to me and should be to every single one of us—I don't care what your politics are or your political persuasion—the fact that the United

States of America, at the outset of the 21st century, has one of the highest rate of child poverty among all the industrialized nations. That is something that ought to concern each and every one of us, not just because of what a shameful statistic that is. As we look to the 21st century, watching our country grow, meeting the challenges in front of us, we have to do a better job if we are going to have a well-prepared generation to meet the challenges.

Aside from providing decent child care, we know by increasing the earning capacity of parents we make a difference. In fact, nearly 6 million children will benefit from a minimum wage increase.

Children whose parents are economically secure—and this increase is not going to guarantee security, but it moves a family closer to it—have better attendance in school and have a higher concentration on the work they are asked to do. Performance levels go up, test scores go up, and graduation rates increase when a family's economic circumstances are far more stable. In addition, children have stronger immune systems, better health, fewer expensive hospital visits and fewer runins with the juvenile justice system. Those are facts when you have a family doing better economically. For the families who have the greatest economic stability at home, these statistics improve in almost every category.

Because of what the Senator from Kansas has offered, focusing on childcare, combined with what the Senator from Massachusetts, Senator KENNEDY, is leading today on the minimum wage, we can make a difference for these children. That is the point I wanted to make to my colleagues.

I commend them both. It is long overdue. My hope is that the amendment from my friend from Kansas will be a forerunner this year for increasing our commitments to child care. My colleague from Maine, Senator SNOWE, has been terrific on this issue over the years. Senator HATCH was my principal cosponsor on this many years ago. It was courageous of him then. A lot of people did not realize the value of it. I am remiss not mentioning those who played a significant role. And let me add my colleague, Senator ROBERTS, for his leadership on this issue. I thank him immensely. I thank Senator KENNEDY for his leadership on minimum wage. We can make a difference for children with both of these proposals.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I thank my friend and colleague for his excellent presentation. He has been the leader of the children's caucus and a leader on this issue of childcare.

We have 14,000 family members now waiting, parents who are waiting for childcare slots in my State of Massachusetts.

I have listened to the Senator give the statistics nationwide. This is all related to work. It is obviously related to lower income because those at the lower income levels have less opportunity as far as affordability.

I can remember when the Senator first offered the childcare legislation. I remember the debates we had about limiting the childcare legislation. We debated for about 10 days or so while it was constantly adjusted, altered, and changed. Eventually, it passed. The childcare block grant has done an enormous amount of good.

The Senator has been very much involved in the other childcare programs that have come out through the CDBG and the other Social Security programs. There is a third childcare program, the one in the military. If you read back in the history books, that particular program passed by over 90 votes. This, effectively, was the legislation the Senator from Connecticut introduced. Today, when we have comparisons about which childcare programs work the best, everyone points to the military. The Senator from Connecticut can give the reasons for it.

The point is, this is a matter of enormous importance to working families, with the whole change in the workforce, the increasing number of women in the workforce, the increasing number of women with children, the increasing demands upon those women, in particular, but not exclusively.

We appreciate the fact that the Senator from Kansas would give focus and attention to this issue. We wish to work with the Senator. We can do part of the job in terms of the authorization. We are going to rely on him to help get limited resources to make sure we bring life to this program. I thank the Senator for his statements and comments.

We look forward to hearing from my friend and colleague from Wyoming, hopefully, urging acceptance of the amendment.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I echo what the Senator from Massachusetts said, that this does provide for authorization. There is room for that to be included, and we can help look for the resources to do something on that.

I commend both Senator ROBERTS and Senator DODD for their tenaciousness and their active work to be able to bring this to the Senate at this point in time. I note that Senator ROBERTS has been working on this for about 10 years. Six years is the average for a bill around here. That should qualify.

I ask we make this part of that package.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Madam President, I say to the Senator from Connecticut, I thank him very much for his comments. He has been absolutely tenacious, as described by the Senator from Wyoming.

I can remember, it was about, what, 5, 6, 7 years ago, that we all were over, on a cold day, at the childcare center that is offered for employees on Capitol Hill over by the Hart building. We had a press conference. Senator KENNEDY was there, I was there, Senator DODD was there, I think Senator JEFFORDS was there at that time. That was 4 or 5 years ago.

So we should be moving on these things. I pledge my support to see what we can do down the road.

I rise to call up Senate amendment 102.

The PRESIDING OFFICER. Without objection the pending amendments are set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. ROBERTS] proposes an amendment numbered 102.

Mr. ROBERTS. Madam President, I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To establish a small business child care grant program)

At the appropriate place, insert the following:

SEC. ___. 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.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 102) was agreed to.

Mr. KENNEDY. Madam President, I see the Senator from Alabama looking for recognition. He has filed some amendments. Hopefully, I will have an opportunity to discuss some of those.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I thank Senator KENNEDY and Senator ENZI for their courtesy as we discuss some of the issues I have raised by my amendments.

What is the pending business?

The PRESIDING OFFICER. The pending question is amendment 118 offered by Senator KYL.

AMENDMENT NO. 106, AS MODIFIED

Mr. SESSIONS. I call for the regular order with respect to Senate amendment 106 and send a modification to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment will be so modified.

The amendment (No. 106), as modified, is as follows:

At the appropriate place, insert the following:

SEC. ___. 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.

Mr. SESSIONS. Madam President, it is important as we think about low- and middle-income, middle-class workers in America today, to think about how they are getting along and whether they are saving adequately. Savings is a part of any person's financial security. It makes a difference between how a person thinks about his life, how he or she thinks about her job, and how they can live in the latter years. Most Americans today depend upon Social Security to finance their retirement as Social Security provides 73 percent of the retirement income of the typical household. That is not enough money for the average American to live on adequately. The truth is, they can have so much more so easily. I would like to talk about that today.

To live the comfortable life that Americans deserve after 40-plus years of work, most need to supplement their Social Security income with additional savings, either through an employer-sponsored plan or their own savings plan. Yet despite this need, most Americans are not putting aside money for their future.

Statistic after statistic tragically shows this. The personal savings rate in the United States, as this chart demonstrates, is at its lowest ebb since the Great Depression. It is a matter of national importance, as the Chairman of the Reserve Board and others have discussed.

Look at this chart. It shows, since 1946, our savings rate has fallen steadily; in 2006, it is below zero. We are spending our savings now more than we are saving. It is a very troubling matter. We have to do something about it.

After having averaged better than 7 percent throughout most of the post-World War II period, the personal savings rate dipped into negative territory by 2005 for the first time since 1933. This trend continued last year as the personal savings rate remained in negative territory for the first three quarters of 2006, with the fourth quarter numbers not yet reported.

These statistics indicate that the average American household has been spending more during the last 2 years by either drawing down past savings or selling assets or borrowing.

An alarming number of Americans also lack any financial resources beyond personal income. According to a Federal Reserve 2004 survey of consumer finances, 17 percent of all households have zero or a negative net worth, while 30 percent have a net worth of less than $10,000. This is especially a problem for African-American households, as they are more than twice as likely to have zero or a negative net worth.

Perhaps most troubling, as this next chart demonstrates, almost half of the 152 million Americans who worked in 2004, 71.5 million employees, worked for an employer that did not sponsor a retirement plan of any kind. Another 17 million did not participate in the plan their employer offered. That means over 58 percent of working Americans in 2004 were not participating in an employer-sponsored retirement plan.

Higher income people take care of their plans, but the average working American tends to focus his savings through his business and employer. In particular, younger workers are much less likely to participate in their employer's 401(k) plan, as only about one-third of workers age 21 to 30 participate in any retirement plan at work. Even if a worker is participating in an employer-sponsored retirement plan, he or she is unlikely to be saving sufficiently for the future.

The average American worker holds nine jobs by the time they are 35, meaning that he or she often leaves the job before their retirement benefits become vested. In fact, frequently they cash it out. I had the opportunity to be on an airplane recently with a young man, 37, with two kids. He is beginning to work for the Federal Government. He is going to be saving through the thrift plan. I asked him what he had done before about savings. I told him the average person had nine jobs. He said: I had nine jobs. And when asked about savings, he said: I cashed in my plans. I just had a few hundred dollars in this one and a few hundred in that one. It didn't make sense to hold on to them. I cashed them in and paid my penalties. So at 35 with two kids, he has missed those first 10 or 15 or 20 years of work that he could have been saving and having the power of compound interest at work. About 45 percent of the participants in employer-sponsored retirement plans cashed out when they changed jobs in 2004. A lot of plans don't offer savings until you have worked with the company 6 months or a year; some, 2 years.

As this next chart shows, if we considered business and Government savings, we find that the United States has the lowest national savings rate of any of the group of 20 industrial nations. Whereas Japan's savings rate was 10.8 percent in 2003, Germany's was 5.4 percent, and India's was 15.4 percent, the United States had a net national savings rate of 1.6 percent in 2003. This is a World Bank chart. We can see we have the lowest rate on the chart. That is significant, not only for individuals, most importantly for individual working Americans, but also for our economy because economists tell us that this is a major detriment to our economy. In fact, all but two of the nations listed on the chart I just showed have a net national savings rate of more than twice that of the United States, if not more than 10 times our savings rate.

The lack of personal savings is a particular problem in my State of Alabama. An A.G. Edwards study rated Alabama the Nation's 46th lowest savings State. This lack of personal savings is a national tragedy, as few Americans are putting money aside to ensure their financial security upon retirement, during a time where we have growth and relative prosperity in our Nation. I will repeat that. Think about the tragedy that is occurring when people are not setting aside even a small percentage of their salary, when if they do, they could retire with hundreds of thousands of dollars in a savings account at age 65. This is very realistic. It is very possible. I will talk about it a little bit more in a minute. But as anybody knows who has studied the compound interest factor, the earlier you save, the more important it is. So it is a special tragedy when we see this lack of savings. For example, according to an analysis by Fidelity Investments, if one is 25 years old and has 40 years until retirement, every additional dollar a person saves would be worth $8.14 at retirement, adjusted for inflation. So a dollar saved, if you are 25, is worth $8.14 at retirement.

Increasing savings also allows Americans to achieve greater control and choice over their lives. According to the Center for Social Development, the presence of savings is even associated with improved health and psychological well-being.

The benefits of increasing our Nation's personal savings rate go beyond the financial security of individual families. By increasing household savings, we will be providing the investment capital our Nation needs to ensure long-term economic growth and create more and better jobs. Increasing savings will allow the United States to depend less on foreign capital. America's current account deficit, the amount of domestic investment financed by borrowing from abroad, hit a record high of over 6 percent of GDP in 2005. Foreign capital can sustain our economy in the short run, but I don't know if we can depend on that in the long run. Moreover, we, as a country, benefit from the interest and dividends our assets generate when we own them.

So what can we do to increase personal savings for retirement? I will soon be introducing a bill to help solve our savings problem by creating a national savings system that would give every American the opportunity to retire a half-millionaire. Not a chicken in every pot, not a car in every garage, we desire that every American be able to retire with half a million dollars in the bank. That is possible, realistic, so easily within our grasp if we set forth the right plans today.

Under the plan I will be introducing, individual savings accounts, or PLUS Accounts—for Portable, Lifelong, Universal Savings accounts—would be created for every working American. One percent of every paycheck earned would be deposited automatically, pretax, into individual PLUS Accounts, along with a 1-percent match from every employer, and invested in a new system like our Federal thrift system, a new 401(k)-type system. Under this plan, a savings account would be established for every American at birth, endowing these accounts with $1,000.

This is a proposal which the British are already doing. The UK has a plan similar to this plan. They are very excited about how well it is working. Savings among families in Britain has gone up 40 percent since they started this plan. It has educated people to the power of savings and compound interest.

Senators, such as Mr. SCHUMER, Mr. Santorum, and others, have previously offered legislation of this kind.

So these funds contributed to PLUS Accounts would be the legal property of each account holder, but they could not be spent until age 65. Any funds remaining when an individual died would be passed on as they chose to their spouse, children, grandchildren, or any one of the holder's choosing, including a favorite charity. Account assets would be protected from creditors and would not be considered in determining eligibility for any federally funded benefits or in calculating estate tax liability.

Finally, my plan would simply serve as a supplement to Social Security, not altering the Social Security system in any way. I supported the President's idea of changes in Social Security. I thought it made sense. We did not have the votes to do that in this Congress. So I say, let's do it on top of Social Security.

I believe this can work. If we begin PLUS Accounts at birth and require a portion of every paycheck to be invested, the first check you get, the first job you go to work at, the average American citizen could retire with a rather sizable nest egg. For example, given a reasonable rate of return, someone who makes $46,000 a year—the median household income in 2005—and only contributes 1 percent of each paycheck would retire with almost $300,000 in the bank. Think about that. You put in 1 percent, your employer puts in 1 percent. You have a $1,000 deposit at birth. With no more money put in there other than what you pay out, you would retire with $300,000 in your account. What a remarkable and great country this is. At age 65, this account could be converted to an annuity that would pay the recipient $2,100 per month for life, which is probably more than they will get from Social Security. If the same individual were to contribute 3 percent, if they would just contribute 3 percent of their paycheck over the course of their working life, they could expect to retire with half a million dollars in their account—enough to purchase an annuity that pays over $3,700 per month for life, if they chose, or they could simply live off the income of it and have assets for their children or the charity they chose. This is if the company, the employer, only puts in 1 percent. But many employers today offer more than that.

I have to say, I was talking with Senator CORKER from Tennessee, a successful businessman, about this issue. He said: I believe in savings. We have a savings plan in my company that our people all sign up for.

I said: Tell me about it.

He said: We put in 10 percent, if they will put in 5 percent.

Think about that. That is what Senator CORKER does. A lot of businesses would do this. A lot of businesses would put in more. Many already are, but many businesses would step up to the plate and put in more than 1 percent. But if the employee put in 3 percent and the employer put in 1, at age 65, it would be worth half a million dollars, if you are operating at median income. That is remarkable.

Thus, I would say that if we care about working Americans, if we really want to do something historic, I believe we have an opportunity, a bipartisan opportunity to establish a savings program for Americans. That program should be modeled, in my view, although I am open to other suggestions, on the Federal thrift plan that our employees admire so much and they value so much, you couldn't take it from them with a crowbar. The Federal employees like it. They pay Social Security, and they get a thrift plan where the Government puts in 5 percent if they put in 5 percent. And they can put in more than that. Many of these young people working today who work a career in the Government are going to retire with a very sizable nest egg, something they own, an asset they have earned themselves from their work, and they will be able to retire comfortably, whereas otherwise they may be dependent on Social Security.

It is a national tragedy that we are not educating our children to save. It is a national tragedy that our savings rate has fallen below zero. I believe we can do better. I am offering this sense-of-the-Senate resolution to have the Senate think about it, to affirm its commitment to increasing savings. As we go forward in the weeks to come, we could be talking about the various proposals that are out there to actually make this happen.

I see Senator KENNEDY is off the floor. As I understand, we will set the vote on this resolution for an appropriate time.

Hopefully, we will have strong support from my colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

AMENDMENT NO. 119

Mr. BUNNING. Madam President, I call up amendment No. 119.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. BUNNING] proposes an amendment numbered 119.

Mr. BUNNING. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits)

At the appropriate place insert the following:

SEC. ___. REPEAL OF 1993 INCOME TAX INCREASE ON SOCIAL SECURITY BENEFITS.

(a) RESTORATION OF PRIOR LAW FORMULA.—Subsection (a) of section 86 (relating to social security and tier 1 railroad retirement benefits) is amended to read as follows:

''(a) IN GENERAL.—Gross income for the taxable year of any taxpayer described in subsection (b) (notwithstanding section 207 of the Social Security Act) includes social security benefits in an amount equal to the lesser of—

''(1) one-half of the social security benefits received during the taxable year, or

''(2) one-half of the excess described in subsection (b)(1).''.

(b) REPEAL OF ADJUSTED BASE AMOUNT.—Subsection (c) of section 86 is amended to read as follows:

''(c) BASE AMOUNT.—For purposes of this section, the term 'base amount' means—

''(1) except as otherwise provided in this subsection, $25,000,

''(2) $32,000 in the case of a joint return, and

''(3) zero in the case of a taxpayer who—

''(A) is married as of the close of the taxable year (within the meaning of section 7703) but does not file a joint return for such year, and

''(B) does not live apart from his spouse at all times during the taxable year.''.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 871(a)(3) is amended by striking ''85 percent'' and inserting ''50 percent''.

(2)(A) Subparagraph (A) of section 121(e)(1) of the Social Security Amendments of 1983 (Public Law 98–21) is amended—

(i) by striking ''(A) There'' and inserting ''There'';

(ii) by striking ''(i)'' immediately following ''amounts equivalent to''; and

(iii) by striking '', less (ii)'' and all that follows and inserting a period.

(B) Paragraph (1) of section 121(e) of such Act is amended by striking subparagraph (B).

(C) Paragraph (3) of section 121(e) of such Act is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(D) Paragraph (2) of section 121(e) of such Act is amended in the first sentence by striking ''paragraph (1)(A)'' and inserting ''paragraph (1)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) SUBSECTION (c)(1).—The amendment made by subsection (c)(1) shall apply to benefits paid after December 31, 2007.

(3) SUBSECTION (c)(2).—The amendments made by subsection (c)(2) shall apply to tax liabilities for taxable years beginning after December 31, 2007.

SEC. ___. MAINTENANCE OF TRANSFERS TO HOSPITAL INSURANCE TRUST FUND.

There are hereby appropriated to the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) amounts equal to the reduction in revenues to the Treasury by reason of the enactment of this Act. Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers

which would have occurred to such Trust Fund had this Act not been enacted.

Mr. BUNNING. Madam President, this is an important amendment for many of our seniors because it deals with the taxes on Social Security benefits. I have brought this issue before this Chamber before, so it should be familiar to many of my colleagues.

When the Social Security program was created, benefits were not taxed. However, in 1983, Congress changed the rules of the game by passing legislation to begin taxing up to 50 percent of a senior's Social Security benefit if their income was over $25,000 for a single individual or $32,000 for a couple.

Many seniors across the country were hit with a tax they never anticipated and were forced to send a portion of their Social Security benefits back to the IRS.

In 1993, Congress felt taxing 50 percent of benefits wasn't good enough. That year, Congress passed and President Clinton signed a bill that allows 85 percent of a senior's Social Security benefits to be taxed if their income is above $34,000 for a single and $44,000 for a couple. This was known as the ''Clinton senior citizens tax.''

The additional money this tax raises doesn't even go into helping Social Security solvency; instead, it goes into a Medicare Part A program.

I was a Member of the House of Representatives in 1993, and I opposed this tax then and I oppose this tax today, 14 years later.

Some people think this tax only affects ''rich'' seniors, but that is not the case. In fact, the income thresholds both for the 50-percent tax and the 85-percent tax haven't changed since they were first enacted back in 1983 and 1993. This means more and more seniors are paying these taxes every year.

In fact, it is estimated that of the 40 million Social Security beneficiaries, about 15 million—or 39 percent—of seniors pay taxes on their Social Security benefits. Of these, it is estimated that over 9.5 million pay taxes on up to 85 percent of their Social Security benefit.

On one hand, we tell seniors to plan and save for retirement and, on the other hand, we tax them for doing that.

In the past, there have been efforts by Members of Congress, including myself, to remove this unfair tax. During debate on the Senate 2006 budget resolution, I offered an amendment that provided Congress with the budget resources to remove this unfair tax on benefits. My amendment passed 55 to 45. Unfortunately, the tax reconciliation instructions were scaled back during conference.

Today, I am offering another amendment to finally repeal the 1993 tax on Social Security benefits. This means the 85-percent tax tier would be eliminated and the maximum amount of Social Security benefits that could be taxed would be 50 percent. Millions of seniors would be able to keep more of their Social Security benefits, and Congress gets an opportunity to end this unfair tax on seniors.

It is also important to point out that the Medicare Program is not harmed by my amendment. As I already said, this tax funds the Medicare program. Therefore, my amendment transfers to Medicare any amount it would have received due to this tax from the general fund.

This was an unfair tax on our seniors, and it is time we repeal it. I urge my colleagues to support this amendment. I thank the Chair for the time. We will look for a time later to bring up the amendment again.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. SANDERS. Madam President, I rise today in strong support of the Fair Minimum Wage Act of 2007. I commend Senator KENNEDY for his leadership on this issue. This important legislation would increase the Federal minimum wage from the abysmally low $5.15 an hour to $7.25 an hour over a 2-year period.

Let us make no mistake about it, this bill will benefit millions of workers and their families. It is very long overdue. Anyone who works 40 hours a week in the United States of America should not be living in abject poverty. It is a moral disgrace that Congress has not increased the minimum wage since 1997. Yes, Congress has provided hundreds of billions of dollars in tax breaks to people who don't need it, but somehow, over a 10-year period, Congress has not reached out to millions of workers making the minimum wage and raised that wage.

Today's minimum wage workers have less buying power than minimum wage workers did back in 1955, when Dwight Eisenhower was President. Simply put, a job should keep you out of poverty, not keep you in poverty.

At the current Federal minimum wage of $5.15 an hour, a person working full time makes less than $11,000 per year before taxes, which is approximately $6,000 below the Federal poverty line for a family of three.

Moreover, while the cost of living has skyrocketed, the value of the minimum wage has eroded by over 20 percent since the last increase. Today, nearly 13 million workers, 10 percent of the United States workforce, would directly or indirectly benefit from a raise in the minimum wage to $7.25 an hour; 5.5 million workers would benefit directly, 7.4 million workers would benefit indirectly, and more than 60 percent of those who would benefit are women.

In addition to workers, millions of American families would benefit from a raise in the minimum wage, including nearly 6 million children who would see their parents' earnings increase.

But some will argue that an increase in the minimum wage will primarily benefit teenagers. I think the evidence is quite strong that that is not the case. Further, recently, over 650 economists, including Nobel Prize winners and past presidents of the American Economics Association, released a statement calling for a raise in the minimum wage. They confirm that ''a modest increase in the minimum wage would improve the well-being of low-wage workers and would not have the adverse effects that critics have claimed. . . . The weight of the evidence suggests that modest increases in the minimum wage have very little or no effect on employment.''

Moreover, and interestingly, a recent Gallup Poll revealed that 86 percent of small business owners today do not believe that an increase in the minimum wage would hurt their business. Three-fourths of small business owners thought a 10-percent increase would have no effect on them. In fact, nearly half of those polled thought the minimum wage should be increased.

While I believe it is important to raise the minimum wage to $7.25 an hour, it is clear to me that much more needs to be done. We should see this increase—long overdue—in the minimum wage as simply a start to address the disgraceful reality that more and more of our fellow Americans are living in poverty, and it is an outrage that today in the United States of America we have, by far, the highest rate of childhood poverty in the industrialized world.

In the last 10 years, what we have seen in our country is a proliferation of millionaires and billionaires. We have seen the wealthiest people become ever wealthier. But what we have also seen, since President Bush has been in office, is that over 5 million more Americans have slipped into poverty. The rich become richer, the poor become poorer, and the middle class continues to shrink. In my view, raising the minimum wage is an important start in attempting to address the crisis of poverty in America, but it is clear to me that we have to do much more. Among many other things we have to do, we must address the reality in America today that we are losing millions of good-paying manufacturing jobs and good-paying white-collar information technology jobs because of our disastrous trade agreements.

The time is now to begin to fundamentally rethink our trade agreements so we can begin to create good-paying jobs here in the United States, so our young people will be able to make it to the middle class rather than to continue to struggle year after year in poverty.

We have to take a hard look at the National Labor Relations Act and the National Labor Relations Board, which today make it increasingly hard for workers to form unions. If workers are able to collectively negotiate a contract, very often the wages they get will be substantially higher than if they did not have a union. So in raising the minimum wage, what we are doing today is saying to millions of workers who are struggling desperately to keep

their heads above water, we understand what you are going through. We understand it is an outrage that for a 10-year period this Congress has not raised the minimum wage, and the purchasing value of the minimum wage has declined. But I hope that what we are doing this week is simply a start to address the very serious economic problems facing not only low-income Americans but the middle class as well.

I hope that this Senate, this Congress, will begin focusing its attention on the decline of the middle class, the increase of poverty, and come up with economic and fiscal policies that benefit all Americans and not just the wealthy and large multinational corporations.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. GRAHAM. Madam President, I ask unanimous consent to speak for 5 minutes as in morning business.

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

NEW STRATEGY IN IRAQ

Mr. GRAHAM. Madam President, the reason I rise to take the floor is this afternoon—I think the Presiding Officer was present in the Armed Services Committee hearing when General Petraeus testified about the new strategy in Iraq. I hope that over time more Americans will be familiar with him and his view of what we can do to go forward.

In his testimony, General Petraeus clearly indicated we have made a lot of mistakes in Iraq. We never had enough troops to secure the country, and the debaathification program basically was a mistake. Other agencies involved in nationbuilding have not done their part. Militias have grown. The biggest event in the sectarian violence was the bombing of the Shia Golden Dome Mosque, and since that event, which was al-Qaida-inspired, we have been going backward instead of forward and the sectarian violence in Baghdad has gotten worse.

But General Petraeus believes this new strategy is not more people doing the same thing. It is a fundamentally different shift in policy. I agree with him and hope the country will listen closely to what he says. I have a lot of confidence in General Petraeus. I intend to support him.

I will not vote for any resolution that declares a strategy of failure before he has a chance to implement it because if we do that, it is going to be a very bad sendoff for our troops going into battle. It will embolden the enemy and weaken the moderates we eventually have to rely on in the Mideast to help us in the war on terror.

The strategy will be similar to this: We will be increasing reinforcements on all fronts. We have had enough military people in Iraq to clear territory but never hold it. We never lost a battle with insurgents. We can clear out a town or sector of Baghdad, but once we leave, we turn it over to an immature Iraqi Army or corrupt police force.

What we are doing by having 21,500 more troops is it doubles the combat capability of American forces in Baghdad to 17,500, and that will allow some soldiers to stay behind with the Iraqis to hold territory. Hold for what purpose? To give the political leadership in Iraq a chance to reconcile their differences through the political process.

Ask General Petraeus: Do you believe Iraq is part of the overall global war on terror?

I do.

If you believe it is a Vietnam which is a lost cause and not worth fighting for and we need to get out, don't pass a resolution condemning the action. Cut off funding. If you believe it is part of the global war on terror, as I do, we need to fight to win. I think that is exactly what we are trying to do. We are going to reinforce the military so we can hold, to give the Iraqi leadership a chance to reconcile the problems politically. I don't believe any political group could find democracy or common ground in this much violence. It is hard enough for us to find a solution to immigration and none of us being shot at. Can you imagine trying to reconcile a country oppressed by dictators for over 30 years with this level of violence?

If we can control the violence, I think it will lead to a better political result. They have to share the oil revenues with the Sunnis. The Sunnis have to have something to fight for, not against. That has to happen. At the end of the day, a million troops won't change Baghdad or Iraq if the Iraqi people are not willing to make the accommodations they need to make. They are under siege. They need reinforcements.

On the economic front, 70 percent of our casualties come from improvised explosive devices, somebody planting a bomb along the side of the road. Some people are planting those bombs because they don't have a job. They don't have any way to support their family, so they are taking money from the insurgents. Let's create an economy to give them an option other than planting bombs.

Secondly, some people are planting bombs because there is no downside. Once you get caught, you get released. We need a robust rule of law. If you want to change the way our troops are treated in Iraq, put people in jail for a very long time for attacking our troops. That will be a deterrent.

Finally, more military presence will put pressure on those making these explosive devices. This is a surge on all fronts. He is confident this plan will work. He understands the Iraqi political leadership has to do their part. The Iraqi military has to do their part. But the sectarian violence has come about because al-Qaida hit the motherload when they blew up the Golden Mosque. We cannot let al-Qaida win in destabilizing Iraq. They went to Iraq behind us because they understand that the consequences of success in Iraq are not confined to Iraq. If you can have a stable, functioning democracy that is tolerant, then it will spread to other areas of the Mideast and will be a mighty blow to the al-Qaida agenda.

We need to understand that a failed state in Iraq creates chaos for not just us but the world. Iran becomes a big winner. The south of Iraq becomes a puppet state of Iran. We could have a war between Turkey and the Kurds in the north. And if there is a bloodbath in Bagdad, which there surely will be if we leave, then Sunni Arab nations are going to get involved, and the whole region becomes much more unstable.

I urge my colleagues to listen to General Petraeus and ask the question: Do you have confidence in this man to do what he says he can do? And if the answer is yes, don't undermine him before he leaves. Give him the resources he needs. If you don't have confidence in him and our military and our leadership to change policy and strategy and be successful, don't let one more person go to Iraq to get killed or wounded in a lost cause. You should have the courage of your convictions to cut off funding. A middle-ground solution is the worst of all worlds.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENTS NOS. 152, 153, AND 154 EN BLOC

Mr. ENZI. Madam President, on behalf of Senator ENSIGN, I call up amendments Nos. 152, 153, and 154.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. ENZI], for Mr. ENSIGN, proposes amendments numbered No. 152, 153, and 154 en bloc.

Mr. ENZI. Madam President, I ask unanimous consent that the reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 152

(Purpose: To reduce document fraud, prevent identity theft, and preserve the integrity of the Social Security system)

At the appropriate place, insert the following:

SEC. ___. PRECLUSION OF SOCIAL SECURITY CREDITS PRIOR TO ENUMERATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end, the following new subsection:

''(d)(1) Except as provided in paragraph (2), no quarter of coverage shall be credited for purposes of this section if, with respect to any individual who is assigned a social security account number on or after the date of enactment of the Fair Minimum Wage Act of 2007, such quarter of coverage is earned prior to the year in which such social security account number is assigned.

''(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who, at such time such quarter of coverage is earned, satisfies the criterion specified in subsection (c)(2).''.

(b) BENEFIT COMPUTATION.—Section 215(e) of such Act (42 U.S.C. 415(e)) is amended—

(1) by striking ''and'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ''; and''; and

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

''(3) in computing the average indexed monthly earnings of an individual who is assigned a social security account number on or after the date of enactment of the Fair Minimum Wage Act of 2007, there shall not be counted any wages or self-employment income for which no quarter of coverage may be credited to such individual as a result of the application of section 214(d).''.

AMENDMENT NO. 153

(Purpose: To preserve and protect Social Security benefits of American workers, including those making minimum wage, and to help ensure greater congressional oversight of the Social Security system by requiring that both Houses of Congress approve a totalization agreement before the agreement, giving foreign workers Social Security benefits, can go into effect)

At the appropriate place, insert the following:

SEC. ___. TRANSMITTAL AND APPROVAL OF TOTALIZATION AGREEMENTS.

(a) IN GENERAL.—Section 233(e) of the Social Security Act (42 U.S.C. 433(e)) is amended to read as follows:

''(e)(1) Any agreement to establish a totalization arrangement which is entered into with another country under this section shall enter into force with respect to the United States if (and only if)—

''(A) the President, at least 90 calendar days before the date on which the President enters into the agreement, notifies each House of Congress of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register,

''(B) the President transmits the text of such agreement to each House of Congress as provided in paragraph (2), and

''(C) an approval resolution regarding such agreement has passed both Houses of Congress and has been enacted into law.

''(2)(A) Whenever an agreement referred to in paragraph (1) is entered into, the President shall transmit to each House of Congress a document setting forth the final legal text of such agreement and including a report by the President in support of such agreement. The President's report shall include the following:

''(i) An estimate by the Chief Actuary of the Social Security Administration of the effect of the agreement, in the short term and in the long term, on the receipts and disbursements under the social security system established by this title.

''(ii) A statement of any administrative action proposed to implement the agreement and how such action will change or affect existing law.

''(iii) A statement describing whether and how the agreement changes provisions of an agreement previously negotiated.

''(iv) A statement describing how and to what extent the agreement makes progress in achieving the purposes, policies, and objectives of this title.

''(v) An estimate by the Chief Actuary of the Social Security Administration, working in consultation with the Comptroller General of the United States, of the number of individuals who may become eligible for any benefits under this title or who may otherwise be affected by the agreement.

''(vi) An assessment of the integrity of the retirement data and records (including birth, death, and marriage records) of the other country that is the subject of the agreement.

''(vii) An assessment of the ability of such country to track and monitor recipients of benefits under such agreement.

''(B) If any separate agreement or other understanding with another country (whether oral or in writing) relating to an agreement to establish a totalization arrangement under this section is not disclosed to Congress in the transmittal to Congress under this paragraph of the agreement to establish a totalization arrangement, then such separate agreement or understanding shall not be considered to be part of the agreement approved by Congress under this section and shall have no force and effect under United States law.

''(3) For purposes of this subsection, the term 'approval resolution' means a joint resolution, the matter after the resolving clause of which is as follows: 'That the proposed agreement entered into pursuant to section 233 of the Social Security Act between the United States and _____ establishing totalization arrangements between the social security system established by title II of such Act and the social security system of _____, transmitted to Congress by the President on _____, is hereby approved.', the first two blanks therein being filled with the name of the country with which the United States entered into the agreement, and the third blank therein being filled with the date of the transmittal of the agreement to Congress.

''(4) Whenever a document setting forth an agreement entered into under this section and the President's report in support of the agreement is transmitted to Congress pursuant to paragraph (2), copies of such document shall be delivered to both Houses of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

''(5) On the day on which a document setting forth the agreement is transmitted to the House of Representatives and the Senate pursuant to paragraph (1), an approval resolution with respect to such agreement shall be introduced (by request) in the House by the majority leader of the House, for himself or herself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself or herself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement is transmitted, the approval resolution with respect to such agreement shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session. The resolution introduced in the House of Representatives shall be referred to the Committee on Ways and Means and the resolution introduced in the Senate shall be referred to the Committee on Finance.''.

(b) ADDITIONAL REPORTS AND EVALUATIONS.—Section 233 of the Social Security Act (42 U.S.C. 433) is amended by adding at the end the following new subsections:

''(f) BIENNIAL SSA REPORT ON IMPACT OF TOTALIZATION AGREEMENTS.—

''(1) REPORT.—For any totalization agreement transmitted to Congress on or after January 1, 2007, the Commissioner of Social Security shall submit a report to Congress and the Comptroller General that—

''(A) compares the estimates contained in the report submitted to Congress under clauses (i) and (v) of subsection (e)(2)(A) with respect to that agreement with the actual number of individuals affected by the agreement and the actual effect of the agreement on social security system receipts and disbursements; and

''(B) contains recommendations for adjusting the methods used to make the estimates.

''(2) DATES FOR SUBMISSION.—The report required under this subsection shall be provided not later than 2 years after the effective date of the totalization agreement that is the subject of the report and biennially thereafter.

''(g) GAO EVALUATION AND REPORT.—

''(1) EVALUATION OF INITIAL REPORT ON IMPACT OF TOTALIZATION AGREEMENTS.—With respect to each initial report regarding a totalization agreement submitted under subsection (f), the Comptroller General of the United States shall conduct an evaluation of the report that includes—

''(A) an evaluation of the procedures used for making the estimates required by subsection (e)(2)(A);

''(B) an evaluation of the procedures used for determining the actual number of individuals affected by the agreement and the effects of the totalization agreement on receipts and disbursements under the social security system; and

''(C) such recommendations as the Comptroller General determines appropriate.

''(2) REPORT.—Not later than 1 year after the date of submission of an initial report regarding a totalization agreement under subsection (f), the Comptroller General shall submit to Congress a report setting forth the results of the evaluation conducted under paragraph (1).

''(3) DATA COLLECTION.—The Commissioner of Social Security shall collect and maintain the data necessary for the Comptroller General of the United States to conduct the evaluation required by paragraph (1).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to agreements establishing totalization arrangements entered into under section 233 of the Social Security Act which are transmitted to Congress on or after January 1, 2007.

AMENDMENT NO. 154

(Purpose: To improve access to affordable health care)

At the appropriate place, insert the following:

SEC. ___. NON-GROUP HIGH DEDUCTIBLE HEALTH PLAN PREMIUMS OPTIONS.

(a) IN GENERAL.—Section 223(d)(2)(C) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) a high deductible health plan, other than a group health plan (as defined in section 5000(b)(1)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

AMENDMENT NO. 106, AS MODIFIED

Mr. ENZI. Madam President, in a while, we will take some action on Senator SESSIONS' amendment. I would like to make a couple comments on that amendment before we get to that point. This might be an appropriate time.

Last year, Congress undertook the most sweeping changes to pension law since the enactment of ERISA. It was a major milestone and resulted in the most comprehensive change to workers' and their families' pension and retirement savings in the past 32 years.

The Pension Protection Act could not have been enacted without bipartisan cooperation, but it took more than Republicans and Democrats working together. The Pension Protection

Act resulted from a deep commitment toward cooperation between the Finance Committee, which oversaw the tax provisions of the bill, and the Health, Education, Labor, and Pensions Committee, which oversaw the pensions provisions.

On the Health, Education, Labor, and Pensions Committee, we had previously taken a strong bipartisan look at retirement issues and retirement savings as part of our pension oversight duties. The new chairman of the committee has stated he will continue the committee's strong pension oversight responsibilities in order to protect and strengthen the retirement savings so that workers and their families may prosper long into their retirement years.

The sense-of-the-Senate resolution before us expresses the sentiment that saving for retirement is important. We all agree with that point. The fact is that savings opportunities are available almost everywhere, but many workers do not take advantage of it. By this sense-of-the-Senate resolution, we are not advocating any particular retirement programs or initiatives over others on the books already or proposed to be introduced. We are simply saying that people ought to save enough to maintain their standard of living during their golden years, and they ought to invest prudently so that their savings will be safe when they do retire.

Better financial education and investment advice is needed. Automatic enrollment rules that were enacted in the Pension Protection Act will help people learn to save. New default investment regulations, when finalized, will help too.

In that respect, progress has been made in saving for retirement, but much needs to be done.

I am happy to join with my colleagues in reiterating the commitment by supporting the sense-of-the-Senate resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I expect we will vote at a quarter to 5 or so on the Sessions amendment. I will vote in favor and urge my colleagues to vote in favor.

Americans who have worked hard and played by the rules for a lifetime deserve a secure retirement. They deserve to be able to enjoy their golden years, spend time with their families, and rest after a lifetime of hard work. We need to be sure they have the income they need for gasoline, prescription drugs, and other needs of daily living.

As my friend and colleague, Senator ENZI, pointed out, we passed a comprehensive bill last year. It was the result of years of work by the HELP and Finance Committees. That work took steps to strengthen our pension system and increase retirement savings, but we still have a long way to go. Half of Americans have no type of pension plan at all in their workplace. And today, Americans have negative savings rates for the first time since the Great Depression.

In order to guarantee a secure retirement for Americans, we need to ensure that the three legs of retirement security are all there: Social Security, private pensions, and personal savings. Each one of these legs plays a vital role, and we need to strengthen all three—Social Security, private pensions, and personal savings.

I know the Senator from Alabama has proposed ideas for creating and expanding personal savings. Our staff has been talking about these ideas and many proposals are being developed by Senator BAUCUS, Senator BINGAMAN, Senator CONRAD, and others. I look forward to continuing to work with Senator ENZI, Senator MIKULSKI, and Senator BYRD on our Retirement Security Subcommittee.

This is an area of enormous concern for working families in this country—what is going to happen during their golden years. They look forward to Social Security, and we are going to have to address that issue. We are going to have to address the Medicare issue, which will begin to run out of funds in, I believe, 2018.

We know that defined benefit programs have been collapsing over the years, and 401(k)s that have tried to fill in have not played the role that defined benefit plans played in terms of giving answers to workers, and we have seen that the personal savings accounts brought out during the discussions by Senator ENZI and Senator SESSIONS have been in rapid decline.

The indicators are all moving in the wrong direction, in terms of a firm, secure, dependable, and reliable retirement program for working families in this country. We should find ways to work to encourage a change in that policy.

At the appropriate time, when the Senator comes back, we will dispose of the Senator's amendment. We are at an appropriate time.

Madam President, I ask unanimous consent that at 4:45 p.m. today, the Senate proceed to a vote on or in relation to the Session's amendment No. 106, as modified; that there be 2 minutes of debate equally divided and controlled between Senator KENNEDY and Senator SESSIONS prior to the vote; and that no second-degree amendment be in order to the amendment prior to the vote.

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

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

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

Mr. ENZI. Madam President, too often when we debate the issue of minimum wage, we focus on abstract ideas and proposals and fail to consider the impact of our actions on the small business community that lives and breathes in the real world. I appreciate the cooperation with Senator REID and others, focused around Senator BAUCUS and Senator GRASSLEY, working in a very bipartisan way to put together a package that would help to relieve some of the impact of the minimum wage increase. I hope everyone has noticed that in the minimum wage debate we have been having, the debate has not been over whether to raise the minimum wage. The debate has been on what we can do to alleviate some of the impact on small business. I hope that is the way we can continue the discussion on this, too.

I mentioned earlier today that you need to meet some of these small businessmen. They are in your neighborhood. You can meet them easily. They run the laundry, corner grocery, little retail stores. For the most part they are families who are eking out a living while they are taking on a lot of risk. They do have these moments that they wonder why they undertook that risk and how they are going to continue to fund that risk. Sometimes they are paying employees when they can't even afford to pay themselves, and their families are relying on the business to support them as a family, too, particularly considering all the risks they are taking.

Sometimes they are forced to come up with additional funds to pay their workers on what we will be mandating. Those funds do not come from a money tree or some pot of gold at the end of the rainbow. They come out of the pockets of the Nation's small businessmen. It is the penalty they pay for taking the risks associated with running a small business.

The first hearing I held in Wyoming was as part of the Small Business Committee. We had a hearing on some of the problems of small business. When it was over, one of the reporters came up and said: You only had about 100 small businessmen attend this. Why do you suppose it was such a poor turnout?

I said: That wasn't a poor turnout from small business. If small business had an extra employee to send to a day's conference, they would fire him. They can't afford extra people.

With that realization, it was a good turnout and there were a lot of good suggestions. I always like to go back to Wyoming and meet with the people and actually talk to the guy on the end of the shovel because he usually has the best suggestions for changing the shovel. I found that to be true of the small businessmen.

This afternoon we agreed to an amendment that will provide for easier compliance with Federal rules and regulations, and I appreciate the bipartisan action that was taken. That will make a huge difference to small businessmen.

We could consider that the action we are about to take will be making it bad business for people to hire people who need some help and support in developing their skills by that method, making them higher wage workers. That cannot help but cost some people their jobs. In other instances, the hours they need will be cut back, hours that they need to get a good paycheck.

We cannot leave the floor today feeling better about having helped ease the income strain for many of the workers of our States but having left the employers wondering how to pay for the increases we have mandated. Once again, we have the best of intentions, but, once again, we have to remember one simple rule: It is not our money. We are, once again, reaching into the pockets of the small businessmen in our community and taking their money and telling them the amount of wages they will pay their employees without regard to the talents and abilities of the employees they can hire.

We have this huge job training corps out there. It is called small businesses. They take people who don't have the skills that are necessary for the small business they are operating and they teach them how to run a cash register, how to count change, how to interact with a customer, how to dress appropriately.

You might think these are all things that might be covered in school classes, and they are, if you take the right classes. But there are a lot of people who not only don't take the right classes, they drop out of school. They need to earn a living and they have to start somewhere earning a living. To earn that living they have to have some training, some basic job training. A lot of these small businesses are where they get that basic business training, and they kind of get it for free. The businessmen provide that information, and most of the people in the minimum wage level move up rather quickly. As they learn those skills, they get paid more. I know a lot of businesses where they have the minimum wage situation that lasts about 3 weeks if the people learn enough to advance so they can actually wait on the customer.

What we are talking about is a blanket increase that will warm the hearts of those who lack the skills for higher wage jobs as it leaves the employers out in the cold, unless we do the Reid package. Any increase in the minimum wage must be offset by a small business tax incentive package.

As a former small business owner of mom-and-pop shoe stores, let me walk through the realities of how business owners may address a mandated Federal minimum wage hike. Raising the minimum wage to $7.50 imposes a 41-percent increase in labor costs for a small employer with minimum wage workers. Every employer must face the very real issue of how he or she will deal with this increase in the costs and still meet the payroll week after week.

These are very real and difficult questions that impact our smallest employers most heavily. These increases must be paid for by employers and, as I said before, the money doesn't grow on trees. An employer must make hard decisions about how to meet these increased payroll obligations.

When costs go up, most businesses first look to cut expenses. The choices they have can be difficult and have often already been used. To meet higher mandated payroll costs, a small employer may be forced to consider cutting back on benefits such as health insurance, retirement, or leave plans—although a lot of small businesses can't afford to provide those in the first place.

It is simply too easy to forget that fringe benefits have a significant cost. Most employees don't realize the benefit they are getting when they get those. If a small employer has to reduce expenses to meet payroll, those are often the costs that go.

I know of a video store—I was talking to a young man who works in the Senate now, and he used to work in the Senate and part-time in a video store. When the minimum wage went up last time, what the video store did was instead of having two people at the store at the close of business, they only had one, and only having one isn't nearly as safe as having two. But that was the choice that the owner had to make in order to be able to meet the payroll.

We have seen some charts where, in States where there has been a raise in minimum wage, there has been an increase in number of jobs as well. I appreciate those charts and believe those charts to be accurate. What those charts are doing, though, is aggregating for the entire State. What we are doing is imposing this on one business at a time, one employee at a time. It really gets down to as local as politics ever gets. Those small businessmen believe that individuals matter, that people matter, and they are forced into some of these choices. There are not a whole lot of ways they can compensate for the change.

I have a chart that shows how to cut costs when there are none to cut. This came from the Washington Post. It says:

> We're at the bottom. If the minimum wage went up, I don't know how we would make the cuts to cover it . . . the employee said.

The lone salaried employee, she works 80 hours a week to make up for the lack of workers. ''I have mixed feelings,'' she continued. ''I know that people can't afford to live on $5.15 an hour. But on the business side, small businesses can't afford to pay it.''

There are examples like that that are real-life situations that do make it difficult. That is the lone employee in a store.

Beyond cutting fringe benefits, small businesses may need to consider cutting back work hours, eliminating overtime, or laying off workers. Such actions are traditional and often necessary responses to meeting increased costs—not just the increased costs of the minimum wage. Unfortunately, these actions ultimately hurt the very workers the minimum wage increase is designed to help.

Some would say raise the prices. That is not always possible in the short run. In the long run there may be some flexibility because this is going to be imposed on everybody and will drive up prices. Of course, when it drives up prices, it kind of eliminates the benefit of the increase in the minimum wage. In the real world, small employers have to consider these types of options to cope with mandated increases in wages. Small business owners who themselves favor a minimum wage increase nonetheless recognize that any increase may result in having to make these tough choices.

In a recent front-page Washington Post article, the owner of a discount store in Kansas noted that, while he felt a wage of $7.25 seemed fair, he also noted that his profit margin was thin and that wages are his biggest controllable expense. He said: If wages go up, hours will have to come down. And the question will become: Whose, his stockman who works 6 hours a day and takes care of a wife who is blind and arthritic or should it be another worker who is ill and is on a waiting list for an organ transplant and needs more hours rather than fewer or yet another employee who is 22 years old and pregnant? These are hard realities that are faced by many small employers and those who work with them.

I ask unanimous consent that an article from the Washington Post that came out recently—I congratulate the writer of that article—be printed in the RECORD.

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

[From the Washington Post, Jan. 10, 2007]

LIFE AT $7.25 AN HOUR

(By David Finkel)

ATCHISON, KS.—It was payday. Money, at last. Twenty-two-year-old Robert Iles wanted to celebrate. ''Tonight, chimichangas!'' he announced.

He was on his way out of the store where his full-time job pays him $7.25 an hour—the rate that is likely to become the nation's new minimum wage. Life at $7.25; This is the life of Robert Iles and with $70 in a wallet that had been empty that morning, he headed to a grocery store where for $4.98 he bought not only 10 chimichangas but two burritos as well.

From there he stopped at a convenience store, where for $16.70 he filled the gas tank of the car he purchased when he got his raise to $7.25; then he went to another grocery stores where he got a $21.78 money order to pay down some bills, including $8,000 in medical bills from the day he accidentally sliced open several fingers with a knife while trying to cut a tomato; and then he headed toward the family trailer 19 miles away, where his parents were waiting for dinner.

Today in Washington, the House is scheduled to vote on whether to increase the federal minimum wage from $5.15 to $7.25. Passage is expected, with Senate approval soon to follow, and if President Bush signs the resulting bill into law, as he indicated he

would, the U.S. minimum wage would rise for the first time since 1997, ending a debate about whether such a raise would be good or bad for the economy.

But even if the matter is settled in Congress, it isn't settled at all in Atchison, and Robert Iles's drive home is proof. Every stop he made on his ride home revealed a different facet of how complicated the minimum wage can be in the parts of America where, instead of a debatable issue, it is a way of life.

At the store where Iles works, for instance, the owner thinks the minimum wage should be increased as a moral issue but worries about which employees' hours he will have to cut to compensate.

At the store where he bought the chimichangas, the cashier who makes $6.25 worries that a raise will force her out of her subsidized apartment and onto the street.

At the convenience store where he bought gas, the owner worries that he will have to either raise prices, angering his customers, or make less money, ''and why would I want to make less money?''

At the store where he got the money order, the worries are about Wal-Mart, which not only supports an increase but also built a Supercenter on the edge of town that has been sucking up customers since it opened three years ago.

As for Iles—who keeps $70 out of every paycheck to cover two weeks' worth of food and gas and in a matter of minutes was already down to $26.54—his worry was as basic as how fast to drive home.

Drive too fast and he'd be wasting gas. But his family was waiting. And his chimichangas, best cooked frozen, were starting to thaw.

THE MEANING OF A DOLLAR

The debate about the minimum wage usually comes down to jobs. If Congress approves the increase it will result in raises for an estimated 13 million Americans, or about 9 percent of the total workforce. That's a percentage that most economists agree would cause a modest increase in national unemployment. In Kansas, however, ''it would have a fairly significant impact,'' said Beth Martino, a spokeswoman for the state Department of Labor. According to one independent analysis, 16 percent of the workforce, or 237,000 workers, would be affected—and that doesn't include the 20,000 whose wages aren't governed by the federal Fair Labor Standards Act and earn the state minimum wage of $2.65. That rate, the lowest in the nation and unchanged since 1988, hints at the prevailing wisdom in Kansas about the minimum wage, which is that the only way low-wage earners will make more is through congressional action.

This holds true from Topeka, where the powerful Kansas Chamber of Commerce has long opposed any raise, to rural Mulvane, home of Republican state legislator Ted Powers, who says his futile effort three year's ago to raise the state minimum wage resulted in his being branded a ''dirty dog,'' to Atchison, a working-class city of 11,000 where the stores that depend on low-wage workers include one called ''Wow Only $1.00!'' This is the store where Robert Iles has worked for five years.

''Robert, would you help me a second?'' Jack Bower, the owner, called to Iles soon after opening, as the line at the cash register grew. A onetime Wal-Mart vice president, Bower moved back to Atchison several years ago to teach and ended up buying the old J.C. Penney store, and now runs a business where the meaning of a dollar is displayed on shelf after shelf. The jar of Peter Piper's Hot Dog Relish? That's what a dollar is worth. The Wolfgang Puck Odor Eliminator that a customer was looking at as she said to a friend, ''I just don't know how I'm ever going to make it. My ex-husband's not paying his child support''? That's a dollar, too, as is the home pregnancy test, the most shoplifted item in the store.

''This is not a wealthy community,'' Bower explained. ''The thing is, a lot of people depend on this store.''

Robert Iles has his own version of a dollar's meaning, learned last February when Bower took him aside and said he would be getting a pay raise to $7.25. ''Okay,'' Iles remembers replying, wanting to seem business-like. ''But inside I was doing the cha-cha-cha,'' he said. ''It was like going from lower class to lower middle class.''

Soon after, he bought his car, a used 2005 Dodge Neon, and just about every workday since then he has spent his lunch break in the driver's seat, eating a bologna sandwich with the engine off to save gas, even in winter. An hour later, he was back behind the cash register, telling customers ''Thank you and have a nice day'' again and again.

And meanwhile, Jack Bower wondered whose hours he will cut if he has to give his employees a raise.

It's not that he's against raising the minimum wage—''I don't think $5.15 is adequate,'' he said, adding that $7.25 seems fair—but his profit margin is thin, and wages are his biggest controllable expense. So if wages go up, he said, hours will have to come down, and the question will become: Whose?

Will it be Neil Simpson, 66, who works six hours a day as a stockman, and then five more hours somewhere else cleaning floors, and takes care of a wife who is blind and arthritic?

Will it be Susan Irons 57, who was infected with hepatitis C from a blood transfusion, is on a waiting list for a liver transplant and needs more hours rather than fewer?

Will it be Christina Lux, who is 22 years old and 13 weeks pregnant?

Will it be Iles?

''Attention, all shoppers,'' he said into the microphone. ''We will be closing in 10 minutes. Please begin making your final selections.'' Ten minutes later, he was clocked out and back in his Neon. ''My brand new car,'' he called it proudly, and he explained how he was able to afford it on $7.25 an hour: a no-money-down loan for which he will pay $313.13 a month until 2012.

SMALL BUSINESS ''AT BOTTOM''

Seven dollars and twenty-five cents an hour equals $15,080 per year, and out of that comes $313 for the car loan and $100 for car insurance, Iles said, going over his monthly bills. An additional $90 for the 1995 car with 135,000 miles on it that he is buying from a friend for his mother, $150 for the family phone bills, $35 on his credit card, $100 for gas $100 toward the mortgage on the trailer. ''That's about it. Oh yeah, $20 in doctors' bills,'' he said, and totaled it up on fingers scarred by surgical stitches. Nine hundred and eight dollars. ''I bring home 900 a month,'' he said. ''So I very rarely have any money for myself.''

He parked in front of a store called Always Low Prices, which has the cheapest chimichangas in town.

Once it was a full-service grocery store with 28 employees. Then came word that Wal-Mart was looking for land for a Supercenter, and now it has become a bare-bones operation where the starting pay for its few employees is $5.50, and the manager wonders how the store will survive if wages increase.

''We're at the bottom. If the minimum wage went up, I don't know how we would make the cuts to cover it,'' Michelle Henry said. The lone salaried employee, she works 80 hours a week to make up for the lack of workers. ''I have mixed feelings,'' she continued. ''I know that people can't afford to live on $5.15 an hour. But on the business side, small businesses can't afford to pay it.''

At the register, meanwhile, Shannon Wilk, 33, who makes $6.25 an hour, said that of course she would like to earn more money. It would help her. It would help her 18-month-old daughter. ''It would be good,'' she said, ''but also, for me, I live in income-based housing, and if I get a raise, my rent would go up, and I would lose my assistance.'' Even the tiniest raise would affect her, she said, and with nowhere to go, the last thing she can afford is a raise to $7.25.

In such an equation, the fact that she was working in Kansas was to her benefit. Atchison sits on the Kansas-Missouri border, and if Wilk worked a few hundred yards to the east, she would already be in jeopardy: In November Missouri voters supported a ballot initiative increasing the state's minimum wage to $6.50, with an annual adjustment for inflation. Five other states had similar votes, with similar results, bringing to 29 the number that now require an hourly wage above the federal minimum, In the District the minimum is $7, in Maryland it's $6.15, and in Virginia it's $5.15.

Such is the arbitrariness of state-by-state minimum wage laws that Wilk feels lucky to be in Kansas making $6.25 an hour while inside at the first grocery store across the Missouri state line, the cashier was ecstatic that she was in a place where her pay was going from $6.20 to $6.50, explaining, ''That's 30 cents more I ain't got.''

Iles handed over a $10 bill for his 10 chimichangas and two burritos. He stuffed the change deep in his pocket, and headed next to a convenience store owned by a man named Bill Murphy, who said that if he had the chance to talk to new House Speaker Nancy Pelosi, he would ask one question. ''Where does she think the money will come from? And that is the question,'' he said. ''My wages are going to go up 10 percent.''

Unlike Jack Bower who would compensate by cutting hours. Murphy said that in his two convenience stores there are no hours to cut. ''I'm going to have to raise my prices,'' he said—not only because his workers who make less than the new minimum wage would get raises but also because those who earn more would insist on raises as well. Employees at $7.25 will want $8.25. Those at $8.25 will want $9.25.

Economists classify such workers as the ones who would be indirectly affected by a minimum-wage increase. Of the estimated 13 million workers expected to get raises, 7.4 million are in that category. ''You've created this entitlement,'' Murphy said he would tell Pelosi.

And yet he will pay it, he said, and compensate with price increases, which he worries will be inflationary, even though most economists say that won't happen. He will raise prices he continued, because the only other option would be to earn less money, which he doesn't want to do because he owes $1.5 million on his businesses and wouldn't want to default.

''Now that might be a stretch in some people's minds, from giving a guy a raise to not being able to pay the bank, but that's the path I'm talking about,'' he said. Against such a dire backdrop, Iles put $17 worth of gas in his car.

''That'll be $16.70,'' the clerk said to him, and instead of correcting this. Iles gladly took the change.

Thirty cents, suddenly got.

THE WAL-MART FACTOR

Iles drove past the Atchison Inn, where starting pay i$ $5.15, past Movie Gallery, where it's also $5.15, and stopped in front of

Country Mart, the fanciest grocery store in town, where high school students start at $5.15 and, according to owner Dennis Garrett, ''some of them aren't worth that.''

A few days earlier, Garrett had gotten a letter from a lobbying consortium called the Coalition for Job Opportunities, urging him to write Congress to protest the minimum-wage increase. It came in the form of a letter already written, to which he merely had to add his congressman's name and send it off to Washington. ''We are very concerned,'' the letter began. and it was signed by 25 organizations.

The most conspicuous signature, though, was the one that wasn't there, that of Wal-Mart, the nation's largest private employer, with 1.3 million workers. Wal-Mart won't say how many of those workers earn less than what the new minimum wage would be, but if the Atchison store is an example, starting pay is $6 an hour.

Nonetheless, in October 2005, Wal-Mart chief executive H. Lee Scott Jr. said in a speech that the ''U.S. minimum wage of $5.15 an hour has not been raised in nearly a decade, and we believe it is out of date with the times,'' He went on to say, ''Our customers simply don't have the money to buy basic necessities between paychecks.''

When it comes to Wal-Mart, however, just about any announcement that affects public policy is greeted with suspicion, and that has been the case with the minimum wage. Some have said that Wal-Mart, in need of good publicity, is supporting an increase for public relations reasons; others have declared it an attempt to drive small, independently owned stores out of business.

These suspicions exist in Atchison as well. As in many small communities, Wal-Mart defines local retail, and just as Always Low Prices had to retool itself, Country Mart was significantly affected by Wal-Mart's new food-stocked Supercenter several miles away.

What is Wal-Mart up to? What are its true motives? Like many others, Dennis Garrett wonders. He imagines public relations is part of it, but he didn't want to speculate on whether this was an attempt to put him out of business, except to say that raising some wages wouldn't do that. He'd reduce some hours, he said. He'd manage.

Yes, Atchison businesses would be hurt initially, but in the long run, if unemployment increases, those hurt the most would be the very ones Wal-Mart insists would be helped—the customers, especially the younger ones, ''the people who don't advance their education and need a job between the ages of 16 and 21, 22, 23.''

In other words, many of the workers in Atchison, one of whom was now at Garrett's service counter buying a money order so he could pay bills. Even though Iles has a checking account, this is the method he prefers because if he were to pay by check, and the check were to bounce because of insufficient funds, the penalty would be devastating. A $25 fee would require more than three hours of work.

And where would those hours come from?

''IT'S TOUGH FOR ME''

So go the calculations of a $7.25 worker, now headed home.

''It's an old trailer,'' he explained earlier in the day.

The heat doesn't work, he said, and the water heater works sporadically.

One of the bedroom ceilings is caving in. He sleeps in the other bedroom, and his parents sleep in the living room because his father, who has diabetes and had to have several inches of one of his feet amputated, can't really get around.

Also, his father has leukemia. And is legally blind. And his mother, who once made $6.50 an hour as an aide at a nursing home, quit to take care of her husband.

''We're pretty much living off my money,'' Iles said, and in he went to cook them dinner, bring payday to an end and, the next morning, start the cycle again.

Life at $7.25. Should that be the minimum wage?

''Yes,'' Iles said.

Even if it hurts job opportunities for people like him, as Dennis Garrett had suggested?

''Yes.''

Or causes price increases, as Bill Murphy had suggested?

''Yes.''

Or damages businesses such as Always Low Prices?

''I mean, it's tough for me, and I'm already making $7.25 an hour.''

Or causes Jack Bower to reduce hours for one of his employees? Perhaps for Iles himself?

''It's just so hard for people. I mean it's hard,'' Iles said, and then he went to work.

''I think it'll be bad today,'' one of the workers suggested as the line at the Wow Only $1.00! cash register began to form.

''Well, it depends on your perspective,'' Iles said.

Mr. ENZI. The author of the article is really a master at showing how all of these things are intertwined. It is very revealing and makes a good case for the increase in the minimum wage. But it does show some of the decisions that will have to be made and how that will affect other people, some of whom will be in a similar situation.

In a similar vein, when confronted by higher labor costs, employers will naturally gravitate toward filling positions with their most highly skilled, experienced, and productive workers available. Once again, this phenomenon of replacing low-skilled with high-skilled workers in the face of rising labor costs winds up harming the very workers an increase in the minimum wage seeks to help. The minimum wage positions are very often the entryway into the world of work for those who lack skills and experience. I can't say that enough. I am hoping the Workforce Investment Act will kind of come out of this whole process, too, and provide some additional training so people with less skills can have more skills and get some of the choice jobs that this country has to offer. But mandated increases in the minimum wage run the risk of closing that entryway to many.

Another option, of course, for employers that has to be considered is automation as an alternative to a paid employee. Does this sound farfetched? Consider how the automated teller machines, the ATMs, have replaced tellers, how the self-checkout lane at many establishments has replaced the clerk, and the drive-through has replaced the waiter, and in toll booths the EZ Pass has replaced the toll collector—not all of them, but a lot of them who use the EZ Pass eliminate toll collectors. We have seen some charts on how productivity goes up when the minimum wage goes up. Sometimes productivity goes up when machines are instituted in place of people. They can work 24 hours a day, 7 days a week, 365 days a year. We don't pay them any health benefits. We may have a little bit of maintenance done on them. They don't get any vacation.

Employees are still necessary. I keep telling people that you can't outsource the fact when your toilet is plugged and you need some help or when your electric switch doesn't work, there are a lot of hands-on things that absolutely require people. But they are figuring out ways to automate a lot of these things. In Gillette, WY, where I am from, we have this huge worker shortage, and as I have said a number of times, I keep encouraging people to go west and find the new frontier and get some good jobs. But when they are pinched, they come up with some other ways of doing things. The drive-up for our McDonald's is actually handled out of California. When you drive up to the little window and you order your Big Mac, you are actually talking to someone in California who uses the Internet to send the order back to the people who are putting it all together to give to you when you get in your car. They have been able to increase the number of drive-throughs substantially using lower paid—this kind of amazes me—out of California. So automation is one of the answers.

Beyond these cost-cutting measures of eliminating benefits, reducing hours, downsizing, laying off employees, reducing low-skill and entry-level employment, and automating, employers may also have to face up to the prospect of increasing the price of their goods and services. Price increases caused by mandated cost increases bring their own catalog of ills. Such increases drive inflation and cause all consumers to ultimately pay the price of these mandates. The irony is that as the cost of these labor increases is passed to the consumers, it affects everyone, including the minimum wage worker, whose recently increased wages are suddenly devalued by the increased price for goods and services that impact them as well. So on this ladder of success, we have kind of removed the lower rung of it. So it is a little bigger step to get up there, and some of them aren't going to be able to make the step because of some of the ways that it has to be adjusted.

In the same Washington Post article I mentioned earlier, another small employer who owns two convenience stores noted that he simply does not have the option of cutting hours to meet his increased payroll burden. Instead, he noted: I am going to have to raise my prices. He indicated if he had the chance to talk with Speaker PELOSI about the minimum wage, he would ask one question, and that is: Where does she think the money will come from? Of course, it can be argued that his customers, if he raises the price for the candy bar or the cup of coffee, will go somewhere where it is cheaper, and that is a good possibility. That means that in order to maintain

the business, if he is going to raise those prices, he has to have employees who give better service, quicker service, and that goes back to the on-the-job training I was mentioning that a lot of these small businesses do. They have to have the good service in order to keep their loyal customers. Sometimes that doesn't just hinge on the price of the candy bar or a cup of coffee.

I believe almost all of us recognize these economic realities and that none of us want them to come about. It is for those precise reasons that the substitute amendment contains provisions designed to enable our smallest employers to meet the obligations imposed by a minimum wage increase without resorting to the difficult personnel choices, the consumer price increases or all of the other things I mentioned.

Yesterday, I spoke briefly about the fact that in legislating, it is often important to find a third way. In this instance, the third way is one that will provide an increase in the minimum wage but also provide relief to the most affected small businesses so that they don't experience employee dislocation, a reduction in employment opportunities for low-skilled and entry-level workers or an increase in consumer prices that takes away the real value of any wage increase.

The third way is represented by the real value of any wage increase. The third way is represented by the substitute amendment that was the product of extensive bipartisan support, Democrats and Republicans working together, acknowledging the fact that mandated cost increases can have negative economic effects. So together we developed a means of addressing those concerns in the form of a bipartisan substitute amendment. I can't emphasize enough how pleased I am with the cooperation I saw as people worked out different alternatives. There were certainly a wide variety of them that were done and I think with some concentration particularly on how they would affect small business. I would reiterate the bipartisan support of that small business tax incentive package. There are key Democratic leaders who have acknowledged the need for the package to offset any wage increase in order to not disenfranchise the employers and their workers.

So I hope we won't make this partisan now. As I mentioned yesterday, the Senator from Massachusetts, Mr. KENNEDY, and I have gone head to head on raising the minimum wage three times in the past several years. Each time, the votes were set up for each side to fail. This time around, we worked to come up with a third way in order to get the job done. I hope that all efforts to try and unravel this third way that will most likely result in a minimum wage increase isn't abandoned for the sake of making partisan messages. I urge my colleagues to continue to support the small business incentive package as a much-needed offset to the increased Federal wage.

I think this is a tremendous opportunity for us to do the right thing in all aspects, and I hope there will be good bipartisan support. I understand the desire to have a clean minimum wage, but that is what we have been going through for a couple of years now, and we are finally talking bipartisan. I think that was something that came out of the elections. I am pleased to see it is operating, and we will see how long it continues. I hope it continues through the entire session.

AMENDMENT NO. 108, AS MODIFIED

Mr. ENZI. Madam President, I ask unanimous consent that the Sessions amendment No. 108 be modified with the changes at the desk, and I urge its adoption, as modified.

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

The amendment (No. 108), as modified, is as follows:

At the appropriate place insert the following:

SEC. ___. 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.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 108), as modified, was agreed to.

Mr. ENZI. Madam President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 107 WITHDRAWN

Mr. ENZI. Madam President, I ask unanimous consent that the Sessions amendment No. 107 be withdrawn.

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

Mr. ENZI. Madam President, I yield the floor.

Mr. KENNEDY. Madam President, in about 6 or 7 minutes, we will be having a vote, and then I would expect the President's State of the Union Address will place demands on the Members, so that will mean we will probably move over until tomorrow. As I mentioned earlier, I hope our colleagues will vote in support of the Sessions amendment for the reasons I have outlined.

I think an important message ought to go out to families and to workers all over this country and many others who have worked long and hard to try and urge the Senate of the United States to move on the minimum wage issue and raise the minimum wage, as it has been stuck for the last 10 years at $5.15. There are people who have knocked on doors, there are people who have stuffed envelopes and there are people who have phoned into radio stations and people who have written letters to the editors and people who have met with Members of Congress all over this country. People have marched, attended parades, and demonstrated. They have spoken out for fairness and justice for workers. Tomorrow we will have a real opportunity to respond to that.

I am very hopeful, as a result of the votes tomorrow, we will be well on the way toward this body supporting action that has taken place in the House of Representatives and a vote for an increase in the minimum wage. There will be those who will go to bed tonight who have been working long and hard for $5.15 an hour. They may work one job, and many of them, 300,000 Americans, work two full-time jobs. They probably keep saying a prayer, and they are keeping their fingers crossed that in the Senate, tomorrow will provide at least some additional breath of hope to them and to their families, to their loved ones, that can make a difference in terms of their lives and what a difference this can make.

As we have mentioned, it may be more than a year's worth of groceries to some families or it may be the tuition for a community college. It could be 20 months of child care for some workers. It could be heating and electric bills for 19 months, all measured in a few months, for things that so many of us, certainly in this body, take for granted. But out there in so many communities across the country, people fight and struggle to try and achieve those goals.

So this is a very important vote. We have important votes and some not so important votes in this body, but tomorrow will be one of great importance and consequence. I think it will be a defining issue about what kind of society we are; what is the measure of our decency and the measure of our humanity in this body. So I am very hopeful as to the outcome, and we urge our colleagues to give us their support. We will have an opportunity to make comments tomorrow morning briefly before we vote on these measures. We thank all of our Members for all of their cooperation and their help to Senator ENZI and myself over the last several days. So with that I would indicate to our colleagues that in approximately 2 minutes or so we will begin the vote on the Sessions amendment, an amendment which both I and Senator ENZI support.

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

The PRESIDING OFFICER (Mr. SALAZAR). Without objection, it is so ordered.

Mr. ENZI. I yield back, with the consent of both sides, the 2 minutes that was to be available on both sides. I yield back that time.

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

Mr. ENZI. I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 106, as modified.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN) would vote ''yea.''

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 21 Leg.]

YEAS—98

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

NOT VOTING—2

Biden	Johnson

The amendment (No. 106), as modified, was agreed to

Mr. DURBIN. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

VA and Medicare Drug Price Negotiation

Mr. AKAKA. Mr. President, much has been said recently about the way in which VA purchases drugs and the manner in which medications are provided to beneficiaries. This discussion has been a part of the ongoing debate to allow Medicare to negotiate for drugs on behalf of its beneficiaries.

Concerns have been raised about veterans' access to drugs, the quality of the benefit, and VA's formulary and pricing. Veterans medication coverage has been misunderstood. I would like to take this opportunity to set the record straight about the process by which VA achieves drug cost savings and the level of care afforded to veterans.

VA is different than Medicare for a variety of reasons, there is no doubt, but I believe some lessons can be applied to address Medicare drug prices.

While there is no question that VA's formulary is an important component of VA pharmacy management, decisions about which drugs are on the formulary are not made by bureaucrats nor are they made by those solely concerned about the bottom line.

VA employs a scientific review process to select drugs to be available to beneficiaries and to ensure quality care. Physicians and clinical pharmacists from the VA's regional offices manage the formulary.

While some concern has been expressed that the VA formulary covers only 30 percent of the 4,300 drugs available on Medicare's market-priced formulary, this is not the case. Rather, it is my understanding that VA actually offers 11 percent more drugs than are available under Part D of Medicare.

VA offers 4,778 drugs by way of a ''core'' national formulary which requires that they must be made available at all VA medical care facilities. If a drug is needed which is not on the formulary, VA has a quick process to ensure that the drug will be prescribed. This off-formulary process is so robust, in fact, that last year, VA dispensed prescriptions for an additional 1,416 drugs. So, to put a finer point on this, when a non-formulary medication is clinically needed—it is provided.

To those who argue that VA's formulary is ''among the most restrictive in the marketplace,'' I would only say that the Institute of Medicine took a good long look at VA and found that in many respects it is actually less restrictive than other public or private formularies.

The chairman of the IOM committee said that if VA did not have a formulary process like it has, they would have indeed urged that one be created just like it.

Some have suggested that veterans receive substandard care because of the VA drug benefit The literature says otherwise. Veterans get better pharmaceutical care than private or public hospitals, according to a study last year published in the Archives of Internal Medicine.

VA's mail order pharmacy has been criticized, as well. VA employs nearly 10,000 pharmacists and technicians and is regarded by many pharmacy organizations as excellent. VA also operates 230 outpatient pharmacies. VA also trains more doctors of pharmacy than any other single organization in the U.S. And most significantly, while the error rate for prescriptions in the U.S. is between 3 and 8 percent, the error rate in VA is less than one one-hundredth of one percent.

In VA, new drugs are reviewed on their merits and are made available quickly if they provide distinct benefits. Safety and how well a drug works are the most important considerations in the review process, followed by cost.

I could go on. We know that VA gets the best prices, but I think the essential question is: Do veterans get the necessary drugs to promote the best health care? The answer—based on peer-reviewed studies—is a resounding yes. The quality of medical care in VA is significantly higher for overall quality in chronic care and preventative care.

And if some believe that veterans aren't happy with their drug access and pricing, it is news to me, and to the administration. Just last week, VA announced results of a survey done by an independent reviewer of customer satisfaction. For the seventh straight year, the Department of Veterans Affairs has received significantly higher ratings than the private health care industry. VA's marks keep continuing to rise.

When veterans' groups testify before Congress about their needs and desires, the only thing they say about their drug coverage is that they want to keep it the way it is.

Peer-reviewed studies, veterans service organizations, polls, and consumer reports consistently testify to the superiority of VA health care over private sector care. The VA formulary has been repeatedly reviewed and approved by Congress, GAO and the Institute of Medicine. Consumer choice provides clear insight into the success of the VA pharmacy management system.

We can learn a number of lessons from the VA as we consider Medicare price negotiations. I support drug price negotiation by Medicare. As chairman of the Veterans Affairs Committee, I will closely monitor the evolution of this issue to ensure VA retains access to affordable drugs. The gains that can be made in Medicare—and the improvement of quality—are just too great to do nothing.

I ask unanimous consent that the VA's summary of the study to which I previously referred be printed in the RECORD.

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

JOURNAL ARTICLE PRAISES VA HEALTH CARE—SECRETARY NICHOLSON: FURTHER PROOF OF VA'S TOP QUALITY CARE

WASHINGTON.—''One of the most striking examples of American health care success''—that is one medical journal's recent assessment of the health care system operated by the Department of Veterans Affairs (VA).

The most recent tribute to VA's health care system came in an article in the medical journal Neurology.

''The quality of VA's health care system is recognized by medical professionals and, most importantly, by veterans,'' said Secretary of Veterans Affairs Jim Nicholson. ''Repeatedly, the medical community holds up VA's health care system as a model.''

''The VA has achieved remarkable improvements in patient care and health outcomes, and is a cost-effective and efficient organization,'' according to the journal. For example, the article cited VA's comprehensive coverage and said it is especially suited to manage chronic disease.

Dr. Michael J. Kussman, VA's Acting Under Secretary for Health, said the article underscores the Department's commitment to high quality patient care.

''This shows that VA's health system is recognized internationally as the benchmark for health care services,'' Dr. Kussman said. ''It further demonstrates that our commitment to high quality care is benefiting the men and women who have earned the best possible care through service to our country.''

The Neurology article is the second recent study citing the quality of VA health care. In December, a comprehensive study by Harvard Medical School said federal and military hospitals, such as those run by the VA, provide the best care available anywhere for some of the most common life-threatening illnesses.

In 2006, VA received the prestigious ''Innovations in American Government'' Award from Harvard's Kennedy School of Government for its advanced electronic health records and performance measurement system.

Mr. AKAKA. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator, my friend from Hawaii, for his excellent presentation. I pay tribute to him for his extraordinary work on behalf of the veterans of this country. He has been the real leader in the Senate on this issue, particularly for those who have suffered the wounds of war. He has been a tireless advocate to make sure we get the very best focus and attention to them. We have listened to him frequently. I hope the Senate will pay close attention to his words and his findings and his urging for this body.

I thank him for his comments, as always.

AMENDMENT NO. 71 TO S. 1

Mr. NELSON of Nebraska. Mr. President, as I have mentioned before, last year Washington was rocked by the Abramoff scandal and other misdeeds. I am pleased that Congress has shown it is taking seriously its responsibility to the American people by revisiting and tightening the rules and laws that govern Members of the Senate. Many have said that S.1, which overwhelmingly passed out of the Senate last week, includes the most sweeping ethics reform measures since Watergate.

There is one point that I discussed and pushed forward during last year's debate that I believe needs to again be part of what we are doing now. Last year I offered a sense-of-the-Senate amendment to make many of the reforms we have considered throughout this ethics debate apply to all branches of Government. I am pleased that this sense of the Senate was accepted and is included in the underlying bill.

During the debate last week, I filed an amendment, No. 71, which builds upon the principle behind this sense of the Senate—that the standards employed in this bill should be the minimum standards that guide the other branches of Government. I thought this was a good amendment—in fact, a necessary amendment—that ought to be accepted into this bill. Unfortunately, that did not happen. I have spoken with some of my colleagues and understand that though there is general support for the principle that ethics standards in the executive branch should be as stringent as those made applicable by this bill, some of my colleagues believe the provisions of this amendment warrant further evaluation. Though I am disappointed this amendment will not be included on this bill, I respect and appreciate the importance and value of committee evaluation and will look forward to working on this issue as that committee process proceeds.

Mr. LIEBERMAN. I would like to thank my friend and colleague from Nebraska for bringing this amendment and important issue forward. The Senate Committee on Homeland Security and Governmental Affairs has jurisdiction over these issues which impact the executive branch. As chairman of that committee, I can appreciate that this amendment warrants more thorough evaluation and deliberation. Later this year, the committee will consider the reauthorization of the Office of Government Ethics—the executive branch's ethics arm. I look forward to working with my friend from Nebraska on the issue throughout the year and as we consider this reauthorization and other matters.

Mr. NELSON of Nebraska. I thank my good friend from Connecticut. I appreciate his thoughtfulness in this debate, and I look forward to discussing it further as his committee proceeds this year.

UNI-CAPITOL WASHINGTON INTERNSHIP PROGRAMME

Mr. CRAPO. Mr. President, as modern communication makes our world increasingly smaller, linking global societies at unprecedented business, government and social levels, it is critical that America and other democracies worldwide engage in a process of ongoing co-education about the efforts and work of democratic governments. This educational exchange is best facilitated by hands-on learning and personal experience. A terrific example of this effort is the Uni-Capitol Washington Internship Programme, in which outstanding college students from seven of Australia's top universities compete for the opportunity to serve as interns for Members of the U.S. Congress. In its eighth year, the program has facilitated internships for 68 Australian students thus far.

I am fortunate to be able to participate this year. Charis Tierney from Brisbane, Queensland, has been a wonderful addition to my office this winter. She says of this opportunity:

The UCWIP has been a once in a lifetime to not only observe but participate in the work of the U.S. Congress. Working within Senator Crapo's office has given me the kind of unique appreciation for the United States Senate's work that can only be gained from behind the scenes. My daily interaction with the fantastic staff of the Senator's office has only enhanced the experience.

I offer my congratulations to Director Eric Federing and his wife Daphne for their support and dedication of this important educational program. The additional activities such as visits to historic sites, meetings with other government agencies and outside organizations and special events helps enhance the experience for these promising young women and men. The Federings' commitment to comprehensive bilateral civic education has made it possible for students like Charis to take their experiences here in the legislative branch of the U.S. Government back to Australia and apply lessons learned as they pursue their own course of study across a wide range of academic pursuits.

This valuable program bridges the 9,000 miles that separate the United States and Australia with the friendship of shared experiences and realization and application of common goals and interests.

RECOGNIZING CONNIE FEUERSTEIN

Ms. STABENOW. Mr. President, I rise today in celebration of my longtime friend and staff member, Connie Feuerstein. After working with me for over a decade, Connie has decided to join her husband, Jack, in retirement.

Long before joining my staff, Connie was active in her church, community, and Genesee County politics. Her efforts were critical in my successful campaign for the U.S. House of Representatives in 1996, and I am so fortunate that she was willing to join my congressional staff.

For Connie, her work has always been so much more than just a job. She brings such passion and energy to everything she does. Whether it is attending a community event, walking in a parade or advocating on behalf of a family or for the needs of her community, Connie always gives 110 percent to whatever she is doing.

As a district representative in my congressional offices in Brighton and

Flint and a regional manager in my Flint/Saginaw/Bay office in the Senate, Connie has been my link to the community. She is a respected community leader in her own right. Through the years, she has mentored interns and staff members, many of whom have caught her zeal for public service and have kept in touch with her long after they left the office.

My staff and I will miss her sense of humor, boundless energy, optimism and enthusiasm, although I am certain that retirement will not stop her from staying involved. I also know that many people in Michigan, whose lives she touched through her work, will miss her.

Upon leaving the Senate, Connie plans to spend time in Florida, where she will be closer to one of her daughters and her three precious grandchildren. She has a love for life that is contagious and I know her family will appreciate having more of her time and attention.

Mr. President, I am sad because I am losing a trusted and valued member of my staff, but I am happy to see a dear friend move on to new challenges, and I wish her the best of everything.

RECOGNIZING RICK HUMMEL

Mr. DURBIN. Mr. President, I rise today to honor one of our Nation's finest sportswriters, Rick Hummel, and congratulate him on receiving the J.G. Taylor Spink Award, the highest honor awarded by the Baseball Writers Association of America.

The great sportswriter, Red Smith, once said ''There's nothing to writing. All you do is sit down at a typewriter and open a vein.'' He meant, of course, that writing is not easy. Sports writing can be particularly challenging, but when done well it can be some of the best journalistic writing there is. Rick Hummel does it well.

Those who know Hummel best call him the ''Commish'' a nickname he earned by organizing the newsroom's softball and bowling league teams. Over the years, the moniker has taken on deeper meaning. Today, it serves as a nod to his extensive knowledge of the game of baseball and as a tribute to his venerable career.

Rick Hummel was born and raised in Quincy, IL. He graduated from Quincy High School in 1964, went on to earn a degree from the University of Missouri School of Journalism, and then served in the U.S. Army for 3 years.

Hummel joined the staff of the St. Louis Post-Dispatch in 1971. At the Post-Dispatch, he learned the ropes, as many sportswriters do, by covering high school athletics. Hummel was given his first chance to write about the World Champion St. Louis Cardinals in 1973. By 1978, covering the Cardinals was Hummel's full-time job. He spent the next 24 years as a beat reporter and continues to write for the Post-Dispatch as a regular columnist.

Hummel is passionate about baseball, but as a writer he is known for his uncomplicated style and humility, as well as his ability to work with players, coaches, and managers alike.

Hummel was nominated for a Pulitzer Prize in 1980 and the National Sportswriters and Sportscasters Association named him Missouri Sportswriter of the Year on four separate occasions. Now as the 57th winner of the J.G. Taylor Spink Award, presented annually for ''meritorious contributions to baseball writing,'' Hummel will be recognized in a permanent exhibit at the National Baseball Hall of Fame. He joins such legendary sportswriters as Red Smith, Ring Lardner, Grantland Rice, and Damon Runyon.

I congratulate Rick Hummel on this achievement and recognize his accomplishments throughout his long and successful career.

ADDITIONAL STATEMENTS

TRIBUTE TO ERLANGER, KENTUCKY, FIRE DEPARTMENT

● Mr. BUNNING. Mr. President, today I wish to pay tribute to the city of Erlanger, KY, which is the recipient of the 2006 Award for Municipal Excellence at the National League of Cities' Congress of Cities. This city's Tiered Advanced Life Support System Program for Emergency Medical Services earned Erlanger the Gold Award, which is presented to cities that have a population below 50,000 people. By winning this prestigious award, the Erlanger Fire Department and Emergency Medical Services, EMS, team exhibit the power of hard work as well as their dedication to their community while serving as an example to the rest of the United States.

Since 1989, the goal of the Awards for Municipal Excellence has been to recognize cities that improve the lives of citizens in their communities. These awards identify and feature outstanding city and town programs that show innovation in enhancing the quality of life in America's communities.

The fire department and city of Erlanger recognize the need to have paramedic response and transport capabilities for the safety and welfare of the citizens in its community of 17,000 people. After debating several options, they found a fire service-based EMS delivery model that was affordable and could be enacted immediately. This model provides two cross-trained EMS firefighters on a transport rescue unit, followed by a cross-trained firefighter paramedic in a staff car who can assist and ride in the rescue ambulance with the patient. If the patient does not need advanced life support, the paramedic is ready to respond immediately to the next emergency call. This model delivers the best medical care available and keeps more firefighters on the street to deliver the highest quality fire protection. This joint partnership has made a positive difference in both fire and EMS delivery services in the community of Erlanger.

I congratulate the city of Erlanger, KY, for receiving this Award for Municipal Excellence. By using an innovative approach to address an important community need, they have created this outstanding program. This cutting-edge approach to community emergency response shines as a model for all communities in Kentucky and the United States. This is a true example of Kentucky at its finest and a leadership example to the entire Commonwealth.●

TRIBUTE TO JANE BOLIN

● Mrs. CLINTON. Mr. President, today I honor the life and legacy of Ms. Jane Bolin.

Jane Matilda Bolin of Queens, NY, passed away on Monday, January 8, 2007 after a lifetime of public service. In 1939, Ms. Bolin was the first Black woman to become a judge in the United States, and she continued to serve honorably on the bench for the next 40 years. Her lifelong dedication to social justice, civil rights, and to the betterment of our American society serves as an inspiration to us all.

A trailblazer in so many arenas, Ms. Bolin pursued her goals in the face of widespread discrimination and prejudice. She was the first Black woman to graduate from Yale Law School, the first to join the New York City Bar Association, and the first to work in the city's legal department. In addition to being a fellow Yale Law graduate, she and I also share the same undergraduate alma mater. Ms. Bolin attended Wellesley College in the 1920s as one of only two Black freshmen. She went on to graduate as a Wellesley Scholar, an honor given only to the top 20 students in her class.

Ms. Bolin's tenacity set a powerful example for the women of my generation. In 1958, she commented on the struggle for women's rights that ''we have to fight every inch of the way and in the face of sometimes insufferable humiliations.'' And Ms. Bolin never stopped fighting. She spoke out against segregation in her native Pougkheepsie. She used her position on the bench to end the assignment of probation officers and the placement of children in childcare agencies on the basis of race. As a family court judge, she heard cases ranging from homicides and battered spouses to child support and paternity suits.

Jane Bolin was truly a remarkable woman.

I offer my deepest sympathies to her son, Yorke B. Mizzle, and to all those whose lives she enriched. My thoughts and prayers are with her family during this difficult time.●

TRIBUTE TO JOHN AND JILL MAHAN

● Mr. BUNNING. Mr. President, today I pay tribute to John and Jill Mahan, an exceptional young couple from Kentucky who are the recipients of the American Farm Bureau Young Farmers and Ranchers National Achievement Award. By winning this prestigious award, the Mahans exhibited an unprecedented passion and skill for farming, beating out competition from across the United States.

The American Farm Bureau Young Farmers and Ranchers National

Achievement Award is presented to young farmers and ranchers across the United States who demonstrate knowledge and achievement in agriculture, as well as a steadfast strength and goal of promoting the agricultural community. With the average age of American farmers increasing steadily as the years go by, it is refreshing to see a young couple like the Mahans embrace the financial and labor-intensive plight that is common in the field of agriculture.

The Mahans own 523 acres of a 2,000-acre farm near their home in Lexington, KY. With the changing needs facing farmers, they quickly learned to diversify their production options and create alternatives for income. Currently, the Mahans produce burley tobacco, beef cattle, wheat, soybeans, corn, and alfalfa. This forward-thinking approach to the ever-changing agriculture market is a clear reason this couple experiences continued success in their farming career.

I congratulate John and Jill Mahan on this prestigious award from the American Farm Bureau. By winning this national award, they have shown the rest of the Nation the strength of the agricultural community in Kentucky along with their personal dedication to their remarkable careers in farming. They are true examples of Kentucky at its finest.●

MESSAGES FROM THE HOUSE

At 12:09 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 390. An act to require the establishment of a national database in the National Archives to preserve records of servitude, emancipation, and post-Civil War reconstruction and to provide grants to State and local entities to establish similar local databases.

The message also announced that pursuant to 15 U.S.C. 1024(a), and the order of the House of January 4, 2007, the Speaker appoints the following Member of the House of Representatives to the Joint Economic Committee: Mr. SAXTON of New Jersey.

At 2:15 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 41. Concurrent resolution providing for a conditional adjournment of the House of Representatives.

The message further announced that the House agrees to the amendment of the Senate to the concurrent resolution (H. Con. Res. 38) providing for a joint session of Congress to receive a message from the President.

REPORT ON THE STATE OF THE UNION DELIVERED TO A JOINT SESSION OF CONGRESS ON JANUARY 23, 2007—PM 2

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was ordered to lie on the table:

To the Congress of the United States:

Thank you very much. Tonight, I have a high privilege and distinct honor of my own—as the first President to begin the State of the Union message with these words: Madam Speaker.

In his day, the late Congressman Thomas D'Alesandro, Jr., from Baltimore, Maryland, saw Presidents Roosevelt and Truman at this rostrum. But nothing could compare with the sight of his only daughter, Nancy, presiding tonight as Speaker of the House of Representatives. Congratulations.

Two members of the House and Senate are not with us tonight—and we pray for the recovery and speedy return of Senator Tim Johnson and Congressman Charlie Norwood.

Madam Speaker, Vice President Cheney, Members of Congress, distinguished guests, and fellow citizens:

This rite of custom brings us together at a defining hour—when decisions are hard and courage is tested. We enter the year 2007 with large endeavors underway, and others that are ours to begin. In all of this, much is asked of us. We must have the will to face difficult challenges and determined enemies—and the wisdom to face them together.

Some in this Chamber are new to the House and Senate—and I congratulate the Democratic majority. Congress has changed, but our responsibilities have not. Each of us is guided by our own convictions—and to these we must stay faithful. Yet we are all held to the same standards, and called to serve the same good purposes: To extend this Nation's prosperity . . . to spend the people's money wisely . . . to solve problems, not leave them to future generations . . . to guard America against all evil, and to keep faith with those we have sent forth to defend us.

We are not the first to come here with government divided and uncertainty in the air. Like many before us, we can work through our differences and achieve big things for the American people. Our citizens don't much care which side of the aisle we sit on—as long as we are willing to cross that aisle when there is work to be done. Our job is to make life better for our fellow Americans, and help them to build a future of hope and opportunity—and this is the business before us tonight.

A future of hope and opportunity begins with a growing economy—and that is what we have. We are now in the 41st month of uninterrupted job growth—in a recovery that has created 7.2 million new jobs . . . so far. Unemployment is low, inflation is low, and wages are rising. This economy is on the move—and our job is to keep it that way, not with more government but with more enterprise.

Next week, I will deliver a full report on the state of our economy. Tonight, I want to discuss three economic reforms that deserve to be priorities for this Congress.

First, we must balance the Federal budget. We can do so without raising taxes. What we need to do is impose spending discipline in Washington, D.C. We set a goal of cutting the deficit in half by 2009—and met that goal 3 years ahead of schedule. Now let us take the next step. In the coming weeks, I will submit a budget that eliminates the Federal deficit within the next 5 years. I ask you to make the same commitment. Together, we can restrain the spending appetite of the Federal Government, and balance the Federal budget.

Next, there is the matter of earmarks. These special interest items are often slipped into bills at the last hour—when not even C–SPAN is watching. In 2005 alone, the number of earmarks grew to over 13,000 and totaled nearly $18 billion. Even worse, over 90 percent of earmarks never make it to the floor of the House and Senate—they are dropped into Committee reports that are not even part of the bill that arrives on my desk. You did not vote them into law. I did not sign them into law. Yet they are treated as if they have the force of law. The time has come to end this practice. So let us work together to reform the budget process . . . expose every earmark to the light of day and to a vote in Congress, and cut the number and cost of earmarks at least in half by the end of this session.

Finally, to keep this economy strong we must take on the challenge of entitlements. Social Security and Medicare and Medicaid are commitments of conscience—and so it is our duty to keep them permanently sound. Yet we are failing in that duty—and this failure will one day leave our children with three bad options: huge tax increases, huge deficits, or huge and immediate cuts in benefits. Everyone in this Chamber knows this to be true—yet somehow we have not found it in ourselves to act. So let us work together and do it now. With enough good sense and good will, you and I can fix Medicare and Medicaid—and save Social Security.

Spreading opportunity and hope in America also requires public schools that give children the knowledge and character they need in life. Five years ago, we rose above partisan differences to pass the No Child Left Behind Act—preserving local control, raising standards in public schools, and holding those schools accountable for results. And because we acted, students are performing better in reading and math, and minority students are closing the achievement gap.

Now the task is to build on this success, without watering down standards . . . without taking control from local communities . . . and without backsliding and calling it reform. We can lift student achievement even higher by giving local leaders flexibility to turn around failing schools . . . and by giving families with children stuck in failing schools the right to choose something better. We must increase funds for students who struggle—and make sure these children get the special help they need. And we can make sure our children are prepared for the jobs of the future, and our country is more competitive, by strengthening math and science skills. The No Child Left Behind Act has worked for America's children—and I ask Congress to reauthorize this good law.

A future of hope and opportunity requires that all our citizens have affordable and available health care. When it comes to health care, government has an obligation to care for the elderly, the disabled, and poor children. We will meet those responsibilities. For all other Americans, private health insurance is the best way to meet their needs. But many Americans cannot afford a health insurance policy.

Tonight, I propose two new initiatives to help more Americans afford their own insurance. First, I propose a standard tax deduction for health insurance that will be like the standard tax deduction for dependents. Families with health insurance will pay no income or payroll taxes on $15,000 of their income. Single Americans with health insurance will pay no income or payroll taxes on $7,500 of their income. With this reform, more than 100 million men, women, and children who are now covered by employer-provided insurance will benefit from lower tax bills.

At the same time, this reform will level the playing field for those who do not get health insurance through their job. For Americans who now purchase health insurance on their own, my proposal would mean a substantial tax savings—$4,500 for a family of four making $60,000 a year. And for the millions of other Americans who have no health insurance at all, this deduction would help put a basic private health insurance plan within their reach. Changing the tax code is a vital and necessary step to making health care affordable for more Americans.

My second proposal is to help the States that are coming up with innovative ways to cover the uninsured. States that make basic private health insurance available to all their citizens should receive Federal funds to help them provide this coverage to the poor and the sick. I have asked the Secretary of Health and Human Services to work with Congress to take existing Federal funds and use them to create ''Affordable Choices'' grants. These grants would give our Nation's Governors more money and more flexibility to get private health insurance to those most in need.

There are many other ways that Congress can help. We need to expand Health Savings Accounts . . . help small businesses through Association Health Plans . . . reduce costs and medical errors with better information technology, encourage price transparency . . . and protect good doctors from junk lawsuits by passing medical liability reform. And in all we do, we must remember that the best health care decisions are made not by government and insurance companies, but by patients and their doctors.

Extending hope and opportunity in our country requires an immigration system worthy of America—with laws that are fair and borders that are secure. When laws and borders are routinely violated, this harms the interests of our country. To secure our border, we are doubling the size of the Border Patrol—and funding new infrastructure and technology.

Yet even with all these steps, we cannot fully secure the border unless we take pressure off the border—and that requires a temporary worker program. We should establish a legal and orderly path for foreign workers to enter our country to work on a temporary basis. As a result, they won't have to try to sneak in—and that will leave border agents free to chase down drug smugglers, and criminals, and terrorists. We will enforce our immigration laws at the worksite, and give employers the tools to verify the legal status of their workers—so there is no excuse left for violating the law. We need to uphold the great tradition of the melting pot that welcomes and assimilates new arrivals. And we need to resolve the status of the illegal immigrants who are already in our country—without animosity and without amnesty.

Convictions run deep in this Capitol when it comes to immigration. Let us have a serious, civil, and conclusive debate—so that you can pass, and I can sign, comprehensive immigration reform into law.

Extending hope and opportunity depends on a stable supply of energy that keeps America's economy running and America's environment clean. For too long, our Nation has been dependent on foreign oil. And this dependence leaves us more vulnerable to hostile regimes, and to terrorists—who could cause huge disruptions of oil shipments . . . raise the price of oil . . . and do great harm to our economy.

It is in our vital interest to diversify America's energy supply—and the way forward is through technology. We must continue changing the way America generates electric power—by even greater use of clean coal technology . . . solar and wind energy . . . and clean, safe nuclear power. We need to press on with battery research for plug-in and hybrid vehicles, and expand the use of clean diesel vehicles and biodiesel fuel. We must continue investing in new methods of producing ethanol—using everything from wood chips, to grasses, to agricultural wastes.

We have made a lot of progress, thanks to good policies in Washington and the strong response of the market. Now even more dramatic advances are within reach. Tonight, I ask Congress to join me in pursuing a great goal. Let us build on the work we have done and reduce gasoline usage in the United States by 20 percent in the next 10 years—thereby cutting our total imports by the equivalent of 3/4 of all the oil we now import from the Middle East.

To reach this goal, we must increase the supply of alternative fuels, by setting a mandatory Fuels Standard to require 35 billion gallons of renewable and alternative fuels in 2017—this is nearly 5 times the current target. At the same time, we need to reform and modernize fuel economy standards for cars the way we did for light trucks—and conserve up to 8.5 billion more gallons of gasoline by 2017.

Achieving these ambitious goals will dramatically reduce our dependence on foreign oil, but will not eliminate it. So as we continue to diversify our fuel supply, we must also step up domestic oil production in environmentally sensitive ways. And to further protect America against severe disruptions to our oil supply, I ask Congress to double the current capacity of the Strategic Petroleum Reserve.

America is on the verge of technological breakthroughs that will enable us to live our lives less dependent on oil. These technologies will help us become better stewards of the environment—and they will help us to confront the serious challenge of global climate change.

A future of hope and opportunity requires a fair, impartial system of justice. The lives of citizens across our Nation are affected by the outcome of cases pending in our Federal courts. And we have a shared obligation to ensure that the Federal courts have enough judges to hear those cases and deliver timely rulings. As President, I have a duty to nominate qualified men and women to vacancies on the Federal bench. And the United States Senate has a duty as well—to give those nominees a fair hearing, and a prompt up-or-down vote on the Senate floor.

For all of us in this room, there is no higher responsibility than to protect the people of this country from danger. Five years have come and gone since we saw the scenes and felt the sorrow that terrorists can cause. We have had time to take stock of our situation. We have added many critical protections to guard the homeland. We know with certainty that the horrors of that September morning were just a glimpse of what the terrorists intend for us—unless we stop them.

With the distance of time, we find ourselves debating the causes of conflict and the course we have followed. Such debates are essential when a great democracy faces great questions. Yet one question has surely been settled—that to win the war on terror we must take the fight to the enemy.

From the start, America and our allies have protected our people by staying on the offense. The enemy knows that the days of comfortable sanctuary, easy movement, steady financing, and free-flowing communications are long over. For the terrorists, life since 9/11 has never been the same.

Our success in this war is often measured by the things that did not happen. We cannot know the full extent of the attacks that we and our allies have prevented—but here is some of what we do know: We stopped an al Qaeda plot to fly a hijacked airplane into the tallest building on the West Coast. We broke up a Southeast Asian terrorist cell grooming operatives for attacks inside the United States. We uncovered an al Qaeda cell developing anthrax to be used in attacks against America. And just last August, British authorities uncovered a plot to blow up passenger planes bound for America over the Atlantic Ocean. For each life saved, we owe a debt of gratitude to the brave public servants who devote their lives to finding the terrorists and stopping them.

Every success against the terrorists is a reminder of the shoreless ambitions of this enemy. The evil that inspired and rejoiced in 9/11 is still at work in the world. And so long as that is the case, America is still a Nation at war.

In the minds of the terrorists, this war began well before September 11, and will not end until their radical vision is fulfilled. And these past 5 years have given us a much clearer view of the nature of this enemy. Al Qaeda and its followers are Sunni extremists, possessed by hatred and commanded by a harsh and narrow ideology. Take almost any principle of civilization, and their goal is the opposite. They preach with threats . . . instruct with bullets and bombs . . . and promise paradise for the murder of the innocent.

Our enemies are quite explicit about their intentions. They want to overthrow moderate governments and establish safe havens from which to plan and carry out new attacks on our country. By killing and terrorizing Americans, they want to force our country to retreat from the world and abandon the cause of liberty. They would then be free to impose their will and spread their totalitarian ideology. Listen to this warning from the late terrorist Zarqawi: ''We will sacrifice our blood and bodies to put an end to your dreams, and what is coming is even worse.'' And Osama bin Laden declared: ''Death is better than living on this Earth with the unbelievers among us.''

These men are not given to idle words, and they are just one camp in the Islamist radical movement. In recent times, it has also become clear that we face an escalating danger from Shia extremists who are just as hostile to America, and are also determined to dominate the Middle East. Many are known to take direction from the regime in Iran, which is funding and arming terrorists like Hezbollah—a group second only to al Qaeda in the American lives it has taken.

The Shia and Sunni extremists are different faces of the same totalitarian threat. But whatever slogans they chant, when they slaughter the innocent, they have the same wicked purposes. They want to kill Americans . . . kill democracy in the Middle East . . . and gain the weapons to kill on an even more horrific scale.

In the 6th year since our Nation was attacked, I wish I could report to you that the dangers have ended. They have not. And so it remains the policy of this Government to use every lawful and proper tool of intelligence, diplomacy, law enforcement, and military action to do our duty, to find these enemies, and to protect the American people.

This war is more than a clash of arms—it is a decisive ideological struggle, and the security of our Nation is in the balance. To prevail, we must remove the conditions that inspire blind hatred, and drove 19 men to get onto airplanes and come to kill us. What every terrorist fears most is human freedom—societies where men and women make their own choices, answer to their own conscience, and live by their hopes instead of their resentments. Free people are not drawn to violent and malignant ideologies—and most will choose a better way when they are given a chance. So we advance our own security interests by helping moderates, reformers, and brave voices for democracy. The great question of our day is whether America will help men and women in the Middle East to build free societies and share in the rights of all humanity. And I say, for the sake of our own security . . . we must.

In the last 2 years, we have seen the desire for liberty in the broader Middle East—and we have been sobered by the enemy's fierce reaction. In 2005, the world watched as the citizens of Lebanon raised the banner of the Cedar Revolution . . . drove out the Syrian occupiers . . . and chose new leaders in free elections. In 2005, the people of Afghanistan defied the terrorists and elected a democratic legislature. And in 2005, the Iraqi people held three national elections—choosing a transitional government . . . adopting the most progressive, democratic constitution in the Arab world . . . and then electing a government under that constitution. Despite endless threats from the killers in their midst, nearly 12 million Iraqi citizens came out to vote in a show of hope and solidarity we should never forget.

A thinking enemy watched all of these scenes, adjusted their tactics, and in 2006 they struck back. In Lebanon, assassins took the life of Pierre Gemayel, a prominent participant in the Cedar Revolution. And Hezbollah terrorists, with support from Syria and Iran, sowed conflict in the region and are seeking to undermine Lebanon's legitimately elected government. In Afghanistan, Taliban and al Qaeda fighters tried to regain power by regrouping and engaging Afghan and NATO forces. In Iraq, al Qaeda and other Sunni extremists blew up one of the most sacred places in Shia Islam—the Golden Mosque of Samarra. This atrocity, directed at a Muslim house of prayer, was designed to provoke retaliation from Iraqi Shia—and it succeeded. Radical Shia elements, some of whom receive support from Iran, formed death squads. The result was a tragic escalation of sectarian rage and reprisal that continues to this day.

This is not the fight we entered in Iraq, but it is the fight we are in. Every one of us wishes that this war were over and won. Yet it would not be like us to leave our promises unkept, our friends abandoned, and our own security at risk. Ladies and gentlemen: On this day, at this hour, it is still within our power to shape the outcome of this battle. So let us find our resolve, and turn events toward victory.

We are carrying out a new strategy in Iraq—a plan that demands more from Iraq's elected government, and gives our forces in Iraq the reinforcements they need to complete their mission. Our goal is a democratic Iraq that upholds the rule of law, respects the rights of its people, provides them security, and is an ally in the war on terror.

In order to make progress toward this goal, the Iraqi government must stop the sectarian violence in its capital. But the Iraqis are not yet ready to do this on their own. So we are deploying reinforcements of more than 20,000 additional soldiers and Marines to Iraq. The vast majority will go to Baghdad, where they will help Iraqi forces to clear and secure neighborhoods and serve as advisers embedded in Iraqi Army units. With Iraqis in the lead, our forces will help secure the city by chasing down terrorists, insurgents, and roaming death squads. And in Anbar province—where al Qaeda terrorists have gathered and local forces have begun showing a willingness to fight them—we are sending an additional 4,000 United States Marines, with orders to find the terrorists and clear them out. We did not drive al Qaeda out of their safe haven in Afghanistan only to let them set up a new safe haven in a free Iraq.

The people of Iraq want to live in peace, and now is the time for their government to act. Iraq's leaders know that our commitment is not open ended. They have promised to deploy more of their own troops to secure Baghdad—and they must do so. They have pledged that they will confront violent radicals of any faction or political party. They need to follow through, and lift needless restrictions on Iraqi and Coalition forces, so these troops can achieve their mission of bringing security to all of the people of Baghdad. Iraq's leaders have committed themselves to a series of benchmarks to achieve reconciliation—to

share oil revenues among all of Iraq's citizens . . . to put the wealth of Iraq into the rebuilding of Iraq . . . to allow more Iraqis to re-enter their nation's civic life . . . to hold local elections . . . and to take responsibility for security in every Iraqi province. But for all of this to happen, Baghdad must be secured. And our plan will help the Iraqi government take back its capital and make good on its commitments.

My fellow citizens, our military commanders and I have carefully weighed the options. We discussed every possible approach. In the end, I chose this course of action because it provides the best chance of success. Many in this Chamber understand that America must not fail in Iraq—because you understand that the consequences of failure would be grievous and far reaching.

If American forces step back before Baghdad is secure, the Iraqi government would be overrun by extremists on all sides. We could expect an epic battle between Shia extremists backed by Iran, and Sunni extremists aided by al Qaeda and supporters of the old regime. A contagion of violence could spill out across the country—and in time the entire region could be drawn into the conflict.

For America, this is a nightmare scenario. For the enemy, this is the objective. Chaos is their greatest ally in this struggle. And out of chaos in Iraq would emerge an emboldened enemy with new safe havens . . . new recruits . . . new resources . . . and an even greater determination to harm America. To allow this to happen would be to ignore the lessons of September 11 and invite tragedy. And ladies and gentlemen, nothing is more important at this moment in our history than for America to succeed in the Middle East . . . to succeed in Iraq . . . and to spare the American people from this danger.

This is where matters stand tonight, in the here and now. I have spoken with many of you in person. I respect you and the arguments you have made. We went into this largely united—in our assumptions, and in our convictions. And whatever you voted for, you did not vote for failure. Our country is pursuing a new strategy in Iraq—and I ask you to give it a chance to work. And I ask you to support our troops in the field—and those on their way.

The war on terror we fight today is a generational struggle that will continue long after you and I have turned our duties over to others. That is why it is important to work together so our Nation can see this great effort through. Both parties and both branches should work in close consultation. And this is why I propose to establish a special advisory council on the war on terror, made up of leaders in Congress from both political parties. We will share ideas for how to position America to meet every challenge that confronts us. And we will show our enemies abroad that we are united in the goal of victory.

One of the first steps we can take together is to add to the ranks of our military—so that the American Armed Forces are ready for all the challenges ahead. Tonight I ask the Congress to authorize an increase in the size of our active Army and Marine Corps by 92,000 in the next 5 years. A second task we can take on together is to design and establish a volunteer Civilian Reserve Corps. Such a corps would function much like our military reserve. It would ease the burden on the Armed Forces by allowing us to hire civilians with critical skills to serve on missions abroad when America needs them. And it would give people across America who do not wear the uniform a chance to serve in the defining struggle of our time.

Americans can have confidence in the outcome of this struggle—because we are not in this struggle alone. We have a diplomatic strategy that is rallying the world to join in the fight against extremism. In Iraq, multinational forces are operating under a mandate from the United Nations—and we are working with Jordan, Saudi Arabia, Egypt, and the Gulf States to increase support for Iraq's government. The United Nations has imposed sanctions on Iran, and made it clear that the world will not allow the regime in Tehran to acquire nuclear weapons. With the other members of the Quartet—the U.N., the European Union, and Russia—we are pursuing diplomacy to help bring peace to the Holy Land, and pursuing the establishment of a democratic Palestinian state living side-by-side with Israel in peace and security. In Afghanistan, NATO has taken the lead in turning back the Taliban and al Qaeda offensive—the first time the Alliance has deployed forces outside the North Atlantic area. Together with our partners in China, Japan, Russia, and South Korea, we are pursuing intensive diplomacy to achieve a Korean peninsula free of nuclear weapons. And we will continue to speak out for the cause of freedom in places like Cuba, Belarus, and Burma—and continue to awaken the conscience of the world to save the people of Darfur.

American foreign policy is more than a matter of war and diplomacy. Our work in the world is also based on a timeless truth: To whom much is given, much is required. We hear the call to take on the challenges of hunger, poverty, and disease—and that is precisely what America is doing. We must continue to fight HIV/AIDS, especially on the continent of Africa—and because you funded our Emergency Plan for AIDS Relief, the number of people receiving life-saving drugs has grown from 50,000 to more than 800,000 in 3 short years. I ask you to continue funding our efforts to fight HIV/AIDS. I ask you to provide $1.2 billion over 5 years so we can combat malaria in 15 African countries. I ask that you fund the Millennium Challenge Account, so that American aid reaches the people who need it, in nations where democracy is on the rise and corruption is in retreat. And let us continue to support the expanded trade and debt relief that are the best hope for lifting lives and eliminating poverty.

When America serves others in this way, we show the strength and generosity of our country. These deeds reflect the character of our people. The greatest strength we have is the heroic kindness, courage, and self-sacrifice of the American people. You see this spirit often if you know where to look—and tonight we need only look above to the gallery.

Dikembe Mutombo grew up in Africa, amid great poverty and disease. He came to Georgetown University on a scholarship to study medicine—but Coach John Thompson got a look at Dikembe and had a different idea. Dikembe became a star in the NBA, and a citizen of the United States. But he never forgot the land of his birth—or the duty to share his blessings with others. He has built a brand new hospital in his hometown. A friend has said of this good-hearted man: ''Mutombo believes that God has given him this opportunity to do great things.'' And we are proud to call this son of the Congo our fellow American.

After her daughter was born, Julie Aigner-Clark searched for ways to share her love of music and art with her child. So she borrowed some equipment, and began filming children's videos in her basement. The Baby Einstein Company was born—and in just 5 years her business grew to more than $20 million in sales. In November 2001, Julie sold Baby Einstein to the Walt Disney Company, and with her help Baby Einstein has grown into a $200 million business. Julie represents the great enterprising spirit of America. And she is using her success to help others—producing child safety videos with John Walsh of the National Center for Missing and Exploited Children. Julie says of her new project: ''I believe it is the most important thing that live ever done. I believe that children have the right to live in a world that is safe.'' We are pleased to welcome this talented business entrepreneur and generous social entrepreneur—Julie Aigner-Clark.

Three weeks ago, Wesley Autrey was waiting at a Harlem subway station with his two little girls, when he saw a man fall into the path of a train. With seconds to act, Wesley jumped onto the tracks . . . pulled the man into a space between the rails . . . and held him as the train passed right above their heads. He insists he's not a hero. Wesley says: ''We got guys and girls overseas dying for us to have our freedoms. We got to show each other some love.'' There is something wonderful about a country that produces a brave and humble man like Wesley Autrey.

Tommy Rieman was a teenager pumping gas in Independence, Kentucky, when he enlisted in the United States Army. In December 2003, he was on a reconnaissance mission in Iraq when his team came under heavy enemy fire. From his Humvee, Sergeant Rieman returned fire—and used

his body as a shield to protect his gunner. He was shot in the chest and arm, and received shrapnel wounds to his legs—yet he refused medical attention, and stayed in the fight. He helped to repel a second attack, firing grenades at the enemy's position. For his exceptional courage, Sergeant Rieman was awarded the Silver Star. And like so many other Americans who have volunteered to defend us, he has earned the respect and gratitude of our whole country.

In such courage and compassion, ladies and gentlemen, we see the spirit and character of America—and these qualities are not in short supply. This is a decent and honorable country—and resilient, too. We have been through a lot together. We have met challenges and faced dangers, and we know that more lie ahead. Yet we can go forward with confidence—because the State of our Union is strong . . . our cause in the world is right . . . and tonight that cause goes on.

Thank you.

GEORGE W. BUSH.

THE WHITE HOUSE, *January 23, 2007*.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 390. An act to require the establishment of a national database in the National Archives to preserve records of servitude, emancipation, and post–Civil War reconstruction and to provide grants to State and local entities to establish similar local databases; to the Committee on Homeland Security and Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–430. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Spiromesifen; Pesticide Tolerance'' (FRL No. 8110–3) received on January 18, 2007; to the Committee on Agriculture, Nutrition, and Forestry.

EC–431. A communication from the Legal Information Assistant, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Subordinated Debt Securities and Mandatorily Preferred Stock'' (RIN1550–AC06) received on January 18, 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–432. A communication from the Chief Financial Officer, Department of Housing and Urban Development, transmitting, pursuant to law, a report relative to the Department's competitive sourcing efforts for fiscal year 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC–433. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Arizona; Miami Sulfur Dioxide State Implementation Plan and Request for Redesignation to Attainment; Correction of Boundary of Miami Sulfur Dioxide Nonattainment Area'' (FRL No. 8270–3) received on January 18, 2007; to the Committee on Environment and Public Works.

EC–434. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Texas; EL Paso County Carbon Monoxide Redesignation to Attainment, and Approval of Maintenance Plan'' (FRL No. 8272–5) received on January 18, 2007; to the Committee on Environment and Public Works.

EC–435. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Other Solid Waste Incineration Units: Reconsideration'' (FRL No. 8272–2) received on January 18, 2007; to the Committee on Environment and Public Works.

EC–436. A communication from the Director of the Peace Corps, transmitting, pursuant to law, a report relative to the Corps' competitive sourcing efforts for fiscal year 2006; to the Committee on Foreign Relations.

EC–437. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2007–001—2007–011); to the Committee on Foreign Relations.

EC–438. A communication from the Secretary of Labor, transmitting, pursuant to law, a report relative to the operations of the Office of Workers' Compensation Programs for fiscal year 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–439. A communication from the Administrator, Office of Workforce Security, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Unemployment Compensation—Eligibility'' (RIN1205–AB41) received on January 22, 2007; to the Committee on Health, Education, Labor, and Pensions.

EC–440. A communication from the Director of Legislative Affairs, Office of the Director of National Intelligence, transmitting, pursuant to law, the report of a discontinuation of service in the acting role for the position of Principal Deputy Director of National Intelligence, received on January 22, 2007; to the Select Committee on Intelligence.

EC–441. A communication from the General Counsel, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of a nomination for the position of Administrator (Office of Information and Regulatory Affair), received on January 18, 2007; to the Committee on Homeland Security and Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself and Mr. SMITH):

S. 360. A bill to amend the Internal Revenue Code of 1986 to expand expenses which qualify for the Hope Scholarship Credit and to make the Hope Scholarship Credit and the Lifetime Learning Credit refundable; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 361. A bill to designate the United States courthouse at South Federal Place in Santa Fe, New Mexico, as the ''Santiago E. Campos United States Courthouse''; to the Committee on Environment and Public Works.

By Mr. COLEMAN:

S. 362. A bill to expand the number of embryonic stem cell lines available for Federally funded research; to the Committee on Health, Education, Labor, and Pensions.

By Mr. COLEMAN:

S. 363. A bill to provide increased Federal funding for stem cell research, to expand the number of embryonic stem cell lines available for Federally funded research, to provide ethical guidelines for stem cell research, to derive human pluripotent stem cell lines using techniques that do not create an embryo or embryos for research or knowingly harm human embryo or embryos, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER:

S. 364. A bill to strengthen United States trade laws and for other purposes; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. HAGEL, and Mr. DORGAN):

S. 365. A bill to authorize the Secretary of Energy to establish monetary prizes for achievements in overcoming scientific and technical barriers associated with hydrogen energy; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI:

S. 366. A bill to authorize the conveyance of certain Federal land in the State of New Mexico; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DORGAN (for himself, Mr. GRAHAM, Mr. FEINGOLD, Mr. BROWN, Mr. BYRD, and Mr. SANDERS):

S. 367. A bill to amend the Tariff Act of 1930 to prohibit the import, export, and sale of goods made with sweatshop labor, and for other purposes; to the Committee on Finance.

By Mr. BIDEN (for himself, Mr. BAUCUS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. DODD, Mrs. FEINSTEIN, Mr. HARKIN, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mr. MENENDEZ, Ms. MIKULSKI, Mr. OBAMA, Mr. REED, Mr. SALAZAR, Mr. SCHUMER, Mr. SMITH, Ms. STABENOW, and Mr. REID):

S. 368. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to enhance the COPS ON THE BEAT grant program, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself, Mrs. CLINTON, Mr. SPECTER, Mr. BAUCUS, Mr. BAYH, Mr. BIDEN, Mrs. BOXER, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. HARKIN, Mr. INOUYE, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. MENENDEZ, Mrs. MURRAY, Mr. PRYOR, and Mr. SALAZAR):

S. 369. A bill to provide for a medal of appropriate design to be awarded by the President to the next of kin or other representative of those individuals killed as a result of the terrorist attacks of September 11, 2001; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. HUTCHISON (for herself and Mr. CORNYN):

S. 370. A bill to designate the headquarters building of the Department of Education in Washington, DC, as the Lyndon Baines Johnson Federal Building; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. STABENOW (for herself and Mr. LEVIN):

S. Res. 37. A resolution designating March 26, 2007 as ''National Support the Troops Day'' and encouraging the people of the United States to participate in a moment of silence to reflect upon the service and sacrifice of members of the Armed Forces both at home and abroad; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 2

At the request of Mr. KENNEDY, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 2, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

S. 21

At the request of Mr. REID, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 21, a bill to expand access to preventive health care services that help reduce unintended pregnancy, reduce abortions, and improve access to women's health care.

S. 43

At the request of Mr. ENSIGN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 43, a bill to amend title II of the Social Security Act to preserve and protect Social Security benefits of American workers and to help ensure greater congressional oversight of the Social Security system by requiring that both Houses of Congress approve a totalization agreement before the agreement, giving foreign workers Social Security benefits, can go into effect.

S. 65

At the request of Mr. INHOFE, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 65, a bill to modify the age-60 standard for certain pilots and for other purposes.

S. 138

At the request of Mr. SCHUMER, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 138, a bill to amend the Internal Revenue Code of 1986 to apply the joint return limitation for capital gains exclusion to certain post-marriage sales of principal residences by surviving spouses.

S. 223

At the request of Mr. FEINGOLD, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 223, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

S. 261

At the request of Ms. CANTWELL, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 261, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 320

At the request of Mr. AKAKA, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 320, a bill to provide for the protection of paleontological resources on Federal lands, and for other purposes.

S. 343

At the request of Mr. VOINOVICH, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 343, a bill to extend the District of Columbia College Access Act of 1999.

S. 347

At the request of Mr. VOINOVICH, the name of the Senator from Virginia (Mr. WARNER) was withdrawn as a cosponsor of S. 347, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage, and for other purposes.

S. 356

At the request of Mr. BROWNBACK, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 356, a bill to ensure that women seeking an abortion are fully informed regarding the pain experienced by their unborn child.

AMENDMENT NO. 102

At the request of Mr. DODD, his name was added as a cosponsor of amendment No. 102 proposed to H.R. 2, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

At the request of Mr. KENNEDY, his name was added as a cosponsor of amendment No. 102 proposed to H.R. 2, supra.

AMENDMENT NO. 103

At the request of Ms. SNOWE, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from New Hampshire (Mr. SUNUNU), and the Senator from Kansas (Mr. ROBERTS) were added as a cosponsor of amendment No. 103 proposed to H.R. 2, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself and Mr. SMITH):

S. 360. A bill to amend the Internal Revenue Code of 1986 to expand expenses which qualify for the Hope Scholarship Credit and to make the Hope Scholarship Credit and the Lifetime Learning Credit refundable; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today with Senator Smith to introduce the Greater Access To Education, or GATE Act, of 2007. This legislation would amend the Internal Revenue Code of 1986 in order to make college more affordable, and thus provide greater access to postsecondary education for lower income students and working families. Simply put, this bill would expand expenses which qualify for the Hope Scholarship Credit, prevent aid for needy students from reducing the credit, and make the Hope Scholarship and Lifetime Learning Credits refundable.

The cost of attending college in the U.S. has grown by 44 percent since 2000, far outpacing the median growth in income. We've seen a 35 percent jump in inflation-adjusted average tuition and fees for in-state students at public colleges and universities since 2001–02. The cost of going to college is 6.3 percent higher than just last year, averaging $12,796 including room and board.

Unfortunately, year after year, Congress has failed to raise Pell Grant Scholarships for needy students. This critical student aid has been frozen at just over $4000 for four years. Ten years ago, the maximum Pell Grant covered more than 50 percent of the cost of tuition, fees, room and board at a public four-year college. Last year, it covered only 35 percent of those costs.

At the same time, we're seeing increasing competition among colleges and universities for the highest scoring students. And these students command higher tuition discounts, particularly in the form of merit scholarships. As a result, there's a smaller proportion of the financial aid budget available for low income students at colleges with rising tuitions.

A recent report by Education Trust found that many of the flagship and research-extensive public universities have reallocated financial aid resources away from the low income students who need help to go to college—mostly to compete for high income students who would enroll in college regardless of the amount of aid they receive. Between 1995 and 2003, flagship and other research-extensive public universities actually decreased grant aid by 13 percent for students from families with an annual income of $20,000 or less while they increased aid to students from families who make more than $100,000 by 406 percent. In 2003, these institutions spent a combined $257 million to subsidize the tuition of students from families with annual incomes over $100,000—a staggering increase from the $50 million they spent in 1995.

In addition, many colleges and universities are now using ''enrollment and revenue management'' firms to help manage admissions and financial aid. I am concerned that too many schools are trying to leverage their financial aid to entice wealthier and high scoring students to attend their schools, at the expense of aid to lower

income students. In essence, they're directing financial aid dollars to students who will increase a school's revenues and rankings.

As a result, low income students are disproportionately bearing the brunt of increased college tuition and fees. In turn, more and more students increasingly rely on loans to finance their education. And, we've seen a significant increase in the amount of student debt in this country. In New Mexico, the average student now graduates from 4 years of college with more than $16,000 in debt.

And, last year, Congress cut $12 billion out of the Federal student aid programs, pushing college further out of reach for American families. It is the largest single cut the Federal Government has made to student aid programs, and it is expected to increase the debt burden of students and their families as many borrowers of student loans will face higher interest payments.

Congress, simply, has moved in the wrong direction, and failed to help make college more affordable for students from low income and working families.

Full time students receive about $3,100 per year in aid in the form of grants and tax benefits at 4-year public institutions. In 2003–04, however, only 56 percent of 4-year public institution students from families with incomes below $30,000 received sufficient grant aid and tax benefits to cover tuition and fees.

Even worse, we know that each year there are hundreds of thousands of students who are prepared to attend a 4-year college but do not do so because of financial barriers.

We must reverse this course and make college more affordable for students from low-income and working families.

The first priority for this Congress should be to increase student aid for needy students. We must increase the amount of Pell grants to at least $5,100.

The next thing we should do is make sure that the existing education tax credits work effectively for the families that need them most. The Hope Scholarship and Lifetime Learning tax credits have helped millions of Americans finance their college education. For this tax year, the credits allow eligible tax filers to reduce their tax liability by receiving a credit of up to $1,650 for the Hope program or up to $2,000 for the Lifetime Learning credit for tuition and course-related fees paid for a single student.

Unfortunately, research shows that these tax credits are not working as effectively as they could be. They do not support students who are currently enrolled in college to any significant degree, and they do not induce greater numbers of students, including working adults who need to upgrade their education and skills, to earn a postsecondary degree.

Many students and their families are unable to take advantage of the maximum amount of the credit because it is limited to covering ''tuition and related expenses.'' Students who attend colleges with lower tuition costs, such as those attending community colleges, are not entitled to the maximum amount of the credit.

For college students attending institutions with relatively high tuition rates, the maximum credit will be available to cover the higher tuition. This is not the case, however, for many students, particularly the vast majority of community college students, as well as hundreds of thousands of students attending public four-year colleges, who attend college where the tuition is lower. These students are not able to access the full credit because tuition at these institutions is lower than the maximum credit, and the scope of the credit is limited to tuition and related expenses. College students must pay for much more than just tuition, however, including room and board, books, supplies, equipment and fees.

Further, a student's eligibility for the Hope tax credit is actually reduced by any grants the student receives—Federal, State, or private. The impact of this limitation is felt particularly by the by the low income students that receive Pell Grants or other Federal or State assistance. Often, the assistance received fully offsets the amount of the credit.

This legislation is simple and straightforward, and is crafted to address these shortcomings. First, in addition to tuition, it allows the Hope credit to cover room and board, required fees, books, supplies, and equipment. It is important to note that the IRS Code commonly recognizes non-tuition expenses, including substantial living expenses, in programs such as Section 529 plans and tax-exempt, prepaid tuition plans.

As we all know, tuition is just one of the many expenses associated with going to college. Room and board, books, supplies, equipment and fees can be prohibitively expensive for those who attend colleges that have reasonable tuition charges. The cost for books and supplies alone can be as high as $1000 per year.

In addition, the legislation changes the IRS Code so that any Federal Pell Grants and Supplemental Educational Opportunity Grants students receive are not counted against their eligible expenses when Hope eligibility is calculated. This change will provide some assistance to needier students, especially those attending four-year public colleges.

But these fixes only get to a part of the problem. Because the education tax credits are not refundable, a family of four must earn above $30,000 to get the maximum credit. A student or working family must have a positive tax liability to receive the credit. Nearly half of all families with college students do not get the full credit because their income is too low.

In fact, only 36 percent of filers claiming the credits at all had incomes under $30,000; less than 10 percent of filers claiming the credits had incomes under $15,000. By contrast, 36 percent of filers claiming the credits earned $50,000 or more.

Making the credits refundable would ensure that families in lower tax brackets are eligible for the maximum benefits and would thus make college more affordable to those students and families who need the most assistance.

I believe we all can agree that maintaining a skilled and educated workforce should rank as one of our highest priorities. The National Academy of Sciences projected that while the U.S. economy is doing well today, current trends indicate that the U.S. may not fare as well in the future, particularly in the areas of science and technology, where innovation is spurred and high-wage jobs follow.

This Congress should do everything in its power to ensure that every capable student who wants to go to college should be able to, which will in turn ensure that we have workers to fill the high-quality, high-wage jobs we are working so hard to create. I urge my colleagues to support this critical legislation.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Greater Access To Education Act of 2007''.

SEC. 2. EXPANSION OF EDUCATIONAL EXPENSES ALLOWED AS PART OF HOPE SCHOLARSHIP CREDIT.

(a) QUALIFIED TUITION AND RELATED EXPENSES EXPANDED TO INCLUDE ROOM AND BOARD, BOOKS, SUPPLIES, AND EQUIPMENT.—Paragraph (1) of section 25A(f) of the Internal Revenue Code of 1986 (defining qualified tuition and related expenses) is amended by adding at the end the following new subparagraph:

''(D) ADDITIONAL EXPENSES ALLOWED FOR HOPE SCHOLARSHIP CREDIT.—For purposes of the Hope Scholarship Credit, such term shall, with respect to any academic period, include—

''(i) reasonable costs for such period incurred by the eligible student for room and board while attending the eligible educational institution, and

''(ii) fees, books, supplies, and equipment required for such period for courses of instruction at the eligible educational institution.''.

(b) HOPE SCHOLARSHIP CREDIT NOT REDUCED BY FEDERAL PELL GRANTS AND SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS.—Subsection (g) of section 25A of such Code (relating to special rules) is amended by adding at the end the following new paragraph:

''(8) PELL AND SEOG GRANTS.—For purposes of the Hope Scholarship Credit, paragraph (2) shall not apply to amounts paid for an individual as a Federal Pell Grant or a Federal supplemental educational opportunity grant

under subparts 1 and 3, respectively, of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a and 1070b et seq., respectively).''.

(c) EXPANDED HOPE EXPENSES NOT SUBJECT TO INFORMATION REPORTING REQUIREMENTS.—Subsection (e) of section 6050S of such Code (relating to definitions) is amended by striking ''subsection (g)(2)'' and inserting ''subsections (f)(1)(D) and (g)(2)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid after December 31, 2006 (in tax years ending after such date), for education furnished in academic periods beginning after such date.

SEC. 3. HOPE AND LIFETIME LEARNING CREDITS TO BE REFUNDABLE.

(a) CREDIT TO BE REFUNDABLE.—Section 25A of the Internal Revenue Code of 1986 (relating to Hope and Lifetime Learning credits), as amended by section 2, is hereby moved to subpart C of part IV of subchapter A of chapter 1 of such Code (relating to refundable credits) and inserted after section 35.

(b) TECHNICAL AMENDMENTS.—

(1) Section 36 of the Internal Revenue Code of 1986 is redesignated as section 37.

(2) Section 25A of such Code (as moved by subsection (a)) is redesignated as section 36.

(3) Paragraph (1) of section 36(a) of such Code (as redesignated by paragraph (2)) is amended by striking ''this chapter'' and inserting ''this subtitle''.

(4) Subparagraph (B) of section 72(t)(7) of such Code is amended by striking ''section 25A(g)(2)'' and inserting ''section 36(g)(2)''.

(5) Subparagraph (A) of section 135(d)(2) of such Code is amended by striking ''section 25A'' and inserting ''section 36''.

(6) Section 221(d) of such Code is amended—

(A) by striking ''section 25A(g)(2)'' in paragraph (2)(B) and inserting ''section 36(g)(2)'',

(B) by striking ''section 25A(f)(2)'' in the matter following paragraph (2)(B) and inserting ''section 36(f)(2)'', and

(C) by striking ''section 25A(b)(3)'' in paragraph (3) and inserting ''section 36(b)(3)''.

(7) Section 222 of such Code is amended—

(A) by striking ''section 25A'' in subparagraph (A) of subsection (c)(2) and inserting ''section 36'',

(B) by striking ''section 25A(f)'' in subsection (d)(1) and inserting ''section 36(f)'', and

(C) by striking ''section 25A(g)(2)'' in subsection (d)(1) and inserting ''section 36(g)(2)''.

(8) Section 529 of such Code is amended—

(A) by striking ''section 25A(g)(2)'' in subclause (I) of subsection (c)(3)(B)(v) and inserting ''section 36(g)(2)'',

(B) by striking ''section 25A'' in subclause (II) of subsection (c)(3)(B)(v) and inserting ''section 36'', and

(C) by striking ''section 25A(b)(3)'' in clause (i) of subsection (e)(3)(B) and inserting ''section 36(b)(3)''.

(9) Section 530 of such Code is amended—

(A) by striking ''section 25A(g)(2)'' in subclause (I) of subsection (d)(2)(C)(i) and inserting ''section 36(g)(2)'',

(B) by striking ''section 25A'' in subclause (II) of subsection (d)(2)(C)(i) and inserting ''section 36'', and

(C) by striking ''section 25A(g)(2)'' in clause (iii) of subsection (d)(4)(B) and inserting ''section 36(g)(2)''.

(10) Subsection (e) of section 6050S of such Code is amended by striking ''section 25A'' and inserting ''section 36''.

(11) Subparagraph (J) of section 6213(g)(2) of such Code is amended by striking ''section 25A(g)(1)'' and inserting ''section 36(g)(1)''.

(12) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ''or from section 36 of such Code''.

(13) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 36 and inserting the following:

''Sec. 36. Hope and Lifetime Learning credits.

''Sec. 37. Overpayments of tax.''.

(14) The table of sections for subpart A of such part IV is amended by striking the item relating to section 25A.

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

By Mr. BINGAMAN. (for himself and Mr. DOMENICI):

S. 361. A bill to designate the United States courthouse at South Federal Place in Santa Fe, New Mexico, as the ''Santiago E. Campos United States Courthouse''; to the Committee on environment and Public Works.

Mr. BINGAMAN. Mr. President, I rise today with my colleague Senator DOMENICI to introduce a bill to designate the United States Courthouse in Santa Fe, NM as the ''Honorable Santiago E. Campos United States Courthouse.'' Santiago Campos was appointed to the Federal bench in 1978 by President Jimmy Carter and was the first Hispanic Federal judge in New Mexico. He held the title of Chief U.S. District Judge from February 5, 1987 to December 31, 1989 and took senior status in 1992.

Judge Campos was a dedicated and passionate public servant who spent most of his life committed to working for the people of New Mexico and our Nation. He served as a seaman first class in the United States Navy from 1944 to 1946, as the Assistant Attorney General and then First Assistant Attorney General of New Mexico from 1954 to 1957, and as a district court judge from 1971 to 1978 in the First Judicial District in the State of New Mexico. He was the prime mover in reestablishing Federal court judicial activity in Santa Fe and had his chambers in the courthouse there for over 22 years. For his dedication to the State, Judge Campos received distinguished achievement awards in 1993 from both the State Bar of New Mexico and the University of New Mexico.

Sadly, Judge Campos passed away January 20, 2001 after a long battle with cancer. Judge Campos was an extraordinary jurist and served as a role model and mentor to others in New Mexico. He was admired and respected by all that knew him. I believe that it would be an appropriate tribute to Judge Campos to have the courthouse in Santa Fe bear his name.

The Senate passed a bill in the 108th Congress to name the same courthouse for Judge Campos by unanimous consent. Unfortunately, the House was unable to take up the measure and it failed to be signed into law. I rise again to ask the Senate to pass the bill and honor the work and dedication of Judge Santiago Campos.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse at South Federal Place in Santa Fe, New Mexico, shall be known and designated as the ''Santiago E. Campos United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the ''Santiago E. Campos United States Courthouse''.

By Mr. ROCKEFELLER:

S. 364. A bill to strengthen United States trade laws and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce legislation that will help America's manufacturers compete on even terms with foreign manufacturers.

For generations, American manufacturing has been a tremendous source of pride and a ladder to the middle class. Unfortunately, over the last several years, the manufacturing sector of our economy has suffered disproportionately and millions of good jobs have been lost. In my home State of West Virginia, well over 10,000 manufacturing jobs have disappeared since 2001. Workers and manufacturers in all of our States have found it increasingly difficult to compete in today's global markets, when the odds are stacked against them because of unfair trading practices.

American industry can compete with anyone in the world when it's a fair fight. Our domestic and international trade laws were set up to establish a level playing field, but unfortunately some of our trading partners have repeatedly found ways to circumvent these laws in order to gain an unfair advantage in trade with the United States. This has led to our record-breaking—and still growing—trade deficits, which threaten the long-term health of our economy, and have contributed to the migration of manufacturing jobs to factories overseas. This is an enormous problem that the United States must face and conquer.

A large part of the problem in recent years is that the Bush Administration has not been an aggressive enforcer of U.S. domestic trade laws. It has also failed to successfully advocate for U.S. interests in the multilateral dispute settlement setting. The bill I introduce today, the Strengthening America's Trade Law Act of 2007, will improve our ability to correct deficiencies in four areas of U.S. trade policy: first, it will address problems in the U.S. approach to the WTO Dispute Settlement process; second, it will strengthen antidumping remedies, third, it will expand

the reach of countervailing duties, and fourth, it will remove the President's discretion to disregard the recommendations of the International Trade Commission in certain circumstances.

The steel industry is perhaps the best-known example of how our trade laws can help or hurt domestic industry when it is injured by unfair foreign trade practices, but industries from timber to chinaware to candlemaking are all too familiar with this point.

This bill contains a number of provisions that would provide meaningful improvements to U.S. trade law. The United States would remain fully compliant with its obligations in the World Trade Organization under this legislation.

Let me briefly describe what this bill will do to level the playing field for American manufacturers.

Title I of the Strengthening America's Trade Laws Act bolsters the United States' position in WTO dispute settlement proceedings. The dispute settlement system set up in 1994 upon the creation of the WTO was intended to establish a rules-based system of enforcing trade agreements. However, recent cases involving U.S. application of its laws regarding import surges, anti-dumping and countervailing duties have raised concerns about the fairness of the system.

To address these concerns, Title I allows the direct participation in WTO dispute settlement proceedings of the U.S. business and trade associations that are directly affected by these proceedings, which would improve the prospects of zealous advocacy on behalf of U.S. interests at stake. It also creates a Congressional Advisory Commission on WTO Dispute Settlement that would analyze WTO decisions that are adverse to the United States, report to Congress on the propriety of the decisions and provide guidance for how the Congress might proceed in responding to adverse decisions.

Title I also requires Congressional approval of all measures taken by the U.S. government to comply with adverse decisions. In most cases, compliance with an adverse WTO decision calls for legislative changes, but in some cases such as the recent case involving ''zeroing'' on dumping determinations, the Bush Administration has determined that the United States can comply with the adverse decision through regulatory changes such as altering the methodology through which the Commerce Department calculates the dumping margin. This provision of my trade bill would prevent the Administration from side-stepping Congress in determining how to respond to an adverse decision in the WTO. Congressional oversight is an important element of our trade policy, and these provisions would help restore it.

Title II of the Strengthening America's Trade Laws Act tightens the rules in anti-dumping cases in favor of the petitioning domestic industry and makes it harder for dumping countries and businesses to circumvent the rules. Additionally, it applies a stricter methodology for determining the market value of goods from countries designated as ''nonmarket economies'' (NMEs). These countries presently include small former Soviet republics such as Turkmenistan and Georgia, and also large U.S. trading partners such as China. These NME designations are an important element of U.S. trade policy, and Title II gives Congress the ability to approve or disapprove any change in a country's NME status.

Title II also overrules the recent decision by the Federal Circuit in the Bratsk case, which inappropriately added a new requirement not presently included in our anti-dumping laws, namely that ITC anti-dumping investigations must include evaluating the role of imports that are not actually subject to the investigation. This speculative element is not part of the investigation process that Congress mandated the ITC to follow in anti-dumping cases, and my bill would remove this judicially-added requirement that was never a part of our trade remedy law.

Title III of the Strengthening America's Trade Laws Act expands the reach of countervailing duties (CVDs) in order to address two significant sources of unfair trade: China's artificially undervalued currency, and the disparate treatment that international trade rules give to value-added taxes (VAT) used by most U.S. trade partners.

Unlike anti-dumping duties, CVDs have not been applied against imports from NME countries like China, leaving a huge hole in the trade remedies available to U.S. manufacturers who are competing against subsidized imports from China. This bill explicitly makes CVDs applicable to NME countries, and it and provides a methodology for determining subsidy levels in NMEs that is similar to the methodology for determining fair market value in anti-dumping investigations regarding NME countries.

Next, Title III designates currency exchange rate manipulation as a subsidy that can be addressed by application of CVDs. It is well known that China's government pegs its currency's value to the value of a ''basket'' of currencies including the dollar rather than allowing the value to be determined freely in currency exchange markets. This practice keeps China's currency artificially low, boosting Chinese exports and protecting Chinese domestic industry from imports. In December, Federal Reserve Chairman Ben Bernanke called this practice what it is, an ''effective subsidy.'' This provision of Title III would allow the U.S. government to apply our CVD law to this subsidy.

Title III also contains a vital provision that would lead to the possible future use of CVDs as a remedy for the differential treatment that international trade rules give to value-added taxes (VAT) used by most U.S. trade partners. WTO rules provide that rebates on ''direct'' taxes such as income, employment, and real estate taxes constitute subsidies, whereas rebates on ''indirect taxes'' such as sales and VAT taxes are not subsidies. This puts U.S. producers at a significant disadvantage to producers in countries that use value-added tax (VAT) systems.

Over 135 U.S. trading partners use VAT taxes for a significant amount of their revenue, and when U.S. exports enter a VAT tax country, they are subject to the importing country's VAT tax, whereas U.S. imports from a VAT tax country are not subject to the producing country's VAT tax. This unfair tax treatment constitutes both a hidden import duty for U.S. exports and a hidden export subsidy for VAT tax country products entering the United States.

This provision of Title III would push the USTR to negotiate this issue to a satisfactory conclusion within the next two years. Failing such negotiations, it would designate this differential treatment a countervailable subsidy which would then be subject to CVDs.

Finally, Title IV of the Strengthening America's Trade Laws Act would remove Presidential discretion to ignore the recommendations of the ITC in safeguard cases regarding China, or so-called ''Section 421'' cases. Section 421 of the legislation that provided for China's accession to the WTO is a ''safeguard'' provision that provides for temporary relief from surges of imports that have caused injury to domestic industry. There are a number of recent examples of President Bush's failure to take action in cases in which the ITC has recommended ''safeguard'' relief most notably on December 30, 2005, when he denied the relief that the ITC had recommended for U.S. steel pipe and tube manufacturers in the face of a surge of imports from China. Title IV would ensure that such denials do not happen in the future by removing Presidential discretion in applying safeguard measures in cases involving imports from China and instead making the findings and recommendations of the ITC the final word on the matter.

The Strengthening America's Trade Laws Act will provide meaningful improvements to U.S. trade law and a more level playing field for U.S. workers and manufacturers in an increasingly competitive global economy. I commend it to my colleagues and urge them to join me in pushing for its swift enactment. Congress has sat on the sidelines for too long as our country's finest manufacturers have been dealt blow after blow. This bill will not solve the trade deficit alone, but it is a reasonable start.

I am going to ask my leadership, in my caucus and on the Finance Committee, to work with me on this legislation, and I look forward to joining

forces with my allies on the other side of the aisle to move this bill. I ask unanimous consent that the bill be entered into the record. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 364

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Strengthening America's Trade Laws Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—DISPUTE SETTLEMENT

Subtitle A—Findings, Purpose, and Definitions

SEC. 101. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The United States joined the World Trade Organization as an original member with the goal of creating an improved global trading system and providing expanded economic opportunities for United States workers, farmers, and businesses.

(2) The dispute settlement rules of the WTO were created to enhance the likelihood that governments will observe their WTO obligations.

(3) Successful operation of the WTO dispute settlement system was critical to congressional approval of the Uruguay Round Agreements and is critical to continued support by the United States for the WTO. In particular, it is imperative that dispute settlement panels and the Appellate Body—

(A) operate with fairness and in an impartial manner;

(B) strictly observe the terms of reference and any applicable standard of review set forth in the Uruguay Round Agreements; and

(C) not add to the obligations, or diminish the rights, of WTO members under the Uruguay Round Agreements in violation of Articles 3.2 and 19.2 of the Dispute Settlement Understanding.

(4) An increasing number of reports by dispute settlement panels and the Appellate Body have raised serious concerns within the Congress about the ability of the WTO dispute settlement system to operate in accordance with paragraph (3).

(5) In particular, several reports of dispute settlement panels and the Appellate Body have added to the obligations and diminished the rights of WTO members, particularly under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards.

(6) In order to come into compliance with reports of dispute settlement panels and the Appellate Body that have been adopted by the Dispute Settlement Body, the Congress may need to amend or repeal statutes of the United States. In such cases, the Congress must have a high degree of confidence that the reports are in accordance with paragraph (3).

(7) The Congress needs impartial, objective, and juridical advice to determine the appropriate response to reports of dispute settlement panels and the Appellate Body.

(8) The United States remains committed to the multilateral, rules-based trading system.

(b) PURPOSE.—It is the purpose of this subtitle to provide for the establishment of the Congressional Advisory Commission on WTO Dispute Settlement to provide objective and impartial advice to the Congress on the operation of the dispute settlement system of the World Trade Organization.

SEC. 102. DEFINITIONS.

In this title:

(1) ADVERSE FINDING.—The term ''adverse finding'' means—

(A) in a proceeding of a dispute settlement panel or the Appellate Body that is initiated against the United States, a finding by the panel or the Appellate Body that any law, regulation, practice, or interpretation of the United States, or any State, is inconsistent with the obligations of the United States under a Uruguay Round Agreement (or nullifies or impairs benefits accruing to a WTO member under such an Agreement); or

(B) in a proceeding of a panel or the Appellate Body in which the United States is a complaining party, any finding by the panel or the Appellate Body that a measure of the party complained against is not inconsistent with that party's obligations under a Uruguay Round Agreement (or does not nullify or impair benefits accruing to the United States under such an Agreement).

(2) APPELLATE BODY.—The term ''Appellate Body'' means the Appellate Body established by the Dispute Settlement Body pursuant to Article 17.1 of the Dispute Settlement Understanding.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(4) DISPUTE SETTLEMENT BODY.—The term ''Dispute Settlement Body'' means the Dispute Settlement Body established pursuant to the Dispute Settlement Understanding.

(5) DISPUTE SETTLEMENT PANEL; PANEL.—The terms ''dispute settlement panel'' and ''panel'' mean a panel established pursuant to Article 6 of the Dispute Settlement Understanding.

(6) DISPUTE SETTLEMENT UNDERSTANDING.—The term ''Dispute Settlement Understanding'' means the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(16)).

(7) TERMS OF REFERENCE.—The term ''terms of reference'' has the meaning given that term in the Dispute Settlement Understanding.

(8) TRADE REPRESENTATIVE.—The term ''Trade Representative'' means the United States Trade Representative.

(9) UNITED STATES PERSON.—The term ''United States person'' means—

(A) a United States citizen or an alien admitted for permanent residence into the United States; and

(B) a corporation, partnership, labor organization, or other legal entity organized under the laws of the United States or of any State, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(10) URUGUAY ROUND AGREEMENT.—The term ''Uruguay Round Agreement'' means any of the Agreements described in section 101(d) of the Uruguay Round Agreements Act.

(11) WORLD TRADE ORGANIZATION; WTO.—The terms ''World Trade Organization'' and ''WTO'' mean the organization established pursuant to the WTO Agreement.

(12) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

(13) WTO MEMBER.—The term ''WTO member'' has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act (19 U.S.C. 3501(10)).

Subtitle B—Participation in WTO Panel Proceedings

SEC. 111. PARTICIPATION IN WTO PANEL PROCEEDINGS.

(a) IN GENERAL.—If the Trade Representative, in proceedings before a dispute settlement panel or the Appellate Body of the WTO, seeks—

(1) to enforce United States rights under a multilateral trade agreement, or

(2) to defend an action or determination of the United States Government that is challenged,

a United States person that is supportive of the United States Government's position before the panel or Appellate Body and that has a direct economic interest in the panel's or Appellate Body's resolution of the matters in dispute shall be permitted to participate in consultations and panel or Appellate Body proceedings. The Trade Representative shall issue regulations, consistent with subsections (b) and (c), ensuring full and effective participation by any such person.

(b) ACCESS TO INFORMATION.—The Trade Representative shall make available to persons described in subsection (a) all information presented to or otherwise obtained by the Trade Representative in connection with the WTO dispute settlement proceeding in which such persons are participating. The Trade Representative shall promulgate regulations to protect information designated as confidential in the proceeding.

(c) PARTICIPATION IN PANEL PROCESS.—Upon request from a person described in subsection (a), the Trade Representative shall—

(1) consult in advance with such person regarding the content of written submissions from the United States to the panel or Appellate Body concerned or to the other member countries involved;

(2) include, if appropriate, such person or the person's appropriate representative as an advisory member of the delegation in sessions of the dispute settlement panel or Appellate Body;

(3) allow such person, if such person would bring special knowledge to the proceeding, to appear before the panel or Appellate Body, directly or through counsel, under the supervision of responsible United States Government officials; and

(4) in proceedings involving confidential information, allow the appearance of such person only through counsel as a member of the special delegation.

Subtitle C—Congressional Advisory Commission on WTO Dispute Settlement

SEC. 121. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Congressional Advisory Commission on WTO Dispute Settlement (in this subtitle referred to as the ''Commission'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 5 members, all of whom shall be judges or former judges of the Federal judicial circuits and shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate after considering the recommendations of the Chairman and ranking member of each of the appropriate congressional committees. Commissioners shall be chosen without regard to political affiliation and solely on the basis of each Commissioner's fitness to perform the duties of a Commissioner.

(2) DATE.—The appointments of the initial members of the Commission shall be made not later than 90 days after the date of the enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—

(1) IN GENERAL.—Members of the Commission shall each be appointed for a term of 5 years, except that of the members first appointed, 3 members shall each be appointed for a term of 3 years.

(2) VACANCIES.—

(A) IN GENERAL.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made and shall be subject to the same conditions as the original appointment.

(B) UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—Except for the initial meeting, the Commission shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

(h) FUNDING.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

SEC. 122. DUTIES OF THE COMMISSION.

(a) ADVISING THE CONGRESS ON THE OPERATION OF THE WTO DISPUTE SETTLEMENT SYSTEM.—

(1) IN GENERAL.—The Commission shall review—

(A) all adverse findings that are—

(i) adopted by the Dispute Settlement Body; and

(ii) the result of a proceeding initiated against the United States by a WTO member; and

(B) upon the request of either of the appropriate congressional committees—

(i) any adverse finding of a dispute settlement panel or the Appellate Body—

(I) that is adopted by the Dispute Settlement Body; and

(II) in which the United States is a complaining party; or

(ii) any other finding that is contained in a report of a dispute settlement panel or the Appellate Body that is adopted by the Dispute Settlement Body.

(2) SCOPE OF REVIEW.—The Commission shall advise the Congress in connection with each adverse finding under paragraph (1)(A) or (1)(B)(i) or other finding under paragraph (1)(B)(ii) on—

(A) whether the dispute settlement panel or the Appellate Body, as the case may be—

(i) exceeded its authority or its terms of reference;

(ii) added to the obligations, or diminished the rights, of the United States under the Uruguay Round Agreement that is the subject of the finding;

(iii) acted arbitrarily or capriciously, engaged in misconduct, or demonstrably departed from the procedures specified for panels and the Appellate Body in the applicable Uruguay Round Agreement; or

(iv) deviated from the applicable standard of review, including in antidumping, countervailing duty, and other trade remedy cases, the standard of review set forth in Article 17.6 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994;

(B) whether the finding is consistent with the original understanding by the United States of the Uruguay Round Agreement that is the subject of the finding as explained in the statement of administrative action approved under section 101(a) of the Uruguay Round Agreements Act (19 U.S.C. 3511(a)); and

(C) what actions, if any, the United States should take in response to the finding, including any proposals to amend, rescind, or otherwise modify a law, regulation, practice, or interpretation of the United States.

(3) NO DEFERENCE.—In advising the Congress under paragraph (2), the Commission shall not accord deference to findings of law made by the dispute settlement panel or the Appellate Body, as the case may be.

(b) DETERMINATION; REPORT.—

(1) DETERMINATION.—

(A) IN GENERAL.—Not later than 150 days after the date on which the Commission receives notice of a report or request under section 123(b), the Commission shall make a written determination with respect to the matters described in paragraph (2) of subsection (a), including a full analysis of the basis for its determination. A vote by a majority of the members of the Commission shall constitute a determination of the Commission, although the members need not agree on the basis for their vote.

(B) DISSENTING OR CONCURRING OPINIONS.—Any member of the Commission who disagrees with a determination of the Commission or who concurs in such a determination on a basis different from that of the Commission or other members of the Commission, may write an opinion expressing such disagreement or concurrence, as the case may be.

(2) REPORT.—The Commission shall promptly report the determinations described in paragraph (1)(A) to the appropriate congressional committees. The Commission shall include with the report any opinions written under paragraph (1)(B) with respect to the determination.

(c) AVAILABILITY TO THE PUBLIC.—Each report of the Commission under subsection (b)(2), together with the opinions included with the report, shall be made available to the public.

SEC. 123. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold a public hearing to solicit views concerning an adverse finding or other finding described in section 122(a)(1), if the Commission considers such hearing to be necessary to carry out the purpose of this subtitle. The Commission shall provide reasonable notice of a hearing held pursuant to this subsection.

(b) INFORMATION FROM INTERESTED PARTIES AND FEDERAL AGENCIES.—

(1) NOTICE TO COMMISSION.—

(A) UNDER SECTION 122(a)(1)(A).—The Trade Representative shall advise the Commission not later than 5 business days after the date the Dispute Settlement Body adopts an adverse finding that is to be reviewed by the Commission under section 122(a)(1)(A).

(B) UNDER SECTION 122(a)(1)(B).—Either of the appropriate congressional committees may make and notify the Commission of a request under section 122(a)(1)(B) not later than 1 year after the Dispute Settlement Body adopts the adverse finding or other finding that is the subject of the request.

(C) FINDINGS ADOPTED PRIOR TO APPOINTMENT OF COMMISSION.—With respect to any adverse finding or other finding to which section 122(a)(1)(B) applies and that is adopted before the date on which the first members of the Commission are appointed under section 121(b)(2), either of the appropriate congressional committees may make and notify the Commission of a request under section 122(a)(1)(B) with respect to the adverse finding or other finding not later than 1 year after the date on which the first members of the Commission are appointed under section 121(b)(2).

(2) SUBMISSIONS AND REQUESTS FOR INFORMATION.—

(A) IN GENERAL.—The Commission shall promptly publish in the Federal Register notice of—

(i) the notice received under paragraph (1) from the Trade Representative or either of the appropriate congressional committees; and

(ii) an opportunity for interested parties to submit written comments to the Commission.

(B) COMMENTS AVAILABLE TO PUBLIC.—The Commission shall make comments submitted pursuant to subparagraph (A)(ii) available to the public.

(C) INFORMATION FROM FEDERAL AGENCIES AND DEPARTMENTS.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon the request of the chairperson of the Commission, the

head of such department or agency shall furnish the information requested to the Commission in a timely manner.

(3) ACCESS TO PANEL AND APPELLATE BODY DOCUMENTS.—

(A) IN GENERAL.—The Trade Representative shall make available to the Commission all submissions and relevant documents relating to an adverse finding described in section 122(a)(1), including any information contained in such submissions and relevant documents identified by the provider of the information as proprietary information or information designated as confidential by a foreign government.

(B) PUBLIC ACCESS.—Any document that the Trade Representative submits to the Commission shall be available to the public, except information that is identified as proprietary or confidential or the disclosure of which would otherwise violate the rules of the WTO.

(c) ASSISTANCE FROM FEDERAL AGENCIES; CONFIDENTIALITY.—

(1) ADMINISTRATIVE ASSISTANCE.—Any agency or department of the United States that is designated by the President shall provide administrative services, funds, facilities, staff, or other support services to the Commission to assist the Commission with the performance of the Commission's functions.

(2) CONFIDENTIALITY.—

(A) DOCUMENTS AND INFORMATION FROM AGENCIES.—The Commission shall protect from disclosure any document or information submitted to it by a department or agency of the United States that the agency or department requests be kept confidential.

(B) DISCLOSURE OF DOCUMENTS AND INFORMATION OF COMMISSION.—The Commission shall not be considered to be an agency for purposes of section 552 of title 5, United States Code.

Subtitle D—Congressional Approval of Regulatory Action Relating to Adverse WTO Decisions

SEC. 131. CONGRESSIONAL APPROVAL OF REGULATORY ACTIONS RELATING TO ADVERSE WTO DECISIONS.

(a) IN GENERAL.—Section 123(g) of the Uruguay Round Agreements Act (19 U.S.C. 3533(g)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (E), by striking ''and'';

(B) by redesignating subparagraph (F) as subparagraph (H); and

(C) by inserting after subparagraph (E) the following new subparagraphs:

''(F) the appropriate congressional committees have received the report on the determinations of the Congressional Advisory Commission on WTO Dispute Settlement under section 122(b)(2) of the Strengthening America's Trade Laws Act with respect to the relevant dispute settlement panel or Appellate Body decision;

''(G) a joint resolution, described in paragraph (2), approving the proposed modification or final rule is enacted into law after the appropriate congressional committees receive the report on the determinations of the Congressional Advisory Commission on WTO Dispute Settlement under section 122(b)(2) of the Strengthening America's Trade Laws Act; and''; and

(2) by amending paragraph (2) to read as follows:

''(2) JOINT RESOLUTION TO APPROVE MODIFICATION IN AGENCY REGULATION OR PRACTICE.—

''(A) IN GENERAL.—For the purposes of paragraph (1)(G), a joint resolution is a joint resolution of the 2 Houses of the Congress, the matter after the resolving clause of which is as follows: 'That the Congress approves the modifications to the regulation or practice of the United States proposed in a report submitted to the Congress under subparagraph (D) or (F) of section 123(g)(1) of the Uruguay Round Agreements Act (19 U.S.C. 3533(g)(1) (D) and (F)) on _____, relating to _____.', with the first blank space being filled with the date on which the report is submitted to the Congress and the second blank space being filled with the specific modification proposed to the regulation or practice of the United States.

''(B) PROCEDURAL PROVISIONS.—The procedural provisions of subsections (d) through (i) of section 206 of the Strengthening America's Trade Laws Act shall apply to a joint resolution described in subparagraph (A).''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) MODIFICATIONS MADE BETWEEN JANUARY 1, 2007 AND THE DATE OF THE ENACTMENT OF THIS ACT.—

(A) IN GENERAL.—Modifications to any regulation or practice of a department or agency of the United States made pursuant to the provisions of section 123(g) of the Uruguay Round Agreements Act (19 U.S.C. 3533(g)) that became effective on or after January 1, 2007, and before the date of the enactment of this Act, shall be suspended upon the enactment of this Act and have no effect.

(B) APPROVAL OF MODIFICATIONS.—On or after the date of the enactment of this Act, the Trade Representative and the head of the department or agency within whose jurisdiction the modification described in subparagraph (A) falls may seek approval of such modification pursuant to the procedures set out in section 123(g)(1) of the Uruguay Round Agreements Act (19 U.S.C. 3533(g)(1)), as amended by subsection (a).

Subtitle E—Clarification of Rights and Obligations Through Negotiations

SEC. 141. CLARIFICATION OF RIGHTS AND OBLIGATIONS IN THE WTO THROUGH NEGOTIATIONS.

(a) IN GENERAL.—After an adverse finding, the United States shall work within the World Trade Organization to obtain clarification of the Uruguay Round Agreement to which the adverse finding applies to conform the Agreement to the understanding of the United States regarding the rights and obligations of the United States and shall not modify the law, regulation, practice, or interpretation of the United States in response to the adverse finding if—

(1) the United States has stated at the Dispute Settlement Body that the adverse finding has created obligations never agreed to by the United States;

(2) either of the appropriate congressional committees by resolution finds that the adverse finding has created obligations never agreed to by the United States; or

(3) the Congressional Advisory Commission on WTO Dispute Resolution makes a determination under section 122(a)(2)(A)(ii) that the adverse finding has created obligations never agreed to by the United States.

(b) APPLICABILITY.—

(1) IN GENERAL.—This section shall apply to any adverse finding on or after January 1, 2002.

(2) EFFECT ON MODIFICATION OF REGULATION, PRACTICE, OR INTERPRETATION ADOPTED BEFORE ENACTMENT OF THIS ACT.—

(A) IN GENERAL.—Any agency that modified a regulation, practice, or interpretation in response to an adverse finding between January 1, 2002 and the date of the enactment of this Act shall provide notice that the modification shall cease to have force and effect on the date that is 30 days after the date of the enactment of this Act and such modification shall cease to have force and effect on such date.

(B) APPLICABILITY IN TRADE REMEDY CASES.—The cessation of the force and effect of the modification described in subparagraph (A) shall apply with respect to—

(i) investigations initiated—

(I) on the basis of petitions filed under section 702(b), 732(b), or 783(a) of the Tariff Act of 1930 (19 U.S.C. 1671a(b), 1673a(b), and 1677n(a)) or section 202(a), 221, 251(a), or 292(a) of the Trade Act of 1974 (19 U.S.C. 2252(a), 2271, 2341(a), and 2401a(a)) after the date on which the modification ceases to have force and effect under subparagraph (A);

(II) by the administering authority under section 702(a) or 732(a) of the Tariff Act of 1930 (19 U.S.C. 1671a(a) and 1673a(a)) after such date; or

(III) under section 753 of the Tariff Act of 1930 (19 U.S.C. 1675b) after such date;

(ii) reviews initiated under section 751 of the Tariff Act of 1930 (19 U.S.C. 1675)—

(I) by the administering authority or the International Trade Commission on their own initiative after such date; or

(II) pursuant to a request filed after such date; and

(iii) all proceedings conducted under section 129 of the Uruguay Round Agreements Act (19 U.S.C. 3538) commenced after such date.

(3) EFFECT ON PRIOR STATUTORY CHANGES.—

(A) IN GENERAL.—Paragraph (2)(A) shall not apply to modifications to statutes of the United States made in response to adverse findings.

(B) CLARIFICATION OF UNITED STATES RIGHTS.—If a statute of the United States has been modified in response to an adverse finding, the United States shall obtain clarification of the rights and obligations of the United States affected by the adverse finding pursuant to subsection (a).

TITLE II—STRENGTHENING ANTIDUMPING AND COUNTERVAILING DUTY LAWS

SEC. 201. PREVENTION OF CIRCUMVENTION.

Section 781(c) of the Tariff Act of 1930 (19 U.S.C. 1677j(c)) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE.—The administering authority may exclude altered merchandise from the class or kind of merchandise subject to an investigation and order or finding described in paragraph (1), if such exclusion is not inconsistent with the affirmative determination of the Commission on which the order or finding is based.''.

SEC. 202. EXPORT PRICE AND CONSTRUCTED EXPORT PRICE.

Section 772(c)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1677a(c)(2)(A)) is amended by inserting ''(including antidumping and countervailing duties imposed under this title)'' after ''duties''.

SEC. 203. NONMARKET ECONOMY METHODOLOGY.

Section 773(c)(4) of the Tariff Act of 1930 (19 U.S.C. 1677b(c)(4)) is amended to read as follows:

''(4) VALUATION OF FACTORS OF PRODUCTION.—

''(A) IN GENERAL.—The administering authority, in valuing factors of production under paragraph (1), shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are—

''(i) at a level of economic development comparable to that of the nonmarket economy country; and

''(ii) significant producers of comparable merchandise.

In this paragraph, the term 'surrogate' refers to the values, calculations, and market economy countries used under this subparagraph.

''(B) VALUING MATERIALS USED IN PRODUCTION.—In determining the value of materials used in production under subparagraph (A), the following applies:

''(i) The administering authority may use the value of inputs that are purchased from market economy suppliers and are not suspected of being dumped or subsidized, only for the quantity of such purchases.

''(ii) All materials purchased or otherwise obtained from nonmarket economy countries shall be valued using surrogate values under subparagraph (A).

''(iii) A purchased material shall be viewed as suspected of being subsidized if there are any affirmative findings by the United States or another WTO member of export subsidy programs in the supplying country.

''(iv) A purchased material shall be viewed as suspected of being dumped if there are any affirmative findings by the United States or other WTO member of dumping in the general category of merchandise, or if information supplied by the petitioner or otherwise of record suggests significant underpricing to the purchaser in the nonmarket economy country.

''(v) Surrogate values for materials from a market economy country shall be disregarded as not reflective of prices in that surrogate market only if prices in that market are viewed as aberrational, such as a case in which prices undersell or exceed any reported price in that surrogate market by a large amount.

''(vi) There shall be a presumption that the administering authority will include all market prices from a surrogate market. Prices that are high or low shall be excluded only when it is demonstrated that the prices are not reflective of prices in the surrogate country for the relevant category of merchandise.

''(vii) If amounts pertaining to the cost of production of imports into a surrogate country from market economy suppliers are used for valuing the materials used, such amounts shall be valued on the basis of CIF (cost, insurance, and freight), plus duties paid, to provide a proxy for prices in the surrogate country competing with locally produced goods. Such values shall not be reduced by the import duties.

''(C) VALUING LABOR.—

''(i) The administering authority may use an average of wage rates for market economies, but shall ensure that labor rates used fully reflect all labor costs, including benefits, health care, and pension costs.

''(ii) Labor shall be the total labor employed by a nonmarket economy country producer or used by a nonmarket economy country producer in the overall business, with allocations to other merchandise produced or sold by that producer that is not subject merchandise.

''(iii) Labor shall reflect the average labor for all other producers in the nonmarket economy country that are producing the particular merchandise subject to investigation or review, and shall not be limited to operations used for export.

''(D) VALUING FACTORY OVERHEAD, GENERAL SELLING AND ADMINISTRATIVE EXPENSES, AND PROFIT.—

''(i) IN GENERAL.—The administering authority shall use the best information available with respect to likely values of factory overhead, general selling and administrative expenses, and profit from a surrogate country. If the values determined under subparagraphs (B) and (C) for materials used and labor consumed result in amounts that are demonstrably larger or smaller than the amounts used in determining surrogate ratios from financial or other reports from a surrogate country, adjustments shall be made to the ratios to reflect fully the level of such costs and profits in the surrogate country on a per item produced basis.

''(ii) RATIOS DEFINED.—For purposes of this subparagraph, the term 'ratios' means—

''(I) the ratio of factory overhead to labor, materials, and energy;

''(II) the ratio of general selling and administrative costs to factory overhead, labor, materials, and energy; and

''(III) the ratio of profit to general selling and administrative costs, factory overhead, labor, materials, and energy.

''(E) USE OF CONFIDENTIAL INFORMATION FROM A FOREIGN PRODUCER IN A SURROGATE COUNTRY.—The administering authority shall generally use publicly available information to value factors of production, except that, in a case in which any foreign producer in the surrogate country that is willing to provide information to the administering authority on factors of production to produce the same class of merchandise and such information is subject to verification, the administering authority shall accept and use such information. The relationship of the foreign producer providing the information to a party to the proceeding shall not be a basis for disqualification.''.

SEC. 204. DETERMINATIONS ON THE BASIS OF FACTS AVAILABLE.

Section 776(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1677e(a)(2)(B)) is amended to read as follows:

''(B) fails to provide such information by the deadline for submission of the information or in the form and manner required, and in conformity with prior administering authority determinations in the proceeding and final judicial decisions in the proceeding, subject to subsections (c)(1) and (e) of section 782,''.

SEC. 205. CLARIFICATION OF DETERMINATION OF MATERIAL INJURY.

Section 771(7) of the Tariff Act of 1930 (19 U.S.C. 1677(7)) is amended by adding at the end the following new subparagraph:

''(J) CLARIFICATION OF DETERMINATION OF MATERIAL INJURY.—In determining if there is material injury, or threat of material injury, by reason of imports of the subject merchandise, the Commission shall make the Commission's determination without regard to—

''(i) whether other imports are likely to replace subject merchandise, or

''(ii) the effect of a potential order on the domestic industry.''.

SEC. 206. REVOCATION OF NONMARKET ECONOMY COUNTRY STATUS.

(a) AMENDMENT OF DEFINITION OF ''NONMARKET ECONOMY COUNTRY''.—Section 771(18)(C)(i) of the Tariff Act of 1930 (19 U.S.C. 1677(18)(C)(i)) is amended to read as follows:

''(i) Any determination that a foreign country is a nonmarket economy country shall remain in effect until—

''(I) the administering authority makes a final determination to revoke the determination under subparagraph (A); and

''(II) a joint resolution is enacted into law pursuant to section 206 of the Strengthening America's Trade Laws Act.''.

(b) NOTIFICATION BY PRESIDENT; JOINT RESOLUTION.—Whenever the administering authority makes a final determination under section 771(18)(C)(i)(I) of the Tariff Act of 1930 (19 U.S.C. 1677(18)(C)(i)(I)) to revoke the determination that a foreign country is a nonmarket economy country—

(1) the President shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of that determination not later than 10 days after the publication of the administering authority's final determination in the Federal Register;

(2) the President shall transmit to the Congress a request that a joint resolution be introduced pursuant to this section; and

(3) a joint resolution shall be introduced in the Congress pursuant to this section.

(c) DEFINITION.—For purposes of this section, the term ''joint resolution'' means only a joint resolution of the 2 Houses of the Congress, the matter after the resolving clause of which is as follows: ''That the Congress approves the change of nonmarket economy status with respect to the products of _____ transmitted by the President to the Congress on _____.'', the first blank space being filled in with the name of the country with respect to which a determination has been made under section 771(18)(C)(i) of the Tariff Act of 1930 (19 U.S.C. 1677(18)(C)(i)), and the second blank space being filled with the date on which the President notified the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives under subsection (b)(1).

(d) INTRODUCTION.—A joint resolution shall be introduced (by request) in the House by the majority leader of the House, for himself, or by Members of the House designated by the majority leader of the House, and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself, or by Members of the Senate designated by the majority leader of the Senate.

(e) AMENDMENTS PROHIBITED.—No amendment to a joint resolution shall be in order in either the House of Representatives or the Senate, and no motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the presiding officer to entertain a request to suspend the application of this subsection by unanimous consent.

(f) PERIOD FOR COMMITTEE AND FLOOR CONSIDERATION.—

(1) IN GENERAL.—If the committee or committees of either House to which a joint resolution has been referred have not reported the joint resolution at the close of the 45th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the joint resolution and it shall be placed on the appropriate calendar. A vote on final passage of the joint resolution shall be taken in each House on or before the close of the 15th day after the joint resolution is reported by the committee or committees of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the joint resolution. If, prior to the passage by one House of a joint resolution of that House, that House receives the same joint resolution from the other House, then—

(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House, but

(B) the vote on final passage shall be on the joint resolution of the other House.

(2) COMPUTATION OF DAYS.—For purposes of paragraph (1), in computing a number of days in either House, there shall be excluded any day on which that House is not in session.

(g) FLOOR CONSIDERATION IN THE HOUSE.—

(1) MOTION PRIVILEGED.—A motion in the House of Representatives to proceed to the consideration of a joint resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) DEBATE LIMITED.—Debate in the House of Representatives on a joint resolution shall be limited to not more than 20 hours, which

shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a joint resolution or to move to reconsider the vote by which a joint resolution is agreed to or disagreed to.

(3) MOTIONS TO POSTPONE.—Motions to postpone, made in the House of Representatives with respect to the consideration of a joint resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) APPEALS.—All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a joint resolution shall be decided without debate.

(5) OTHER RULES.—Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a joint resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(h) FLOOR CONSIDERATION IN THE SENATE.—

(1) MOTION PRIVILEGED.—A motion in the Senate to proceed to the consideration of a joint resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) DEBATE LIMITED.—Debate in the Senate on a joint resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) CONTROL OF DEBATE.—Debate in the Senate on any debatable motion or appeal in connection with a joint resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) OTHER MOTIONS.—A motion in the Senate to further limit debate is not debatable. A motion to recommit a joint resolution is not in order.

(i) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsections (c) through (h) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such subsections (c) through (h) are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of joint resolutions described in subsection (c), and subsections (c) through (h) supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

TITLE III—EXPANSION OF APPLICABILITY OF COUNTERVAILING DUTIES

SEC. 301. APPLICATION OF COUNTERVAILING DUTIES TO NONMARKET ECONOMIES AND STRENGTHENING APPLICATION OF THE LAW.

(a) IN GENERAL.—Section 701(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1671(a)(1)) is amended by inserting ''(including a nonmarket economy country)'' after ''country'' each place it appears.

(b) DEFINITION OF COUNTERVAILABLE SUBSIDY.—Section 771(5)(E) of the Tariff Act of 1930 (19 U.S.C. 1677(5)(E)) is amended by adding at the end the following: ''For purposes of clauses (i) through (iv), if there is a reasonable indication that government intervention has distorted prices or other economic indicators in the country that is subject to the investigation or review, or if data regarding such prices or economic indicators are otherwise unavailable, then the administering authority shall measure the benefit conferred to the recipient by reference to data regarding relevant prices or other economic indicators from a country other than the country that is subject to the investigation or review. If there is a reasonable indication that prices or other economic indicators within a political subdivision, dependent territory, or possession of a foreign country are distorted, or data are not available, then the administering authority shall measure the benefit conferred to the recipient in that political subdivision, dependent territory, or possession by reference to data from the most comparable area or region in which relevant prices or other economic indicators are not distorted, regardless of whether such area or region is in the same country.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply to petitions filed under section 702 of the Tariff Act of 1930 (19 U.S.C. 1671a) on or after the date of the enactment of this Act.

(d) ANTIDUMPING PROVISIONS NOT AFFECTED.—The amendments made by subsections (a) and (b) shall not affect the status of a country as a nonmarket economy country for the purposes of any matter relating to antidumping duties under subtitle B of title VII of the Tariff Act of 1930 (19 U.S.C. 1673 et seq.).

SEC. 302. TREATMENT OF EXCHANGE-RATE MANIPULATION AS COUNTERVAILABLE SUBSIDY UNDER TITLE VII OF THE TARIFF ACT OF 1930.

(a) AMENDMENTS TO DEFINITION OF COUNTERVAILABLE SUBSIDY.—Section 771(5)(D) of the Tariff Act of 1930 (19 U.S.C. 1677(5)(D)) is amended—

(1) by striking ''The term'' and inserting ''(i) The term'';

(2) by redesignating clauses (i) through (iv) as subclauses (I) through (IV), respectively; and

(3) by adding at the end the following:

''(ii) The term 'provides a financial contribution' includes engaging in exchange-rate manipulation (as defined in paragraph (5C)).''.

(b) DEFINITION OF EXCHANGE-RATE MANIPULATION.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by inserting after paragraph (5B) the following new paragraph:

''(5C) DEFINITION OF EXCHANGE-RATE MANIPULATION.—

''(A) IN GENERAL.—For purposes of paragraphs (5) and (5A), the term 'exchange-rate manipulation' means protracted large-scale intervention by a country to undervalue the country's currency in the exchange market that prevents effective balance-of-payments adjustment or that gains an unfair competitive advantage over any other country.

''(B) FACTORS.—In determining whether exchange-rate manipulation is occurring and a benefit thereby conferred, the administering authority in each case—

''(i) shall consider the exporting country's—

''(I) bilateral balance-of-trade surplus or deficit with the United States;

''(II) balance-of-trade surplus or deficit with its other trading partners individually and in the aggregate;

''(III) foreign direct investment in its territory;

''(IV) currency-specific and aggregate amounts of foreign currency reserves; and

''(V) mechanisms employed to maintain its currency at a fixed exchange rate relative to another currency and, particularly, the nature, duration, monetary expenditures, and potential monetary expenditures of those mechanisms;

''(ii) may consider such other economic factors as are relevant; and

''(iii) shall measure the trade surpluses or deficits described in subclauses (I) and (II) of clause (i) with reference to the trade data reported by the United States and the other trading partners of the exporting country, unless such trade data are not available or are demonstrably inaccurate, in which case the exporting country's trade data may be relied upon if shown to be sufficiently accurate and trustworthy.

''(C) TYPE OF ECONOMY.—A country found to be engaged in exchange-rate manipulation may have—

''(i) a market economy;

''(ii) a nonmarket economy; or

''(iii) a combination thereof.''.

SEC. 303. AFFIRMATION OF NEGOTIATING OBJECTIVE ON BORDER TAXES.

The Congress reaffirms the negotiating objective relating to border taxes set forth in section 2102(b)(15) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3802(b)(15)).

SEC. 304. PRESIDENTIAL CERTIFICATION; APPLICATION OF COUNTERVAILING DUTY LAW.

(a) CERTIFICATION BY THE PRESIDENT.—

(1) IN GENERAL.—The President shall certify to the Congress by January 1, 2009 that, under the Agreement on Subsidies and Countervailing Measures or subsequent agreement of the World Trade Organization, the full or partial exemption, remission, or deferral specifically related to exports of direct taxes is treated in the same manner as the full or partial exemption, remission, or deferral specifically related to exports of indirect taxes.

(2) EFFECT OF FAILURE TO CERTIFY.—If the President does not make the certification to Congress required by paragraph (1) by January 1, 2009, the Secretary of Commerce, in any investigation conducted under subtitle A of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) to determine whether a countervailable subsidy is being provided with respect to a product of a country that provides the full or partial exemption, remission, or deferral specifically related to exports of indirect taxes on products exported from that country, shall treat as a countervailable subsidy the full or partial exemption, remission, or deferral specifically related to exports of indirect taxes paid on that product.

(b) DEFINITIONS.—In this section:

(1) AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES.—The term ''Agreement on Subsidies and Countervailing Measures'' means the agreement referred to in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(12)).

(2) DIRECT TAXES.—The term ''direct taxes'' means taxes on wages, profits, interest, rents, royalties, and all other forms of income, and taxes on the ownership of real property.

(3) IMPORT CHARGES.—The term ''import charges'' means tariffs, duties, and other fiscal charges that are levied on imports.

(4) INDIRECT TAXES.—The term ''indirect taxes'' means sales, excise, turnover, value added, franchise, stamp, transfer, inventory, and equipment taxes, border taxes, and all taxes other than direct taxes and import charges.

(5) FULL OR PARTIAL EXEMPTION, REMISSION, OR DEFERRAL SPECIFICALLY RELATED TO EXPORTS OF DIRECT TAXES.—The term ''full or partial exemption, remission, or deferral specifically related to exports of direct taxes'' means direct taxes that are paid to the United States Government by a business concern and are fully or partially exempted, remitted, or deferred by the Government by reason of the export by that business concern of its products from the United States.

(6) FULL OR PARTIAL EXEMPTION, REMISSION, OR DEFERRAL SPECIFICALLY RELATED TO EXPORTS OF INDIRECT TAXES.—The term ''full or partial exemption, remission, or deferral specifically related to exports of indirect taxes'' means indirect taxes that are paid to the government of a country by a business concern and are fully or partially exempted, remitted, or deferred by that government by reason of the export by that business concern of its products from that country.

(c) EFFECTIVE PERIOD.—

(1) IN GENERAL.—Subsection (a) shall cease to be effective on the date on which the President makes a certification described in subsection (a).

(2) TERMINATION OF COUNTERVAILING DUTY ORDERS.—Any countervailing duty order that is issued pursuant to an investigation conducted under subsection (a) and is still in effect on the date described in paragraph (1) shall terminate on such date.

TITLE IV—LIMITATION ON PRESIDENTIAL DISCRETION IN ADDRESSING MARKET DISRUPTION

SEC. 401. ACTION TO ADDRESS MARKET DISRUPTION.

Section 421 of the Trade Act of 1974 (19 U.S.C. 2451) is amended—

(1) in subsection (a), by striking ''to the extent and for such period'' and all that follows to the end period and inserting ''as recommended by the International Trade Commission'';

(2) in subsection (e), by striking ''agreed upon by either group'' and all that follows to the end period and inserting ''shall be considered an affirmative determination'';

(3) in subsection (f)—

(A) by striking ''ON PROPOSED REMEDIES'' in the heading and inserting ''FOR RELIEF'';

(B) by striking ''the Commission shall propose'' and inserting ''the Commission shall recommend''; and

(C) by striking ''proposed action'' and inserting ''recommended action'';

(4) by striking subsection (h);

(5) in subsection (i)—

(A) in the flush sentence at the end of paragraph (1), by striking ''agreed upon by either group'' and all that follows to the end period and inserting ''shall be deemed an affirmative determination''; and

(B) by striking paragraphs (3) and (4);

(6) by striking subsections (j) and (k);

(7) by amending paragraph (1) of subsection (*l*) to read as follows: ''(1) The President's implementation of the International Trade Commission remedy shall be published in the Federal Register.'';

(8) by amending subsection (m) to read as follows:

''(m) EFFECTIVE DATE OF RELIEF.—Import relief under this section shall take effect on the date the International Trade Commission's recommendation is published in the Federal Register, but not later than 15 days after the date of the Commission's vote recommending the relief.'';

(9) by amending subsection (n) to read as follows:

''(n) MODIFICATION OF RELIEF.—Any import relief that includes an increase in duty or the imposition of import restrictions shall be for a period not to exceed 3 years.''; and

(10) by striking subsection (o).

TITLE V—MISCELLANEOUS

SEC. 501. APPLICATION TO CANADA AND MEXICO.

Pursuant to article 1902 of the North American Free Trade Agreement and section 408 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3438), this Act and the amendments made by this Act shall apply with respect to goods from Canada and Mexico.

By Mr. DOMENICI:

S. 366. A bill to authorize the conveyance of certain Federal land in the State of New Mexico; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DOMENICI. Mr. President, today I rise to introduce an uncontroversial piece of legislation that I hope will receive prompt committee action and will make its way quickly to the President's desk for his signature.

I would first like to familiarize the Senate with the important mission and related work of the Chihuahuan Desert Nature Park in Las Cruces, NM. The Chihuahuan Desert is the largest desert in North America and contains a great variety of unique plant and animal species. The ecosystem makes up an indispensable part of the Southwest's treasured ecological diversity. As such, it is important that we teach our youth an appreciation for New Mexico's biological diversity and impart upon them the value of this ecological treasure.

The Chihuahuan Desert Nature Park is a non-profit institution that has spent the past six years providing hands-on science education to K–12th graders. To achieve this mission, the Nature Park provides classroom presentations, field trips, schoolyard ecology projects and teacher workshops. The Nature Park serves more than 11,000 students and 600 teachers annually. This instruction will enable our future leaders to make informed decisions about how best to manage these valuable resources. I commend those at the Nature Park for taking the initiative to create and administer a wonderfully successful program that has been so beneficial to the surrounding community.

The Chihuahuan Desert Nature Park was granted a 1,000 acre easement in 1998 at the southern boundary of USDA—Agriculture Research Service (USDA–ARS) property just north of Las Cruces, NM. This easement will expire soon. It is important that we provide them a permanent location so that they are able to continue their valuable mission.

The bill I introduce today would transfer an insignificant amount of land: 1,000 of 193,000 USDA acres to the Desert Nature Park so that they may continue their important work. The USDA-ARS has approved the land transfer, noting the critically important mission of the Desert Park. In addition, this bill was passed by the Senate in the 109th Congress without amendments by unanimous consent. I have no doubt that Senators on both sides of the aisle will recognize the importance of this land transfer.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 366

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Jornada Experimental Range Transfer Act of 2007''.

SEC. 2. DEFINITIONS.

In this Act:

(1) BOARD.—The term ''Board'' means the Chihuahuan Desert Nature Park Board.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 3. CONVEYANCE OF LAND TO CHIHUAHUAN DESERT NATURE PARK BOARD.

(a) CONVEYANCE.—The Secretary may convey to the Board, by quitclaim deed, for no consideration, all right, title, and interest of the United States in and to the land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) consists of not more than 1000 acres of land selected by the Secretary—

(1) that is located in the Jornada Experimental Range in the State of New Mexico; and

(2) that is subject to an easement granted by the Agricultural Research Service to the Board.

(c) CONDITIONS.—The conveyance of land under subsection (a) shall be subject to—

(1) the condition that the Board pay—

(A) the cost of any surveys of the land; and

(B) any other costs relating to the conveyance;

(2) any rights-of-way to the land reserved by the Secretary;

(3) a covenant or restriction in the deed to the land described in subsection (b) requiring that—

(A) the land may be used only for educational purposes;

(B) if the land is no longer used for the purposes described in subparagraph (A), the land shall, at the discretion of the Secretary, revert to the United States; and

(C) if the land is determined by the Secretary to be environmentally contaminated under subsection (d)(2)(A), the Board shall remediate the contamination; and

(4) any other terms and conditions that the Secretary determines to be appropriate.

(d) REVERSION.—If the land conveyed under subsection (a) is no longer used for the purposes described in subsection (c)(3)(A)—

(1) the land shall, at the discretion of the Secretary, revert to the United States; and

(2) if the Secretary chooses to have the land revert to the United States, the Secretary shall—

(A) determine whether the land is environmentally contaminated, including contamination from hazardous wastes, hazardous substances, pollutants, contaminants, petroleum, or petroleum by-products; and

(B) if the Secretary determines that the land is environmentally contaminated, the Board or any other person responsible for the contamination shall remediate the contamination.

By Mr. BIDEN (for himself, Mr. BAUCUS, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. DODD, Mrs. FEINSTEIN, Mr. HARKIN, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Mr. MENENDEZ, Ms.

MIKULSKI, Mr. OBAMA, Mr. REED, Mr. SALAZAR, Mr. SCHUMER, Mr. SMITH, Ms. STABENOW, and Mr. REID):

S. 368. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to enhance the cops on the beat grant program, and for other purposes; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, today, I rise to introduce legislation, the COPS Improvement Act of 2007, to reauthorize the Department of Justice's Office of Community Oriented Policing Services (COPS). This program has achieved what my colleagues and I hoped for back when we were debating the 1994 Crime Bill. Prior to the final vote, in August of 1994, I stated that ''I will vote for this bill, because, as much as anything I have ever voted on in 22 years in the U.S. Senate, I truly believe that passage of this legislation will make a difference in the lives of the American people. I believe with every fiber in my being that if this bill passes, fewer people will be murdered, fewer people will be victims, fewer women will be senselessly beaten, fewer people will continue on the drug path, and fewer children will become criminals.''

Fortunately, with the creation of the COPS program, we were able to form a partnership amongst Federal, State, and local law enforcement and create programs that helped drive down crime rates for eight consecutive years. In 1994 we had historically high rates of violent crimes, such as murders, forcible rapes, and aggravated assaults. We were able to reduce these to the lowest levels in a generation. We reduced the murder rate by 37.8 percent; we reduced forcible rapes by 19.1 percent; and we reduced aggravated assaults by 25.5 percent. Property crimes, including auto thefts also were reduced from historical highs to the lowest levels in decades. The COPS program has been endorsed by every major law enforcement group in the Nation, including the International Association of Chiefs of Police (IACP), the National Association of Police Organizations (NAPO), the National Sheriffs Association (NSA), the International Brotherhood of Police Organizations, the National Organization of Black Law Enforcement Officials (NOBLE), the International Union of Police Associations (IUPA), the Fraternal Order of Police, and others.

Rather than support this important program, the Bush Administration and Republican leadership has been set on eliminating it. President Bush has proposed cuts each year he has been in office, and while we have fought to maintain funding for COPS, the hiring program was completely eliminated in 2005. Overall funding for State and local law enforcement programs has been slashed by billions and the COPS hiring program has been completely eliminated. Last year's budget request contained only $117 million for local law enforcement from COPS and the complete elimination of the Justice Assistance Grant.

These cuts are coming at the worst possible time. Local law enforcement is facing what I have called a perfect storm. The FBI is reprogramming its field agents from local crime to terrorism. Undoubtedly, this is necessary given the threats facing our Nation. But, this means that there will be less Federal assistance for drug cases, bank robberies, and violent crime. Local law enforcement will be required to fill the gap left by the FBI in addition to performing more and more homeland security duties.

Due to budget restraints at the local level and the unprecedented cuts in Federal assistance they will be less able to do either. Articles in the USA Today and the New York Times highlighted the fact that many cities are being forced to eliminate officers because of local budgets woes. In fact, New York City has lost over 3,000 officers in the last few years. Other cities, such as Cleveland, MN, and Houston, TX, are facing similar shortages. As a result, local police chiefs are reluctantly pulling officers from the proactive policing activities that were so successful in the nineties, and they are unable to provide sufficient numbers of officers for Federal task forces. These choices are not made lightly. Police chiefs understand the value of proactive policing and the need to be involved in homeland security task forces; however, they simply don't have the manpower to do it all. Responding to emergency calls must take precedence over proactive programs and task forces, and we are beginning to pay the price. The FBI is reporting rising violent crime in cities throughout the Nation, with murder rates rising 3.4 percent in 2005. Additionally, the preliminary numbers for 2006 show that violent crime is up 3.7 percent and murder rates up 1.4 percent when compared to last year's preliminary numbers.

Although the COPS program was reauthorized as part of Department of Justice Reauthorization, this bill is critical for several reasons. First, it reestablishes our commitment to the hiring program by including a separate authorization of $600 million to hire officers to engage in community policing, intelligence gathering, and as school resource officers. We need more cops on the beat and in our schools, and this will help get us there. It also authorizes $350 million per year for technology grants, and it includes $200 million per year to help local district attorneys hire community prosecutors. Finally, it congressionally establishes the COPS office as the entity within the Department of Justice to carry out these functions in order to eliminate duplication of efforts. The bottom line is that this bill keeps faith with our State and local law enforcement officers who put their lives on the line every day to keep our communities safe from crime and terrorism. I would ask all of my colleagues to go ask their local police chief or sheriff and ask them if they should support this legislation, and I hope that they will because if they did it would be passed 100–0.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 368

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''COPS Improvements Act of 2007''.

SEC. 2. COPS GRANT IMPROVEMENTS.

(a) IN GENERAL.—Section 1701 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended—

(1) by amending subsection (a) to read as follows:

''(a) GRANT AUTHORIZATION.—The Attorney General shall carry out grant programs under which the Attorney General makes grants to States, units of local government, Indian tribal governments, other public and private entities, multi-jurisdictional or regional consortia, and individuals for the purposes described in subsections (b), (c), (d), and (e).'';

(2) in subsection (b)—

(A) by striking the subsection heading text and inserting ''COMMUNITY POLICING AND CRIME PREVENTION GRANTS'';

(B) in paragraph (3), by striking '', to increase the number of officers deployed in community-oriented policing'';

(C) in paragraph (4), by inserting ''or train'' after ''pay for'';

(D) by inserting after paragraph (4) the following:

''(5) award grants to hire school resource officers and to establish school-based partnerships between local law enforcement agencies and local school systems to combat crime, gangs, drug activities, and other problems in and around elementary and secondary schools;'';

(E) by striking paragraph (9);

(F) by redesignating paragraphs (10) through (12) as paragraphs (9) through (11), respectively;

(G) by striking paragraph (13);

(H) by redesignating paragraphs (14) through (17) as paragraphs (12) through (15), respectively;

(I) in paragraph (14), as so redesignated, by striking ''and'' at the end;

(J) in paragraph (15), as so redesignated, by striking the period at the end and inserting a semicolon; and

(K) by adding at the end the following:

''(16) establish and implement innovative programs to reduce and prevent illegal drug manufacturing, distribution, and use, including the manufacturing, distribution, and use of methamphetamine; and

''(17) award enhancing community policing and crime prevention grants that meet emerging law enforcement needs, as warranted.'';

(3) by striking subsection (c);

(4) by striking subsections (h) and (i);

(5) by redesignating subsections (d) through (g) as subsections (f) through (i), respectively;

(6) by inserting after subsection (b) the following:

''(c) TROOPS-TO-COPS PROGRAMS.—

''(1) IN GENERAL.—Grants made under subsection (a) may be used to hire former members of the Armed Forces to serve as career

law enforcement officers for deployment in community-oriented policing, particularly in communities that are adversely affected by a recent military base closing.

''(2) DEFINITION.—In this subsection, 'former member of the Armed Forces' means a member of the Armed Forces of the United States who is involuntarily separated from the Armed Forces within the meaning of section 1141 of title 10, United States Code.

''(d) COMMUNITY PROSECUTORS PROGRAM.—The Attorney General may make grants under subsection (a) to pay for additional community prosecuting programs, including programs that assign prosecutors to—

''(1) handle cases from specific geographic areas; and

''(2) address counter-terrorism problems, specific violent crime problems (including intensive illegal gang, gun, and drug enforcement and quality of life initiatives), and localized violent and other crime problems based on needs identified by local law enforcement agencies, community organizations, and others.

''(e) TECHNOLOGY GRANTS.—The Attorney General may make grants under subsection (a) to develop and use new technologies (including interoperable communications technologies, modernized criminal record technology, and forensic technology) to assist State and local law enforcement agencies in reorienting the emphasis of their activities from reacting to crime to preventing crime and to train law enforcement officers to use such technologies.'';

(7) in subsection (f), as so redesignated—

(A) in paragraph (1), by striking ''to States, units of local government, Indian tribal governments, and to other public and private entities,'';

(B) in paragraph (2), by striking ''define for State and local governments, and other public and private entities,'' and inserting ''establish'';

(C) in the first sentence of paragraph (3), by inserting ''(including regional community policing institutes)'' after ''training centers or facilities''; and

(D) by adding at the end the following:

''(4) EXCLUSIVITY.—The Office of Community Oriented Policing Services shall be the exclusive component of the Department of Justice to perform the functions and activities specified in this paragraph.'';

(8) in subsection (g), as so redesignated, by striking ''may utilize any component'', and all that follows and inserting ''shall use the Office of Community Oriented Policing Services of the Department of Justice in carrying out this part.'';

(9) in subsection (h), as so redesignated—

(A) by striking ''subsection (a)'' the first place that term appears and inserting ''paragraphs (1) and (2) of subsection (b)''; and

(B) by striking ''in each fiscal year pursuant to subsection (a)'' and inserting ''in each fiscal year for purposes described in paragraph (1) and (2) of subsection (b)'';

(10) in subsection (i), as so redesignated, by striking the second sentence; and

(11) by adding at the end the following:

''(j) RETENTION OF ADDITIONAL OFFICER POSITIONS.—For any grant under paragraph (1) or (2) of subsection (b) for hiring or rehiring career law enforcement officers, a grant recipient shall retain each additional law enforcement officer position created under that grant for not less than 12 months after the end of the period of that grant, unless the Attorney General waives, wholly or in part, the retention requirement of a program, project, or activity.''.

(b) APPLICATIONS.—Section 1702 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-1) is amended—

(1) in subsection (c)—

(A) in the matter preceding paragraph (1), by inserting '', unless waived by the Attorney General'' after ''under this part shall'';

(B) by striking paragraph (8); and

(C) by redesignating paragraphs (9) through (11) as paragraphs (8) through (10), respectively; and

(2) by striking subsection (d).

(c) RENEWAL OF GRANTS.—Section 1703 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-2) is amended to read as follows:

''SEC. 1703. RENEWAL OF GRANTS.

''(a) IN GENERAL.—A grant made under this part may be renewed, without limitations on the duration of such renewal, to provide additional funds, if the Attorney General determines that the funds made available to the recipient were used in a manner required under an approved application and if the recipient can demonstrate significant progress in achieving the objectives of the initial application.

''(b) NO COST EXTENSIONS.—Notwithstanding subsection (a), the Attorney General may extend a grant period, without limitations as to the duration of such extension, to provide additional time to complete the objectives of the initial grant award.''.

(d) LIMITATION ON USE OF FUNDS.—Section 1704 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-3) is amended—

(1) in subsection (a), by striking ''that would, in the absence of Federal funds received under this part, be made available from State or local sources'' and inserting ''that the Attorney General determines would, in the absence of Federal funds received under this part, be made available for the purpose of the grant under this part from State or local sources''; and

(2) by striking subsection (c).

(e) ENFORCEMENT ACTIONS.—

(1) IN GENERAL.—Section 1706 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-5) is amended—

(A) in the section heading, by striking ''**REVOCATION OR SUSPENSION OF FUNDING**'' and inserting ''**ENFORCEMENT ACTIONS**''; and

(B) by striking ''revoke or suspend'' and all that follows and inserting ''take any enforcement action available to the Department of Justice.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711) is amended by striking the item relating to section 1706 and inserting the following:

''Sec. 1706. Enforcement actions.''.

(f) DEFINITIONS.—Section 1709(1) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-8(1)) is amended—

(1) by inserting ''who is a sworn law enforcement officer'' after ''permanent basis''; and

(2) by inserting '', including officers for the Amtrak Police Department'' before the period at the end.

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(11)) is amended—

(1) in subparagraph (A), by striking ''1,047,119,000'' and inserting ''1,150,000,000''; and

(2) in subparagraph (B)—

(A) in the first sentence, by striking ''3 percent'' and inserting ''5 percent''; and

(B) by striking the second sentence and inserting the following: ''Of the funds available for grants under part Q, not less than $600,000,000 shall be used for grants for the purposes specified in section 1701(b), not more than $200,000,000 shall be used for grants under section 1701(d), and not more than $350,000,000 shall be used for grants under section 1701(e).''.

(h) PURPOSES.—Section 10002 of the Public Safety Partnership and Community Policing Act of 1994 (42 U.S.C. 3796dd note) is amended—

(1) in paragraph (4), by striking ''development'' and inserting ''use''; and

(2) in the matter following paragraph (4), by striking ''for a period of 6 years''.

(i) COPS PROGRAM IMPROVEMENTS.—

(1) IN GENERAL.—Section 109(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712h(b)) is amended—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(C) in paragraph (2), as so redesignated, by inserting '', except for the program under part Q of this title'' before the period.

(2) LAW ENFORCEMENT COMPUTER SYSTEMS.—Section 107 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712f) is amended by adding at the end the following:

''(c) EXCEPTION.—This section shall not apply to any grant made under part Q of this title.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 37—DESIGNATING MARCH 26, 2007 AS ''NATIONAL SUPPORT THE TROOPS DAY'' AND ENCOURAGING THE PEOPLE OF THE UNITED STATES TO PARTICIPATE IN A MOMENT OF SILENCE TO REFLECT UPON THE SERVICE AND SACRIFICE OF MEMBERS OF THE ARMED FORCES BOTH AT HOME AND ABROAD

Ms. STABENOW (for herself and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 37

Whereas it was through the brave and noble efforts of the forefathers of the United States that the United States first gained freedom and became a sovereign country;

Whereas there are more than 1,300,000 regular members of the Armed Forces and more than 1,100,000 members of the National Guard and Reserves serving the Nation in support and defense of the values and freedom that all people in the United States cherish;

Whereas the members of the Armed Forces deserve the utmost respect and admiration of the people of the United States for putting their lives in danger for the sake of the freedoms enjoyed by all people of the United States;

Whereas members of the Armed Forces are defending freedom and democracy around the globe and are playing a vital role in protecting the safety and security of all the people of the United States; and

Whereas all people of the United States should participate in a moment of silence to support the troops: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 26, 2007 as ''National Support the Troops Day''; and

(2) encourages all people in the United States to participate in a moment of silence to reflect upon the service and sacrifice of members of the Armed Forces both at home and abroad.

AMENDMENTS SUBMITTED AND PROPOSED

SA 111. Mr. SUNUNU submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table.

SA 112. Mr. SUNUNU submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 113. Mr. SMITH submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 114. Mr. THUNE (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 115. Mr. KYL proposed an amendment to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 116. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 117. Mr. CHAMBLISS (for himself, Mr. BURR, and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 118. Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. BURR) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 119. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 120. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 121. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 122. Ms. SNOWE (for herself and Mrs. LINCOLN) submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 123. Ms. SNOWE (for herself and Mrs. LINCOLN) submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 124. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 125. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 126. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 127. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 128. Mr. KERRY (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 129. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 130. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 131. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 132. Mr. SMITH (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 133. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 134. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 135. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 136. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 137. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 138. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 139. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 140. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 141. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 142. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 143. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 144. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 145. Mr. SESSIONS (for himself, Mr. INHOFE, and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 146. Mr. SESSIONS (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 147. Mr. SESSIONS (for himself and Mr. INHOFE) submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 148. Mr. SESSIONS (for himself, Mr. INHOFE, and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 149. Mr. ENSIGN (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 150. Mr. ENSIGN (for himself, Mr. SESSIONS, Mr. CRAIG, Mrs. DOLE, Mr. THOMAS, Mr. CORNYN, Mr. INHOFE, Mr. ISAKSON, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 151. Mr. ENSIGN (for himself, Mr. DEMINT, Mr. GRAHAM, and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 152. Mr. ENSIGN (for himself and Mr. INHOFE) submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 153. Mr. ENSIGN (for himself, Mr. SESSIONS, Mr. CRAIG, Mrs. DOLE, Mr. THOMAS, Mr. CORNYN, Mr. INHOFE, Mr. ISAKSON, and Mr. COLEMAN) submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 154. Mr. ENSIGN (for himself, Mr. DEMINT, Mr. GRAHAM, and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 155. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 156. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 157. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 158. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 159. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 160. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 161. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 162. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 163. Ms. SNOWE (for herself and Mr. FEINGOLD) submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 164. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 165. Mr. SMITH (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 166. Mr. SMITH submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 167. Mrs. FEINSTEIN (for herself and Mr. CRAIG) submitted an amendment intended to be proposed to amendment SA 118 submitted by Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. BURR) and intended to be proposed to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 168. Mrs. FEINSTEIN (for herself and Mr. CRAIG) submitted an amendment intended to be proposed to amendment SA 117 submitted by Mr. CHAMBLISS (for himself, Mr. BURR, and Mr. ISAKSON) and intended to

be proposed to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 169. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 170. Mr. GREGG (for himself, Mr. SUNUNU, and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 171. Mr. GREGG (for himself, Mr. SUNUNU, and Mr. ISAKSON) submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 172. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 173. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 112 submitted by Mr. SUNUNU to the amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 174. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

SA 175. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 2, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 111. Mr. SUNUNU submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PUBLIC HOUSING AGENCY PLANS FOR CERTAIN QUALIFIED PUBLIC HOUSING AGENCIES.

(a) SHORT TITLE.—This section may be cited as the ''Small Public Housing Authorities Paperwork Reduction Act''.

(b) IN GENERAL.—Section 5A(b) of the United States Housing Act of 1937 (42 U.S.C. 1437c–1(b)) is amended by adding at the end the following:

''(3) EXEMPTION OF CERTAIN PHAS FROM FILING REQUIREMENT.—

''(A) IN GENERAL.—Notwithstanding paragraph (1) or any other provision of this Act—

''(i) the requirement under paragraph (1) shall not apply to any qualified public housing agency; and

''(ii) except as provided in subsection (e)(4)(B), any reference in this section or any other provision of law to a 'public housing agency' shall not be considered to refer to any qualified public housing agency, to the extent such reference applies to the requirement to submit an annual public housing agency plan under this subsection.

''(B) CIVIL RIGHTS CERTIFICATION.—Notwithstanding that qualified public housing agencies are exempt under subparagraph (A) from the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall, on an annual basis, make the certification described in paragraph (16) of subsection (d), except that for purposes of such qualified public housing agencies, such paragraph shall be applied by substituting 'the public housing program of the agency' for 'the public housing agency plan'.

''(C) DEFINITION.—For purposes of this section, the term 'qualified public housing agency' means a public housing agency that—

''(i) administers—

''(I) 500 or fewer public housing dwelling units; or

''(II) any number of vouchers under section 8(o) of this Act; and

''(ii) is not designated under section 6(j)(2) as a troubled public housing agency.''.

(c) RESIDENT PARTICIPATION.—Section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c–1) is amended—

(1) in subsection (e), by inserting after paragraph (3) the following:

''(4) QUALIFIED PUBLIC HOUSING AGENCIES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this section may be construed to exempt a qualified public housing agency from the requirement under paragraph (1) to establish 1 or more resident advisory boards. Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to prepare and submit an annual public housing plan, each qualified public housing agency shall consult with, and consider the recommendations of the resident advisory boards for the agency, at the annual public hearing required under subsection (f)(5), regarding any changes to the goals, objectives, and policies of that agency.

''(B) APPLICABILITY OF WAIVER AUTHORITY.—Paragraph (3) shall apply to qualified public housing agencies, except that for purposes of such qualified public housing agencies, subparagraph (B) of such paragraph shall be applied by substituting 'the functions described in the second sentence of paragraph (4)(A)' for 'the functions described in paragraph (2)'.

''(f) PUBLIC HEARINGS.—''; and

(2) in subsection (f) (as so designated by the amendment made by paragraph (1)), by adding at the end the following:

''(5) QUALIFIED PUBLIC HOUSING AGENCIES.—

''(A) REQUIREMENT.—Notwithstanding that qualified public housing agencies are exempt under subsection (b)(3)(A) from the requirement under this section to conduct a public hearing regarding the annual public housing plan of the agency, each qualified public housing agency shall annually conduct a public hearing—

''(i) to discuss any changes to the goals, objectives, and policies of the agency; and

''(ii) to invite public comment regarding such changes.

''(B) AVAILABILITY OF INFORMATION AND NOTICE.—Not later than 45 days before the date of any hearing described in subparagraph (A), a qualified public housing agency shall—

''(i) make all information relevant to the hearing and any determinations of the agency regarding changes to the goals, objectives, and policies of the agency to be considered at the hearing available for inspection by the public at the principal office of the public housing agency during normal business hours; and

''(ii) publish a notice informing the public that—

''(I) the information is available as required under clause (i); and

''(II) a public hearing under subparagraph (A) will be conducted.''

SA 112. Mr. SUNUNU submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; as follows:

At the appropriate place, insert the following:

SEC. ___. RENEWAL GRANTS FOR WOMEN'S BUSINESS CENTERS.

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—

''(A) has received funding under subsections (b) and (l); and

''(B) is not eligible under the programs under such subsections for the first fiscal year after the end of the period of financial assistance under subsection (l).

''(3) APPLICATION AND APPROVAL CRITERIA.—

''(A) CRITERIA.—The Administrator shall develop and publish criteria for the consideration and approval of applications by nonprofit organizations under this subsection.

''(B) 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 less than $90,000 and 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 priority over first-time applications under subsection (b).

''(5) RENEWAL.—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.''.

SA 113. Mr. SMITH submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PERMANENT EXTENSION OF CERTAIN EDUCATION-RELATED TAX INCENTIVES.

(a) REPEAL OF SUNSET ON AFFORDABLE EDUCATION PROVISIONS.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to title IV of such Act (relating to affordable education provisions).

(b) PERMANENT EXTENSION OF ABOVE-THE-LINE DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.—Subparagraph (D) of section 62(a)(2) of the Internal Revenue Code of 1986 is amended by striking ''In the case of taxable years beginning during 2002, 2003, 2004, 2005, 2006, or 2007, the deductions'' and inserting ''The deductions''.

SA 114. Mr. THUNE (for himself and Mr. VITTER) submitted an amendment

intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—SMALL BUSINESS HEALTH COVERAGE

SEC. __01. SHORT TITLE.

This title may be cited as the ''Small Business Health Improvement Act of 2007''.

SEC. __02. RULES GOVERNING ASSOCIATION HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

''SEC. 801. ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—For purposes of this part, the term 'association health plan' means a group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

''(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

''(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care;

''(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership in the sponsor; and

''(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), and (3) shall be deemed to be a sponsor described in this subsection.

''SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—The applicable authority shall prescribe by regulation a procedure under which, subject to subsection (b), the applicable authority shall certify association health plans which apply for certification as meeting the requirements of this part.

''(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), in the case of an association health plan that provides at least one benefit option which does not consist of health insurance coverage, the applicable authority shall certify such plan as meeting the requirements of this part only if the applicable authority is satisfied that the applicable requirements of this part are met (or, upon the date on which the plan is to commence operations, will be met) with respect to the plan.

''(c) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

''(d) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation for continued certification of association health plans under this part.

''(e) CLASS CERTIFICATION FOR FULLY INSURED PLANS.—The applicable authority shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

''(f) CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—An association health plan which offers one or more benefit options which do not consist of health insurance coverage may be certified under this part only if such plan consists of any of the following:

''(1) a plan which offered such coverage on the date of the enactment of the Small Business Health Improvement Act of 2007,

''(2) a plan under which the sponsor does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or

''(3) a plan whose eligible participating employers represent one or more trades or businesses, or one or more industries, consisting of any of the following: agriculture; equipment and automobile dealerships; barbering and cosmetology; certified public accounting practices; child care; construction; dance, theatrical and orchestra productions; disinfecting and pest control; financial services; fishing; foodservice establishments; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; professional consulting services; sanitary services; transportation (local and freight); warehousing; wholesaling/distributing; or any other trade or business or industry which has been indicated as having average or above-average risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, or other means demonstrated by such plan in accordance with regulations.

''SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

''(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

''(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

''(1) FISCAL CONTROL.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

''(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

''(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

''(A) BOARD MEMBERSHIP.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

''(ii) LIMITATION.—

''(I) GENERAL RULE.—Except as provided in subclauses (II) and (III), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

''(II) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

''(III) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, subclause (I) shall not apply in the case of any service provider described in subclause (I) who is a provider of medical care under the plan.

''(iii) CERTAIN PLANS EXCLUDED.—Clause (i) shall not apply to an association health plan which is in existence on the date of the enactment of the Small Business Health Improvement Act of 2007.

''(B) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

''(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

''(1) the requirements of subsection (a) and section 801(a) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

''(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation define for purposes of this subsection the terms 'franchiser', 'franchise network', and 'franchisee'.

''SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

''(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

''(1) each participating employer must be—

''(A) a member of the sponsor,

''(B) the sponsor, or

''(C) an affiliated member of the sponsor with respect to which the requirements of subsection (b) are met,

except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals

who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

''(2) all individuals commencing coverage under the plan after certification under this part must be—

''(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

''(B) the beneficiaries of individuals described in subparagraph (A).

''(b) COVERAGE OF PREVIOUSLY UNINSURED EMPLOYEES.—In the case of an association health plan in existence on the date of the enactment of the Small Business Health Improvement Act of 2007, an affiliated member of the sponsor of the plan may be offered coverage under the plan as a participating employer only if—

''(1) the affiliated member was an affiliated member on the date of certification under this part; or

''(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

''(c) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

''(d) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to an association health plan if—

''(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

''(2) upon request, any employer eligible to participate is furnished information regarding all coverage options available under the plan; and

''(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

''SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

''(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

''(1) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

''(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A));

''(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)); and

''(C) incorporates the requirements of section 806.

''(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

''(A) The contribution rates for any participating small employer do not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and do not vary on the basis of the type of business or industry in which such employer is engaged.

''(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from—

''(i) setting contribution rates based on the claims experience of the plan; or

''(ii) varying contribution rates for small employers in a State to the extent that such rates could vary using the same methodology employed in such State for regulating premium rates in the small group market with respect to health insurance coverage offered in connection with bona fide associations (within the meaning of section 2791(d)(3) of the Public Health Service Act),

subject to the requirements of section 702(b) relating to contribution rates.

''(3) FLOOR FOR NUMBER OF COVERED INDIVIDUALS WITH RESPECT TO CERTAIN PLANS.—If any benefit option under the plan does not consist of health insurance coverage, the plan has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

''(4) MARKETING REQUIREMENTS.—

''(A) IN GENERAL.—If a benefit option which consists of health insurance coverage is offered under the plan, State-licensed insurance agents shall be used to distribute to small employers coverage which does not consist of health insurance coverage in a manner comparable to the manner in which such agents are used to distribute health insurance coverage.

''(B) STATE-LICENSED INSURANCE AGENTS.—For purposes of subparagraph (A), the term 'State-licensed insurance agents' means one or more agents who are licensed in a State and are subject to the laws of such State relating to licensure, qualification, testing, examination, and continuing education of persons authorized to offer, sell, or solicit health insurance coverage in such State.

''(5) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation.

''(b) ABILITY OF ASSOCIATION HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Subject to section 514(d), nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except (subject to section 514) in the case of (1) any law to the extent that it is not preempted under section 731(a)(1) with respect to matters governed by section 711, 712, or 713, or (2) any law of the State with which filing and approval of a policy type offered by the plan was initially obtained to the extent that such law prohibits an exclusion of a specific disease from such coverage.

''SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

''(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if—

''(1) the benefits under the plan consist solely of health insurance coverage; or

''(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

''(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

''(i) a reserve sufficient for unearned contributions;

''(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities;

''(iii) a reserve sufficient for any other obligations of the plan; and

''(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan; and

''(B) establishes and maintains aggregate and specific excess/stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

''(i) The plan shall secure aggregate excess/stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The applicable authority may by regulation provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

''(ii) The plan shall secure specific excess/stop loss insurance for the plan with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary. The applicable authority may by regulation provide for adjustments in the amount of such insurance in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

''(iii) The plan shall secure indemnification insurance for any claims which the plan is unable to satisfy by reason of a plan termination.

Any person issuing to a plan insurance described in clause (i), (ii), or (iii) of subparagraph (B) shall notify the Secretary of any failure of premium payment meriting cancellation of the policy prior to undertaking such a cancellation. Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess/stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

''(b) MINIMUM SURPLUS IN ADDITION TO CLAIMS RESERVES.—In the case of any association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to—

''(1) $500,000, or

''(2) such greater amount (but not greater than $2,000,000) as may be set forth in regulations prescribed by the applicable authority, considering the level of aggregate and specific excess/stop loss insurance provided with

respect to such plan and other factors related to solvency risk, such as the plan's projected levels of participation or claims, the nature of the plan's liabilities, and the types of assets available to assure that such liabilities are met.

''(c) ADDITIONAL REQUIREMENTS.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves, excess/stop loss insurance, and indemnification insurance as the applicable authority considers appropriate. Such requirements may be provided by regulation with respect to any such plan or any class of such plans.

''(d) ADJUSTMENTS FOR EXCESS/STOP LOSS INSURANCE.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess/stop loss insurance provided with respect to such plan or plans.

''(e) ALTERNATIVE MEANS OF COMPLIANCE.—The applicable authority may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section (except subsection (a)(2)(B)(iii)), such security, guarantee, hold-harmless arrangement, or other financial arrangement as the applicable authority determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The applicable authority may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

''(f) MEASURES TO ENSURE CONTINUED PAYMENT OF BENEFITS BY CERTAIN PLANS IN DISTRESS.—

''(1) PAYMENTS BY CERTAIN PLANS TO ASSOCIATION HEALTH PLAN FUND.—

''(A) IN GENERAL.—In the case of an association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan makes payments into the Association Health Plan Fund under this subparagraph when they are due. Such payments shall consist of annual payments in the amount of $5,000, and, in addition to such annual payments, such supplemental payments as the Secretary may determine to be necessary under paragraph (2). Payments under this paragraph are payable to the Fund at the time determined by the Secretary. Initial payments are due in advance of certification under this part. Payments shall continue to accrue until a plan's assets are distributed pursuant to a termination procedure.

''(B) PENALTIES FOR FAILURE TO MAKE PAYMENTS.—If any payment is not made by a plan when it is due, a late payment charge of not more than 100 percent of the payment which was not timely paid shall be payable by the plan to the Fund.

''(C) CONTINUED DUTY OF THE SECRETARY.—The Secretary shall not cease to carry out the provisions of paragraph (2) on account of the failure of a plan to pay any payment when due.

''(2) PAYMENTS BY SECRETARY TO CONTINUE EXCESS/STOP LOSS INSURANCE COVERAGE AND INDEMNIFICATION INSURANCE COVERAGE FOR CERTAIN PLANS.—In any case in which the applicable authority determines that there is, or that there is reason to believe that there will be: (A) a failure to take necessary corrective actions under section 809(a) with respect to an association health plan described in subsection (a)(2); or (B) a termination of such a plan under section 809(b) or 810(b)(8) (and, if the applicable authority is not the Secretary, certifies such determination to the Secretary), the Secretary shall determine the amounts necessary to make payments to an insurer (designated by the Secretary) to maintain in force excess/stop loss insurance coverage or indemnification insurance coverage for such plan, if the Secretary determines that there is a reasonable expectation that, without such payments, claims would not be satisfied by reason of termination of such coverage. The Secretary shall, to the extent provided in advance in appropriation Acts, pay such amounts so determined to the insurer designated by the Secretary.

''(3) ASSOCIATION HEALTH PLAN FUND.—

''(A) IN GENERAL.—There is established on the books of the Treasury a fund to be known as the 'Association Health Plan Fund'. The Fund shall be available for making payments pursuant to paragraph (2). The Fund shall be credited with payments received pursuant to paragraph (1)(A), penalties received pursuant to paragraph (1)(B); and earnings on investments of amounts of the Fund under subparagraph (B).

''(B) INVESTMENT.—Whenever the Secretary determines that the moneys of the fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

''(g) EXCESS/STOP LOSS INSURANCE.—For purposes of this section—

''(1) AGGREGATE EXCESS/STOP LOSS INSURANCE.—The term 'aggregate excess/stop loss insurance' means, in connection with an association health plan, a contract—

''(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to aggregate claims under the plan in excess of an amount or amounts specified in such contract;

''(B) which is guaranteed renewable; and

''(C) which allows for payment of premiums by any third party on behalf of the insured plan.

''(2) SPECIFIC EXCESS/STOP LOSS INSURANCE.—The term 'specific excess/stop loss insurance' means, in connection with an association health plan, a contract—

''(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to claims under the plan in connection with a covered individual in excess of an amount or amounts specified in such contract in connection with such covered individual;

''(B) which is guaranteed renewable; and

''(C) which allows for payment of premiums by any third party on behalf of the insured plan.

''(h) INDEMNIFICATION INSURANCE.—For purposes of this section, the term 'indemnification insurance' means, in connection with an association health plan, a contract—

''(1) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to claims under the plan which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination);

''(2) which is guaranteed renewable and noncancellable for any reason (except as the applicable authority may prescribe by regulation); and

''(3) which allows for payment of premiums by any third party on behalf of the insured plan.

''(i) RESERVES.—For purposes of this section, the term 'reserves' means, in connection with an association health plan, plan assets which meet the fiduciary standards under part 4 and such additional requirements regarding liquidity as the applicable authority may prescribe by regulation.

''(j) SOLVENCY STANDARDS WORKING GROUP.—

''(1) IN GENERAL.—Within 90 days after the date of the enactment of the Small Business Health Improvement Act of 2007, the applicable authority shall establish a Solvency Standards Working Group. In prescribing the initial regulations under this section, the applicable authority shall take into account the recommendations of such Working Group.

''(2) MEMBERSHIP.—The Working Group shall consist of not more than 15 members appointed by the applicable authority. The applicable authority shall include among persons invited to membership on the Working Group at least one of each of the following:

''(A) a representative of the National Association of Insurance Commissioners;

''(B) a representative of the American Academy of Actuaries;

''(C) a representative of the State governments, or their interests;

''(D) a representative of existing self-insured arrangements, or their interests;

''(E) a representative of associations of the type referred to in section 801(b)(1), or their interests; and

''(F) a representative of multiemployer plans that are group health plans, or their interests.

''SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

''(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to association health plans.

''(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority by regulation, at least the following information:

''(1) IDENTIFYING INFORMATION.—The names and addresses of—

''(A) the sponsor; and

''(B) the members of the board of trustees of the plan.

''(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

''(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

''(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

''(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan and contract administrators and other service providers.

''(6) FUNDING REPORT.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

''(A) RESERVES.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the applicable authority shall prescribe.

''(B) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

''(C) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

''(D) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

''(E) OTHER INFORMATION.—Any other information as may be determined by the applicable authority, by regulation, as necessary to carry out the purposes of this part.

''(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

''(d) NOTICE OF MATERIAL CHANGES.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation. The applicable authority may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

''(e) REPORTING REQUIREMENTS FOR CERTAIN ASSOCIATION HEALTH PLANS.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 103 by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed with the applicable authority not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the applicable authority). The applicable authority may require by regulation such interim reports as it considers appropriate.

''(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

''(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations; and

''(2) represent such actuary's best estimate of anticipated experience under the plan.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

''SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

''Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees, not less than 60 days before the proposed termination date—

''(1) provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

''(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

''(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation.

''SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

''(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the applicable authority (in such form and manner as the applicable authority may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the applicable authority, in such form and frequency as the applicable authority may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

''(b) MANDATORY TERMINATION.—In any case in which—

''(1) the applicable authority has been notified under subsection (a) (or by an issuer of excess/stop loss insurance or indemnity insurance pursuant to section 806(a)) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements; and

''(2) the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the applicable authority, terminate the plan and, in the course of the termination, take such actions as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B)(iii) and recovering for the plan any liability under subsection (a)(2)(B)(iii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

''SEC. 810. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

''(a) APPOINTMENT OF SECRETARY AS TRUSTEE FOR INSOLVENT PLANS.—Whenever the Secretary determines that an association health plan which is or has been certified under this part and which is described in section 806(a)(2) will be unable to provide benefits when due or is otherwise in a financially hazardous condition, as shall be defined by the Secretary by regulation, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the participants and beneficiaries or providers of medical care or to avoid any unreasonable deterioration of the financial condition of the plan. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

''(b) POWERS AS TRUSTEE.—The Secretary, upon appointment as trustee under subsection (a), shall have the power—

''(1) to do any act authorized by the plan, this title, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan;

''(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee;

''(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations prescribed by the Secretary, and applicable provisions of law;

''(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as

trustee may reasonably need in order to administer the plan;

''(5) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship;

''(6) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan;

''(7) to issue, publish, or file such notices, statements, and reports as may be required by the Secretary by regulation or required by any order of the court;

''(8) to terminate the plan (or provide for its termination in accordance with section 809(b)) and liquidate the plan assets, to restore the plan to the responsibility of the sponsor, or to continue the trusteeship;

''(9) to provide for the enrollment of plan participants and beneficiaries under appropriate coverage options; and

''(10) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries and providers of medical care.

''(c) NOTICE OF APPOINTMENT.—As soon as practicable after the Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

''(1) the sponsor and plan administrator;

''(2) each participant;

''(3) each participating employer; and

''(4) if applicable, each employee organization which, for purposes of collective bargaining, represents plan participants.

''(d) ADDITIONAL DUTIES.—Except to the extent inconsistent with the provisions of this title, or as may be otherwise ordered by the court, the Secretary, upon appointment as trustee under this section, shall be subject to the same duties as those of a trustee under section 704 of title 11, United States Code, and shall have the duties of a fiduciary for purposes of this title.

''(e) OTHER PROCEEDINGS.—An application by the Secretary under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

''(f) JURISDICTION OF COURT.—

''(1) IN GENERAL.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this section, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

''(2) VENUE.—An action under this section may be brought in the judicial district where the sponsor or the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

''(g) PERSONNEL.—In accordance with regulations which shall be prescribed by the Secretary, the Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with the Secretary's service as trustee under this section.

''SEC. 811. STATE ASSESSMENT AUTHORITY.

''(a) IN GENERAL.—Notwithstanding section 514, a State may impose by law a contribution tax on an association health plan described in section 806(a)(2), if the plan commenced operations in such State after the date of the enactment of the Small Business Health Improvement Act of 2007.

''(b) CONTRIBUTION TAX.—For purposes of this section, the term 'contribution tax' imposed by a State on an association health plan means any tax imposed by such State if—

''(1) such tax is computed by applying a rate to the amount of premiums or contributions, with respect to individuals covered under the plan who are residents of such State, which are received by the plan from participating employers located in such State or from such individuals;

''(2) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan;

''(3) such tax is otherwise nondiscriminatory; and

''(4) the amount of any such tax assessed on the plan is reduced by the amount of any tax or assessment otherwise imposed by the State on premiums, contributions, or both received by insurers or health maintenance organizations for health insurance coverage, aggregate excess/stop loss insurance (as defined in section 806(g)(1)), specific excess/stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

''SEC. 812. DEFINITIONS AND RULES OF CONSTRUCTION.

''(a) DEFINITIONS.—For purposes of this part—

''(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

''(2) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

''(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1).

''(4) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

''(5) APPLICABLE AUTHORITY.—The term 'applicable authority' means the Secretary, except that, in connection with any exercise of the Secretary's authority regarding which the Secretary is required under section 506(d) to consult with a State, such term means the Secretary, in consultation with such State.

''(6) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' has the meaning provided in section 733(d)(2).

''(7) INDIVIDUAL MARKET.—

''(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

''(B) TREATMENT OF VERY SMALL GROUPS.—

''(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

''(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

''(8) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

''(9) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

''(10) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries.

''(11) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

''(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor,

''(B) in the case of a sponsor with members which consist of associations, a person who is a member of any such association and elects an affiliated status with the sponsor, or

''(C) in the case of an association health plan in existence on the date of the enactment of the Small Business Health Improvement Act of 2007, a person eligible to be a member of the sponsor or one of its member associations.

''(12) LARGE EMPLOYER.—The term 'large employer' means, in connection with a group health plan with respect to a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(13) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, an employer who is not a large employer.

''(b) RULES OF CONSTRUCTION.—

''(1) EMPLOYERS AND EMPLOYEES.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is an association health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

''(A) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

''(B) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

''(2) PLANS, FUNDS, AND PROGRAMS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.—In the case of any plan, fund, or program which

was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.''.

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

''(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.''.

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking ''Subsection (a)'' and inserting ''Subsections (a) and (d)'';

(B) in subsection (b)(5), by striking ''subsection (a)'' in subparagraph (A) and inserting ''subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805'', and by striking ''subsection (a)'' in subparagraph (B) and inserting ''subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805'';

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

''(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude, or have the effect of precluding, a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

''(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

''(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

''(B) In any case in which health insurance coverage of any policy type is offered in a State under an association health plan certified under part 8 and the filing, with the applicable State authority (as defined in section 812(a)(9)), of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

''(3) Nothing in subsection (b)(6)(E) or the preceding provisions of this subsection shall be construed, with respect to health insurance issuers or health insurance coverage, to supersede or impair the law of any State—

''(A) providing solvency standards or similar standards regarding the adequacy of insurer capital, surplus, reserves, or contributions, or

''(B) relating to prompt payment of claims.

''(4) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

''(5) For purposes of this subsection, the term 'association health plan' has the meaning provided in section 801(a), and the terms 'health insurance coverage', 'participating employer', and 'health insurance issuer' have the meanings provided such terms in section 812, respectively.''.

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (i)(II), by striking ''and'' at the end;

(B) in clause (ii), by inserting ''and which does not provide medical care (within the meaning of section 733(a)(2)),'' after ''arrangement,'', and by striking ''title.'' and inserting ''title, and''; and

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

''(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.''.

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended—

(A) by striking ''Nothing'' and inserting ''(1) Except as provided in paragraph (2), nothing''; and

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

''(2) Nothing in any other provision of law enacted on or after the date of the enactment of the Small Business Health Improvement Act of 2007 shall be construed to alter, amend, modify, invalidate, impair, or supersede any provision of this title, except by specific cross-reference to the affected section.''.

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: ''Such term also includes a person serving as the sponsor of an association health plan under part 8.''.

(d) DISCLOSURE OF SOLVENCY PROTECTIONS RELATED TO SELF-INSURED AND FULLY INSURED OPTIONS UNDER ASSOCIATION HEALTH PLANS.—Section 102(b) of such Act (29 U.S.C. 102(b)) is amended by adding at the end the following: ''An association health plan shall include in its summary plan description, in connection with each benefit option, a description of the form of solvency or guarantee fund protection secured pursuant to this Act or applicable State law, if any.''.

(e) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting ''or part 8'' after ''this part''.

(f) REPORT TO THE CONGRESS REGARDING CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—Not later than January 1, 2010, the Secretary of Labor shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the effect association health plans have had, if any, on reducing the number of uninsured individuals.

(g) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

''Sec. 801. Association health plans
''Sec. 802. Certification of association health plans
''Sec. 803. Requirements relating to sponsors and boards of trustees
''Sec. 804. Participation and coverage requirements
''Sec. 805. Other requirements relating to plan documents, contribution rates, and benefit options
''Sec. 806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage
''Sec. 807. Requirements for application and related requirements
''Sec. 808. Notice requirements for voluntary termination
''Sec. 809. Corrective actions and mandatory termination
''Sec. 810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage
''Sec. 811. State assessment authority
''Sec. 812. Definitions and rules of construction''.

SEC. __03. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting after ''control group,'' the following: ''except that, in any case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), two or more trades or businesses, whether or not incorporated, shall be deemed a single employer for any plan year of such plan, or any fiscal year of such other arrangement, if such trades or businesses are within the same control group during such year or at any time during the preceding 1-year period,'';

(2) in clause (iii), by striking ''(iii) the determination'' and inserting the following:

''(iii)(I) in any case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), the determination of whether a trade or business is under 'common control' with another trade or business shall be determined under regulations of the Secretary applying principles consistent and coextensive with the principles applied in determining whether employees of two or more trades or businesses are treated as employed by a single employer under section 4001(b), except that, for purposes of this paragraph, an interest of greater than 25 percent may not be required as the minimum interest necessary for common control, or

''(II) in any other case, the determination'';

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

''(iv) in any case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only one participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement,''.

SEC. __04. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting ''(a)'' after ''Sec. 501.''; and

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

''(b) Any person who willfully falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

''(1) being an association health plan which has been certified under part 8;

''(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

''(3) being a plan or arrangement described in section 3(40)(A)(i),

shall, upon conviction, be imprisoned not more than 5 years, be fined under title 18, United States Code, or both.''.

(b) CEASE ACTIVITIES ORDERS.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

''(n) ASSOCIATION HEALTH PLAN CEASE AND DESIST ORDERS.—

''(1) IN GENERAL.—Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

''(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

''(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

''(2) EXCEPTION.—Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

''(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

''(B) with respect to each State in which the plan or arrangement offers or provides benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

''(3) ADDITIONAL EQUITABLE RELIEF.—The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.''.

(c) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting ''(a) IN GENERAL.—'' before ''In accordance'', and by adding at the end the following new subsection:

''(b) ASSOCIATION HEALTH PLANS.—The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.''.

SEC. ____05. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

''(d) CONSULTATION WITH STATES WITH RESPECT TO ASSOCIATION HEALTH PLANS.—

''(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to an association health plan regarding the exercise of—

''(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

''(B) the Secretary's authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

''(2) RECOGNITION OF PRIMARY DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular association health plan, as the State with which consultation is required. In carrying out this paragraph—

''(A) in the case of a plan which provides health insurance coverage (as defined in section 812(a)(3)), such State shall be the State with which filing and approval of a policy type offered by the plan was initially obtained, and

''(B) in any other case, the Secretary shall take into account the places of residence of the participants and beneficiaries under the plan and the State in which the trust is maintained.''.

SEC. ____06. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by this title shall take effect one year after the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this title within one year after the date of the enactment of this Act.

(b) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 812(a)(5) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a) and 803(a) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of directors which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement.

(2) DEFINITIONS.—For purposes of this subsection, the terms ''group health plan'', ''medical care'', and ''participating employer'' shall have the meanings provided in section 812 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an ''association health plan'' shall be deemed a reference to an arrangement referred to in this subsection.

SA 115. Mr. KYL proposed an amendment to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; as follows:

On page 4, line 21, strike ''April 1, 2008'' and insert ''January 1, 2009''.

On page 6, lines 5 and 6, strike ''April 1, 2008'' and insert ''January 1, 2009''.

SA 116. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the end of section 2, add the following:

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

''(h) STATE FLEXIBILITY.—Notwithstanding any other provision of this section, an employer shall not be required to pay an employee a wage that is greater than the minimum wage provided for by the law of the State in which the employee is employed and not less than the minimum wage in effect in that State on January 1, 2007.''.

SA 117. Mr. CHAMBLISS (for himself, Mr. BURR, and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; as follows:

At the appropriate place, add the following new section:

SEC. ___. WAGES FOR AGRICULTURAL WORKERS.

Section (6)(a)(5) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(5)) is amended to read as follows:

''(5) if such employee is employed to provide agriculture labor or services—

''(A) not less than the minimum wage rate in effect under paragraph (1) after December 31, 1977; or

''(B) pursuant to the provisions of section 218 of the Immigration and Nationality Act (8 U.S.C. 1188), not less than the greater of—

''(i) the minimum wage rate in effect under paragraph (1) after December 31, 1977; or

''(ii) the prevailing wage established by the Occupational Employment Statistics program, or other wage survey, conducted by the Bureau of Labor Statistics in the county of intended employment, for entry level workers who are employed in agriculture in the area of the work to be performed.''.

SA 118. Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. BURR) submitted an amendment intended to be proposed

by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following new section:

SEC. ___. WAGES FOR AGRICULTURAL WORKERS.

Section (6)(a)(5) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(5)) is amended to read as follows:

''(5) if such employee is employed in agriculture, or is employed to provide agriculture labor or services pursuant to section 218 of the Immigration and Nationality Act (8 U.S.C. 1188), not less than the greater of—

''(A) the minimum wage rate in effect under paragraph (1) after December 31, 1977; or

''(B) the prevailing wage established by the Occupational Employment Statistics program, or other wage survey, conducted by the Bureau of Labor Statistics in the county of intended employment, for entry level workers who are employed in agriculture in the area of work to be performed.''.

SA 119. Mr. BUNNING submitted an amendment intended to be proposed by him to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; as follows:

At the appropriate place insert the following:

SEC. ___. REPEAL OF 1993 INCOME TAX INCREASE ON SOCIAL SECURITY BENEFITS.

(a) RESTORATION OF PRIOR LAW FORMULA.—Subsection (a) of section 86 (relating to social security and tier 1 railroad retirement benefits) is amended to read as follows:

''(a) IN GENERAL.—Gross income for the taxable year of any taxpayer described in subsection (b) (notwithstanding section 207 of the Social Security Act) includes social security benefits in an amount equal to the lesser of—

''(1) one-half of the social security benefits received during the taxable year, or

''(2) one-half of the excess described in subsection (b)(1).''.

(b) REPEAL OF ADJUSTED BASE AMOUNT.—Subsection (c) of section 86 is amended to read as follows:

''(c) BASE AMOUNT.—For purposes of this section, the term 'base amount' means—

''(1) except as otherwise provided in this subsection, $25,000,

''(2) $32,000 in the case of a joint return, and

''(3) zero in the case of a taxpayer who—

''(A) is married as of the close of the taxable year (within the meaning of section 7703) but does not file a joint return for such year, and

''(B) does not live apart from his spouse at all times during the taxable year.''.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 871(a)(3) is amended by striking ''85 percent'' and inserting ''50 percent''.

(2)(A) Subparagraph (A) of section 121(e)(1) of the Social Security Amendments of 1983 (Public Law 98–21) is amended—

(i) by striking ''(A) There'' and inserting ''There'';

(ii) by striking ''(i)'' immediately following ''amounts equivalent to''; and

(iii) by striking '', less (ii)'' and all that follows and inserting a period.

(B) Paragraph (1) of section 121(e) of such Act is amended by striking subparagraph (B).

(C) Paragraph (3) of section 121(e) of such Act is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(D) Paragraph (2) of section 121(e) of such Act is amended in the first sentence by striking ''paragraph (1)(A)'' and inserting ''paragraph (1)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) SUBSECTION (c)(1).—The amendment made by subsection (c)(1) shall apply to benefits paid after December 31, 2007.

(3) SUBSECTION (c)(2).—The amendments made by subsection (c)(2) shall apply to tax liabilities for taxable years beginning after December 31, 2007.

SEC. ___. MAINTENANCE OF TRANSFERS TO HOSPITAL INSURANCE TRUST FUND.

There are hereby appropriated to the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) amounts equal to the reduction in revenues to the Treasury by reason of the enactment of this Act. Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had this Act not been enacted.

SA 120. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

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

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

(b) INCREASE IN LIMIT AND PHASEOUT THRESHOLD FOR EXPENSING FOR SMALL BUSINESS.—

(1) IN GENERAL.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1986 (relating to dollar limitation), as amended by subsection (a), is amended by striking ''$25,000 ($100,000 in the case of taxable years beginning after 2002 and before 2011)'' and inserting ''$25,000 ($150,000 in the case of taxable years beginning after 2007 and before 2011)''.

(2) INCREASE IN QUALIFYING INVESTMENT AT WHICH PHASEOUT BEGINS.—Paragraph (2) of section 179(b) of such Code (relating to reduction in limitation), as amended by subsection (a), is amended by striking ''$200,000 ($400,000 in the case of taxable years beginning after 2002 and before 2011)'' and inserting ''$200,000 ($600,000 in the case of taxable years beginning after 2007 and before 2011)''.

(3) INFLATION ADJUSTMENTS.—Section 179(b)(5)(A) of such Code (relating to inflation adjustments), as amended by subsection (a), is amended—

(A) in the matter preceding clause (i)—

(i) by striking ''after 2003 and before 2011'' and inserting ''after 2008 and before 2011'', and

(ii) by striking ''the $100,000 and $400,000 amounts'' and inserting ''the $150,000 and $600,000 amounts'', and

(B) in clause (ii), by striking ''calendar year 2002'' and inserting ''calendar year 2007''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2007.

SA 121. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

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

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

(b) INCREASE IN LIMIT AND PHASEOUT THRESHOLD FOR EXPENSING FOR SMALL BUSINESS.—

(1) IN GENERAL.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1986 (relating to dollar limitation), as amended by subsection (a), is amended by striking ''$25,000 ($100,000 in the case of taxable years beginning after 2002 and before 2011)'' and inserting ''$25,000 ($150,000 in the case of taxable years beginning after 2007 and before 2011)''.

(2) INCREASE IN QUALIFYING INVESTMENT AT WHICH PHASEOUT BEGINS.—Paragraph (2) of section 179(b) of such Code (relating to reduction in limitation), as amended by subsection (a), is amended by striking ''$200,000 ($400,000 in the case of taxable years beginning after 2002 and before 2011)'' and inserting ''$200,000 ($600,000 in the case of taxable years beginning after 2007 and before 2011)''.

(3) INFLATION ADJUSTMENTS.—Section 179(b)(5)(A) of such Code (relating to inflation adjustments), as amended by subsection (a), is amended—

(A) in the matter preceding clause (i)—

(i) by striking ''after 2003 and before 2011'' and inserting ''after 2008 and before 2011'', and

(ii) by striking ''the $100,000 and $400,000 amounts'' and inserting ''the $150,000 and $600,000 amounts'', and

(B) in clause (ii), by striking ''calendar year 2002'' and inserting ''calendar year 2007''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2007.

SA 122. Ms. SNOWE (for herself and Mrs. LINCOLN) submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. QUALIFIED SMALL BUSINESSES ELECTION OF TAXABLE YEAR ENDING IN A MONTH FROM APRIL TO NOVEMBER.

(a) IN GENERAL.—Part I of subchapter E of chapter 1 (relating to accounting periods) is amended by inserting after section 444 the following new section:

''SEC. 444A. QUALIFIED SMALL BUSINESSES ELECTION OF TAXABLE YEAR ENDING IN A MONTH FROM APRIL TO NOVEMBER.

''(a) GENERAL RULE.—A qualified small business may elect to have a taxable year, other than the required taxable year, which ends on the last day of any of the months of

April through November (or at the end of an equivalent annual period (varying from 52 to 53 weeks)).

''(b) YEARS FOR WHICH ELECTION EFFECTIVE.—An election under subsection (a)—

''(1) shall be made not later than the due date (including extensions thereof) for filing the return of tax for the first taxable year of the qualified small business, and

''(2) shall be effective for such first taxable year or period and for all succeeding taxable years of such qualified small business until such election is terminated under subsection (c).

''(c) TERMINATION.—

''(1) IN GENERAL.—An election under subsection (a) shall be terminated on the earliest of—

''(A) the first day of the taxable year following the taxable year for which the entity fails to meet the gross receipts test,

''(B) the date on which the entity fails to qualify as an S corporation, or

''(C) the date on which the entity terminates.

''(2) GROSS RECEIPTS TEST.—For purposes of paragraph (1), an entity fails to meet the gross receipts test if the entity fails to meet the gross receipts test of section 448(c).

''(3) EFFECT OF TERMINATION.—An entity with respect to which an election is terminated under this subsection shall determine its taxable year for subsequent taxable years under any other method that would be permitted under subtitle A.

''(4) INCOME INCLUSION AND DEDUCTION RULES FOR PERIOD AFTER TERMINATION.—If the termination of an election under paragraph (1) results in a short taxable year—

''(A) items relating to net profits for the period beginning on the day after its last fiscal year-end and ending on the day before the beginning of the taxable year determined under paragraph (3) shall be includible in income ratably over the 4 taxable years following the year of termination, or (if fewer) the number of taxable years equal to the fiscal years for which the election under this section was in effect, and

''(B) items relating to net losses for such period shall be deductible in the first taxable year after the taxable year with respect to which the election terminated.

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

''(1) QUALIFIED SMALL BUSINESS.—The term 'qualified small business' means an entity—

''(A)(i) for which an election under section 1362(a) is in effect for the first taxable year or period of such entity and for all subsequent years, or

''(ii) which is treated as a partnership for the first taxable year or period of such entity for Federal income tax purposes,

''(B) which conducts an active trade or business or which would qualify for an election to amortize start-up expenditures under section 195, and

''(C) which is a start-up business.

''(2) START-UP BUSINESS.—For purposes of paragraph (1)(C), an entity shall be treated as a start-up business so long as not more than 75 percent of the entity is owned by any person or persons who previously conducted a similar trade or business at any time within the 1-year period ending on the date on which such entity is formed. For purposes of the preceding sentence, a person and any other person bearing a relationship to such person specified in section 267(b) or 707(b)(1) shall be treated as one person, and sections 267(b) and 707(b)(1) shall be applied as if section 267(c)(4) provided that the family of an individual consists of the individual's spouse and the individual's children under the age of 21.

''(3) REQUIRED TAXABLE YEAR.—The term 'required taxable year' has the meaning given to such term by section 444(e).

''(e) TIERED STRUCTURES.—The Secretary shall prescribe rules similar to the rules of section 444(d)(3) to eliminate abuse of this section through the use of tiered structures.''.

(b) CONFORMING AMENDMENT.—Section 444(a)(1) is amended by striking ''section'' and inserting ''section and section 444A''.

(c) CLERICAL AMENDMENT.—The table of sections for part I of subchapter E of chapter 1 is amended by inserting after the item relating to section 444 the following new item:

''Sec. 444A. Qualified small businesses election of taxable year ending in a month from April to November.''.

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

SA 123. Ms. SNOWE (for herself and Mrs. LINCOLN) submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. QUALIFIED SMALL BUSINESSES ELECTION OF TAXABLE YEAR ENDING IN A MONTH FROM APRIL TO NOVEMBER.

(a) IN GENERAL.—Part I of subchapter E of chapter 1 (relating to accounting periods) is amended by inserting after section 444 the following new section:

''SEC. 444A. QUALIFIED SMALL BUSINESSES ELECTION OF TAXABLE YEAR ENDING IN A MONTH FROM APRIL TO NOVEMBER.

''(a) GENERAL RULE.—A qualified small business may elect to have a taxable year, other than the required taxable year, which ends on the last day of any of the months of April through November (or at the end of an equivalent annual period (varying from 52 to 53 weeks)).

''(b) YEARS FOR WHICH ELECTION EFFECTIVE.—An election under subsection (a)—

''(1) shall be made not later than the due date (including extensions thereof) for filing the return of tax for the first taxable year of the qualified small business, and

''(2) shall be effective for such first taxable year or period and for all succeeding taxable years of such qualified small business until such election is terminated under subsection (c).

''(c) TERMINATION.—

''(1) IN GENERAL.—An election under subsection (a) shall be terminated on the earliest of—

''(A) the first day of the taxable year following the taxable year for which the entity fails to meet the gross receipts test,

''(B) the date on which the entity fails to qualify as an S corporation, or

''(C) the date on which the entity terminates.

''(2) GROSS RECEIPTS TEST.—For purposes of paragraph (1), an entity fails to meet the gross receipts test if the entity fails to meet the gross receipts test of section 448(c).

''(3) EFFECT OF TERMINATION.—An entity with respect to which an election is terminated under this subsection shall determine its taxable year for subsequent taxable years under any other method that would be permitted under subtitle A.

''(4) INCOME INCLUSION AND DEDUCTION RULES FOR PERIOD AFTER TERMINATION.—If the termination of an election under paragraph (1) results in a short taxable year—

''(A) items relating to net profits for the period beginning on the day after its last fiscal year-end and ending on the day before the beginning of the taxable year determined under paragraph (3) shall be includible in income ratably over the 4 taxable years following the year of termination, or (if fewer) the number of taxable years equal to the fiscal years for which the election under this section was in effect, and

''(B) items relating to net losses for such period shall be deductible in the first taxable year after the taxable year with respect to which the election terminated.

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

''(1) QUALIFIED SMALL BUSINESS.—The term 'qualified small business' means an entity—

''(A)(i) for which an election under section 1362(a) is in effect for the first taxable year or period of such entity and for all subsequent years, or

''(ii) which is treated as a partnership for the first taxable year or period of such entity for Federal income tax purposes,

''(B) which conducts an active trade or business or which would qualify for an election to amortize start-up expenditures under section 195, and

''(C) which is a start-up business.

''(2) START-UP BUSINESS.—For purposes of paragraph (1)(C), an entity shall be treated as a start-up business so long as not more than 75 percent of the entity is owned by any person or persons who previously conducted a similar trade or business at any time within the 1-year period ending on the date on which such entity is formed. For purposes of the preceding sentence, a person and any other person bearing a relationship to such person specified in section 267(b) or 707(b)(1) shall be treated as one person, and sections 267(b) and 707(b)(1) shall be applied as if section 267(c)(4) provided that the family of an individual consists of the individual's spouse and the individual's children under the age of 21.

''(3) REQUIRED TAXABLE YEAR.—The term 'required taxable year' has the meaning given to such term by section 444(e).

''(e) TIERED STRUCTURES.—The Secretary shall prescribe rules similar to the rules of section 444(d)(3) to eliminate abuse of this section through the use of tiered structures.''.

(b) CONFORMING AMENDMENT.—Section 444(a)(1) is amended by striking ''section'' and inserting ''section and section 444A''.

(c) CLERICAL AMENDMENT.—The table of sections for part I of subchapter E of chapter 1 is amended by inserting after the item relating to section 444 the following new item:

''Sec. 444A. Qualified small businesses election of taxable year ending in a month from April to November.''.

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

SA 124. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ESTABLISHMENT OF SIMPLE CAFETERIA PLANS FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 125 (relating to cafeteria plans) is amended by redesignating

subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following new subsection:

''(h) SIMPLE CAFETERIA PLANS FOR SMALL BUSINESSES.—

''(1) IN GENERAL.—An eligible employer maintaining a simple cafeteria plan with respect to which the requirements of this subsection are met for any year shall be treated as meeting any applicable nondiscrimination requirement with respect to benefits provided under the plan during such year.

''(2) SIMPLE CAFETERIA PLAN.—For purposes of this subsection, the term 'simple cafeteria plan' means a cafeteria plan—

''(A) which is established and maintained by an eligible employer, and

''(B) with respect to which the contribution requirements of paragraph (3), and the eligibility and participation requirements of paragraph (4), are met.

''(3) CONTRIBUTIONS REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if, under the plan—

''(i) the employer makes matching contributions on behalf of each employee who is eligible to participate in the plan and who is not a highly compensated or key employee in an amount equal to the elective plan contributions of the employee to the plan to the extent the employee's elective plan contributions do not exceed 3 percent of the employee's compensation, or

''(ii) the employer is required, without regard to whether an employee makes any elective plan contribution, to make a contribution to the plan on behalf of each employee who is not a highly compensated or key employee and who is eligible to participate in the plan in an amount equal to at least 2 percent of the employee's compensation.

''(B) MATCHING CONTRIBUTIONS ON BEHALF OF HIGHLY COMPENSATED AND KEY EMPLOYEES.—The requirements of subparagraph (A)(i) shall not be treated as met if, under the plan, the rate of matching contribution with respect to any elective plan contribution of a highly compensated or key employee at any rate of contribution is greater than that with respect to an employee who is not a highly compensated or key employee.

''(C) SPECIAL RULES.—

''(i) TIME FOR MAKING CONTRIBUTIONS.—An employer shall not be treated as failing to meet the requirements of this paragraph with respect to any elective plan contributions of any compensation, or employer contributions required under this paragraph with respect to any compensation, if such contributions are made no later than the 15th day of the month following the last day of the calendar quarter which includes the date of payment of the compensation.

''(ii) FORM OF CONTRIBUTIONS.—Employer contributions required under this paragraph may be made either to the plan to provide benefits offered under the plan or to any person as payment for providing benefits offered under the plan.

''(iii) ADDITIONAL CONTRIBUTIONS.—Subject to subparagraph (B), nothing in this paragraph shall be treated as prohibiting an employer from making contributions to the plan in addition to contributions required under subparagraph (A).

''(D) DEFINITIONS.—For purposes of this paragraph—

''(i) ELECTIVE PLAN CONTRIBUTION.—The term 'elective plan contribution' means any amount which is contributed at the election of the employee and which is not includible in gross income by reason of this section.

''(ii) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' has the meaning given such term by section 414(q).

''(iii) KEY EMPLOYEE.—The term 'key employee' has the meaning given such term by section 416(i).

''(4) MINIMUM ELIGIBILITY AND PARTICIPATION REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph shall be treated as met with respect to any year if, under the plan—

''(i) all employees who had at least 1,000 hours of service for the preceding plan year are eligible to participate, and

''(ii) each employee eligible to participate in the plan may, subject to terms and conditions applicable to all participants, elect any benefit available under the plan.

''(B) CERTAIN EMPLOYEES MAY BE EXCLUDED.—For purposes of subparagraph (A)(i), an employer may elect to exclude under the plan employees—

''(i) who have less than 1 year of service with the employer as of any day during the plan year,

''(ii) who have not attained the age of 21 before the close of a plan year,

''(iii) who are covered under an agreement which the Secretary of Labor finds to be a collective bargaining agreement if there is evidence that the benefits covered under the cafeteria plan were the subject of good faith bargaining between employee representatives and the employer, or

''(iv) who are described in section 410(b)(3)(C) (relating to nonresident aliens working outside the United States).

A plan may provide a shorter period of service or younger age for purposes of clause (i) or (ii).

''(5) ELIGIBLE EMPLOYER.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible employer' means, with respect to any year, any employer if such employer employed an average of 100 or fewer employees on business days during either of the 2 preceding years. For purposes of this subparagraph, a year may only be taken into account if the employer was in existence throughout the year.

''(B) EMPLOYERS NOT IN EXISTENCE DURING PRECEDING YEAR.—If an employer was not in existence throughout the preceding year, the determination under subparagraph (A) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current year.

''(C) GROWING EMPLOYERS RETAIN TREATMENT AS SMALL EMPLOYER.—If—

''(i) an employer was an eligible employer for any year (a 'qualified year'), and

''(ii) such employer establishes a simple cafeteria plan for its employees for such year,

then, notwithstanding the fact the employer fails to meet the requirements of subparagraph (A) for any subsequent year, such employer shall be treated as an eligible employer for such subsequent year with respect to employees (whether or not employees during a qualified year) of any trade or business which was covered by the plan during any qualified year. This subparagraph shall cease to apply if the employer employs an average of 200 more employees on business days during any year preceding any such subsequent year.

''(D) SPECIAL RULES.—The rules of section 220(c)(4)(D) shall apply for purposes of this paragraph.

''(6) APPLICABLE NONDISCRIMINATION REQUIREMENT.—For purposes of this subsection, the term 'applicable nondiscrimination requirement' means any requirement under subsection (b) of this section, section 79(d), section 105(h), or paragraph (2), (3), (4), or (8) of section 129(d).

''(7) COMPENSATION.—The term 'compensation' has the meaning given such term by section 414(s).''

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

SA 125. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ESTABLISHMENT OF SIMPLE CAFETERIA PLANS FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 125 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following new subsection:

''(h) SIMPLE CAFETERIA PLANS FOR SMALL BUSINESSES.—

''(1) IN GENERAL.—An eligible employer maintaining a simple cafeteria plan with respect to which the requirements of this subsection are met for any year shall be treated as meeting any applicable nondiscrimination requirement with respect to benefits provided under the plan during such year.

''(2) SIMPLE CAFETERIA PLAN.—For purposes of this subsection, the term 'simple cafeteria plan' means a cafeteria plan—

''(A) which is established and maintained by an eligible employer, and

''(B) with respect to which the contribution requirements of paragraph (3), and the eligibility and participation requirements of paragraph (4), are met.

''(3) CONTRIBUTIONS REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if, under the plan—

''(i) the employer makes matching contributions on behalf of each employee who is eligible to participate in the plan and who is not a highly compensated or key employee in an amount equal to the elective plan contributions of the employee to the plan to the extent the employee's elective plan contributions do not exceed 3 percent of the employee's compensation, or

''(ii) the employer is required, without regard to whether an employee makes any elective plan contribution, to make a contribution to the plan on behalf of each employee who is not a highly compensated or key employee and who is eligible to participate in the plan in an amount equal to at least 2 percent of the employee's compensation.

''(B) MATCHING CONTRIBUTIONS ON BEHALF OF HIGHLY COMPENSATED AND KEY EMPLOYEES.—The requirements of subparagraph (A)(i) shall not be treated as met if, under the plan, the rate of matching contribution with respect to any elective plan contribution of a highly compensated or key employee at any rate of contribution is greater than that with respect to an employee who is not a highly compensated or key employee.

''(C) SPECIAL RULES.—

''(i) TIME FOR MAKING CONTRIBUTIONS.—An employer shall not be treated as failing to meet the requirements of this paragraph with respect to any elective plan contributions of any compensation, or employer contributions required under this paragraph with respect to any compensation, if such contributions are made no later than the 15th day of the month following the last day of the calendar quarter which includes the date of payment of the compensation.

''(ii) FORM OF CONTRIBUTIONS.—Employer contributions required under this paragraph

may be made either to the plan to provide benefits offered under the plan or to any person as payment for providing benefits offered under the plan.

''(iii) ADDITIONAL CONTRIBUTIONS.—Subject to subparagraph (B), nothing in this paragraph shall be treated as prohibiting an employer from making contributions to the plan in addition to contributions required under subparagraph (A).

''(D) DEFINITIONS.—For purposes of this paragraph—

''(i) ELECTIVE PLAN CONTRIBUTION.—The term 'elective plan contribution' means any amount which is contributed at the election of the employee and which is not includible in gross income by reason of this section.

''(ii) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' has the meaning given such term by section 414(q).

''(iii) KEY EMPLOYEE.—The term 'key employee' has the meaning given such term by section 416(i).

''(4) MINIMUM ELIGIBILITY AND PARTICIPATION REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph shall be treated as met with respect to any year if, under the plan—

''(i) all employees who had at least 1,000 hours of service for the preceding plan year are eligible to participate, and

''(ii) each employee eligible to participate in the plan may, subject to terms and conditions applicable to all participants, elect any benefit available under the plan.

''(B) CERTAIN EMPLOYEES MAY BE EXCLUDED.—For purposes of subparagraph (A)(i), an employer may elect to exclude under the plan employees—

''(i) who have less than 1 year of service with the employer as of any day during the plan year,

''(ii) who have not attained the age of 21 before the close of a plan year,

''(iii) who are covered under an agreement which the Secretary of Labor finds to be a collective bargaining agreement if there is evidence that the benefits covered under the cafeteria plan were the subject of good faith bargaining between employee representatives and the employer, or

''(iv) who are described in section 410(b)(3)(C) (relating to nonresident aliens working outside the United States).

A plan may provide a shorter period of service or younger age for purposes of clause (i) or (ii).

''(5) ELIGIBLE EMPLOYER.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible employer' means, with respect to any year, any employer if such employer employed an average of 100 or fewer employees on business days during either of the 2 preceding years. For purposes of this subparagraph, a year may only be taken into account if the employer was in existence throughout the year.

''(B) EMPLOYERS NOT IN EXISTENCE DURING PRECEDING YEAR.—If an employer was not in existence throughout the preceding year, the determination under subparagraph (A) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current year.

''(C) GROWING EMPLOYERS RETAIN TREATMENT AS SMALL EMPLOYER.—If—

''(i) an employer was an eligible employer for any year (a 'qualified year'), and

''(ii) such employer establishes a simple cafeteria plan for its employees for such year,

then, notwithstanding the fact the employer fails to meet the requirements of subparagraph (A) for any subsequent year, such employer shall be treated as an eligible employer for such subsequent year with respect to employees (whether or not employees during a qualified year) of any trade or business which was covered by the plan during any qualified year. This subparagraph shall cease to apply if the employer employs an average of 200 more employees on business days during any year preceding any such subsequent year.

''(D) SPECIAL RULES.—The rules of section 220(c)(4)(D) shall apply for purposes of this paragraph.

''(6) APPLICABLE NONDISCRIMINATION REQUIREMENT.—For purposes of this subsection, the term 'applicable nondiscrimination requirement' means any requirement under subsection (b) of this section, section 79(d), section 105(h), or paragraph (2), (3), (4), or (8) of section 129(d).

''(7) COMPENSATION.—The term 'compensation' has the meaning given such term by section 414(s).''

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

SA 126. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. HEALTH PROFESSIONS TRAINING DEMONSTRATION PROJECT.

Section 171 of the Workforce Investment Act of 1998 (29 U.S.C. 2916) is amended by adding at the end the following:

''(e) HEALTH PROFESSIONS TRAINING DEMONSTRATION PROJECT.—

''(1) DEFINITIONS.—In this subsection:

''(A) COVERED COMMUNITY.—The term 'covered community' means a community or region that—

''(i) has experienced a significant percentage decline in positions in the manufacturing or service sectors; and

''(ii)(I) is eligible for designation under section 332 of the Public Health Service Act (42 U.S.C. 254e) as a health professional shortage area;

''(II) is eligible to be served by a health center under section 330 or a grantee under section 330(h) (relating to homeless individuals) of the Public Health Service Act (42 U.S.C. 254b, 254b(h));

''(III) has a shortage of personal health services, as determined under criteria issued by the Secretary of Health and Human Services under section 1861(aa)(2) of the Social Security Act (relating to rural health clinics) (42 U.S.C. 1395x(aa)(2)); or

''(IV) is designated by a Governor (in consultation with the medical community) as a shortage area or medically underserved community.

''(B) COVERED WORKER.—The term 'covered worker' means an individual who—

''(i)(I) has been terminated or laid off, or who has received a notice of termination or layoff, from employment in a manufacturing or service sector;

''(II)(aa) is eligible for or has exhausted entitlement to unemployment compensation; or

''(bb) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop center referred to in section 134(c), attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and

''(III) is unlikely to return to a previous industry or occupation; or

''(ii)(I) has been terminated or laid off, or has received a notice of termination or layoff, from employment in a manufacturing or service sector as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise; or

''(II) is employed in a manufacturing or service sector at a facility at which the employer has made a general announcement that such facility will close within 180 days.

''(C) HEALTH CARE PROFESSIONAL.—The term 'health care professional'—

''(i) means an individual who is involved with—

''(I) the delivery of health care services, or related services, pertaining to—

''(aa) the identification, evaluation, and prevention of diseases, disorders, or injuries; or

''(bb) home-based or community-based long-term care;

''(II) the delivery of dietary and nutrition services; or

''(III) rehabilitation and health systems management; and

''(ii) includes nurses, home health aides, nursing assistants, physician assistants, dental hygienists, diagnostic medical sonographers, dietitians, medical technologists, occupational therapists, physical therapists, radiographers, respiratory therapists, emergency medical service technicians, speech-language pathologists, and specific occupational needs of the community served by the eligible entities as defined in section (e)(4) of this Act.

''(2) ESTABLISHMENT OF PROJECT.—In accordance with subsection (b), the Secretary shall establish and carry out a health professions training demonstration project.

''(3) GRANTS.—In carrying out the project, the Secretary, after consultation with the Secretary of Health and Human Services, shall make grants to eligible entities to enable the entities to carry out programs in covered communities to train covered workers for employment as health care professionals. The Secretary shall make each grant in an amount of not less than $100,000 and not more than $500,000.

''(4) ELIGIBLE ENTITIES.—Notwithstanding subsection (b)(2)(B), to be eligible to receive a grant under this subsection to carry out a program in a covered community, an entity shall be a partnership that is—

''(A) under the direction of a local workforce investment board established under section 117 that is serving the covered community; and

''(B) composed of members serving the covered community, such as—

''(i) a 4-year institution of higher education;

''(ii) an accredited community college;

''(iii) an accredited vocational or technical school;

''(iv) a health clinic or hospital;

''(v) a home-based or community-based long-term care facility or program; or

''(vi) a health care facility administered by the Secretary of Veterans Affairs.

''(5) APPLICATIONS.—To be eligible to receive a grant under this subsection, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including, at a minimum—

''(A) a proposal to use the grant funds to establish or expand a training program in order to train covered workers for employment as health care professionals or paraprofessionals;

''(B) information demonstrating the need for the training and support services to be provided through the program;

''(C) information describing the manner in which the entity will expend the grant funds,

and the activities to be carried out with the funds;

''(D) information demonstrating that the entity meets the requirements of paragraph (4); and

''(E) with respect to training programs carried out by the applicant, information—

''(i) on the graduation rates of the programs involved;

''(ii) on the retention measures carried out by the applicant;

''(iii) on the length of time necessary to complete the training programs of the applicant; and

''(iv) on the number of qualified trainees that are refused admittance into the training programs because of lack of capacity.

''(6) SELECTION.—In making grants under paragraph (3), the Secretary, after consultation with the Secretary of Health and Human Services, shall—

''(A) consider the date submitted by the applicant under paragraph (5)(E); and

''(B) select—

''(i) eligible entities submitting applications that meet such criteria as the Secretary of Labor determines to be appropriate; and

''(ii) among such entities, the eligible entities serving the covered communities with the greatest need for the grants and the greatest potential to benefit from the grants.

''(7) USE OF FUNDS.—

''(A) IN GENERAL.—An entity that receives a grant under this subsection shall use the funds made available through the grant for training and support services that meet the needs described in the application submitted under paragraph (5), which may include—

''(i) increasing capacity, subject to subparagraph (B)(i), at an educational institution or training center to train individuals for employment as health professionals, such as by—

''(I) expanding a facility, subject to subparagraph (B)(ii);

''(II) expanding course offerings;

''(III) hiring faculty;

''(IV) providing a student loan repayment program for the faculty;

''(V) establishing or expanding clinical education opportunities;

''(VI) purchasing equipment, such as computers, books, clinical supplies, or a patient simulator; or

''(VII) conducting recruitment; or

''(ii) providing support services for covered workers participating in the training, such as—

''(I) providing tuition assistance;

''(II) establishing or expanding distance education programs;

''(III) providing transportation assistance; or

''(IV) providing child care.

''(B) LIMITATION.—To be eligible to use the funds to expand a facility, the eligible entity shall demonstrate to the Secretary in an application submitted under paragraph (5) that the entity can increase the capacity described in subparagraph (E)(iv) of such facility only by expanding the facility.

''(8) FUNDING.—Of the amounts appropriated to, and available at the discretion of, the Secretary or the Secretary of Health and Human Services for programmatic and administrative expenditures, a total of $25,000,000 shall be used to establish and carry out the demonstration project described in paragraph (2) in accordance with this subsection.''.

SA 127. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 4. ANNUAL REPORT 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 fiscal year, the head of each Federal agency shall submit a report to Congress on the amount of the acquisitions made by the agency of articles, materials, or supplies purchased from entities that manufacture the articles, materials, or supplies outside of the United States in that fiscal year.

''(2) CONTENTS OF REPORT.—The report required by paragraph (1) shall separately include—

''(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)).''.

SA 128. Mr. KERRY (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SMALL BUSINESS REGULATORY ASSISTANCE.

(a) PURPOSE.—The purpose of this section is to establish a 4-year pilot program to—

(1) provide confidential assistance to small business concerns;

(2) provide small business concerns with the information necessary to improve their rate of compliance with Federal and State regulations derived from Federal law;

(3) create a partnership among Federal agencies to increase outreach efforts to small business concerns with respect to regulatory compliance;

(4) provide a mechanism for unbiased feedback to Federal agencies on the regulatory environment for small business concerns; and

(5) expand the services delivered by the Small Business Development Centers under section 21(c)(3)(H) of the Small Business Act to improve access to programs to assist small business concerns with regulatory compliance.

(b) DEFINITIONS.—In this section, the following definitions shall apply:

(1) ADMINISTRATION.—The term ''Administration'' means the Small Business Administration.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Administration, acting through the Associate Administrator for Small Business Development Centers.

(3) ASSOCIATION.—The term ''association'' means the association established pursuant to section 21(a)(3)(A) of the Small Business Act (15 U.S.C. 648(a)(3)(A)) representing a majority of Small Business Development Centers.

(4) PARTICIPATING SMALL BUSINESS DEVELOPMENT CENTER.—The term ''participating Small Business Development Center'' means a Small Business Development Center participating in the pilot program established under this section.

(5) REGULATORY COMPLIANCE ASSISTANCE.—The term ''regulatory compliance assistance'' means assistance provided by a Small Business Development Center to a small business concern to assist and facilitate the concern in complying with Federal and State regulatory requirements derived from Federal law.

(6) SMALL BUSINESS DEVELOPMENT CENTER.—The term ''Small Business Development Center'' means a Small Business Development Center described in section 21 of the Small Business Act (15 U.S.C. 648).

(7) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and Guam.

(c) SMALL BUSINESS REGULATORY ASSISTANCE PILOT PROGRAM.—

(1) AUTHORITY.—In accordance with this section, the Administrator shall establish a pilot program to provide regulatory compliance assistance to small business concerns through participating Small Business Development Centers.

(2) SMALL BUSINESS DEVELOPMENT CENTERS.—

(A) IN GENERAL.—In carrying out the pilot program established under this section, the Administrator shall enter into arrangements with participating Small Business Development Centers under which such Centers shall—

(i) provide access to information and resources, including current Federal and State nonpunitive compliance and technical assistance programs similar to those established under section 507 of the Clean Air Act Amendments of 1990 (42 U.S.C. 7661f);

(ii) conduct training and educational activities;

(iii) offer confidential, free-of-charge, one-on-one, in-depth counseling to the owners and operators of small business concerns regarding compliance with Federal and State regulations derived from Federal law, provided that such counseling is not considered to be the practice of law in a State in which a Small Business Development Center is located or in which such counseling is conducted;

(iv) provide technical assistance;

(v) give referrals to experts and other providers of compliance assistance who meet such standards for educational, technical, and professional competency as are established by the Administrator; and

(vi) form partnerships with Federal compliance programs.

(B) REPORTS.—Each participating Small Business Development Center shall transmit to the Administrator and the Chief Counsel for Advocacy of the Administration, as the Administrator may direct, a quarterly report that includes—

(i) a summary of the regulatory compliance assistance provided by the Center under the pilot program;

(ii) the number of small business concerns assisted under the pilot program; and

(iii) for every fourth report, any regulatory compliance information based on Federal law that a Federal or State agency has provided to the Center during the preceding year and requested that it be disseminated to small business concerns.

(3) ELIGIBILITY.—A Small Business Development Center shall be eligible to receive assistance under the pilot program established under this section only if such Center is certified under section 21(k)(2) of the Small Business Act (15 U.S.C. 648(k)(2)).

(4) SELECTION OF PARTICIPATING STATE PROGRAMS.—

(A) GROUPINGS.—

(i) CONSULTATION.—In consultation with the association, and giving substantial weight to the recommendations of the association, the Administrator shall select the Small Business Development Center Programs of 2 States from each of the groups of States described in clauses (ii) through (xi) to participate in the pilot program established under this section.

(ii) GROUP 1.—Group 1 shall consist of Maine, Massachusetts, New Hampshire, Connecticut, Vermont, and Rhode Island.

(iii) GROUP 2.—Group 2 shall consist of New York, New Jersey, Puerto Rico, and the Virgin Islands.

(iv) GROUP 3.—Group 3 shall consist of Pennsylvania, Maryland, West Virginia, Virginia, the District of Columbia, and Delaware.

(v) GROUP 4.—Group 4 shall consist of Georgia, Alabama, North Carolina, South Carolina, Mississippi, Florida, Kentucky, and Tennessee.

(vi) GROUP 5.—Group 5 shall consist of Illinois, Ohio, Michigan, Indiana, Wisconsin, and Minnesota.

(vii) GROUP 6.—Group 6 shall consist of Texas, New Mexico, Arkansas, Oklahoma, and Louisiana.

(viii) GROUP 7.—Group 7 shall consist of Missouri, Iowa, Nebraska, and Kansas.

(ix) GROUP 8.—Group 8 shall consist of Colorado, Wyoming, North Dakota, South Dakota, Montana, and Utah.

(x) GROUP 9.—Group 9 shall consist of California, Guam, American Samoa, Hawaii, Nevada, and Arizona.

(xi) GROUP 10.—Group 10 shall consist of Washington, Alaska, Idaho, and Oregon.

(B) DEADLINE FOR SELECTION.—The Administrator shall make selections under this paragraph not later than 60 days after the date of publication of final regulations under subsection (d).

(C) COORDINATION TO AVOID DUPLICATION WITH OTHER PROGRAMS.—In selecting Small Business Development Center Programs under this paragraph, the Administrator shall give a preference to any such program that has a plan for consulting with Federal and State agencies to ensure that any assistance provided under this section is not duplicated by a Federal or State program.

(5) MATCHING REQUIREMENT.—Subparagraphs (A) and (B) of section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) shall apply to assistance made available under the pilot program established under this section.

(6) GRANT AMOUNTS.—Each State program selected to receive a grant under paragraph (4) shall be eligible to receive a grant in an amount equal to—

(A) not less than $150,000 per fiscal year; and

(B) not more than $300,000 per fiscal year.

(7) EVALUATION AND REPORT.—The Comptroller General of the United States shall—

(A) not later than 30 months after the date of disbursement of the first grant under the pilot program established under this section, initiate an evaluation of the pilot program; and

(B) not later than 6 months after the date of the initiation of the evaluation under subparagraph (A), transmit to the Administrator, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives, a report containing—

(i) the results of the evaluation; and

(ii) any recommendations as to whether the pilot program, with or without modification, should be extended to include the participation of all Small Business Development Centers.

(8) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated to carry out this section—

(i) $5,000,000 for the first fiscal year beginning after the date of enactment of this Act; and

(ii) $5,000,000 for each of the 3 fiscal years following the fiscal year described in clause (i).

(B) LIMITATION ON USE OF OTHER FUNDS.—The Administrator may carry out the pilot program established under this section only with amounts appropriated in advance specifically to carry out this section.

(9) TERMINATION.—The Small Business Regulatory Assistance Pilot Program established under this section shall terminate 4 years after the date of disbursement of the first grant under the pilot program.

(d) RULEMAKING.—After providing notice and an opportunity for comment, and after consulting with the association (but not later than 180 days after the date of enactment of this Act), the Administrator shall promulgate final regulations to carry out this section, including regulations that establish—

(1) priorities for the types of assistance to be provided under the pilot program established under this section;

(2) standards relating to educational, technical, and support services to be provided by participating Small Business Development Centers;

(3) standards relating to any national service delivery and support function to be provided by the association under the pilot program;

(4) standards relating to any work plan that the Administrator may require a participating Small Business Development Center to develop; and

(5) standards relating to the educational, technical, and professional competency of any expert or other assistance provider to whom a small business concern may be referred for compliance assistance under the pilot program.

SA 129. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. _____. MODIFICATION OF DETERMINATION OF EXCLUSION FOR TRACTORS WEIGHING NOT MORE THAN 19,500 POUNDS FROM FEDERAL EXCISE TAX ON HEAVY TRUCKS AND TRAILERS.

(a) IN GENERAL.—Subparagraph (B) of section 4051(a)(4) is amended to read as follows:

''(B) the gross combined weight (as determined by the Secretary) of such tractor, in combination with a trailer or a semitrailer, does not exceed the tractor's gross vehicle weight by 26,000 pounds or more.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 11112(a) of Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

SA 130. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. EXTENSION OF WORK OPPORTUNITY TAX CREDIT TO QUALIFIED RESTAURANT EMPLOYEES.

(a) IN GENERAL.—Section 51(d)(1) of the Internal Revenue Code of 1986 is amended by striking ''or'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', or'', and by adding at the end the following new subparagraph:

''(J) a qualified restaurant employee.''.

(b) QUALIFIED RESTAURANT EMPLOYEE.—Section 51(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (11) through (13) as paragraphs (12) through (14), respectively, and by inserting after paragraph (10) the following new paragraph:

''(11) QUALIFIED RESTAURANT EMPLOYEE.—

''(A) IN GENERAL.—The term 'qualified restaurant employee' means any individual—

''(i) who performs services in a restaurant where tipping is not customary,

''(ii) who is not exempt under the Fair Labor Standards Act and earns at least the Federal minimum wage, and

''(iii) who is certified by the employer during the hiring process as having attained age 16 but not 20 on the hiring date.

''(B) SPECIAL RULE FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified restaurant employee, subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'.''.

(c) SPECIAL RULE FOR CERTIFICATIONS.—Subparagraph (A) of section 51(d)(14) of the Internal Revenue Code of 1986, as redesignated by subsection (b), is amended by inserting '', other than an individual described in paragraph (11),'' after ''An individual''.

(d) NONQUALIFYING REHIRES.—Paragraph (2) of section 51(i) of the Internal Revenue Code of 1986 is amended to read as follows:

''(2) NONQUALIFYING REHIRES.—

''(A) IN GENERAL.—No wages shall be taken into account under subsection (a) with respect to any individual, other than an individual described in subsection (d)(11), if, prior to the hiring date of such individual, such individual had been employed by the employer at any time.

''(B) QUALIFIED RESTAURANT EMPLOYEES.—In the case of an individual described in subsection (d)(11), no wages shall be taken into account under subsection (a) if, prior to the hiring date of such individual, such individual had been employed by the employer within the prior 90 day period.''.

(e) MINIMUM EMPLOYMENT PERIODS.—Section 51(i)(3) of the Internal Revenue Code of

1986 is amended by adding at the end the following new subparagraph:

''(C) NONAPPLICATION TO QUALIFIED RESTAURANT EMPLOYEES.—Subparagraphs (A) and (B) shall not apply to an individual described in subsection (d)(11).''.

(f) 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.

SA 131. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. _____. DEDUCTIBILITY OF INTEREST EXPENSE INCURRED BY ELECTING SMALL BUSINESS TRUST TO ACQUIRE S CORPORATION STOCK.

(a) IN GENERAL.—Subparagraph (C) of section 641(c)(2) of the Internal Revenue Code of 1986 (relating to modifications) is amended by inserting after clause (iii) the following new clause:

''(iv) Any interest expense incurred to acquire stock in an S corporation.''.

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

SA 132. Mr. SMITH (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EXPANSION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for—

''(A) the taxpayer,

''(B) the taxpayer's spouse,

''(C) the taxpayer's dependents,

''(D) any individual—

''(i) who was not the spouse, determined without regard to section 7703, of the taxpayer at any time during the taxable year of the taxpayer,

''(ii) who—

''(I) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

''(II) is a student who has not attained the age of 24 as of the close of such calendar year,

''(iii) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household, and

''(iv) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which the taxpayer's taxable year begins, and

''(E) an individual—

''(i) who is designated by the taxpayer for purposes of this paragraph,

''(ii) who is not the spouse or qualifying child of such taxpayer or any other taxpayer for any taxable year beginning in the calendar year in which the taxpayer's taxable year begins, and

''(iii) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

For purposes of subparagraph (E)(i), not more than 1 person may be designated by the taxpayer for any taxable year.''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 162(l)(2) of the Internal Revenue Code of 1986 is amended by striking ''or of the spouse of the taxpayer'' and inserting '', of the spouse of the taxpayer, or of any individual described in paragraph (1)(E)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SA 133. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. STATE MINIMUM WAGE.

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

''(h)(1) An employer in a State that adopts a minimum wage law that conforms to the requirements of paragraph (2) shall not be required to pay the employer's employees at the minimum wage prescribed by subsection (a)(1).

''(2) Paragraph (1) shall apply in a State that adopts a minimum wage law that—

''(A) sets a rate that is not less than $5.15 an hour; and

''(B) applies that rate to not fewer than the employees performing work within the State who would otherwise be covered by the minimum wage rate prescribed by subsection (a)(1).

''(3) In the case of a State that does not have a State law that conforms to the requirements of paragraph (2), an increase in the minimum wage rate prescribed by subsection (a)(1) that is enacted on or after the date of enactment of the Fair Minimum Wage Act of 2007 shall go into effect in such State 6 months after the first day of the first legislative session of the State legislature in which a State law described in paragraph (2) may be considered.''.

SA 134. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. STATE MINIMUM WAGE.

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

''(h)(1) An employer in a State that adopts a minimum wage law that conforms to the requirements of paragraph (2) shall not be required to pay the employer's employees at the minimum wage prescribed by subsection (a)(1).

''(2) Paragraph (1) shall apply in a State that adopts a minimum wage law that—

''(A) sets a rate that is not less than $5.15 an hour; and

''(B) applies that rate to not fewer than the employees performing work within the State who would otherwise be covered by the minimum wage rate prescribed by subsection (a)(1).

''(3) In the case of a State that does not have a State law that conforms to the requirements of paragraph (2), an increase in the minimum wage rate prescribed by subsection (a)(1) that is enacted on or after the date of enactment of the Fair Minimum Wage Act of 2007 shall go into effect in such State 6 months after the first day of the first legislative session of the State legislature in which a State law described in paragraph (2) may be considered.''.

SA 135. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. REPEAL OF FEDERAL UNEMPLOYMENT SURTAX.

(a) IN GENERAL.—Section 3301 (relating to rate of Federal unemployment tax) is amended by striking ''or'' at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) in the case of wages paid in calendar year 2007—

''(A) 6.2 percent in the case of wages for any portion of the year ending before April 1, and

''(B) 6.0 percent in the case of wages for any portion of the year beginning after March 31; or''.

(b) CONFORMING AMENDMENT.—Section 3301(1) of such Code is amended by striking ''2007'' and inserting ''2006''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 2006.

SA 136. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. REPEAL OF FEDERAL UNEMPLOYMENT SURTAX.

(a) IN GENERAL.—Section 3301 (relating to rate of Federal unemployment tax) is amended by striking ''or'' at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) in the case of wages paid in calendar year 2007—

''(A) 6.2 percent in the case of wages for any portion of the year ending before April 1, and

''(B) 6.0 percent in the case of wages for any portion of the year beginning after March 31; or''.

(b) CONFORMING AMENDMENT.—Section 3301(1) of such Code is amended by striking ''2007'' and inserting ''2006''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 2006.

SA 137. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the

Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EMPLOYER-PROVIDED OFF-PREMISES HEALTH CLUB SERVICES.

(a) TREATMENT AS FRINGE BENEFIT.—Subparagraph (A) of section 132(j)(4) of the Internal Revenue Code of 1986 (relating to on-premises gyms and other athletic facilities) is amended to read as follows:

''(A) IN GENERAL.—Gross income shall not include—

''(i) the value of any on-premises athletic facility provided by an employer to its employees, and

''(ii) in the case of any taxable year beginning in 2007, so much of the fees, dues, or membership expenses paid by an employer to an athletic or fitness facility described in subparagraph (C) on behalf of its employees as does not exceed $900 per employee per year.''.

(b) ATHLETIC FACILITIES DESCRIBED.—Paragraph (4) of section 132(j) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following new subparagraph:

''(C) CERTAIN ATHLETIC OR FITNESS FACILITIES DESCRIBED.—For purposes of subparagraph (A)(ii), an athletic or fitness facility described in this subparagraph is a facility—

''(i) which provides instruction in a program of physical exercise, offers facilities for the preservation, maintenance, encouragement, or development of physical fitness, or is the site of such a program of a State or local government,

''(ii) which is not a private club owned and operated by its members,

''(iii) which does not offer golf, hunting, sailing, or riding facilities,

''(iv) whose health or fitness facility is not incidental to its overall function and purpose, and

''(v) which is fully compliant with the State of jurisdiction and Federal anti-discrimination laws.''.

(c) EXCLUSION APPLIES TO HIGHLY COMPENSATED EMPLOYEES ONLY IF NO DISCRIMINATION.—Section 132(j)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''Paragraphs (1) and (2) of subsection (a)'' and inserting ''Subsections (a)(1), (a)(2), and (j)(4)'', and

(2) by striking the heading thereof through ''(2) APPLY'' and inserting ''CERTAIN EXCLUSIONS APPLY''.

(d) EMPLOYER DEDUCTION FOR DUES TO CERTAIN ATHLETIC FACILITIES.—

(1) IN GENERAL.—Paragraph (3) of section 274(a) of the Internal Revenue Code of 1986 (relating to denial of deduction for club dues) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to so much of the fees, dues, or membership expenses paid in any taxable year beginning in 2007 to athletic or fitness facilities (within the meaning of section 132(j)(4)(C)) as does not exceed $900 per employee per year.''.

(2) CONFORMING AMENDMENT.—The last sentence of section 274(e)(4) of such Code is amended by inserting ''the first sentence of'' before ''subsection (a)(3)''.

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

SA 138. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EMPLOYER-PROVIDED OFF-PREMISES HEALTH CLUB SERVICES.

(a) TREATMENT AS FRINGE BENEFIT.—Subparagraph (A) of section 132(j)(4) of the Internal Revenue Code of 1986 (relating to on-premises gyms and other athletic facilities) is amended to read as follows:

''(A) IN GENERAL.—Gross income shall not include—

''(i) the value of any on-premises athletic facility provided by an employer to its employees, and

''(ii) in the case of any taxable year beginning in 2007, so much of the fees, dues, or membership expenses paid by an employer to an athletic or fitness facility described in subparagraph (C) on behalf of its employees as does not exceed $900 per employee per year.''.

(b) ATHLETIC FACILITIES DESCRIBED.—Paragraph (4) of section 132(j) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following new subparagraph:

''(C) CERTAIN ATHLETIC OR FITNESS FACILITIES DESCRIBED.—For purposes of subparagraph (A)(ii), an athletic or fitness facility described in this subparagraph is a facility—

''(i) which provides instruction in a program of physical exercise, offers facilities for the preservation, maintenance, encouragement, or development of physical fitness, or is the site of such a program of a State or local government,

''(ii) which is not a private club owned and operated by its members,

''(iii) which does not offer golf, hunting, sailing, or riding facilities,

''(iv) whose health or fitness facility is not incidental to its overall function and purpose, and

''(v) which is fully compliant with the State of jurisdiction and Federal anti-discrimination laws.''.

(c) EXCLUSION APPLIES TO HIGHLY COMPENSATED EMPLOYEES ONLY IF NO DISCRIMINATION.—Section 132(j)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''Paragraphs (1) and (2) of subsection (a)'' and inserting ''Subsections (a)(1), (a)(2), and (j)(4)'', and

(2) by striking the heading thereof through ''(2) APPLY'' and inserting ''CERTAIN EXCLUSIONS APPLY''.

(d) EMPLOYER DEDUCTION FOR DUES TO CERTAIN ATHLETIC FACILITIES.—

(1) IN GENERAL.—Paragraph (3) of section 274(a) of the Internal Revenue Code of 1986 (relating to denial of deduction for club dues) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to so much of the fees, dues, or membership expenses paid in any taxable year beginning in 2007 to athletic or fitness facilities (within the meaning of section 132(j)(4)(C)) as does not exceed $900 per employee per year.''.

(2) CONFORMING AMENDMENT.—The last sentence of section 274(e)(4) of such Code is amended by inserting ''the first sentence of'' before ''subsection (a)(3)''.

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

SA 139. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REPEAL OF EGTRRA AND JGTRRA SUNSETS.

(a) EGTRRA.—The Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking title IX.

(b) JGTRRA.—Title III of the Jobs and Growth Tax Relief Reconciliation Act of 2003 is amended by striking section 303.

SA 140. Mr. CORNYN submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REPEAL OF EGTRRA AND JGTRRA SUNSETS.

(a) EGTRRA.—The Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking title IX.

(b) JGTRRA.—Title III of the Jobs and Growth Tax Relief Reconciliation Act of 2003 is amended by striking section 303.

SA 141. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. RESPONSIBLE EMPLOYER REQUIREMENTS.

(a) PENALTIES FOR UNLAWFUL EMPLOYMENT OF ALIENS.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subsection (e)(4)—

(A) in subparagraph (A)(i), by striking ''not less than $250 and not more than $2,000'' and inserting ''not less than $5000 and not more than $7,500'';

(B) in subparagraph (A)(ii), by striking ''not less than $2,000 and not more than $5,000'' and inserting ''not less than $10,000 and not more than $15,000''; and

(C) in subparagraph (A)(iii), by striking ''not less than $3,000 and not more than $10,000'' and inserting ''not less than $25,000 and not more than $40,00'';

(2) in subsection (e)(5)—

(A) by inserting '', subject to paragraph (10),'' after ''in an amount'';

(B) by striking ''$100 and not more than $1,000'' and inserting ''$1,000 and not more than $25,000''; and

(C) by adding at the end the following sentence: ''Providing information to the basic pilot program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) that the person or entity knows or reasonably believes to be false, shall be treated as a violation of subsection (a)(1)(A) and shall not qualify for the exemption provided by (e)(10).'';

(3) by adding at the end of subsection (e) the following new paragraph:

''(10) EXEMPTION FROM PENALTY FOR EMPLOYERS PARTICIPATING IN THE BASIC PILOT PROGRAM.—In the case of imposition of a civil penalty under paragraph (4)(A) with respect to a violation of subsection (a)(1)(A) or (a)(2) for hiring or continuation of employment by an employer and in the case of imposition of a civil penalty under paragraph (5) for a violation of subsection (a)(1)(B) for

hiring or recruitment or referral by a person or entity, the penalty otherwise imposed shall be waived if the violator establishes that it was voluntarily participating in the basic pilot electronic verification program at the time of the offense.'';

(4) by amending paragraph (1) of subsection (f) to read as follows:

''(1) CRIMINAL PENALTY.—Any person or entity which engages in a pattern or practice of violations of paragraph (1) or (2) of subsection (a) shall be fined not less than $3,000 and more than $50,000 for each unauthorized alien with respect to which such a violation occurs, imprisoned for not less than one year, or both, notwithstanding the provisions of any other Federal law relating to fine levels.''; and

(5) in subsection (f)(2), by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

(b) RETENTION AND USE OF EMPLOYMENT ELIGIBILITY VERIFICATION DOCUMENTS.—

(1) RETENTION.—Section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended by striking paragraph (4) and inserting the following:

''(4) COPYING AND RETENTION OF DOCUMENTATION.—

''(A) IN GENERAL.—A person or entity required to examine a document described in subparagraph (B), (C), or (D) of paragraph (1) or receive an attestation described in paragraph (2) shall retain a paper, microfiche, microfilm, or electronic version of each such document and attestation, indicate that each such version is a copied document, and make such versions available for inspection by an officer of the Department of Homeland Security or any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during the period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(i) in the case of the recruiting or referral for a fee (without hiring) of an individual, 5 years after the date of the recruiting or referral; or

''(ii) in the case of the hiring of an individual the later of—

''(I) 5 years after the date of such hiring; or

''(II) 1 year after the date the individual's employment is terminated.

''(B) OTHER RECORDS.—Such person or entity shall maintain records of any action taken and copies of any correspondence written or received with respect to the verification of an individual's identity or eligibility for employment in the United States.''.

(2) LIMITATION ON USE OF RETAINED DOCUMENTS.—Paragraph (5) of section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended—

(A) in the heading, by striking ''LIMITATION ON USE OF ATTESTATION FORM'' and inserting ''ATTESTATION FORM'';

(B) by redesignating such paragraph (5) as subparagraph (A);

(C) by indenting such subparagraph, as so designated, six ems from the left margin;

(D) by inserting before such subparagraph, as so designated, the following:

''(5) LIMITATION ON USE.—''; and

(E) by inserting after such subparagraph, as so designated, the following new subparagraph:

''(B) RETAINED DOCUMENTS.—A person or entity required to retain versions of documents or attestations or maintain records under paragraph (4) shall use any such version, attestation, or record only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.''.

(c) EXTENSION OF THE BASIC PILOT PROGRAM.—Section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by adding at the end the following new paragraph:

''(5) INDIVIDUALS COVERED.—Notwithstanding any other provision of this title, a person or other entity that elects to participate in the basic pilot program shall follow the procedures described in paragraphs (1) thorough (4) for each individual who the person or entity hires (or recruits or refers) for employment and for each individual who is employed by the person or entity.''.

SEC. ___. 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.''.

SA 142. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. RESPONSIBLE EMPLOYER REQUIREMENTS.

(a) PENALTIES FOR UNLAWFUL EMPLOYMENT OF ALIENS.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subsection (e)(4)—

(A) in subparagraph (A)(i), by striking ''not less than $250 and not more than $2,000'' and inserting ''not less than $5000 and not more than $7,500'';

(B) in subparagraph (A)(ii), by striking ''not less than $2,000 and not more than $5,000'' and inserting ''not less than $10,000 and not more than $15,000''; and

(C) in subparagraph (A)(iii), by striking ''not less than $3,000 and not more than $10,000'' and inserting ''not less than $25,000 and not more than $40,00'';

(2) in subsection (e)(5)—

(A) by inserting '', subject to paragraph (10),'' after ''in an amount'';

(B) by striking ''$100 and not more than $1,000'' and inserting ''$1,000 and not more than $25,000''; and

(C) by adding at the end the following sentence: ''Providing information to the basic pilot program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) that the person or entity knows or reasonably believes to be false, shall be treated as a violation of subsection (a)(1)(A) and shall not qualify for the exemption provided by (e)(10).'';

(3) by adding at the end of subsection (e) the following new paragraph:

''(10) EXEMPTION FROM PENALTY FOR EMPLOYERS PARTICIPATING IN THE BASIC PILOT PROGRAM.—In the case of imposition of a

civil penalty under paragraph (4)(A) with respect to a violation of subsection (a)(1)(A) or (a)(2) for hiring or continuation of employment by an employer and in the case of imposition of a civil penalty under paragraph (5) for a violation of subsection (a)(1)(B) for hiring or recruitment or referral by a person or entity, the penalty otherwise imposed shall be waived if the violator establishes that it was voluntarily participating in the basic pilot electronic verification program at the time of the offense.'';

(4) by amending paragraph (1) of subsection (f) to read as follows:

''(1) CRIMINAL PENALTY.—Any person or entity which engages in a pattern or practice of violations of paragraph (1) or (2) of subsection (a) shall be fined not less than $3,000 and more than $50,000 for each unauthorized alien with respect to which such a violation occurs, imprisoned for not less than one year, or both, notwithstanding the provisions of any other Federal law relating to fine levels.''; and

(5) in subsection (f)(2), by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

(b) RETENTION AND USE OF EMPLOYMENT ELIGIBILITY VERIFICATION DOCUMENTS.—

(1) RETENTION.—Section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended by striking paragraph (4) and inserting the following:

''(4) COPYING AND RETENTION OF DOCUMENTATION.—

''(A) IN GENERAL.—A person or entity required to examine a document described in subparagraph (B), (C), or (D) of paragraph (1) or receive an attestation described in paragraph (2) shall retain a paper, microfiche, microfilm, or electronic version of each such document and attestation, indicate that each such version is a copied document, and make such versions available for inspection by an officer of the Department of Homeland Security or any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during the period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(i) in the case of the recruiting or referral for a fee (without hiring) of an individual, 5 years after the date of the recruiting or referral; or

''(ii) in the case of the hiring of an individual the later of—

''(I) 5 years after the date of such hiring; or

''(II) 1 year after the date the individual's employment is terminated.

''(B) OTHER RECORDS.—Such person or entity shall maintain records of any action taken and copies of any correspondence written or received with respect to the verification of an individual's identity or eligibility for employment in the United States.''.

(2) LIMITATION ON USE OF RETAINED DOCUMENTS.—Paragraph (5) of section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended—

(A) in the heading, by striking ''LIMITATION ON USE OF ATTESTATION FORM'' and inserting ''ATTESTATION FORM'';

(B) by redesignating such paragraph (5) as subparagraph (A);

(C) by indenting such subparagraph, as so designated, six ems from the left margin;

(D) by inserting before such subparagraph, as so designated, the following:

''(5) LIMITATION ON USE.—''; and

(E) by inserting after such subparagraph, as so designated, the following new subparagraph:

''(B) RETAINED DOCUMENTS.—A person or entity required to retain versions of documents or attestations or maintain records under paragraph (4) shall use any such version, attestation, or record only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.''.

(c) EXTENSION OF THE BASIC PILOT PROGRAM.—Section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by adding at the end the following new paragraph:

''(5) INDIVIDUALS COVERED.—Notwithstanding any other provision of this title, a person or other entity that elects to participate in the basic pilot program shall follow the procedures described in paragraphs (1) thorough (4) for each individual who the person or entity hires (or recruits or refers) for employment and for each individual who is employed by the person or entity.''.

SEC. ___. 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.''.

SA 143. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE II—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 201. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended to read as follows:

''SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

''(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

''(1) IN GENERAL.—It is unlawful for an employer—

''(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing, or with reckless disregard, that the alien is an unauthorized alien with respect to such employment; or

''(B) to hire, or to recruit or refer for a fee, for employment in the United States an individual unless such employer meets the requirements of subsections (c) and (d).

''(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after lawfully hiring an alien for employment, to continue to employ the alien in the United States knowing that the alien is (or has become) an unauthorized alien with respect to such employment.

''(3) USE OF LABOR THROUGH CONTRACT.—

''(A) IN GENERAL.—An employer who uses a contract, subcontract, or exchange to obtain the labor of an alien in the United States knowing, or with reckless disregard—

''(i) that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien in violation of paragraph (1)(A); or

''(ii) that the person hiring such alien failed to comply with the requirements of

subsections (c) and (d) shall be considered to have hired the alien in violation of paragraph (1)(B).

''(B) INFORMATION SHARING.—The person hiring the alien shall provide to the employer, who obtains the labor of the alien, the employer identification number assigned to such person by the Commissioner of Internal Revenue. Failure to provide such number shall be considered a recordkeeping violation under subsection (e)(4)(B).

''(C) REPORTING REQUIREMENT.—The employer shall submit to the Electronic Verification System established under subsection (d), in a manner prescribed by the Secretary, the employer identification number provided by the person hiring the alien. Failure to submit such number shall be considered a recordkeeping violation under subsection (e)(4)(B).

''(D) ENFORCEMENT.—The Secretary shall implement procedures to utilize the information obtained under subparagraphs (B) and (C) to identify employers who use a contract, subcontract, or exchange to obtain the labor of an alien from another person, where such person hiring such alien fails to comply with the requirements of subsections (c) and (d).

''(4) DEFENSE.—

''(A) IN GENERAL.—Subject to subparagraph (B), an employer that establishes that the employer has complied in good faith with the requirements of subsections (c) and (d) has established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

''(B) EXCEPTION.—Until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is participating in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) by complying with the requirements of subsection (c).

''(b) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

''(1) AUTHORITY TO REQUIRE CERTIFICATION.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that the employer is in compliance with this section, or has instituted a program to come into compliance.

''(2) CONTENT OF CERTIFICATION.—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1) the employer shall certify under penalty of perjury that—

''(A) the employer is in compliance with the requirements of subsections (c) and (d); or

''(B) that the employer has instituted a program to come into compliance with such requirements.

''(3) EXTENSION.—The 60-day period referred to in paragraph (2), may be extended by the Secretary for good cause, at the request of the employer.

''(4) PUBLICATION.—The Secretary is authorized to publish in the Federal Register standards or methods for certification under paragraph (1) and for specific recordkeeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall verify that the individual is eligible for such employment by meeting the following requirements:

''(1) ATTESTATION BY EMPLOYER.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The employer shall attest, under penalty of perjury and on a form prescribed by the Secretary, that the employer has verified the identity and eligibility for employment of the individual by examining a document described in subparagraph (B).

''(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(iii) STANDARDS FOR EXAMINATION.—The employer has complied with the requirement of this paragraph with respect to examination of documentation if a reasonable person would conclude that the document examined is genuine and relates to the individual whose identity and eligibility for employment in the United States is being verified. If the individual provides a document sufficient to meet the requirements of this paragraph, nothing in this paragraph shall be construed as requiring an employer to solicit any other document or as requiring the individual to produce any other document.

''(B) IDENTIFICATION DOCUMENTS.—A document described in this subparagraph is—

''(i) in the case of an individual who is a national of the United States—

''(I) a United States passport; or

''(II) a driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that satisfies the requirements of division B of Public Law 109–13 (119 Stat. 302);

''(ii) in the case of an alien lawfully admitted for permanent residence in the United States, a permanent resident card, as specified by the Secretary;

''(iii) in the case of an alien who is authorized under this Act or by the Secretary to be employed in the United States, an employment authorization card, as specified by the Secretary that—

''(I) contains a photograph of the individual or other identifying information, including name, date of birth, gender, and address; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use;

''(iv) in the case of an individual who is unable to obtain a document described in clause (i), (ii), or (iii), a document designated by the Secretary that—

''(I) contains a photograph of the individual or other identifying information, including name, date of birth, gender, and address; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use; or

''(v) until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is participating in such System on a voluntary basis, a document, or a combination of documents, of such type that, as of the date of the enactment of the Fair Minimum Wage Act of 2007, the Secretary had established by regulation were sufficient for purposes of this section.

''(C) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

''(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B) is not reliable to establish identity or is being used fraudulently to an unacceptable degree, the Secretary shall prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

''(ii) REQUIREMENT FOR PUBLICATION.—The Secretary shall publish notice of any findings under clause (i) in the Federal Register.

''(2) ATTESTATION OF EMPLOYEE.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The individual shall attest, under penalty of perjury on the form described in paragraph (1)(A)(i), that the individual is a national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary to be hired, or to be recruited or referred for a fee, in the United States.

''(ii) SIGNATURE FOR EXAMINATION.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(B) PENALTIES.—An individual who falsely represents that the individual is eligible for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than $5,000, a term of imprisonment not to exceed 3 years, or both.

''(3) RETENTION OF ATTESTATION.—The employer shall retain a paper, microfiche, microfilm, or electronic version of the attestations made under paragraph (1) and (2) and make such attestations available for inspection by an officer of the Department of Homeland Security, any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during a period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, 5 years after the date of the recruiting or referral; or

''(B) in the case of the hiring of an individual the later of—

''(i) 5 years after the date of such hiring;

''(ii) 1 year after the date the individual's employment is terminated; or

''(iii) in the case of an employer or class of employers, a period that is less than the applicable period described in clause (i) or (ii) if the Secretary reduces such period for such employer or class of employers.

''(4) DOCUMENT RETENTION AND RECORDKEEPING REQUIREMENTS.—

''(A) RETENTION OF DOCUMENTS.—Notwithstanding any other provision of law, an employer shall retain, for the applicable period described in paragraph (3), the following documents:

''(i) IN GENERAL.—The employer shall copy all documents presented by an individual described in paragraph (1)(B) and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall be designated as copied documents.

''(ii) OTHER DOCUMENTS.—The employer shall maintain records of any action taken and copies of any correspondence written or received with respect to the verification of an individual's identity or eligibility for employment in the United States.

''(B) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) or (ii) of subparagraph (A) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

''(5) PENALTIES.—An employer that fails to comply with the recordkeeping requirements of this subsection shall be subject to the penalties described in subsection (e)(4)(B).

''(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

''(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the 'System') to determine whether—

''(A) the identifying information submitted by an individual is consistent with the information maintained by the Secretary or the Commissioner of Social Security; and

''(B) such individual is eligible for employment in the United States.

''(2) REQUIREMENT FOR PARTICIPATION.—The Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by the employer on or after the date that is 18 months after the date that not less than $400,000,000 have been appropriated and made available to implement this subsection.

''(3) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (2), the Secretary has the authority—

''(A) to permit any employer that is not required to participate in the System under paragraph (2) to participate in the System on a voluntary basis; and

''(B) to require any employer or class of employers to participate on a priority basis in the System with respect to individuals employed as of, or hired after, the date of enactment of the Fair Minimum Wage Act of 2007—

''(i) if the Secretary designates such employer or class of employers as a critical employer based on an assessment of homeland security or national security needs; or

''(ii) if the Secretary has reasonable cause to believe that the employer has engaged in material violations of paragraph (1), (2), or (3) of subsection (a).

''(4) REQUIREMENT TO NOTIFY.—The Secretary shall notify the employer or class of employers in writing regarding the requirement for participation in the System under paragraph (3)(B) not less than 60 days prior to the effective date of such requirement. Such notice shall include the training materials described in paragraph (8)(E)(v).

''(5) REGISTRATION OF EMPLOYERS.—An employer shall register the employer's participation in the System in the manner prescribed by the Secretary prior to the date the employer is required or permitted to submit information with respect to an employee under this subsection.

''(6) ADDITIONAL GUIDANCE.—A registered employer shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to facilitate compliance with—

''(A) the attestation requirement in subsection (c); and

''(B) the employment eligibility verification requirements in this subsection.

''(7) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an employee—

''(A) such failure shall be treated as a violation of subsection (a)(1)(B); and

''(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A), however, such presumption may not apply to a prosecution under subsection (f)(1).

''(8) DESIGN AND OPERATION OF SYSTEM.—

''(A) IN GENERAL.—The Secretary shall, through the System—

''(i) respond to each inquiry made by a registered employer through the Internet or other electronic media, or over a toll-free telephone line regarding an individual's identity and eligibility for employment in the United States; and

''(ii) maintain a record of each such inquiry and the information provided in response to such inquiry.

''(B) INITIAL INQUIRY.—

''(i) INFORMATION REQUIRED.—A registered employer shall, with respect to the hiring, or recruiting or referring for a fee, any individual for employment in the United States, obtain from the individual and record on the form described in subsection (c)(1)(A)(i)—

''(I) the individual's name and date of birth and, if the individual was born in the United States, the State in which such individual was born;

''(II) the individual's social security account number;

''(III) the employment identification number of the individual's employer during any one of the 5 most recently completed calendar years; and

''(IV) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(1)(A)(i), such alien identification or authorization number that the Secretary shall require.

''(ii) SUBMISSION TO SYSTEM.—A registered employer shall submit an inquiry through the System to seek confirmation of the individual's identity and eligibility for employment in the United States—

''(I) not later than 3 days after the date of the hiring, or recruiting or referring for a fee, of the individual (as the case may be); or

''(II) in the case of an employee hired by a critical employer designated by the Secretary under paragraph (3)(B) at such time as the Secretary shall specify.

''(iii) EIN REQUIREMENTS.—

''(I) REQUIREMENT TO PROVIDE.—An employer shall provide the employer identification number issued to such employer to the individual, upon request, for purposes of providing the information under clause (i)(III).

''(II) REQUIREMENT TO AFFIRMATIVELY STATE A LACK OF RECENT EMPLOYMENT.—An individual providing information under clause (i)(III) who was not employed in the United States during any of the 5 most recently completed calendar years shall affirmatively state on the form described in subsection (c)(1)(A)(i) that no employer identification number is provided because the individual was not employed in the United States during such period.

''(C) INITIAL RESPONSE.—Not later than 10 days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

''(i) if the System is able to confirm the individual's identity and eligibility for employment in the United States, a confirmation notice, including the appropriate codes on such confirmation notice; or

''(ii) if the System is unable to confirm the individual's identity or eligibility for employment in the United States, and after a secondary manual verification has been conducted, a tentative nonconfirmation notice, including the appropriate codes on such tentative nonconfirmation notice.

''(D) CONFIRMATION OR NONCONFIRMATION.—

''(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under paragraph (C)(i) for an individual, the employer shall record, on the form described in subsection (c)(1)(A)(i), the appropriate code provided in such notice.

''(ii) TENTATIVE NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under paragraph (C)(ii) for an individual, the employer shall inform such individual of the issuance of such notice in writing, on a form prescribed by the Secretary not later than 3 days after receiving such notice. Such individual shall acknowledge receipt of such notice in writing on the form described in subsection (c)(1)(A)(i).

''(iii) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form described in subsection (1)(A)(i), the appropriate code provided through the System to indicate the individual did not contest the tentative nonconfirmation. An individual's failure to contest a tentative nonconfirmation shall not be considered an admission of guilt with respect to any violation of this Act or any other provision of law.

''(iv) CONTEST.—If the individual contests the tentative nonconfirmation notice, the individual shall submit appropriate information to contest such notice under the procedures established in subparagraph (E)(iii) not later than 10 days after receiving the notice from the individual's employer.

''(v) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION NOTICE.—A tentative nonconfirmation notice shall remain in effect until such notice becomes final under clause (iii), or the earlier of—

''(I) a final confirmation notice or final nonconfirmation notice is issued through the System; or

''(II) 30 days after the individual contests a tentative nonconfirmation under clause (iv).

''(vi) AUTOMATIC FINAL NOTICE.—

''(I) IN GENERAL.—If a final notice is not issued within the 30-day period described in clause (v)(II), the Secretary shall automatically provide to the employer, through the System, the appropriate code indicating a final notice.

''(II) PERIOD PRIOR TO INITIAL CERTIFICATION.—During the period beginning on the date of the enactment of the Fair Minimum Wage Act of 2007 and ending on the date the Secretary submits the initial report described in subparagraph (E)(ii), an automatic notice issued under subclause (I) shall be a final confirmation notice.

''(III) PERIOD AFTER INITIAL CERTIFICATION.—After the date that the Secretary submits the initial report described in subparagraph (E)(ii), an automatic notice issued under subclause (I) shall be a final confirmation notice unless the most recent such report includes a certification that the System is able to correctly issue, within the period beginning on the date an employer submits an inquiry to the System and ending on the date an automatic default notice would be issued by the System, a final notice in at least 99 percent of the cases in which the notice relates to an individual who is eligible for employment in the United States. If the most recent such report includes such a certification, the automatic notice issued under subclause (I) shall be a final nonconfirmation notice.

''(IV) ADDITIONAL AUTHORITY.—Notwithstanding the second sentence of subclause (III), the Secretary shall have the authority to issue a final confirmation notice for an individual who would be subject to a final nonconfirmation notice under such sentence. In such a case, the Secretary shall determine the individual's eligibility for employment in the United States and record the results of such determination in the System within 12 months.

''(vii) EFFECTIVE PERIOD OF FINAL NOTICE.—A final confirmation notice issued under this paragraph for an individual shall remain in effect—

''(I) during any continuous period of employment of such individual by such employer, unless the Secretary determines the final confirmation was the result of identity fraud; or

''(II) in the case of an alien authorized to be employed in the United States for a temporary period, during such period.

''(viii) PROHIBITION ON TERMINATION.—An employer may not terminate the employment of an individual based on a tentative

nonconfirmation notice until such notice becomes final under clause (iii) or a final nonconfirmation notice is issued for the individual by the System. Nothing in this clause shall prohibit the termination of employment for any reason other than such tentative nonconfirmation.

''(ix) RECORDING OF CONTEST RESOLUTION.—The employer shall record on the form described in subsection (c)(1)(A)(i) the appropriate code that is provided through the System to indicate a final confirmation notice or final nonconfirmation notice.

''(x) CONSEQUENCES OF NONCONFIRMATION.—If the employer has received a final nonconfirmation regarding an individual, the employer shall terminate the employment, recruitment, or referral of the individual. Such employer shall provide to the Secretary any information relating to the individual that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws. If the employer continues to employ, recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

''(E) RESPONSIBILITIES OF THE SECRETARY.—

''(i) IN GENERAL.—The Secretary shall establish a reliable, secure method to provide through the System, within the time periods required by this subsection—

''(I) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer is consistent with such information maintained by the Secretary in order to confirm the validity of the information provided; and

''(II) a determination of whether the individual is authorized to be employed in the United States.

''(ii) ANNUAL REPORT AND CERTIFICATION.—Not later than the date that is 24 months after the date that not less than $400,000,000 have been appropriated and made available to the Secretary to implement this subsection, and annually thereafter, the Secretary shall submit to Congress a report that includes—

''(I) an assessment of whether the System is able to correctly issue, within the period described in subparagraph (D)(v)(II), a final notice in at least 99 percent of the cases in which the final notice relates to an individual who is eligible for employment in the United States (excluding an individual who fails to contest a tentative nonconfirmation notice); and

''(II) if the assessment under subclause (I) is that the System is able to correctly issue within the specified time period a final notice in at least 99 percent of the cases described in such subclause, a certification of such assessment.

''(iii) CONTEST AND SELF-VERIFICATION.—The Secretary in consultation with the Commissioner of Social Security, shall establish procedures to permit an individual who contests a tentative or final nonconfirmation notice, or seeks to verify the individual's own employment eligibility prior to obtaining or changing employment, to contact the appropriate agency and, in a timely manner, correct or update the information used by the System.

''(iv) INFORMATION TO EMPLOYEE.—The Secretary shall develop a written form for employers to provide to individuals who receive a tentative or final nonconfirmation notice. Such form shall be made available in a language other than English, as necessary and reasonable, and shall include—

''(I) information about the reason for such notice;

''(II) the right to contest such notice;

''(III) contact information for the appropriate agency and instructions for initiating such contest; and

''(IV) a 24-hour toll-free telephone number to respond to inquiries related to such notice.

''(v) TRAINING MATERIALS.—The Secretary shall make available or provide to the employer, upon request, not later than 60 days prior to such employer's participation in the System, appropriate training materials to facilitate compliance with this subsection, and sections 274B(a)(7) and 274C(a).

''(F) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The responsibilities of the Commissioner of Social Security with respect to the System are set out in section 205(c)(2) of the Social Security Act.

''(9) PROTECTION FROM LIABILITY.—No employer that participates in the System shall be liable under any law for any employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

''(10) ADMINISTRATIVE REVIEW.—

''(A) IN GENERAL.—An individual who is terminated from employment as a result of a final nonconfirmation notice may, not later than 60 days after the date of such termination, file an appeal of such notice.

''(B) PROCEDURES.—The Secretary and Commissioner of Social Security shall develop procedures to review appeals filed under subparagraph (A) and to make final determinations on such appeals.

''(C) REVIEW FOR ERRORS.—If a final determination on an appeal filed under subparagraph (A) results in a confirmation of an individual's eligibility to work in the United States, the administrative review process shall require the Secretary to determine if the final nonconfirmation notice issued for the individual was the result of—

''(i) an error or negligence on the part of an employee or official operating or responsible for the System;

''(ii) the decision rules, processes, or procedures utilized by the System; or

''(iii) erroneous system information that was not the result of acts or omissions of the individual.

''(D) COMPENSATION FOR ERROR.—

''(i) IN GENERAL.—If the Secretary makes a determination under subparagraph (C) that the final nonconfirmation notice issued for an individual was not caused by an act or omission of the individual, the Secretary shall compensate the individual for lost wages.

''(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that prevailed prior to termination. The individual shall be compensated for wages lost beginning on the first scheduled work day after employment was terminated and ending 180 days after completion of the administrative review process described in this paragraph or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first.

''(E) LIMITATION ON COMPENSATION.—For purposes of determining an individual's compensation for the loss of employment, such compensation shall not include any period in which the individual was ineligible for employment in the United States.

''(F) SOURCE OF FUNDS.—Compensation or reimbursement provided under this paragraph shall not be provided from funds appropriated in annual appropriations Acts to the Secretary for the Department of Homeland Security.

''(11) JUDICIAL REVIEW.—

''(A) IN GENERAL.—After the Secretary makes a final determination on an appeal filed by an individual under the administrative review process described in paragraph (10), the individual may obtain judicial review of such determination by a civil action commenced not later than 60 days after the date of such decision, or such further time as the Secretary may allow.

''(B) JURISDICTION.—A civil action for such judicial review shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has a principal place of business, or, if the plaintiff does not reside or have a principal place of business within any such judicial district, in the District Court of the United States for the District of Columbia.

''(C) ANSWER.—As part of the Secretary's answer to a complaint for such judicial review, the Secretary shall file a certified copy of the administrative record compiled during the administrative review under paragraph (10), including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming or reversing the result of that administrative review, with or without remanding the cause for a rehearing.

''(D) COMPENSATION FOR ERROR.—

''(i) IN GENERAL.—In cases in which such judicial review reverses the final determination of the Secretary made under paragraph (10), the court shall compensate the individual for lost wages.

''(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work scheduled that prevailed prior to termination. The individual shall be compensated for wages lost beginning on the first scheduled work day after employment was terminated and ending 180 days after completion of the judicial review described in this paragraph or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first.

''(12) LIMITATION ON COLLECTION AND USE OF DATA.—

''(A) LIMITATION ON COLLECTION OF DATA.—

''(i) IN GENERAL.—The System shall collect and maintain only the minimum data necessary to facilitate the successful operation of the System, and in no case shall the data be other than—

''(I) information necessary to register employers under paragraph (5);

''(II) information necessary to initiate and respond to inquiries or contests under paragraph (8);

''(III) information necessary to establish and enforce compliance with paragraphs (5) and (8);

''(IV) information necessary to detect and prevent employment related identity fraud; and

''(V) such other information the Secretary determines is necessary, subject to a 180 day notice and comment period in the Federal Register.

''(ii) PENALTIES.—Any officer, employee, or contractor who willfully and knowingly collects and maintains data in the System other than data described in clause (i) shall be guilty of a misdemeanor and fined not more than $1,000 for each violation.

''(B) LIMITATION ON USE OF DATA.—Whoever willfully and knowingly accesses, discloses, or uses any information obtained or maintained by the System—

''(i) for the purpose of committing identity fraud, or assisting another person in committing identity fraud, as defined in section 1028 of title 18, United States Code;

''(ii) for the purpose of unlawfully obtaining employment in the United States or unlawfully obtaining employment in the United States for any other person; or

''(iii) for any purpose other than as provided for under any provision of law;

shall be guilty of a felony and upon conviction shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

''(C) EXCEPTIONS.—Nothing in subparagraph (A) or (B) may be construed to limit the collection, maintenance, or use of data by the Commissioner of Internal Revenue or the Commissioner of Social Security as provided by law.

''(13) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System.

''(14) ANNUAL GAO STUDY AND REPORT.—

''(A) REQUIREMENT.—The Comptroller General of the United States shall conduct an annual study of the System.

''(B) PURPOSE.—The study shall evaluate the accuracy, efficiency, integrity, and impact of the System.

''(C) REPORT.—Not later than the date that is 24 months after the date that not less than $400,000,000 have been appropriated and made available to the Secretary to implement this subsection, and annually thereafter, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under this paragraph. Each such report shall include, at a minimum, the following:

''(i) An assessment of the annual report and certification described in paragraph (8)(E)(ii).

''(ii) An assessment of System performance with respect to the rate at which individuals who are eligible for employment in the United States are correctly approved within each of the periods specified in paragraph (8), including a separate assessment of such rate for nationals and aliens.

''(iii) An assessment of the privacy and security of the System and its effects on identity fraud or the misuse of personal data.

''(iv) An assessment of the effects of the System on the employment of unauthorized aliens.

''(v) An assessment of the effects of the System, including the effects of tentative confirmations, on unfair immigration-related employment practices and employment discrimination based on national origin or citizenship status.

''(vi) An assessment of whether the Secretary and the Commissioner of Social Security have adequate resources to carry out the duties and responsibilities of this section.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

''(B) for the investigation of such complaints that the Secretary determines are appropriate to investigate; and

''(C) for the investigation of other violations of subsection (a) that the Secretary determines is appropriate.

''(2) AUTHORITY IN INVESTIGATIONS.—

''(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

''(i) shall have reasonable access to examine evidence regarding any employer being investigated; and

''(ii) if designated by the Secretary, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

''(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

''(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this section.

''(3) COMPLIANCE PROCEDURES.—

''(A) PREPENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

''(i) describe the violation;

''(ii) specify the laws and regulations allegedly violated;

''(iii) specify the amount of fines or other penalties to be imposed;

''(iv) disclose the material facts which establish the alleged violation; and

''(v) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

''(B) REMISSION OR MITIGATION OF PENALTIES.—

''(i) REVIEW BY SECRETARY.—If the Secretary determines that such fine or other penalty was incurred erroneously, or determines the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice.

''(ii) APPLICABILITY.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1), (2), or (3) of subsection (a) or of any other requirements of this section.

''(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer, the Secretary shall determine whether there was a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which the determination is based and the appropriate penalty.

''(4) CIVIL PENALTIES.—

''(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of paragraph (1), (2), or (3) of subsection (a) shall pay civil penalties as follows:

''(i) Pay a civil penalty of not less than $500 and not more than $4,000 for each unauthorized alien with respect to each such violation.

''(ii) If the employer has previously been fined 1 time during the 12-month period preceding the violation under this subparagraph, pay a civil penalty of not less than $4,000 and not more than $10,000 for each unauthorized alien with respect to each such violation.

''(iii) If the employer has previously been fined more than 1 time during the 24-month period preceding the violation under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of not less than $6,000 and not more than $20,000 for each unauthorized alien with respect to each such violation.

''(B) RECORDKEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the recordkeeping requirements of subsections (a), (c), and (d), shall pay a civil penalty as follows:

''(i) Pay a civil penalty of not less than $200 and not more than $2,000 for each such violation.

''(ii) If the employer has previously been fined 1 time during the 12-month period preceding the violation under this subparagraph, pay a civil penalty of not less than $400 and not more than $4,000 for each such violation.

''(iii) If the employer has previously been fined more than 1 time during the 24-month period preceding the violation under this subparagraph or has failed to comply with a previously issued and final order related to such requirements, pay a civil penalty of not less than $600 and not more than $6,000 for each such violation.

''(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including violations of cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the criminal penalty described in subsection (f).

''(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 45 days after the date the final determination is issued, file a petition in any appropriate district court of the United States. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until entry of judgment by the court. The burden shall be on the employer to show that the final determination was not supported by substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

''(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination, not earlier than 46 days and not later than 180 days after the date the final determination is issued, in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

''(7) RECOVERY OF COSTS AND ATTORNEY'S FEES.—In any appeal brought under paragraph (5) or suit brought under paragraph (6) of this section the employer shall be entitled to recover from the Secretary reasonable costs and attorney's fees if such employer substantially prevails on the merits of the case. Such an award of attorney's fees may not exceed $25,000. Any such costs and attorney's fees assessed against the Secretary shall be charged against the operating expenses of the Department for the fiscal year in which the assessment is made, and may not be reimbursed from any other source.

''(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not

more than 3 years for the entire pattern or practice, or both.

''(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

''(g) ADJUSTMENT FOR INFLATION.—All penalties and limitations on the recovery of costs and attorney's fees in this section shall be increased every 4 years beginning January 2010 to reflect the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) for the 48 month period ending with September of the year preceding the year such adjustment is made. Any adjustment under this subparagraph shall be rounded to the nearest dollar.

''(h) PROHIBITION OF INDEMNITY BONDS.—

''(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referring for a fee, of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the Employer Compliance Fund established under section 286(w).

''(i) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

''(1) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 5 years. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, 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 5 years.

''(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive operation of this subsection or may limit the duration or scope of the debarment.

''(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, shall be debarred from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 5 years.

''(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, 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 5 years.

''(C) WAIVER.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 5 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. The decision of whether to debar or take alternate action under this subparagraph shall not be judicially reviewed.

''(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(j) MISCELLANEOUS PROVISIONS.—

''(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens eligible to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement (other than aliens lawfully admitted for permanent residence).

''(2) PREEMPTION.—The provisions of this section preempt any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.

''(k) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Employer Compliance Fund established under section 286(w).

''(l) DEFINITIONS.—In this section:

''(1) EMPLOYER.—The term 'employer' means any person or entity, including any entity of the Government of the United States, hiring, recruiting, or referring an individual for employment in the United States.

''(2) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(3) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

''(A) an alien lawfully admitted for permanent residence; or

''(B) authorized to be so employed by this Act or by the Secretary.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS.—

(A) REPEAL OF BASIC PILOT.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) are repealed.

(B) REPEAL OF REPORTING REQUIREMENTS.—

(i) REPORT ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.—Subsection (c) of section 290 of the Immigration and Nationality Act (8 U.S.C. 1360) is repealed.

(ii) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Subsection (b) of section 414 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1360 note) is repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A of the Immigration and Nationality Act, as amended by subsection (a), may be construed to limit the authority of the Secretary of Homeland Security to allow or continue to allow the participation of employers who participated in the basic pilot program under sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) TECHNICAL AMENDMENTS.—

(1) DEFINITION OF UNAUTHORIZED ALIEN.—The Immigration and Nationality Act is amended in sections 218(i)(1) (8 U.S.C. 1188(i)(1)), 245(c)(8) (8 U.S.C. 1255(c)(8)), 274(a)(3)(B)(i) (8 U.S.C. 1324(a)(3)(B)(i)), and 274B(a)(1) (8 U.S.C. 1324b(a)(1)) are amended by striking ''274A(h)(3)'' and inserting ''274A''.

(2) DOCUMENT REQUIREMENTS.—Section 274B of the Immigration and Nationality Act (8 U.S.C. 1324b) is amended—

(A) in subsections (a)(6) and (g)(2)(B), by striking ''274A(b)'' and inserting ''274A(c) and (d)''; and

(B) in subsection (g)(2)(B)(ii), by striking ''274A(b)(5)'' and inserting ''274A(c)''.

(d) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended by adding at the end the following new subparagraphs:

''(I)(i) The Commissioner of Social Security shall, subject to the provisions of section 201(f)(2) of the Fair Minimum Wage Act of 2007, establish a reliable, secure method to provide through the Electronic Employment Verification System established pursuant to subsection (d) of section 274A of the Immigration and Nationality Act (referred to in this subparagraph as the 'System'), within the time periods required by paragraph (8) of such subsection—

''(I) a determination of whether the name, date of birth, employer identification number, and social security account number of an individual provided in an inquiry made to the System by an employer is consistent with such information maintained by the Commissioner in order to confirm the validity of the information provided;

''(II) a determination of the citizenship status associated with such name and social security account number, according to the records maintained by the Commissioner;

''(III) a determination of whether the name and number belongs to an individual who is deceased, according to the records maintained by the Commissioner;

''(IV) a determination of whether the name and number is blocked in accordance with clause (ii); and

''(V) a confirmation notice or a nonconfirmation notice described in such paragraph (8), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

''(ii) The Commissioner of Social Security shall prevent the fraudulent or other misuse of a social security account number by establishing procedures under which an individual who has been assigned a social security account number may block the use of such number under the System and remove such block.

''(J) In assigning social security account numbers to aliens who are authorized to work in the United States under section 218A of the Immigration and Nationality Act, the Commissioner of Social Security shall, to

the maximum extent practicable, assign such numbers by employing the enumeration procedure administered jointly by the Commissioner, the Secretary of State, and the Secretary.''.

(e) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION.—

(1) IN GENERAL.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HOMELAND SECURITY.—

''(A) IN GENERAL.—From taxpayer identity information which has been disclosed to the Social Security Administration and upon written request by the Secretary of Homeland Security, the Commissioner of Social Security shall disclose directly to officers, employees, and contractors of the Department of Homeland Security the following information:

''(i) DISCLOSURE OF EMPLOYER NO-MATCH NOTICES.—Taxpayer identity information of each person who has filed an information return required by reason of section 6051 during calendar year 2006, 2007, or 2008 which contains—

''(I) more than 100 names and taxpayer identifying numbers of employees (within the meaning of such section) that did not match the records maintained by the Commissioner of Social Security, or

''(II) more than 10 names of employees (within the meaning of such section) with the same taxpayer identifying number.

''(ii) DISCLOSURE OF INFORMATION REGARDING USE OF DUPLICATE EMPLOYEE TAXPAYER IDENTIFYING INFORMATION.—Taxpayer identity information of each person who has filed an information return required by reason of section 6051 which the Commissioner of Social Security has reason to believe, based on a comparison with information submitted by the Secretary of Homeland Security, contains evidence of identity fraud due to the multiple use of the same taxpayer identifying number (assigned under section 6109) of an employee (within the meaning of section 6051).

''(iii) DISCLOSURE OF INFORMATION REGARDING NONPARTICIPATING EMPLOYERS.—Taxpayer identity information of each person who has filed an information return required by reason of section 6051 which the Commissioner of Social Security has reason to believe, based on a comparison with information submitted by the Secretary of Homeland Security, contains evidence of such person's failure to register and participate in the Electronic Employment Verification System authorized under section 274A(d) of the Immigration and Nationality Act (hereafter in this paragraph referred to as the 'System').

''(iv) DISCLOSURE OF INFORMATION REGARDING NEW EMPLOYEES OF NONPARTICIPATING EMPLOYERS.—Taxpayer identity information of all employees (within the meaning of section 6051) hired after the date a person identified in clause (iii) is required to participate in the System under section 274A(d)(2) or section 274A(d)(3)(B) of the Immigration and Nationality Act.

''(v) DISCLOSURE OF INFORMATION REGARDING EMPLOYEES OF CERTAIN DESIGNATED EMPLOYERS.—Taxpayer identity information of all employees (within the meaning of section 6051) of each person who is required to participate in the System under section 274A(d)(3)(B) of the Immigration and Nationality Act.

''(vi) DISCLOSURE OF NEW HIRE TAXPAYER IDENTITY INFORMATION.—Taxpayer identity information of each person participating in the System and taxpayer identity information of all employees (within the meaning of section 6051) of such person hired during the period beginning with the later of—

''(I) the date such person begins to participate in the System, or

''(II) the date of the request immediately preceding the most recent request under this clause,

ending with the date of the most recent request under this clause.

''(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose taxpayer identity information under subparagraph (A) only for purposes of, and to the extent necessary in—

''(i) establishing and enforcing employer participation in the System,

''(ii) carrying out, including through civil administrative and civil judicial proceedings, of sections 212, 217, 235, 237, 238, 274A, 274B, and 274C of the Immigration and Nationality Act, and

''(iii) the civil operation of the Alien Terrorist Removal Court.

''(C) REIMBURSEMENT.—The Commissioner of Social Security shall prescribe a reasonable fee schedule for furnishing taxpayer identity information under this paragraph and collect such fees in advance from the Secretary of Homeland Security.

''(D) TERMINATION.—This paragraph shall not apply to any request made after the date which is 3 years after the date of the enactment of this paragraph.''.

(2) COMPLIANCE BY DHS CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.—

(A) IN GENERAL.—Section 6103(p) of such Code is amended by adding at the end the following new paragraph:

''(9) DISCLOSURE TO DHS CONTRACTORS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor of the Department of Homeland Security unless such Department, to the satisfaction of the Secretary—

''(A) has requirements in effect which require each such contractor which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

''(B) agrees to conduct an on-site review every 3 years (mid-point review in the case of contracts or agreements of less than 1 year in duration) of each contractor to determine compliance with such requirements,

''(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

''(D) certifies to the Secretary for the most recent annual period that such contractor is in compliance with all such requirements.

''The certification required by subparagraph (D) shall include the name and address of each contractor, a description of the contract or agreement with such contractor, and the duration of such contract or agreement.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6103(a)(3) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(B) Section 6103(p)(3)(A) of such Code is amended by adding at the end the following new sentence: ''The Commissioner of Social Security shall provide to the Secretary such information as the Secretary may require in carrying out this paragraph with respect to return information inspected or disclosed under the authority of subsection (l)(21).''.

(C) Section 6103(p)(4) of such Code is amended—

(i) by striking ''or (17)'' both places it appears and inserting ''(17), or (21)'', and

(ii) by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(D) Section 6103(p)(8)(B) of such Code is amended by inserting ''or paragraph (9)'' after ''subparagraph (A)''.

(E) Section 7213(a)(2) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as are necessary to carry out the amendments made by this section.

(2) LIMITATION ON VERIFICATION RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security is authorized to perform activities with respect to carrying out the Commissioner's responsibilities in this title or the amendments made by this title, but only to the extent the Secretary of Homeland Security has provided, in advance, funds to cover the Commissioner's full costs in carrying out such responsibilities. In no case shall funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund be used to carry out such responsibilities.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(2) SUBSECTION (e).—

(A) IN GENERAL.—The amendments made by subsection (e) shall apply to disclosures made after the date of the enactment of this Act.

(B) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (e)(2), shall be made with respect to calendar year 2008.

SEC. 202. EMPLOYER COMPLIANCE FUND.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

''(w) EMPLOYER COMPLIANCE FUND.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury, a separate account, which shall be known as the 'Employer Compliance Fund' (referred to in this subsection as the 'Fund').

''(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all civil monetary penalties collected by the Secretary of Homeland Security under section 274A.

''(3) PURPOSE.—Amounts refunded to the Secretary from the Fund shall be used for the purposes of enhancing and enforcing employer compliance with section 274A.

''(4) AVAILABILITY OF FUNDS.—Amounts deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Secretary of Homeland Security.''.

SEC. 203. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) INCREASE IN NUMBER OF PERSONNEL.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,200, the number of personnel of the Bureau of Immigration and Customs Enforcement during the 5-year period beginning on the date of the enactment of this Act.

(b) USE OF PERSONNEL.—The Secretary of Homeland Security shall ensure that not less than 25 percent of all the hours expended by personnel of the Bureau of Immigration and Customs Enforcement shall be used to enforce compliance with sections 274A and 274C of the Immigration and Nationality Act (8 U.S.C. 1324a and 1324c).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for each

of the fiscal years 2008 through 2012 such sums as may be necessary to carry out this section.

SEC. 204. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

SEC. 205. ANTIDISCRIMINATION PROTECTIONS.

(a) APPLICATION OF PROHIBITION OF DISCRIMINATION TO VERIFICATION SYSTEM.—Section 274B(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)(1)) is amended by inserting '', the verification of the individual's work authorization through the Electronic Employment Verification System described in section 274A(d),'' after ''the individual for employment''.

(b) CLASSES OF ALIENS AS PROTECTED INDIVIDUALS.—Section 274B(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)(3)(B)) is amended to read as follows:

''(B) is an alien who is—

''(i) lawfully admitted for permanent residence;

''(ii) granted the status of an alien lawfully admitted for temporary residence under section 210(a) or 245(a)(1);

''(iii) admitted as a refugee under section 207;

''(iv) granted asylum under section 208;

''(v) granted the status of a nonimmigrant under section 101(a)(15)(H)(ii)(c);

''(vi) granted temporary protected status under section 244; or

''(vii) granted parole under section 212(d)(5).''.

(c) REQUIREMENTS FOR ELECTRONIC EMPLOYMENT VERIFICATION.—Section 274B(a) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)) is amended by adding at the end the following:

''(7) ANTIDISCRIMINATION REQUIREMENTS OF THE ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—It is an unfair immigration-related employment practice for a person or other entity, in the course of the electronic verification process described in section 274A(d)—

''(A) to terminate or undertake any adverse employment action due to a tentative nonconfirmation;

''(B) to use the verification system for screening of an applicant prior to an offer of employment;

''(C) except as described in section 274A(d)(3)(B), to use the verification system for a current employee after the first 3 days of employment, or for the reverification of an employee after the employee has satisfied the process described in section 274A(d); or

''(D) to require an individual to make an inquiry under the self-verification procedures established in section 274A(d)(8)(E)(iii).''.

(d) INCREASE IN CIVIL MONEY PENALTIES.—Section 274B(g)(2) of the Immigration and Nationality Act (8 U.S.C. 1324b(g)(2)) is amended—

(1) in subparagraph (B)(iv)—

(A) in subclause (I), by striking ''$250 and not more than $2,000'' and inserting ''$1,000 and not more than $4,000'';

(B) in subclause (II), by striking ''$2,000 and not more than $5,000'' and inserting ''$4,000 and not more than $10,000'';

(C) in subclause (III), by striking ''$3,000 and not more than $10,000'' and inserting ''$6,000 and not more than $20,000''; and

(D) in subclause (IV), by striking ''$100 and not more than $1,000'' and inserting ''$500 and not more than $5,000''.

(e) INCREASED FUNDING OF INFORMATION CAMPAIGN.—Section 274B(l)(3) of the Immigration and Nationality Act (8 U.S.C. 1324b(l)(3)) is amended by inserting ''and an additional $40,000,000 for each of fiscal years 2008 through 2010'' before the period at the end.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 180 days after the date of the enactment of this Act and shall apply to violations occurring on or after such date.

SA 144. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE II—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 201. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended to read as follows:

''SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

''(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

''(1) IN GENERAL.—It is unlawful for an employer—

''(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing, or with reckless disregard, that the alien is an unauthorized alien with respect to such employment; or

''(B) to hire, or to recruit or refer for a fee, for employment in the United States an individual unless such employer meets the requirements of subsections (c) and (d).

''(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after lawfully hiring an alien for employment, to continue to employ the alien in the United States knowing that the alien is (or has become) an unauthorized alien with respect to such employment.

''(3) USE OF LABOR THROUGH CONTRACT.—

''(A) IN GENERAL.—An employer who uses a contract, subcontract, or exchange to obtain the labor of an alien in the United States knowing, or with reckless disregard—

''(i) that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien in violation of paragraph (1)(A); or

''(ii) that the person hiring such alien failed to comply with the requirements of subsections (c) and (d) shall be considered to have hired the alien in violation of paragraph (1)(B).

''(B) INFORMATION SHARING.—The person hiring the alien shall provide to the employer, who obtains the labor of the alien, the employer identification number assigned to such person by the Commissioner of Internal Revenue. Failure to provide such number shall be considered a recordkeeping violation under subsection (e)(4)(B).

''(C) REPORTING REQUIREMENT.—The employer shall submit to the Electronic Verification System established under subsection (d), in a manner prescribed by the Secretary, the employer identification number provided by the person hiring the alien. Failure to submit such number shall be considered a recordkeeping violation under subsection (e)(4)(B).

''(D) ENFORCEMENT.—The Secretary shall implement procedures to utilize the information obtained under subparagraphs (B) and (C) to identify employers who use a contract, subcontract, or exchange to obtain the labor of an alien from another person, where such person hiring such alien fails to comply with the requirements of subsections (c) and (d).

''(4) DEFENSE.—

''(A) IN GENERAL.—Subject to subparagraph (B), an employer that establishes that the employer has complied in good faith with the requirements of subsections (c) and (d) has established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

''(B) EXCEPTION.—Until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is participating in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) by complying with the requirements of subsection (c).

''(b) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

''(1) AUTHORITY TO REQUIRE CERTIFICATION.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that the employer is in compliance with this section, or has instituted a program to come into compliance.

''(2) CONTENT OF CERTIFICATION.—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1) the employer shall certify under penalty of perjury that—

''(A) the employer is in compliance with the requirements of subsections (c) and (d); or

''(B) that the employer has instituted a program to come into compliance with such requirements.

''(3) EXTENSION.—The 60-day period referred to in paragraph (2), may be extended by the Secretary for good cause, at the request of the employer.

''(4) PUBLICATION.—The Secretary is authorized to publish in the Federal Register standards or methods for certification under paragraph (1) and for specific recordkeeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall verify that the individual is eligible for such employment by meeting the following requirements:

''(1) ATTESTATION BY EMPLOYER.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The employer shall attest, under penalty of perjury and on a form prescribed by the Secretary, that the employer has verified the identity and eligibility for employment of the individual by examining a document described in subparagraph (B).

''(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(iii) STANDARDS FOR EXAMINATION.—The employer has complied with the requirement of this paragraph with respect to examination of documentation if a reasonable person would conclude that the document examined is genuine and relates to the individual whose identity and eligibility for employment in the United States is being verified. If the individual provides a document sufficient to meet the requirements of this paragraph, nothing in this paragraph shall be construed as requiring an employer to solicit any other document or as requiring the individual to produce any other document.

''(B) IDENTIFICATION DOCUMENTS.—A document described in this subparagraph is—

''(i) in the case of an individual who is a national of the United States—

''(I) a United States passport; or

''(II) a driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying

possession of the United States that satisfies the requirements of division B of Public Law 109–13 (119 Stat. 302);

''(ii) in the case of an alien lawfully admitted for permanent residence in the United States, a permanent resident card, as specified by the Secretary;

''(iii) in the case of an alien who is authorized under this Act or by the Secretary to be employed in the United States, an employment authorization card, as specified by the Secretary that—

''(I) contains a photograph of the individual or other identifying information, including name, date of birth, gender, and address; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use;

''(iv) in the case of an individual who is unable to obtain a document described in clause (i), (ii), or (iii), a document designated by the Secretary that—

''(I) contains a photograph of the individual or other identifying information, including name, date of birth, gender, and address; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use; or

''(v) until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is participating in such System on a voluntary basis, a document, or a combination of documents, of such type that, as of the date of the enactment of the Fair Minimum Wage Act of 2007, the Secretary had established by regulation were sufficient for purposes of this section.

''(C) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

''(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B) is not reliable to establish identity or is being used fraudulently to an unacceptable degree, the Secretary shall prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

''(ii) REQUIREMENT FOR PUBLICATION.—The Secretary shall publish notice of any findings under clause (i) in the Federal Register.

''(2) ATTESTATION OF EMPLOYEE.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The individual shall attest, under penalty of perjury on the form described in paragraph (1)(A)(i), that the individual is a national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary to be hired, or to be recruited or referred for a fee, in the United States.

''(ii) SIGNATURE FOR EXAMINATION.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(B) PENALTIES.—An individual who falsely represents that the individual is eligible for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than $5,000, a term of imprisonment not to exceed 3 years, or both.

''(3) RETENTION OF ATTESTATION.—The employer shall retain a paper, microfiche, microfilm, or electronic version of the attestations made under paragraph (1) and (2) and make such attestations available for inspection by an officer of the Department of Homeland Security, any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during a period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, 5 years after the date of the recruiting or referral; or

''(B) in the case of the hiring of an individual the later of—

''(i) 5 years after the date of such hiring;

''(ii) 1 year after the date the individual's employment is terminated; or

''(iii) in the case of an employer or class of employers, a period that is less than the applicable period described in clause (i) or (ii) if the Secretary reduces such period for such employer or class of employers.

''(4) DOCUMENT RETENTION AND RECORDKEEPING REQUIREMENTS.—

''(A) RETENTION OF DOCUMENTS.—Notwithstanding any other provision of law, an employer shall retain, for the applicable period described in paragraph (3), the following documents:

''(i) IN GENERAL.—The employer shall copy all documents presented by an individual described in paragraph (1)(B) and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall be designated as copied documents.

''(ii) OTHER DOCUMENTS.—The employer shall maintain records of any action taken and copies of any correspondence written or received with respect to the verification of an individual's identity or eligibility for employment in the United States.

''(B) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) or (ii) of subparagraph (A) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

''(5) PENALTIES.—An employer that fails to comply with the recordkeeping requirements of this subsection shall be subject to the penalties described in subsection (e)(4)(B).

''(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

''(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the 'System') to determine whether—

''(A) the identifying information submitted by an individual is consistent with the information maintained by the Secretary or the Commissioner of Social Security; and

''(B) such individual is eligible for employment in the United States.

''(2) REQUIREMENT FOR PARTICIPATION.—The Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by the employer on or after the date that is 18 months after the date that not less than $400,000,000 have been appropriated and made available to implement this subsection.

''(3) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (2), the Secretary has the authority—

''(A) to permit any employer that is not required to participate in the System under paragraph (2) to participate in the System on a voluntary basis; and

''(B) to require any employer or class of employers to participate on a priority basis in the System with respect to individuals employed as of, or hired after, the date of enactment of the Fair Minimum Wage Act of 2007—

''(i) if the Secretary designates such employer or class of employers as a critical employer based on an assessment of homeland security or national security needs; or

''(ii) if the Secretary has reasonable cause to believe that the employer has engaged in material violations of paragraph (1), (2), or (3) of subsection (a).

''(4) REQUIREMENT TO NOTIFY.—The Secretary shall notify the employer or class of employers in writing regarding the requirement for participation in the System under paragraph (3)(B) not less than 60 days prior to the effective date of such requirement. Such notice shall include the training materials described in paragraph (8)(E)(v).

''(5) REGISTRATION OF EMPLOYERS.—An employer shall register the employer's participation in the System in the manner prescribed by the Secretary prior to the date the employer is required or permitted to submit information with respect to an employee under this subsection.

''(6) ADDITIONAL GUIDANCE.—A registered employer shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to facilitate compliance with—

''(A) the attestation requirement in subsection (c); and

''(B) the employment eligibility verification requirements in this subsection.

''(7) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an employee—

''(A) such failure shall be treated as a violation of subsection (a)(1)(B); and

''(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A), however, such presumption may not apply to a prosecution under subsection (f)(1).

''(8) DESIGN AND OPERATION OF SYSTEM.—

''(A) IN GENERAL.—The Secretary shall, through the System—

''(i) respond to each inquiry made by a registered employer through the Internet or other electronic media, or over a toll-free telephone line regarding an individual's identity and eligibility for employment in the United States; and

''(ii) maintain a record of each such inquiry and the information provided in response to such inquiry.

''(B) INITIAL INQUIRY.—

''(i) INFORMATION REQUIRED.—A registered employer shall, with respect to the hiring, or recruiting or referring for a fee, any individual for employment in the United States, obtain from the individual and record on the form described in subsection (c)(1)(A)(i)—

''(I) the individual's name and date of birth and, if the individual was born in the United States, the State in which such individual was born;

''(II) the individual's social security account number;

''(III) the employment identification number of the individual's employer during any one of the 5 most recently completed calendar years; and

''(IV) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(1)(A)(i), such alien identification or authorization number that the Secretary shall require.

''(ii) SUBMISSION TO SYSTEM.—A registered employer shall submit an inquiry through the System to seek confirmation of the individual's identity and eligibility for employment in the United States—

''(I) not later than 3 days after the date of the hiring, or recruiting or referring for a fee, of the individual (as the case may be); or

''(II) in the case of an employee hired by a critical employer designated by the Secretary under paragraph (3)(B) at such time as the Secretary shall specify.

''(iii) EIN REQUIREMENTS.—

''(I) REQUIREMENT TO PROVIDE.—An employer shall provide the employer identification number issued to such employer to the individual, upon request, for purposes of providing the information under clause (i)(III).

''(II) REQUIREMENT TO AFFIRMATIVELY STATE A LACK OF RECENT EMPLOYMENT.—An individual providing information under clause (i)(III) who was not employed in the United States during any of the 5 most recently completed calendar years shall affirmatively state on the form described in subsection (c)(1)(A)(i) that no employer identification number is provided because the individual was not employed in the United States during such period.

''(C) INITIAL RESPONSE.—Not later than 10 days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

''(i) if the System is able to confirm the individual's identity and eligibility for employment in the United States, a confirmation notice, including the appropriate codes on such confirmation notice; or

''(ii) if the System is unable to confirm the individual's identity or eligibility for employment in the United States, and after a secondary manual verification has been conducted, a tentative nonconfirmation notice, including the appropriate codes on such tentative nonconfirmation notice.

''(D) CONFIRMATION OR NONCONFIRMATION.—

''(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under paragraph (C)(i) for an individual, the employer shall record, on the form described in subsection (c)(1)(A)(i), the appropriate code provided in such notice.

''(ii) TENTATIVE NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under paragraph (C)(ii) for an individual, the employer shall inform such individual of the issuance of such notice in writing, on a form prescribed by the Secretary not later than 3 days after receiving such notice. Such individual shall acknowledge receipt of such notice in writing on the form described in subsection (c)(1)(A)(i).

''(iii) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form described in subsection (1)(A)(i), the appropriate code provided through the System to indicate the individual did not contest the tentative nonconfirmation. An individual's failure to contest a tentative nonconfirmation shall not be considered an admission of guilt with respect to any violation of this Act or any other provision of law.

''(iv) CONTEST.—If the individual contests the tentative nonconfirmation notice, the individual shall submit appropriate information to contest such notice under the procedures established in subparagraph (E)(iii) not later than 10 days after receiving the notice from the individual's employer.

''(v) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION NOTICE.—A tentative nonconfirmation notice shall remain in effect until such notice becomes final under clause (iii), or the earlier of—

''(I) a final confirmation notice or final nonconfirmation notice is issued through the System; or

''(II) 30 days after the individual contests a tentative nonconfirmation under clause (iv).

''(vi) AUTOMATIC FINAL NOTICE.—

''(I) IN GENERAL.—If a final notice is not issued within the 30-day period described in clause (v)(II), the Secretary shall automatically provide to the employer, through the System, the appropriate code indicating a final notice.

''(II) PERIOD PRIOR TO INITIAL CERTIFICATION.—During the period beginning on the date of the enactment of the Fair Minimum Wage Act of 2007 and ending on the date the Secretary submits the initial report described in subparagraph (E)(ii), an automatic notice issued under subclause (I) shall be a final confirmation notice.

''(III) PERIOD AFTER INITIAL CERTIFICATION.—After the date that the Secretary submits the initial report described in subparagraph (E)(ii), an automatic notice issued under subclause (I) shall be a final confirmation notice unless the most recent such report includes a certification that the System is able to correctly issue, within the period beginning on the date an employer submits an inquiry to the System and ending on the date an automatic default notice would be issued by the System, a final notice in at least 99 percent of the cases in which the notice relates to an individual who is eligible for employment in the United States. If the most recent such report includes such a certification, the automatic notice issued under subclause (I) shall be a final nonconfirmation notice.

''(IV) ADDITIONAL AUTHORITY.—Notwithstanding the second sentence of subclause (III), the Secretary shall have the authority to issue a final confirmation notice for an individual who would be subject to a final nonconfirmation notice under such sentence. In such a case, the Secretary shall determine the individual's eligibility for employment in the United States and record the results of such determination in the System within 12 months.

''(vii) EFFECTIVE PERIOD OF FINAL NOTICE.—A final confirmation notice issued under this paragraph for an individual shall remain in effect—

''(I) during any continuous period of employment of such individual by such employer, unless the Secretary determines the final confirmation was the result of identity fraud; or

''(II) in the case of an alien authorized to be employed in the United States for a temporary period, during such period.

''(viii) PROHIBITION ON TERMINATION.—An employer may not terminate the employment of an individual based on a tentative nonconfirmation notice until such notice becomes final under clause (iii) or a final nonconfirmation notice is issued for the individual by the System. Nothing in this clause shall prohibit the termination of employment for any reason other than such tentative nonconfirmation.

''(ix) RECORDING OF CONTEST RESOLUTION.—The employer shall record on the form described in subsection (c)(1)(A)(i) the appropriate code that is provided through the System to indicate a final confirmation notice or final nonconfirmation notice.

''(x) CONSEQUENCES OF NONCONFIRMATION.—If the employer has received a final nonconfirmation regarding an individual, the employer shall terminate the employment, recruitment, or referral of the individual. Such employer shall provide to the Secretary any information relating to the individual that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws. If the employer continues to employ, recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

''(E) RESPONSIBILITIES OF THE SECRETARY.—

''(i) IN GENERAL.—The Secretary shall establish a reliable, secure method to provide through the System, within the time periods required by this subsection—

''(I) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer is consistent with such information maintained by the Secretary in order to confirm the validity of the information provided; and

''(II) a determination of whether the individual is authorized to be employed in the United States.

''(ii) ANNUAL REPORT AND CERTIFICATION.—Not later than the date that is 24 months after the date that not less than $400,000,000 have been appropriated and made available to the Secretary to implement this subsection, and annually thereafter, the Secretary shall submit to Congress a report that includes—

''(I) an assessment of whether the System is able to correctly issue, within the period described in subparagraph (D)(v)(II), a final notice in at least 99 percent of the cases in which the final notice relates to an individual who is eligible for employment in the United States (excluding an individual who fails to contest a tentative nonconfirmation notice); and

''(II) if the assessment under subclause (I) is that the System is able to correctly issue within the specified time period a final notice in at least 99 percent of the cases described in such subclause, a certification of such assessment.

''(iii) CONTEST AND SELF-VERIFICATION.—The Secretary in consultation with the Commissioner of Social Security, shall establish procedures to permit an individual who contests a tentative or final nonconfirmation notice, or seeks to verify the individual's own employment eligibility prior to obtaining or changing employment, to contact the appropriate agency and, in a timely manner, correct or update the information used by the System.

''(iv) INFORMATION TO EMPLOYEE.—The Secretary shall develop a written form for employers to provide to individuals who receive a tentative or final nonconfirmation notice. Such form shall be made available in a language other than English, as necessary and reasonable, and shall include—

''(I) information about the reason for such notice;

''(II) the right to contest such notice;

''(III) contact information for the appropriate agency and instructions for initiating such contest; and

''(IV) a 24-hour toll-free telephone number to respond to inquiries related to such notice.

''(v) TRAINING MATERIALS.—The Secretary shall make available or provide to the employer, upon request, not later than 60 days prior to such employer's participation in the System, appropriate training materials to facilitate compliance with this subsection, and sections 274B(a)(7) and 274C(a).

''(F) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The responsibilities of the Commissioner of Social Security with respect to the System are set out in section 205(c)(2) of the Social Security Act.

''(9) PROTECTION FROM LIABILITY.—No employer that participates in the System shall be liable under any law for any employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

''(10) ADMINISTRATIVE REVIEW.—

''(A) IN GENERAL.—An individual who is terminated from employment as a result of a final nonconfirmation notice may, not later

than 60 days after the date of such termination, file an appeal of such notice.

''(B) PROCEDURES.—The Secretary and Commissioner of Social Security shall develop procedures to review appeals filed under subparagraph (A) and to make final determinations on such appeals.

''(C) REVIEW FOR ERRORS.—If a final determination on an appeal filed under subparagraph (A) results in a confirmation of an individual's eligibility to work in the United States, the administrative review process shall require the Secretary to determine if the final nonconfirmation notice issued for the individual was the result of—

''(i) an error or negligence on the part of an employee or official operating or responsible for the System;

''(ii) the decision rules, processes, or procedures utilized by the System; or

''(iii) erroneous system information that was not the result of acts or omissions of the individual.

''(D) COMPENSATION FOR ERROR.—

''(i) IN GENERAL.—If the Secretary makes a determination under subparagraph (C) that the final nonconfirmation notice issued for an individual was not caused by an act or omission of the individual, the Secretary shall compensate the individual for lost wages.

''(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that prevailed prior to termination. The individual shall be compensated for wages lost beginning on the first scheduled work day after employment was terminated and ending 180 days after completion of the administrative review process described in this paragraph or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first.

''(E) LIMITATION ON COMPENSATION.—For purposes of determining an individual's compensation for the loss of employment, such compensation shall not include any period in which the individual was ineligible for employment in the United States.

''(F) SOURCE OF FUNDS.—Compensation or reimbursement provided under this paragraph shall not be provided from funds appropriated in annual appropriations Acts to the Secretary for the Department of Homeland Security.

''(11) JUDICIAL REVIEW.—

''(A) IN GENERAL.—After the Secretary makes a final determination on an appeal filed by an individual under the administrative review process described in paragraph (10), the individual may obtain judicial review of such determination by a civil action commenced not later than 60 days after the date of such decision, or such further time as the Secretary may allow.

''(B) JURISDICTION.—A civil action for such judicial review shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has a principal place of business, or, if the plaintiff does not reside or have a principal place of business within any such judicial district, in the District Court of the United States for the District of Columbia.

''(C) ANSWER.—As part of the Secretary's answer to a complaint for such judicial review, the Secretary shall file a certified copy of the administrative record compiled during the administrative review under paragraph (10), including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming or reversing the result of that administrative review, with or without remanding the cause for a rehearing.

''(D) COMPENSATION FOR ERROR.—

''(i) IN GENERAL.—In cases in which such judicial review reverses the final determination of the Secretary made under paragraph (10), the court shall compensate the individual for lost wages.

''(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work scheduled that prevailed prior to termination. The individual shall be compensated for wages lost beginning on the first scheduled work day after employment was terminated and ending 180 days after completion of the judicial review described in this paragraph or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first.

''(12) LIMITATION ON COLLECTION AND USE OF DATA.—

''(A) LIMITATION ON COLLECTION OF DATA.—

''(i) IN GENERAL.—The System shall collect and maintain only the minimum data necessary to facilitate the successful operation of the System, and in no case shall the data be other than—

''(I) information necessary to register employers under paragraph (5);

''(II) information necessary to initiate and respond to inquiries or contests under paragraph (8);

''(III) information necessary to establish and enforce compliance with paragraphs (5) and (8);

''(IV) information necessary to detect and prevent employment related identity fraud; and

''(V) such other information the Secretary determines is necessary, subject to a 180 day notice and comment period in the Federal Register.

''(ii) PENALTIES.—Any officer, employee, or contractor who willfully and knowingly collects and maintains data in the System other than data described in clause (i) shall be guilty of a misdemeanor and fined not more than $1,000 for each violation.

''(B) LIMITATION ON USE OF DATA.—Whoever willfully and knowingly accesses, discloses, or uses any information obtained or maintained by the System—

''(i) for the purpose of committing identity fraud, or assisting another person in committing identity fraud, as defined in section 1028 of title 18, United States Code;

''(ii) for the purpose of unlawfully obtaining employment in the United States or unlawfully obtaining employment in the United States for any other person; or

''(iii) for any purpose other than as provided for under any provision of law;

shall be guilty of a felony and upon conviction shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

''(C) EXCEPTIONS.—Nothing in subparagraph (A) or (B) may be construed to limit the collection, maintenance, or use of data by the Commissioner of Internal Revenue or the Commissioner of Social Security as provided by law.

''(13) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System.

''(14) ANNUAL GAO STUDY AND REPORT.—

''(A) REQUIREMENT.—The Comptroller General of the United States shall conduct an annual study of the System.

''(B) PURPOSE.—The study shall evaluate the accuracy, efficiency, integrity, and impact of the System.

''(C) REPORT.—Not later than the date that is 24 months after the date that not less than $400,000,000 have been appropriated and made available to the Secretary to implement this subsection, and annually thereafter, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under this paragraph. Each such report shall include, at a minimum, the following:

''(i) An assessment of the annual report and certification described in paragraph (8)(E)(ii).

''(ii) An assessment of System performance with respect to the rate at which individuals who are eligible for employment in the United States are correctly approved within each of the periods specified in paragraph (8), including a separate assessment of such rate for nationals and aliens.

''(iii) An assessment of the privacy and security of the System and its effects on identity fraud or the misuse of personal data.

''(iv) An assessment of the effects of the System on the employment of unauthorized aliens.

''(v) An assessment of the effects of the System, including the effects of tentative confirmations, on unfair immigration-related employment practices and employment discrimination based on national origin or citizenship status.

''(vi) An assessment of whether the Secretary and the Commissioner of Social Security have adequate resources to carry out the duties and responsibilities of this section.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

''(B) for the investigation of such complaints that the Secretary determines are appropriate to investigate; and

''(C) for the investigation of other violations of subsection (a) that the Secretary determines is appropriate.

''(2) AUTHORITY IN INVESTIGATIONS.—

''(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

''(i) shall have reasonable access to examine evidence regarding any employer being investigated; and

''(ii) if designated by the Secretary, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

''(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

''(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this section.

''(3) COMPLIANCE PROCEDURES.—

''(A) PREPENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

''(i) describe the violation;

''(ii) specify the laws and regulations allegedly violated;

''(iii) specify the amount of fines or other penalties to be imposed;

''(iv) disclose the material facts which establish the alleged violation; and

''(v) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

''(B) REMISSION OR MITIGATION OF PENALTIES.—

''(i) REVIEW BY SECRETARY.—If the Secretary determines that such fine or other penalty was incurred erroneously, or determines the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice.

''(ii) APPLICABILITY.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1), (2), or (3) of subsection (a) or of any other requirements of this section.

''(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer, the Secretary shall determine whether there was a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which the determination is based and the appropriate penalty.

''(4) CIVIL PENALTIES.—

''(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of paragraph (1), (2), or (3) of subsection (a) shall pay civil penalties as follows:

''(i) Pay a civil penalty of not less than $500 and not more than $4,000 for each unauthorized alien with respect to each such violation.

''(ii) If the employer has previously been fined 1 time during the 12-month period preceding the violation under this subparagraph, pay a civil penalty of not less than $4,000 and not more than $10,000 for each unauthorized alien with respect to each such violation.

''(iii) If the employer has previously been fined more than 1 time during the 24-month period preceding the violation under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of not less than $6,000 and not more than $20,000 for each unauthorized alien with respect to each such violation.

''(B) RECORDKEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the recordkeeping requirements of subsections (a), (c), and (d), shall pay a civil penalty as follows:

''(i) Pay a civil penalty of not less than $200 and not more than $2,000 for each such violation.

''(ii) If the employer has previously been fined 1 time during the 12-month period preceding the violation under this subparagraph, pay a civil penalty of not less than $400 and not more than $4,000 for each such violation.

''(iii) If the employer has previously been fined more than 1 time during the 24-month period preceding the violation under this subparagraph or has failed to comply with a previously issued and final order related to such requirements, pay a civil penalty of not less than $600 and not more than $6,000 for each such violation.

''(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including violations of cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the criminal penalty described in subsection (f).

''(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 45 days after the date the final determination is issued, file a petition in any appropriate district court of the United States. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until entry of judgment by the court. The burden shall be on the employer to show that the final determination was not supported by substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

''(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination, not earlier than 46 days and not later than 180 days after the date the final determination is issued, in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

''(7) RECOVERY OF COSTS AND ATTORNEY'S FEES.—In any appeal brought under paragraph (5) or suit brought under paragraph (6) of this section the employer shall be entitled to recover from the Secretary reasonable costs and attorney's fees if such employer substantially prevails on the merits of the case. Such an award of attorney's fees may not exceed $25,000. Any such costs and attorney's fees assessed against the Secretary shall be charged against the operating expenses of the Department for the fiscal year in which the assessment is made, and may not be reimbursed from any other source.

''(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 3 years for the entire pattern or practice, or both.

''(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

''(g) ADJUSTMENT FOR INFLATION.—All penalties and limitations on the recovery of costs and attorney's fees in this section shall be increased every 4 years beginning January 2010 to reflect the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) for the 48 month period ending with September of the year preceding the year such adjustment is made. Any adjustment under this subparagraph shall be rounded to the nearest dollar.

''(h) PROHIBITION OF INDEMNITY BONDS.—

''(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referring for a fee, of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the Employer Compliance Fund established under section 286(w).

''(i) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

''(1) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 5 years. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, 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 5 years.

''(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive operation of this subsection or may limit the duration or scope of the debarment.

''(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, shall be debarred from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 5 years.

''(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, 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 5 years.

''(C) WAIVER.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 5 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. The decision of whether to debar or take alternate action under this subparagraph shall not be judicially reviewed.

''(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of

actions that could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(j) MISCELLANEOUS PROVISIONS.—

''(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens eligible to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement (other than aliens lawfully admitted for permanent residence).

''(2) PREEMPTION.—The provisions of this section preempt any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens.

''(k) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Employer Compliance Fund established under section 286(w).

''(l) DEFINITIONS.—In this section:

''(1) EMPLOYER.—The term 'employer' means any person or entity, including any entity of the Government of the United States, hiring, recruiting, or referring an individual for employment in the United States.

''(2) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(3) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

''(A) an alien lawfully admitted for permanent residence; or

''(B) authorized to be so employed by this Act or by the Secretary.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS.—

(A) REPEAL OF BASIC PILOT.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) are repealed.

(B) REPEAL OF REPORTING REQUIREMENTS.—

(i) REPORT ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.—Subsection (c) of section 290 of the Immigration and Nationality Act (8 U.S.C. 1360) is repealed.

(ii) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Subsection (b) of section 414 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1360 note) is repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A of the Immigration and Nationality Act, as amended by subsection (a), may be construed to limit the authority of the Secretary of Homeland Security to allow or continue to allow the participation of employers who participated in the basic pilot program under sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a note) in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) TECHNICAL AMENDMENTS.—

(1) DEFINITION OF UNAUTHORIZED ALIEN.—The Immigration and Nationality Act is amended in sections 218(i)(1) (8 U.S.C. 1188(i)(1)), 245(c)(8) (8 U.S.C. 1255(c)(8)), 274(a)(3)(B)(i) (8 U.S.C. 1324(a)(3)(B)(i)), and 274B(a)(1) (8 U.S.C. 1324b(a)(1)) are amended by striking ''274A(h)(3)'' and inserting ''274A''.

(2) DOCUMENT REQUIREMENTS.—Section 274B of the Immigration and Nationality Act (8 U.S.C. 1324b) is amended—

(A) in subsections (a)(6) and (g)(2)(B), by striking ''274A(b)'' and inserting ''274A(c) and (d)''; and

(B) in subsection (g)(2)(B)(ii), by striking ''274A(b)(5)'' and inserting ''274A(c)''.

(d) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended by adding at the end the following new subparagraphs:

''(I)(i) The Commissioner of Social Security shall, subject to the provisions of section 201(f)(2) of the Fair Minimum Wage Act of 2007, establish a reliable, secure method to provide through the Electronic Employment Verification System established pursuant to subsection (d) of section 274A of the Immigration and Nationality Act (referred to in this subparagraph as the 'System'), within the time periods required by paragraph (8) of such subsection—

''(I) a determination of whether the name, date of birth, employer identification number, and social security account number of an individual provided in an inquiry made to the System by an employer is consistent with such information maintained by the Commissioner in order to confirm the validity of the information provided;

''(II) a determination of the citizenship status associated with such name and social security account number, according to the records maintained by the Commissioner;

''(III) a determination of whether the name and number belongs to an individual who is deceased, according to the records maintained by the Commissioner;

''(IV) a determination of whether the name and number is blocked in accordance with clause (ii); and

''(V) a confirmation notice or a nonconfirmation notice described in such paragraph (8), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

''(ii) The Commissioner of Social Security shall prevent the fraudulent or other misuse of a social security account number by establishing procedures under which an individual who has been assigned a social security account number may block the use of such number under the System and remove such block.

''(J) In assigning social security account numbers to aliens who are authorized to work in the United States under section 218A of the Immigration and Nationality Act, the Commissioner of Social Security shall, to the maximum extent practicable, assign such numbers by employing the enumeration procedure administered jointly by the Commissioner, the Secretary of State, and the Secretary.''.

(e) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION.—

(1) IN GENERAL.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(21) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HOMELAND SECURITY.—

''(A) IN GENERAL.—From taxpayer identity information which has been disclosed to the Social Security Administration and upon written request by the Secretary of Homeland Security, the Commissioner of Social Security shall disclose directly to officers, employees, and contractors of the Department of Homeland Security the following information:

''(i) DISCLOSURE OF EMPLOYER NO-MATCH NOTICES.—Taxpayer identity information of each person who has filed an information return required by reason of section 6051 during calendar year 2006, 2007, or 2008 which contains—

''(I) more than 100 names and taxpayer identifying numbers of employees (within the meaning of such section) that did not match the records maintained by the Commissioner of Social Security, or

''(II) more than 10 names of employees (within the meaning of such section) with the same taxpayer identifying number.

''(ii) DISCLOSURE OF INFORMATION REGARDING USE OF DUPLICATE EMPLOYEE TAXPAYER IDENTIFYING INFORMATION.—Taxpayer identity information of each person who has filed an information return required by reason of section 6051 which the Commissioner of Social Security has reason to believe, based on a comparison with information submitted by the Secretary of Homeland Security, contains evidence of identity fraud due to the multiple use of the same taxpayer identifying number (assigned under section 6109) of an employee (within the meaning of section 6051).

''(iii) DISCLOSURE OF INFORMATION REGARDING NONPARTICIPATING EMPLOYERS.—Taxpayer identity information of each person who has filed an information return required by reason of section 6051 which the Commissioner of Social Security has reason to believe, based on a comparison with information submitted by the Secretary of Homeland Security, contains evidence of such person's failure to register and participate in the Electronic Employment Verification System authorized under section 274A(d) of the Immigration and Nationality Act (hereafter in this paragraph referred to as the 'System').

''(iv) DISCLOSURE OF INFORMATION REGARDING NEW EMPLOYEES OF NONPARTICIPATING EMPLOYERS.—Taxpayer identity information of all employees (within the meaning of section 6051) hired after the date a person identified in clause (iii) is required to participate in the System under section 274A(d)(2) or section 274A(d)(3)(B) of the Immigration and Nationality Act.

''(v) DISCLOSURE OF INFORMATION REGARDING EMPLOYEES OF CERTAIN DESIGNATED EMPLOYERS.—Taxpayer identity information of all employees (within the meaning of section 6051) of each person who is required to participate in the System under section 274A(d)(3)(B) of the Immigration and Nationality Act.

''(vi) DISCLOSURE OF NEW HIRE TAXPAYER IDENTITY INFORMATION.—Taxpayer identity information of each person participating in the System and taxpayer identity information of all employees (within the meaning of section 6051) of such person hired during the period beginning with the later of—

''(I) the date such person begins to participate in the System, or

''(II) the date of the request immediately preceding the most recent request under this clause,

ending with the date of the most recent request under this clause.

''(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose taxpayer identity information under subparagraph (A) only for purposes of, and to the extent necessary in—

''(i) establishing and enforcing employer participation in the System,

''(ii) carrying out, including through civil administrative and civil judicial proceedings, of sections 212, 217, 235, 237, 238, 274A, 274B, and 274C of the Immigration and Nationality Act, and

''(iii) the civil operation of the Alien Terrorist Removal Court.

''(C) REIMBURSEMENT.—The Commissioner of Social Security shall prescribe a reasonable fee schedule for furnishing taxpayer identity information under this paragraph

and collect such fees in advance from the Secretary of Homeland Security.

''(D) TERMINATION.—This paragraph shall not apply to any request made after the date which is 3 years after the date of the enactment of this paragraph.''.

(2) COMPLIANCE BY DHS CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.—

(A) IN GENERAL.—Section 6103(p) of such Code is amended by adding at the end the following new paragraph:

''(9) DISCLOSURE TO DHS CONTRACTORS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor of the Department of Homeland Security unless such Department, to the satisfaction of the Secretary—

''(A) has requirements in effect which require each such contractor which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

''(B) agrees to conduct an on-site review every 3 years (mid-point review in the case of contracts or agreements of less than 1 year in duration) of each contractor to determine compliance with such requirements,

''(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

''(D) certifies to the Secretary for the most recent annual period that such contractor is in compliance with all such requirements.

''The certification required by subparagraph (D) shall include the name and address of each contractor, a description of the contract or agreement with such contractor, and the duration of such contract or agreement.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6103(a)(3) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(B) Section 6103(p)(3)(A) of such Code is amended by adding at the end the following new sentence: ''The Commissioner of Social Security shall provide to the Secretary such information as the Secretary may require in carrying out this paragraph with respect to return information inspected or disclosed under the authority of subsection (l)(21).''.

(C) Section 6103(p)(4) of such Code is amended—

(i) by striking ''or (17)'' both places it appears and inserting ''(17), or (21)'', and

(ii) by striking ''or (20)'' each place it appears and inserting ''(20), or (21)''.

(D) Section 6103(p)(8)(B) of such Code is amended by inserting ''or paragraph (9)'' after ''subparagraph (A)''.

(E) Section 7213(a)(2) of such Code is amended by striking ''or (20)'' and inserting ''(20), or (21)''.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as are necessary to carry out the amendments made by this section.

(2) LIMITATION ON VERIFICATION RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security is authorized to perform activities with respect to carrying out the Commissioner's responsibilities in this title or the amendments made by this title, but only to the extent the Secretary of Homeland Security has provided, in advance, funds to cover the Commissioner's full costs in carrying out such responsibilities. In no case shall funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund be used to carry out such responsibilities.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(2) SUBSECTION (e).—

(A) IN GENERAL.—The amendments made by subsection (e) shall apply to disclosures made after the date of the enactment of this Act.

(B) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (e)(2), shall be made with respect to calendar year 2008.

SEC. 202. EMPLOYER COMPLIANCE FUND.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

''(w) EMPLOYER COMPLIANCE FUND.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury, a separate account, which shall be known as the 'Employer Compliance Fund' (referred to in this subsection as the 'Fund').

''(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all civil monetary penalties collected by the Secretary of Homeland Security under section 274A.

''(3) PURPOSE.—Amounts refunded to the Secretary from the Fund shall be used for the purposes of enhancing and enforcing employer compliance with section 274A.

''(4) AVAILABILITY OF FUNDS.—Amounts deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Secretary of Homeland Security.''.

SEC. 203. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) INCREASE IN NUMBER OF PERSONNEL.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,200, the number of personnel of the Bureau of Immigration and Customs Enforcement during the 5-year period beginning on the date of the enactment of this Act.

(b) USE OF PERSONNEL.—The Secretary of Homeland Security shall ensure that not less than 25 percent of all the hours expended by personnel of the Bureau of Immigration and Customs Enforcement shall be used to enforce compliance with sections 274A and 274C of the Immigration and Nationality Act (8 U.S.C. 1324a and 1324c).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for each of the fiscal years 2008 through 2012 such sums as may be necessary to carry out this section.

SEC. 204. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

SEC. 205. ANTIDISCRIMINATION PROTECTIONS.

(a) APPLICATION OF PROHIBITION OF DISCRIMINATION TO VERIFICATION SYSTEM.—Section 274B(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)(1)) is amended by inserting '', the verification of the individual's work authorization through the Electronic Employment Verification System described in section 274A(d),'' after ''the individual for employment''.

(b) CLASSES OF ALIENS AS PROTECTED INDIVIDUALS.—Section 274B(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)(3)(B)) is amended to read as follows:

''(B) is an alien who is—

''(i) lawfully admitted for permanent residence;

''(ii) granted the status of an alien lawfully admitted for temporary residence under section 210(a) or 245(a)(1);

''(iii) admitted as a refugee under section 207;

''(iv) granted asylum under section 208;

''(v) granted the status of a nonimmigrant under section 101(a)(15)(H)(ii)(c);

''(vi) granted temporary protected status under section 244; or

''(vii) granted parole under section 212(d)(5).''.

(c) REQUIREMENTS FOR ELECTRONIC EMPLOYMENT VERIFICATION.—Section 274B(a) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)) is amended by adding at the end the following:

''(7) ANTIDISCRIMINATION REQUIREMENTS OF THE ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—It is an unfair immigration-related employment practice for a person or other entity, in the course of the electronic verification process described in section 274A(d)—

''(A) to terminate or undertake any adverse employment action due to a tentative nonconfirmation;

''(B) to use the verification system for screening of an applicant prior to an offer of employment;

''(C) except as described in section 274A(d)(3)(B), to use the verification system for a current employee after the first 3 days of employment, or for the reverification of an employee after the employee has satisfied the process described in section 274A(d); or

''(D) to require an individual to make an inquiry under the self-verification procedures established in section 274A(d)(8)(E)(iii).''.

(d) INCREASE IN CIVIL MONEY PENALTIES.—Section 274B(g)(2) of the Immigration and Nationality Act (8 U.S.C. 1324b(g)(2)) is amended—

(1) in subparagraph (B)(iv)—

(A) in subclause (I), by striking ''$250 and not more than $2,000'' and inserting ''$1,000 and not more than $4,000'';

(B) in subclause (II), by striking ''$2,000 and not more than $5,000'' and inserting ''$4,000 and not more than $10,000'';

(C) in subclause (III), by striking ''$3,000 and not more than $10,000'' and inserting ''$6,000 and not more than $20,000''; and

(D) in subclause (IV), by striking ''$100 and not more than $1,000'' and inserting ''$500 and not more than $5,000''.

(e) INCREASED FUNDING OF INFORMATION CAMPAIGN.—Section 274B(l)(3) of the Immigration and Nationality Act (8 U.S.C. 1324b(l)(3)) is amended by inserting ''and an additional $40,000,000 for each of fiscal years 2008 through 2010'' before the period at the end.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 180 days after the date of the enactment of this Act and shall apply to violations occurring on or after such date.

SA 145. Mr. SESSIONS (for himself, Mr. INHOFE, and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. 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.''.

SA 146. Mr. SESSIONS (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. RESPONSIBLE EMPLOYER REQUIREMENTS.

(a) PENALTIES FOR UNLAWFUL EMPLOYMENT OF ALIENS.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subsection (e)(4)—

(A) in subparagraph (A)(i), by striking ''not less than $250 and not more than $2,000'' and inserting ''not less than $5000 and not more than $7,500'';

(B) in subparagraph (A)(ii), by striking ''not less than $2,000 and not more than $5,000'' and inserting ''not less than $10,000 and not more than $15,000''; and

(C) in subparagraph (A)(iii), by striking ''not less than $3,000 and not more than $10,000'' and inserting ''not less than $25,000 and not more than $40,00'';

(2) in subsection (e)(5)—

(A) by inserting '', subject to paragraph (10),'' after ''in an amount'';

(B) by striking ''$100 and not more than $1,000'' and inserting ''$1,000 and not more than $25,000''; and

(C) by adding at the end the following sentence: ''Providing information to the basic pilot program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) that the person or entity knows or reasonably believes to be false, shall be treated as a violation of subsection (a)(1)(A) and shall not qualify for the exemption provided by (e)(10).'';

(3) by adding at the end of subsection (e) the following new paragraph:

''(10) EXEMPTION FROM PENALTY FOR EMPLOYERS PARTICIPATING IN THE BASIC PILOT PROGRAM.—In the case of imposition of a civil penalty under paragraph (4)(A) with respect to a violation of subsection (a)(1)(A) or (a)(2) for hiring or continuation of employment by an employer and in the case of imposition of a civil penalty under paragraph (5) for a violation of subsection (a)(1)(B) for hiring or recruitment or referral by a person or entity, the penalty otherwise imposed shall be waived if the violator establishes that it was voluntarily participating in the basic pilot electronic verification program at the time of the offense.'';

(4) by amending paragraph (1) of subsection (f) to read as follows:

''(1) CRIMINAL PENALTY.—Any person or entity which engages in a pattern or practice of violations of paragraph (1) or (2) of subsection (a) shall be fined not less than $3,000 and more than $50,000 for each unauthorized alien with respect to which such a violation occurs, imprisoned for not less than one year, or both, notwithstanding the provisions of any other Federal law relating to fine levels.''; and

(5) in subsection (f)(2), by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

(b) RETENTION AND USE OF EMPLOYMENT ELIGIBILITY VERIFICATION DOCUMENTS.—

(1) RETENTION.—Section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended by striking paragraph (4) and inserting the following:

''(4) COPYING AND RETENTION OF DOCUMENTATION.—

''(A) IN GENERAL.—A person or entity required to examine a document described in subparagraph (B), (C), or (D) of paragraph (1) or receive an attestation described in paragraph (2) shall retain a paper, microfiche, microfilm, or electronic version of each such document and attestation, indicate that each such version is a copied document, and make such versions available for inspection by an officer of the Department of Homeland Security or any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during the period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(i) in the case of the recruiting or referral for a fee (without hiring) of an individual, 5 years after the date of the recruiting or referral; or

''(ii) in the case of the hiring of an individual the later of—

''(I) 5 years after the date of such hiring; or

''(II) 1 year after the date the individual's employment is terminated.

''(B) OTHER RECORDS.—Such person or entity shall maintain records of any action taken and copies of any correspondence written or received with respect to the verification of an individual's identity or eligibility for employment in the United States.''.

(2) LIMITATION ON USE OF RETAINED DOCUMENTS.—Paragraph (5) of section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended—

(A) in the heading, by striking ''LIMITATION ON USE OF ATTESTATION FORM'' and inserting ''ATTESTATION FORM'';

(B) by redesignating such paragraph (5) as subparagraph (A);

(C) by indenting such subparagraph, as so designated, six ems from the left margin;

(D) by inserting before such subparagraph, as so designated, the following:

''(5) LIMITATION ON USE.—''; and

(E) by inserting after such subparagraph, as so designated, the following new subparagraph:

''(B) RETAINED DOCUMENTS.—A person or entity required to retain versions of documents or attestations or maintain records under paragraph (4) shall use any such version, attestation, or record only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.''.

(c) EXTENSION OF THE BASIC PILOT PROGRAM.—Section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by adding at the end the following new paragraph:

''(5) INDIVIDUALS COVERED.—Notwithstanding any other provision of this title, a person or other entity that elects to participate in the basic pilot program shall follow the procedures described in paragraphs (1) thorough (4) for each individual who the person or entity hires (or recruits or refers) for employment and for each individual who is employed by the person or entity.''.

SA 147. Mr. SESSIONS (for himself and Mr. INHOFE) submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. RESPONSIBLE EMPLOYER REQUIREMENTS.

(a) PENALTIES FOR UNLAWFUL EMPLOYMENT OF ALIENS.—Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended—

(1) in subsection (e)(4)—

(A) in subparagraph (A)(i), by striking ''not less than $250 and not more than $2,000'' and inserting ''not less than $5000 and not more than $7,500'';

(B) in subparagraph (A)(ii), by striking ''not less than $2,000 and not more than $5,000'' and inserting ''not less than $10,000 and not more than $15,000''; and

(C) in subparagraph (A)(iii), by striking ''not less than $3,000 and not more than $10,000'' and inserting ''not less than $25,000 and not more than $40,00'';

(2) in subsection (e)(5)—

(A) by inserting '', subject to paragraph (10),'' after ''in an amount'';

(B) by striking ''$100 and not more than $1,000'' and inserting ''$1,000 and not more than $25,000''; and

(C) by adding at the end the following sentence: ''Providing information to the basic pilot program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) that the person or entity knows or reasonably believes to be false, shall be treated as a violation of subsection (a)(1)(A) and shall not qualify for the exemption provided by (e)(10).'';

(3) by adding at the end of subsection (e) the following new paragraph:

''(10) EXEMPTION FROM PENALTY FOR EMPLOYERS PARTICIPATING IN THE BASIC PILOT PROGRAM.—In the case of imposition of a civil penalty under paragraph (4)(A) with respect to a violation of subsection (a)(1)(A) or (a)(2) for hiring or continuation of employment by an employer and in the case of imposition of a civil penalty under paragraph (5) for a violation of subsection (a)(1)(B) for hiring or recruitment or referral by a person or entity, the penalty otherwise imposed shall be waived if the violator establishes that it was voluntarily participating in the basic pilot electronic verification program at the time of the offense.'';

(4) by amending paragraph (1) of subsection (f) to read as follows:

''(1) CRIMINAL PENALTY.—Any person or entity which engages in a pattern or practice of violations of paragraph (1) or (2) of subsection (a) shall be fined not less than $3,000 and more than $50,000 for each unauthorized alien with respect to which such a violation occurs, imprisoned for not less than one year, or both, notwithstanding the provisions of any other Federal law relating to fine levels.''; and

(5) in subsection (f)(2), by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

(b) RETENTION AND USE OF EMPLOYMENT ELIGIBILITY VERIFICATION DOCUMENTS.—

(1) RETENTION.—Section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended by striking paragraph (4) and inserting the following:

''(4) COPYING AND RETENTION OF DOCUMENTATION.—

''(A) IN GENERAL.—A person or entity required to examine a document described in subparagraph (B), (C), or (D) of paragraph (1) or receive an attestation described in paragraph (2) shall retain a paper, microfiche, microfilm, or electronic version of each such document and attestation, indicate that each such version is a copied document, and make such versions available for inspection by an officer of the Department of Homeland Security or any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during the period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(i) in the case of the recruiting or referral for a fee (without hiring) of an individual, 5 years after the date of the recruiting or referral; or

''(ii) in the case of the hiring of an individual the later of—

''(I) 5 years after the date of such hiring; or

''(II) 1 year after the date the individual's employment is terminated.

''(B) OTHER RECORDS.—Such person or entity shall maintain records of any action taken and copies of any correspondence written or received with respect to the verification of an individual's identity or eligibility for employment in the United States.''.

(2) LIMITATION ON USE OF RETAINED DOCUMENTS.—Paragraph (5) of section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended—

(A) in the heading, by striking ''LIMITATION ON USE OF ATTESTATION FORM'' and inserting ''ATTESTATION FORM'';

(B) by redesignating such paragraph (5) as subparagraph (A);

(C) by indenting such subparagraph, as so designated, six ems from the left margin;

(D) by inserting before such subparagraph, as so designated, the following:

''(5) LIMITATION ON USE.—''; and

(E) by inserting after such subparagraph, as so designated, the following new subparagraph:

''(B) RETAINED DOCUMENTS.—A person or entity required to retain versions of documents or attestations or maintain records under paragraph (4) shall use any such version, attestation, or record only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.''.

(c) EXTENSION OF THE BASIC PILOT PROGRAM.—Section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by adding at the end the following new paragraph:

''(5) INDIVIDUALS COVERED.—Notwithstanding any other provision of this title, a person or other entity that elects to participate in the basic pilot program shall follow the procedures described in paragraphs (1) thorough (4) for each individual who the person or entity hires (or recruits or refers) for employment and for each individual who is employed by the person or entity.''.

SA 148. Mr. SESSIONS (for himself, Mr. INHOFE, and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. 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.''.

SA 149. Mr. ENSIGN (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PRECLUSION OF SOCIAL SECURITY CREDITS PRIOR TO ENUMERATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end, the following new subsection:

''(d)(1) Except as provided in paragraph (2), no quarter of coverage shall be credited for purposes of this section if, with respect to any individual who is assigned a social security account number on or after the date of enactment of the Fair Minimum Wage Act of 2007, such quarter of coverage is earned prior to the year in which such social security account number is assigned.

''(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who, at such time such quarter of coverage is earned, satisfies the criterion specified in subsection (c)(2).''.

(b) BENEFIT COMPUTATION.—Section 215(e) of such Act (42 U.S.C. 415(e)) is amended—

(1) by striking ''and'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ''; and''; and

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

''(3) in computing the average indexed monthly earnings of an individual who is assigned a social security account number on or after the date of enactment of the Fair Minimum Wage Act of 2007, there shall not be counted any wages or self-employment income for which no quarter of coverage may be credited to such individual as a result of the application of section 214(d).''.

SA 150. Mr. ENSIGN (for himself, Mr. SESSIONS, Mr. CRAIG, Mrs. DOLE, Mr. THOMAS, Mr. CORNYN, Mr. INHOFE, Mr. ISAKSON, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TRANSMITTAL AND APPROVAL OF TOTALIZATION AGREEMENTS.

(a) IN GENERAL.—Section 233(e) of the Social Security Act (42 U.S.C. 433(e)) is amended to read as follows:

''(e)(1) Any agreement to establish a totalization arrangement which is entered into with another country under this section shall enter into force with respect to the United States if (and only if)—

''(A) the President, at least 90 calendar days before the date on which the President enters into the agreement, notifies each House of Congress of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register,

''(B) the President transmits the text of such agreement to each House of Congress as provided in paragraph (2), and

''(C) an approval resolution regarding such agreement has passed both Houses of Congress and has been enacted into law.

''(2)(A) Whenever an agreement referred to in paragraph (1) is entered into, the President shall transmit to each House of Congress a document setting forth the final legal text of such agreement and including a report by the President in support of such agreement. The President's report shall include the following:

''(i) An estimate by the Chief Actuary of the Social Security Administration of the effect of the agreement, in the short term and in the long term, on the receipts and disbursements under the social security system established by this title.

''(ii) A statement of any administrative action proposed to implement the agreement and how such action will change or affect existing law.

''(iii) A statement describing whether and how the agreement changes provisions of an agreement previously negotiated.

''(iv) A statement describing how and to what extent the agreement makes progress in achieving the purposes, policies, and objectives of this title.

''(v) An estimate by the Chief Actuary of the Social Security Administration, working in consultation with the Comptroller General of the United States, of the number of individuals who may become eligible for any benefits under this title or who may otherwise be affected by the agreement.

''(vi) An assessment of the integrity of the retirement data and records (including birth, death, and marriage records) of the other country that is the subject of the agreement.

''(vii) An assessment of the ability of such country to track and monitor recipients of benefits under such agreement.

''(B) If any separate agreement or other understanding with another country (whether oral or in writing) relating to an agreement to establish a totalization arrangement under this section is not disclosed to Congress in the transmittal to Congress under this paragraph of the agreement to establish a totalization arrangement, then such separate agreement or understanding shall not be considered to be part of the agreement approved by Congress under this section and shall have no force and effect under United States law.

''(3) For purposes of this subsection, the term 'approval resolution' means a joint resolution, the matter after the resolving clause of which is as follows: 'That the proposed agreement entered into pursuant to section 233 of the Social Security Act between the United States and _____ establishing totalization arrangements between the social security system established by title II of such Act and the social security system of _____, transmitted to Congress by the President on _____, is hereby approved.', the first two blanks therein being filled with the name of the country with which the United States entered into the agreement, and the third blank therein being filled with the date of the transmittal of the agreement to Congress.

''(4) Whenever a document setting forth an agreement entered into under this section and the President's report in support of the agreement is transmitted to Congress pursuant to paragraph (2), copies of such document shall be delivered to both Houses of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

''(5) On the day on which a document setting forth the agreement is transmitted to the House of Representatives and the Senate pursuant to paragraph (1), an approval resolution with respect to such agreement shall be introduced (by request) in the House by the majority leader of the House, for himself or herself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself or herself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement is transmitted, the approval resolution with respect to such agreement shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session. The resolution introduced in the House of Representatives shall be referred to the Committee on Ways and Means and the resolution introduced in the Senate shall be referred to the Committee on Finance.''.

(b) ADDITIONAL REPORTS AND EVALUATIONS.—Section 233 of the Social Security Act (42 U.S.C. 433) is amended by adding at the end the following new subsections:

''(f) BIENNIAL SSA REPORT ON IMPACT OF TOTALIZATION AGREEMENTS.—

''(1) REPORT.—For any totalization agreement transmitted to Congress on or after January 1, 2007, the Commissioner of Social Security shall submit a report to Congress and the Comptroller General that—

''(A) compares the estimates contained in the report submitted to Congress under clauses (i) and (v) of subsection (e)(2)(A) with respect to that agreement with the actual number of individuals affected by the agreement and the actual effect of the agreement on social security system receipts and disbursements; and

''(B) contains recommendations for adjusting the methods used to make the estimates.

''(2) DATES FOR SUBMISSION.—The report required under this subsection shall be provided not later than 2 years after the effective date of the totalization agreement that is the subject of the report and biennially thereafter.

''(g) GAO EVALUATION AND REPORT.—

''(1) EVALUATION OF INITIAL REPORT ON IMPACT OF TOTALIZATION AGREEMENTS.—With respect to each initial report regarding a totalization agreement submitted under subsection (f), the Comptroller General of the United States shall conduct an evaluation of the report that includes—

''(A) an evaluation of the procedures used for making the estimates required by subsection (e)(2)(A);

''(B) an evaluation of the procedures used for determining the actual number of individuals affected by the agreement and the effects of the totalization agreement on receipts and disbursements under the social security system; and

''(C) such recommendations as the Comptroller General determines appropriate.

''(2) REPORT.—Not later than 1 year after the date of submission of an initial report regarding a totalization agreement under subsection (f), the Comptroller General shall

submit to Congress a report setting forth the results of the evaluation conducted under paragraph (1).

''(3) DATA COLLECTION.—The Commissioner of Social Security shall collect and maintain the data necessary for the Comptroller General of the United States to conduct the evaluation required by paragraph (1).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to agreements establishing totalization arrangements entered into under section 233 of the Social Security Act which are transmitted to Congress on or after January 1, 2007.

SA 151. Mr. ENSIGN (for himself, Mr. DEMINT, Mr. GRAHAM, Mr. COBURN) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NON-GROUP HIGH DEDUCTIBLE HEALTH PLAN PREMIUMS OPTIONS.

(a) IN GENERAL.—Section 223(d)(2)(C) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) a high deductible health plan, other than a group health plan (as defined in section 5000(b)(1)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SA 152. Mr. ENSIGN (for himself and Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; as follows:

At the appropriate place, insert the following:

SEC. ___. PRECLUSION OF SOCIAL SECURITY CREDITS PRIOR TO ENUMERATION.

(a) INSURED STATUS.—Section 214 of the Social Security Act (42 U.S.C. 414) is amended by adding at the end, the following new subsection:

''(d)(1) Except as provided in paragraph (2), no quarter of coverage shall be credited for purposes of this section if, with respect to any individual who is assigned a social security account number on or after the date of enactment of the Fair Minimum Wage Act of 2007, such quarter of coverage is earned prior to the year in which such social security account number is assigned.

''(2) Paragraph (1) shall not apply with respect to any quarter of coverage earned by an individual who, at such time such quarter of coverage is earned, satisfies the criterion specified in subsection (c)(2).''.

(b) BENEFIT COMPUTATION.—Section 215(e) of such Act (42 U.S.C. 415(e)) is amended—

(1) by striking ''and'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ''; and''; and

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

''(3) in computing the average indexed monthly earnings of an individual who is assigned a social security account number on or after the date of enactment of the Fair Minimum Wage Act of 2007, there shall not be counted any wages or self-employment income for which no quarter of coverage may be credited to such individual as a result of the application of section 214(d).''.

SA 153. Mr. ENSIGN (for himself, Mr. SESSIONS, Mr. CRAIG, Mrs. DOLE, Mr. THOMAS, Mr. CORNYN, Mr. INHOFE, Mr. ISAKSON, and Mr. COLEMAN) submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; as follows:

At the appropriate place, insert the following:

SEC. ___. TRANSMITTAL AND APPROVAL OF TOTALIZATION AGREEMENTS.

(a) IN GENERAL.—Section 233(e) of the Social Security Act (42 U.S.C. 433(e)) is amended to read as follows:

''(e)(1) Any agreement to establish a totalization arrangement which is entered into with another country under this section shall enter into force with respect to the United States if (and only if)—

''(A) the President, at least 90 calendar days before the date on which the President enters into the agreement, notifies each House of Congress of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register,

''(B) the President transmits the text of such agreement to each House of Congress as provided in paragraph (2), and

''(C) an approval resolution regarding such agreement has passed both Houses of Congress and has been enacted into law.

''(2)(A) Whenever an agreement referred to in paragraph (1) is entered into, the President shall transmit to each House of Congress a document setting forth the final legal text of such agreement and including a report by the President in support of such agreement. The President's report shall include the following:

''(i) An estimate by the Chief Actuary of the Social Security Administration of the effect of the agreement, in the short term and in the long term, on the receipts and disbursements under the social security system established by this title.

''(ii) A statement of any administrative action proposed to implement the agreement and how such action will change or affect existing law.

''(iii) A statement describing whether and how the agreement changes provisions of an agreement previously negotiated.

''(iv) A statement describing how and to what extent the agreement makes progress in achieving the purposes, policies, and objectives of this title.

''(v) An estimate by the Chief Actuary of the Social Security Administration, working in consultation with the Comptroller General of the United States, of the number of individuals who may become eligible for any benefits under this title or who may otherwise be affected by the agreement.

''(vi) An assessment of the integrity of the retirement data and records (including birth, death, and marriage records) of the other country that is the subject of the agreement.

''(vii) An assessment of the ability of such country to track and monitor recipients of benefits under such agreement.

''(B) If any separate agreement or other understanding with another country (whether oral or in writing) relating to an agreement to establish a totalization arrangement under this section is not disclosed to Congress in the transmittal to Congress under this paragraph of the agreement to establish a totalization arrangement, then such separate agreement or understanding shall not be considered to be part of the agreement approved by Congress under this section and shall have no force and effect under United States law.

''(3) For purposes of this subsection, the term 'approval resolution' means a joint resolution, the matter after the resolving clause of which is as follows: 'That the proposed agreement entered into pursuant to section 233 of the Social Security Act between the United States and _____ establishing totalization arrangements between the social security system established by title II of such Act and the social security system of _____, transmitted to Congress by the President on _____, is hereby approved.', the first two blanks therein being filled with the name of the country with which the United States entered into the agreement, and the third blank therein being filled with the date of the transmittal of the agreement to Congress.

''(4) Whenever a document setting forth an agreement entered into under this section and the President's report in support of the agreement is transmitted to Congress pursuant to paragraph (2), copies of such document shall be delivered to both Houses of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

''(5) On the day on which a document setting forth the agreement is transmitted to the House of Representatives and the Senate pursuant to paragraph (1), an approval resolution with respect to such agreement shall be introduced (by request) in the House by the majority leader of the House, for himself or herself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself or herself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement is transmitted, the approval resolution with respect to such agreement shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session. The resolution introduced in the House of Representatives shall be referred to the Committee on Ways and Means and the resolution introduced in the Senate shall be referred to the Committee on Finance.''.

(b) ADDITIONAL REPORTS AND EVALUATIONS.—Section 233 of the Social Security Act (42 U.S.C. 433) is amended by adding at the end the following new subsections:

''(f) BIENNIAL SSA REPORT ON IMPACT OF TOTALIZATION AGREEMENTS.—

''(1) REPORT.—For any totalization agreement transmitted to Congress on or after January 1, 2007, the Commissioner of Social Security shall submit a report to Congress and the Comptroller General that—

''(A) compares the estimates contained in the report submitted to Congress under clauses (i) and (v) of subsection (e)(2)(A) with respect to that agreement with the actual number of individuals affected by the agreement and the actual effect of the agreement on social security system receipts and disbursements; and

''(B) contains recommendations for adjusting the methods used to make the estimates.

''(2) DATES FOR SUBMISSION.—The report required under this subsection shall be provided not later than 2 years after the effective date of the totalization agreement that

is the subject of the report and biennially thereafter.

''(g) GAO EVALUATION AND REPORT.—

''(1) EVALUATION OF INITIAL REPORT ON IMPACT OF TOTALIZATION AGREEMENTS.—With respect to each initial report regarding a totalization agreement submitted under subsection (f), the Comptroller General of the United States shall conduct an evaluation of the report that includes—

''(A) an evaluation of the procedures used for making the estimates required by subsection (e)(2)(A);

''(B) an evaluation of the procedures used for determining the actual number of individuals affected by the agreement and the effects of the totalization agreement on receipts and disbursements under the social security system; and

''(C) such recommendations as the Comptroller General determines appropriate.

''(2) REPORT.—Not later than 1 year after the date of submission of an initial report regarding a totalization agreement under subsection (f), the Comptroller General shall submit to Congress a report setting forth the results of the evaluation conducted under paragraph (1).

''(3) DATA COLLECTION.—The Commissioner of Social Security shall collect and maintain the data necessary for the Comptroller General of the United States to conduct the evaluation required by paragraph (1).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to agreements establishing totalization arrangements entered into under section 233 of the Social Security Act which are transmitted to Congress on or after January 1, 2007.

SA 154. Mr. ENSIGN (for himself, Mr. DEMINT, Mr. GRAHAM, and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; as follows:

At the appropriate place, insert the following:

SEC. ___. NON-GROUP HIGH DEDUCTIBLE HEALTH PLAN PREMIUMS OPTIONS.

(a) IN GENERAL.—Section 223(d)(2)(C) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) a high deductible health plan, other than a group health plan (as defined in section 5000(b)(1)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SA 155. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE.

(a) SPECIFICATION OF CONSTITUTIONAL AUTHORITY FOR ENACTMENT OF LAW.—This section is enacted pursuant to the power granted Congress under article I, section 8, clause 3, of the United States Constitution.

(b) COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE.—

(1) IN GENERAL.—Title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.) is amended by adding at the end the following new part:

''PART D—COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE

''SEC. 2795. DEFINITIONS.

''In this part:

''(1) PRIMARY STATE.—The term 'primary State' means, with respect to individual health insurance coverage offered by a health insurance issuer, the State designated by the issuer as the State whose covered laws shall govern the health insurance issuer in the sale of such coverage under this part. An issuer, with respect to a particular policy, may only designate one such State as its primary State with respect to all such coverage it offers. Such an issuer may not change the designated primary State with respect to individual health insurance coverage once the policy is issued, except that such a change may be made upon renewal of the policy. With respect to such designated State, the issuer is deemed to be doing business in that State.

''(2) SECONDARY STATE.—The term 'secondary State' means, with respect to individual health insurance coverage offered by a health insurance issuer, any State that is not the primary State. In the case of a health insurance issuer that is selling a policy in, or to a resident of, a secondary State, the issuer is deemed to be doing business in that secondary State.

''(3) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 2791(b)(2), except that such an issuer must be licensed in the primary State and be qualified to sell individual health insurance coverage in that State.

''(4) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term 'individual health insurance coverage' means health insurance coverage offered in the individual market, as defined in section 2791(e)(1).

''(5) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State with respect to the issuer.

''(6) HAZARDOUS FINANCIAL CONDITION.—The term 'hazardous financial condition' means that, based on its present or reasonably anticipated financial condition, a health insurance issuer is unlikely to be able—

''(A) to meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or

''(B) to pay other obligations in the normal course of business.

''(7) COVERED LAWS.—The term 'covered laws' means the laws, rules, regulations, agreements, and orders governing the insurance business pertaining to—

''(A) individual health insurance coverage issued by a health insurance issuer;

''(B) the offer, sale, and issuance of individual health insurance coverage to an individual; and

''(C) the provision to an individual in relation to individual health insurance coverage of—

''(i) health care and insurance related services;

''(ii) management, operations, and investment activities of a health insurance issuer; and

''(iii) loss control and claims administration for a health insurance issuer with respect to liability for which the issuer provides insurance.

''(8) STATE.—The term 'State' means only the 50 States and the District of Columbia.

''(9) UNFAIR CLAIMS SETTLEMENT PRACTICES.—The term 'unfair claims settlement practices' means only the following practices:

''(A) Knowingly misrepresenting to claimants and insured individuals relevant facts or policy provisions relating to coverage at issue.

''(B) Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under policies.

''(C) Failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under policies.

''(D) Failing to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear.

''(E) Refusing to pay claims without conducting a reasonable investigation.

''(F) Failing to affirm or deny coverage of claims within a reasonable period of time after having completed an investigation related to those claims.

''(10) FRAUD AND ABUSE.—The term 'fraud and abuse' means an act or omission committed by a person who, knowingly and with intent to defraud, commits, or conceals any material information concerning, one or more of the following:

''(A) Presenting, causing to be presented or preparing with knowledge or belief that it will be presented to or by an insurer, a reinsurer, broker or its agent, false information as part of, in support of or concerning a fact material to one or more of the following:

''(i) An application for the issuance or renewal of an insurance policy or reinsurance contract.

''(ii) The rating of an insurance policy or reinsurance contract.

''(iii) A claim for payment or benefit pursuant to an insurance policy or reinsurance contract.

''(iv) Premiums paid on an insurance policy or reinsurance contract.

''(v) Payments made in accordance with the terms of an insurance policy or reinsurance contract.

''(vi) A document filed with the commissioner or the chief insurance regulatory official of another jurisdiction.

''(vii) The financial condition of an insurer or reinsurer.

''(viii) The formation, acquisition, merger, reconsolidation, dissolution or withdrawal from one or more lines of insurance or reinsurance in all or part of a State by an insurer or reinsurer.

''(ix) The issuance of written evidence of insurance.

''(x) The reinstatement of an insurance policy.

''(B) Solicitation or acceptance of new or renewal insurance risks on behalf of an insurer, reinsurer, or other person engaged in the business of insurance by a person who knows or should know that the insurer or other person responsible for the risk is insolvent at the time of the transaction.

''(C) Transaction of the business of insurance in violation of laws requiring a license, certificate of authority, or other legal authority for the transaction of the business of insurance.

''(D) Attempt to commit, aiding or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this paragraph.

''SEC. 2796. APPLICATION OF LAW.

''(a) IN GENERAL.—The covered laws of the primary State shall apply to individual health insurance coverage offered by a

health insurance issuer in the primary State and in any secondary State, but only if the coverage and issuer comply with the conditions of this section with respect to the offering of coverage in any secondary State.

''(b) EXEMPTIONS FROM COVERED LAWS IN A SECONDARY STATE.—Except as provided in this section, a health insurance issuer with respect to its offer, sale, renewal, and issuance of individual health insurance coverage in any secondary State is exempt from any covered laws of the secondary State (and any rules, regulations, agreements, or orders sought or issued by such State under or related to such covered laws) to the extent that such laws would—

''(1) make unlawful, or regulate, directly or indirectly, the operation of the health insurance issuer operating in the secondary State, except that any secondary State may require such an issuer—

''(A) to pay, on a nondiscriminatory basis, applicable premium and other taxes (including high risk pool assessments) which are levied on insurers and surplus lines insurers, brokers, or policyholders under the laws of the State;

''(B) to register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process;

''(C) to submit to an examination of its financial condition by the State insurance commissioner in any State in which the issuer is doing business to determine the issuer's financial condition, if—

''(i) the State insurance commissioner of the primary State has not done an examination within the period recommended by the National Association of Insurance Commissioners; and

''(ii) any such examination is conducted in accordance with the examiners' handbook of the National Association of Insurance Commissioners and is coordinated to avoid unjustified duplication and unjustified repetition;

''(D) to comply with a lawful order issued—

''(i) in a delinquency proceeding commenced by the State insurance commissioner if there has been a finding of financial impairment under subparagraph (C); or

''(ii) in a voluntary dissolution proceeding;

''(E) to comply with an injunction issued by a court of competent jurisdiction, upon a petition by the State insurance commissioner alleging that the issuer is in hazardous financial condition;

''(F) to participate, on a nondiscriminatory basis, in any insurance insolvency guaranty association or similar association to which a health insurance issuer in the State is required to belong;

''(G) to comply with any State law regarding fraud and abuse (as defined in section 2795(10)), except that if the State seeks an injunction regarding the conduct described in this subparagraph, such injunction must be obtained from a court of competent jurisdiction; or

''(H) to comply with any State law regarding unfair claims settlement practices (as defined in section 2795(9));

''(2) require any individual health insurance coverage issued by the issuer to be countersigned by an insurance agent or broker residing in that Secondary State; or

''(3) otherwise discriminate against the issuer issuing insurance in both the primary State and in any secondary State.

''(c) CLEAR AND CONSPICUOUS DISCLOSURE.—A health insurance issuer shall provide the following notice, in 12-point bold type, in any insurance coverage offered in a secondary State under this part by such a health insurance issuer and at renewal of the policy, with the 5 blank spaces therein being appropriately filled with the name of the health insurance issuer, the name of primary State, the name of the secondary State, the name of the secondary State, and the name of the secondary State, respectively, for the coverage concerned:

'This policy is issued by _____ and is governed by the laws and regulations of the State of _____, and it has met all the laws of that State as determined by that State's Department of Insurance. This policy may be less expensive than others because it is not subject to all of the insurance laws and regulations of the State of _____, including coverage of some services or benefits mandated by the law of the State of _____. Additionally, this policy is not subject to all of the consumer protection laws or restrictions on rate changes of the State of _____. As with all insurance products, before purchasing this policy, you should carefully review the policy and determine what health care services the policy covers and what benefits it provides, including any exclusions, limitations, or conditions for such services or benefits.'.

''(d) PROHIBITION ON CERTAIN RECLASSIFICATIONS AND PREMIUM INCREASES.—

''(1) IN GENERAL.—For purposes of this section, a health insurance issuer that provides individual health insurance coverage to an individual under this part in a primary or secondary State may not upon renewal—

''(A) move or reclassify the individual insured under the health insurance coverage from the class such individual is in at the time of issue of the contract based on the health-status related factors of the individual; or

''(B) increase the premiums assessed the individual for such coverage based on a health status-related factor or change of a health status-related factor or the past or prospective claim experience of the insured individual.

''(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to prohibit a health insurance issuer—

''(A) from terminating or discontinuing coverage or a class of coverage in accordance with subsections (b) and (c) of section 2742;

''(B) from raising premium rates for all policy holders within a class based on claims experience;

''(C) from changing premiums or offering discounted premiums to individuals who engage in wellness activities at intervals prescribed by the issuer, if such premium changes or incentives—

''(i) are disclosed to the consumer in the insurance contract;

''(ii) are based on specific wellness activities that are not applicable to all individuals; and

''(iii) are not obtainable by all individuals to whom coverage is offered;

''(D) from reinstating lapsed coverage; or

''(E) from retroactively adjusting the rates charged an individual insured individual if the initial rates were set based on material misrepresentation by the individual at the time of issue.

''(e) PRIOR OFFERING OF POLICY IN PRIMARY STATE.—A health insurance issuer may not offer for sale individual health insurance coverage in a secondary State unless that coverage is currently offered for sale in the primary State.

''(f) LICENSING OF AGENTS OR BROKERS FOR HEALTH INSURANCE ISSUERS.—Any State may require that a person acting, or offering to act, as an agent or broker for a health insurance issuer with respect to the offering of individual health insurance coverage obtain a license from that State, except that a State many not impose any qualification or requirement which discriminates against a nonresident agent or broker.

''(g) DOCUMENTS FOR SUBMISSION TO STATE INSURANCE COMMISSIONER.—Each health insurance issuer issuing individual health insurance coverage in both primary and secondary States shall submit—

''(1) to the insurance commissioner of each State in which it intends to offer such coverage, before it may offer individual health insurance coverage in such State—

''(A) a copy of the plan of operation or feasibility study or any similar statement of the policy being offered and its coverage (which shall include the name of its primary State and its principal place of business);

''(B) written notice of any change in its designation of its primary State; and

''(C) written notice from the issuer of the issuer's compliance with all the laws of the primary State; and

''(2) to the insurance commissioner of each secondary State in which it offers individual health insurance coverage, a copy of the issuer's quarterly financial statement submitted to the primary State, which statement shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by—

''(A) a member of the American Academy of Actuaries; or

''(B) a qualified loss reserve specialist.

''(h) POWER OF COURTS TO ENJOIN CONDUCT.—Nothing in this section shall be construed to affect the authority of any Federal or State court to enjoin—

''(1) the solicitation or sale of individual health insurance coverage by a health insurance issuer to any person or group who is not eligible for such insurance; or

''(2) the solicitation or sale of individual health insurance coverage by, or operation of, a health insurance issuer that is in hazardous financial condition.

''(i) STATE POWERS TO ENFORCE STATE LAWS.—

''(1) IN GENERAL.—Subject to the provisions of subsection (b)(1)(G) (relating to injunctions) and paragraph (2), nothing in this section shall be construed to affect the authority of any State to make use of any of its powers to enforce the laws of such State with respect to which a health insurance issuer is not exempt under subsection (b).

''(2) COURTS OF COMPETENT JURISDICTION.—If a State seeks an injunction regarding the conduct described in paragraphs (1) and (2) of subsection (h), such injunction must be obtained from a Federal or State court of competent jurisdiction.

''(j) STATES' AUTHORITY TO SUE.—Nothing in this section shall affect the authority of any State to bring action in any Federal or State court.

''(k) GENERALLY APPLICABLE LAWS.—Nothing in this section shall be construed to affect the applicability of State laws generally applicable to persons or corporations.

''SEC. 2797. PRIMARY STATE MUST MEET FEDERAL FLOOR BEFORE ISSUER MAY SELL INTO SECONDARY STATES.

''A health insurance issuer may not offer, sell, or issue individual health insurance coverage in a secondary State if the primary State does not meet the following requirements:

''(1) The State insurance commissioner must use a risk-based capital formula for the determination of capital and surplus requirements for all health insurance issuers.

''(2) The State must have legislation or regulations in place establishing an independent review process for individuals who are covered by individual health insurance coverage unless the issuer provides an independent review mechanism functionally equivalent (as determined by the primary State insurance commissioner or official) to

that prescribed in the 'Health Carrier External Review Model Act' of the National Association of Insurance Commissioners for all individuals who purchase insurance coverage under the terms of this part.

"SEC. 2798. ENFORCEMENT.

''(a) IN GENERAL.—Subject to subsection (b), with respect to specific individual health insurance coverage the primary State for such coverage has sole jurisdiction to enforce the primary State's covered laws in the primary State and any secondary State.

''(b) SECONDARY STATE'S AUTHORITY.—Nothing in subsection (a) shall be construed to affect the authority of a secondary State to enforce its laws as set forth in the exception specified in section 2796(b)(1).

''(c) COURT INTERPRETATION.—In reviewing action initiated by the applicable secondary State authority, the court of competent jurisdiction shall apply the covered laws of the primary State.

''(d) NOTICE OF COMPLIANCE FAILURE.—In the case of individual health insurance coverage offered in a secondary State that fails to comply with the covered laws of the primary State, the applicable State authority of the secondary State may notify the applicable State authority of the primary State.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to individual health insurance coverage offered, issued, or sold after the date of the enactment of this Act.

(c) SEVERABILITY.—If any provision of this section or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this section and the application of the provisions of such to any other person or circumstance shall not be affected.

SEC. ___. DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following:

''(h) CONTRIBUTIONS OF CERTAIN UNUSED HEALTH BENEFITS.—

''(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a cafeteria plan solely because qualified benefits under such plan include a health flexible spending arrangement under which not more than $500 of unused health benefits may be—

''(A) carried forward to the succeeding plan year of such health flexible spending arrangement, or

''(B) to the extent permitted by section 106(d), contributed by the employer to a health savings account (as defined in section 223(d)) maintained for the benefit of the employee.

''(2) HEALTH FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, the term 'health flexible spending arrangement' means a flexible spending arrangement (as defined in section 106(c)) that is a qualified benefit and only permits reimbursement for expenses for medical care (as defined in section 213(d)(1), without regard to subparagraphs (C) and (D) thereof).

''(3) UNUSED HEALTH BENEFITS.—For purposes of this subsection, with respect to an employee, the term 'unused health benefits' means the excess of—

''(A) the maximum amount of reimbursement allowable to the employee for a plan year under a health flexible spending arrangement, over

''(B) the actual amount of reimbursement for such year under such arrangement.''.

(b) REPEAL OF FSA TERMINATION PROVISION.—

(1) IN GENERAL.—Subsection (e) of section 106 of the Internal Revenue Code of 1986, as added by the Tax Relief and Health Care Act of 2006, is amended by striking ''health flexible spending arrangement or'' each place it appears.

(2) CONFORMING AMENDMENTS.—

(A) The heading of section 106(e) of such Code is amended by striking ''FSA OR''.

(B) Section 223(c)(1)(B)(iii)(II) of such Code, as added by the Tax Relief and Health Care Act of 2006, is amended to read as follows:

''(II) the balance of such arrangement is contributed by the employer to a health savings account of the individual under section 125(h)(1)(B), in accordance with rules prescribed by the Secretary.''.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2010.

SEC. ___. EXPANSION OF USE OF HEALTH SAVINGS ACCOUNTS FOR HEALTH INSURANCE PREMIUM PAYMENTS FOR CERTAIN HIGH DEDUCTIBLE HEALTH PLANS.

(a) IN GENERAL.—Subparagraph (C) of section 223(d)(2) of the Internal Revenue Code of 1986 (relating to qualified medical expenses) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv), and by adding at the end the following new clause:

''(v) any high deductible health plan other than a group health plan (as defined in section 5000(b)(1)).''.

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

SA 156. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following:

''(h) CONTRIBUTIONS OF CERTAIN UNUSED HEALTH BENEFITS.—

''(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a cafeteria plan solely because qualified benefits under such plan include a health flexible spending arrangement under which not more than $500 of unused health benefits may be—

''(A) carried forward to the succeeding plan year of such health flexible spending arrangement, or

''(B) to the extent permitted by section 106(d), contributed by the employer to a health savings account (as defined in section 223(d)) maintained for the benefit of the employee.

''(2) HEALTH FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, the term 'health flexible spending arrangement' means a flexible spending arrangement (as defined in section 106(c)) that is a qualified benefit and only permits reimbursement for expenses for medical care (as defined in section 213(d)(1), without regard to subparagraphs (C) and (D) thereof).

''(3) UNUSED HEALTH BENEFITS.—For purposes of this subsection, with respect to an employee, the term 'unused health benefits' means the excess of—

''(A) the maximum amount of reimbursement allowable to the employee for a plan year under a health flexible spending arrangement, over

''(B) the actual amount of reimbursement for such year under such arrangement.''.

(b) REPEAL OF FSA TERMINATION PROVISION.—

(1) IN GENERAL.—Subsection (e) of section 106 of the Internal Revenue Code of 1986, as added by the Tax Relief and Health Care Act of 2006, is amended by striking ''health flexible spending arrangement or'' each place it appears.

(2) CONFORMING AMENDMENTS.—

(A) The heading of section 106(e) of such Code is amended by striking ''FSA OR''.

(B) Section 223(c)(1)(B)(iii)(II) of such Code, as added by the Tax Relief and Health Care Act of 2006, is amended to read as follows:

''(II) the balance of such arrangement is contributed by the employer to a health savings account of the individual under section 125(h)(1)(B), in accordance with rules prescribed by the Secretary.''.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2010.

SA 157. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

In section 2 of the bill, strike subsection (a) and insert the following:

(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) beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2007, an amount equal to the minimum wage in effect on such date in the State in which such employee is employed (whether as a result of the application of Federal or State law) increased by $0.70;

''(B) beginning 12 months after that 60th day, the amount that would be determined under subparagraph (A) by substituting '$1.40' for '$0.70'; and

''(C) beginning 24 months after that 60th day, the amount that would be determined under subparagraph (A) by substituting '$2.10' for '$0.70';''.

SA 158. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

In section 101 of the amendment, strike subsection (a) and insert the following:

(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) beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2007, an amount equal to the minimum wage in effect on such date in the State in which such employee is employed (whether as a result of the application of Federal or State law) increased by $0.70;

''(B) beginning 12 months after that 60th day, the amount that would be determined under subparagraph (A) by substituting '$1.40' for '$0.70'; and

''(C) beginning 24 months after that 60th day, the amount that would be determined under subparagraph (A) by substituting '$2.10' for '$0.70';''.

SA 159. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROTECTION OF WORKERS' POLITICAL RIGHTS.

Title III of the Labor Management Relations Act, 1947 (29 U.S.C. 185 et seq.) is amended by adding at the end the following:

''SEC. 304. PROTECTION OF WORKER'S POLITICAL RIGHTS.

''(a) PROHIBITION.—Except with the separate, prior, written, voluntary authorization of an individual, it shall be unlawful for any labor organization to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used to lobby members of Congress or Congressional staff for the purpose of influencing legislation.

''(b) AUTHORIZATION.—An authorization described in subsection (a) shall remain in effect until revoked and may be revoked at any time.''.

SA 160. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DEFERRED PAYMENT OF TAX BY CERTAIN SMALL BUSINESSES.

(a) IN GENERAL.—Subchapter B of chapter 62 (relating to extensions of time for payment of tax) is amended by adding at the end the following new section:

''SEC. 6168. EXTENSION OF TIME FOR PAYMENT OF TAX FOR CERTAIN SMALL BUSINESSES.

''(a) IN GENERAL.—An eligible small business may elect to pay the tax imposed by chapter 1 in 4 equal installments.

''(b) LIMITATION.—The maximum amount of tax which may be paid in installments under this section for any taxable year shall not exceed whichever of the following is the least:

''(1) The tax imposed by chapter 1 for the taxable year.

''(2) The amount contributed by the taxpayer into a BRIDGE Account during such year.

''(3) The excess of $250,000 over the aggregate amount of tax for which an election under this section was made by the taxpayer (or any predecessor) for all prior taxable years.

''(c) ELIGIBLE SMALL BUSINESS.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible small business' means, with respect to any taxable year, any person if—

''(A) such person meets the active business requirements of section 1202(e) throughout such taxable year,

''(B) the taxpayer has gross receipts of $10,000,000 or less for the taxable year,

''(C) the gross receipts of the taxpayer for such taxable year are at least 10 percent greater than the average annual gross receipts of the taxpayer (or any predecessor) for the 2 prior taxable years, and

''(D) the taxpayer uses an accrual method of accounting.

''(2) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply for purposes of this subsection.

''(d) DATE FOR PAYMENT OF INSTALLMENTS; TIME FOR PAYMENT OF INTEREST.—

''(1) DATE FOR PAYMENT OF INSTALLMENTS.—

''(A) IN GENERAL.—If an election is made under this section for any taxable year, the first installment shall be paid on or before the due date for such installment and each succeeding installment shall be paid on or before the date which is 1 year after the date prescribed by this paragraph for payment of the preceding installment.

''(B) DUE DATE FOR FIRST INSTALLMENT.—The due date for the first installment for a taxable year shall be whichever of the following is the earliest:

''(i) The date selected by the taxpayer.

''(ii) The date which is 2 years after the date prescribed by section 6151(a) for payment of the tax for such taxable year.

''(2) TIME FOR PAYMENT OF INTEREST.—If the time for payment of any amount of tax has been extended under this section—

''(A) INTEREST FOR PERIOD BEFORE DUE DATE OF FIRST INSTALLMENT.—Interest payable under section 6601 on any unpaid portion of such amount attributable to the period before the due date for the first installment shall be paid annually.

''(B) INTEREST DURING INSTALLMENT PERIOD.—Interest payable under section 6601 on any unpaid portion of such amount attributable to any period after such period shall be paid at the same time as, and as a part of, each installment payment of the tax.

''(C) INTEREST IN THE CASE OF CERTAIN DEFICIENCIES.—In the case of a deficiency to which subsection (e)(3) applies for a taxable year which is assessed after the due date for the first installment for such year, interest attributable to the period before such due date, and interest assigned under subparagraph (B) to any installment the date for payment of which has arrived on or before the date of the assessment of the deficiency, shall be paid upon notice and demand from the Secretary.

''(e) SPECIAL RULES.—

''(1) APPLICATION OF LIMITATION TO PARTNERS AND S CORPORATION SHAREHOLDERS.—

''(A) IN GENERAL.—In applying this section to a partnership which is an eligible small business—

''(i) the election under subsection (a) shall be made by the partnership,

''(ii) the amount referred to in subsection (b)(1) shall be the sum of each partner's tax which is attributable to items of the partnership and assuming the highest marginal rate under section 1, and

''(iii) the partnership shall be treated as the taxpayer referred to in paragraphs (2) and (3) of subsection (b).

''(B) OVERALL LIMITATION ALSO APPLIED AT PARTNER LEVEL.—In the case of a partner in a partnership, the limitation under subsection (b)(3) shall be applied at the partnership and partner levels.

''(C) SIMILAR RULES FOR S CORPORATIONS.—Rules similar to the rules of subparagraphs (A) and (B) shall apply to shareholders in an S corporation.

''(2) ACCELERATION OF PAYMENT IN CERTAIN CASES.—

''(A) IN GENERAL.—If—

''(i) the taxpayer ceases to meet the requirement of subsection (c)(1)(A), or

''(ii) there is an ownership change with respect to the taxpayer,

then the extension of time for payment of tax provided in subsection (a) shall cease to apply, and the unpaid portion of the tax payable in installments shall be paid on or before the due date for filing the return of tax imposed by chapter 1 for the first taxable year following such cessation.

''(B) OWNERSHIP CHANGE.—For purposes of subparagraph, in the case of a corporation, the term 'ownership change' has the meaning given to such term by section 382. Rules similar to the rules applicable under the preceding sentence shall apply to a partnership.

''(3) PRORATION OF DEFICIENCY TO INSTALLMENTS.—Rules similar to the rules of section 6166(e) shall apply for purposes of this section.

''(f) BRIDGE ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'BRIDGE Account' means a trust created or organized in the United States for the exclusive benefit of an eligible small business, but only if the written governing instrument creating the trust meets the following requirements:

''(A) No contribution will be accepted for any taxable year in excess of the amount allowed as a deferral under subsection (b) for such year.

''(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

''(C) The assets of the trust consist entirely of cash or of obligations which have adequate stated interest (as defined in section 1274(c)(2)) and which pay such interest not less often than annually.

''(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

''(E) Amounts in the trust may be used only—

''(i) as security for a loan to the business or for repayment of such loan, or

''(ii) to pay the installments under this section.

''(2) ACCOUNT TAXED AS GRANTOR TRUST.—The grantor of a BRIDGE Account shall be treated for purposes of this title as the owner of such Account and shall be subject to tax thereon in accordance with subpart E of part I of subchapter J of this chapter (relating to grantors and others treated as substantial owners).

''(3) TIME WHEN PAYMENTS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a payment to a BRIDGE Account on the last day of a taxable year if such payment is made on account of such taxable year and is made within 3½ months after the close of such taxable year.

''(g) REPORTS.—The Secretary may require such reporting as the Secretary determines to be appropriate to carry out this section.

''(h) APPLICATION OF SECTION.—This section shall apply to taxes imposed for taxable years beginning after December 31, 2010, and before January 1, 2015.''

(b) PRIORITY OF LENDER.—Subsection (b) of section 6323 is amended by adding at the end the following new paragraph:

''(11) LOANS SECURED BY BRIDGE ACCOUNTS.—With respect to a BRIDGE account (as defined in section 6168(f)) with any bank (as defined in section 408(n)), to the extent of any loan made by such bank without actual notice or knowledge of the existence of such lien, as against such bank, if such loan is secured by such account.''

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 62 is amended by adding at the end the following new item:

''Sec. 6168. Extension of time for payment of tax for certain small businesses.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

(e) STUDY BY GENERAL ACCOUNTING OFFICE.—

(1) STUDY.—In consultation with the Secretary of the Treasury, the Comptroller General of the United States shall undertake a study to evaluate the applicability (including administrative aspects) and impact of the BRIDGE Act of 2007 including how it affects the capital funding needs of businesses under the Act and number of businesses benefitting.

(2) REPORT.—Not later than March 31, 2014, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the study conducted pursuant to this subsection, together with such recommendations for legislative or administrative changes as the Comptroller General determines are appropriate.

SA 161. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FLEXIBLE SCHEDULE PROGRAMS.

(a) PROHIBITION OF USE OF FLEXIBLE SCHEDULES FOR FEDERAL EMPLOYEES UNTIL FLEXIBLE SCHEDULES ARE AVAILABLE TO PRIVATE EMPLOYEES.—

(1) PROHIBITION OF USE OF FLEXIBLE SCHEDULES FOR FEDERAL EMPLOYEES.—Notwithstanding any provision of subchapter II of chapter 61 of title 5, United States Code, no agency may establish, administer, or use any flexible schedule program authorized under section 6122 of that title.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect 1 year after the date of enactment of this Act, unless during such 1 year period, the Secretary of Labor submits certification to the Office of Personnel Management that a statute has been enacted that allows employers covered by the Fair Labor Standards Act of 1938 to provide for the use of a flexible schedule similar to the flexible schedule program authorized under section 6122 of title 5, United States Code, for employees engaged in commerce or in the production of goods for commerce.

(b) TERMINATION OF PROHIBITION.—If the prohibition under subsection (a) takes effect, that subsection shall cease to have any force or effect on the date that the Secretary of Labor submits a certification described in subsection (a)(2) to the Office of Personnel Management.

SA 162. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ENTERPRISE ENGAGED IN COMMERCE.

(a) ANNUAL GROSS VOLUME OF SALES.—Section 3(s)(1)(A)(ii) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(1)(A)(ii)) is amended by striking ''$500,000'' and inserting ''$1,080,000''.

(b) APPLICABILITY OF MINIMUM WAGE.—Section 6 of the Fair Labor Standards Act of 1938 (20 U.S.C. 206) is amended—

(1) in subsection (a), by striking ''is engaged in commerce or in the production of goods for commerce, or''; and

(2) in subsection (b), by striking ''is engaged in commerce or in the production of goods for commerce, or''.

SA 163. Ms. SNOWE (for herself and Mr. FEINGOLD) submitted an amendment intended to be proposed by her to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. EQUAL ACCESS FOR SMALL PARTIES IN CIVIL AND ADMINISTRATIVE PROCEEDINGS.

(a) ELIGIBILITY OF SMALL BUSINESSES FOR FEE AWARD.—

(1) ADMINISTRATIVE PROCEEDINGS.—

(A) IN GENERAL.—Section 504(b)(1)(B)(ii) of title 5, United States Code, is amended by striking ''$7,000,000'' and inserting ''$10,000,000''.

(B) ADJUSTMENT IN NET WORTH LIMITATION.—Section 504(b) of title 5, United States Code, is amended by adding at the end the following:

''(3) Beginning on January 1 of the 5th year following the date of enactment of this paragraph, and on January 1 every 5 years thereafter, the dollar amount under paragraph (1)(B)(ii) shall be adjusted by the Producer Price Index as determined by the Secretary of the Treasury, in collaboration with the Bureau of Labor Statistics.''.

(2) JUDICIAL PROCEEDINGS.—

(A) IN GENERAL.—Section 2412(d)(2)(B)(ii) of title 28, United States Code, is amended by striking ''$7,000,000'' and inserting ''$10,000,000''.

(B) ADJUSTMENT IN NET WORTH LIMITATION.—Section 2412(d) of title 28, United States Code, is amended by adding at the end the following:

''(5) Beginning on January 1 of the 5th year following the date of enactment of this paragraph, and on January 1 every 5 years thereafter, the dollar amount under paragraph (2)(B)(ii) shall be adjusted by the Producer Price Index as determined by the Secretary of the Treasury, in collaboration with the Bureau of Labor Statistics.''.

(b) ELIMINATION OF RATE CAP.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(b)(1)(A) of title 5, United States Code, is amended—

(A) by striking ''(i)''; and

(B) by striking ''by the agency involved'' and all that follows through ''a higher fee'' and inserting ''by the agency involved''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(2)(A) of title 28, United States Code, is amended—

(A) by striking ''(i)''; and

(B) by striking ''by the United States'' and all that follows through ''a higher fee'' and inserting ''by the United States''.

(c) APPLICABILITY.—The amendments made by this section shall—

(1) take effect 30 days after the date of the enactment of this Act; and

(2) apply to any proceeding pending on, or commenced on or after, the effective date of this section.

SA 164. Ms. SNOWE submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REGULATORY FLEXIBILITY REFORM FOR SMALL BUSINESSES.

(a) REQUIREMENTS PROVIDING FOR MORE DETAILED ANALYSES.—

(1) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, is amended by adding at the end the following:

''(d) An agency shall notify the Chief Counsel for Advocacy of the Small Business Administration of any draft rules that may have a significant economic impact on a substantial number of small entities either—

''(1) when the agency submits a draft rule to the Office of Information and Regulatory Affairs at the Office of Management and Budget under Executive Order 12866, if that order requires such submission; or

''(2) if no submission to the Office of Information and Regulatory Affairs is so required, at a reasonable time prior to publication of the rule by the agency.''.

(2) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

(A) INCLUSION OF RESPONSE TO COMMENTS ON CERTIFICATION OF PROPOSED RULE.—Section 604(a)(2) of title 5, United States Code, is amended by inserting ''(or certification of the proposed rule under section 605(b))'' after ''initial regulatory flexibility analysis''.

(B) INCLUSION OF RESPONSE TO COMMENTS FILED BY CHIEF COUNSEL FOR ADVOCACY.—Section 604(a) of title 5, United States Code, is amended by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively, and inserting after paragraph (2) the following:

''(3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any changes made to the proposed rule in the final rule as a result of such comments;''.

(C) PUBLICATION OF ANALYSIS ON WEB SITE, ETC.—Section 604(b) of title 5, United States Code, is amended to read as follows:

''(b) The agency shall make copies of the final regulatory flexibility analysis available to the public, including placement of the entire analysis on the agency's Web site, and shall publish in the Federal Register the final regulatory flexibility analysis, or a summary thereof that includes the telephone number, mailing address, and link to the Web site where the complete analysis may be obtained.''.

(3) CROSS-REFERENCES TO OTHER ANALYSES.—Section 605(a) of title 5, United States Code, is amended to read as follows:

''(a) A Federal agency shall be treated as satisfying any requirement regarding the content of an agenda or regulatory flexibility analysis under section 602, 603, or 604, if such agency provides in such agenda or analysis a cross-reference to the specific portion of another agenda or analysis that is required by any other law and which satisfies such requirement.''.

(4) CERTIFICATIONS.—The second sentence of section 605(b) of title 5, United States Code, is amended—

(A) by inserting ''detailed'' before ''statement''; and

(B) by inserting ''and legal'' after ''factual''.

(5) QUANTIFICATION REQUIREMENTS.—Section 607 of title 5, United States Code, is amended to read as follows:

''§ 607. Quantification requirements

''In complying with sections 603 and 604, an agency shall provide—

''(1) a quantifiable or numerical description of the effects of the proposed or final rule and alternatives to the proposed or final rule; or

''(2) a more general descriptive statement and a detailed statement explaining why quantification is not practicable or reliable.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) HEADING.—The heading of section 605 of title 5, United States Code, is amended to read as follows:

''§ 605. Incorporations by reference and certifications''.

(2) TABLE OF SECTIONS.—The table of sections for chapter 6 of title 5, United States Code, is amended—

(A) by striking the item relating to section 605 and inserting the following:

''605. Incorporations by reference and certifications.''; and

(B) by striking the item relating to section 607 and inserting the following:

''607. Quantification requirements.''.

SA 165. Mr. SMITH (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. TREATMENT OF CERTAIN PENSION PLANS OF INDIAN TRIBAL GOVERNMENTS.

(a) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—The last sentence of section 414(d) of the Internal Revenue Code of 1986 (definition of governmental plan) is amended to read as follows: ''The term 'governmental plan' includes a plan established or maintained for its employees by an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), an agency instrumentality (or subdivision) of an Indian tribal government, or an entity established under Federal, State, or tribal law which is wholly owned or controlled by any of the foregoing.''.

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—The last sentence of section 3(32) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(32)) is amended to read as follows: ''The term 'governmental plan' includes a plan established or maintained for its employees by an Indian tribal government (as defined in section 7701(a)(40) of the Internal Revenue Code of 1986), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency instrumentality (or subdivision) of an Indian tribal government, or an entity established under Federal, State, or tribal law that is wholly owned or controlled by any of the foregoing.''.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (14) of section 4021(b) of such Act (29 U.S.C. 1321(b)(14)) is amended to read as follows:

''(14) established or maintained for its employees by an Indian tribal government (as defined in section 7701(a)(40) of the Internal Revenue Code of 1986), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency instrumentality (or subdivision) of an Indian tribal government, or an entity established under Federal, State, or tribal law that is wholly owned or controlled by any of the foregoing.''.

(B) Section 4021(b)(2) of such Act (29 U.S.C. 1321(b)(2) is amended by striking ''or which is described in the last sentence of section 3(32)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 906 of the Pension Protection Act of 2006.

SA 166. Mr. SMITH submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EXPANSION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended to read as follows:

''(1) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount equal to the amount paid during the taxable year for insurance which constitutes medical care for—

''(A) the taxpayer,

''(B) the taxpayer's spouse,

''(C) the taxpayer's dependents,

''(D) any individual—

''(i) who was not the spouse, determined without regard to section 7703, of the taxpayer at any time during the taxable year of the taxpayer,

''(ii) who—

''(I) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

''(II) is a student who has not attained the age of 24 as of the close of such calendar year,

''(iii) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household, and

''(iv) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which the taxpayer's taxable year begins, and

''(E) an individual—

''(i) who is designated by the taxpayer for purposes of this paragraph,

''(ii) who is not the spouse or qualifying child of such taxpayer or any other taxpayer for any taxable year beginning in the calendar year in which the taxpayer's taxable year begins, and

''(iii) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

For purposes of subparagraph (E)(i), not more than 1 person may be designated by the taxpayer for any taxable year.''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 162(l)(2) of the Internal Revenue Code of 1986 is amended by striking ''or of the spouse of the taxpayer'' and inserting '', of the spouse of the taxpayer, or of any individual described in paragraph (1)(E)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SA 167. Mrs. FEINSTEIN (for herself and Mr. CRAIG) submitted an amendment intended to be proposed to amendment SA 118 submitted by Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. BURR) and intended to be proposed to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE II—AGJOBS ACT OF 2007

SEC. 201. SHORT TITLE.

This title may be cited as the ''Agricultural Job Opportunities, Benefits, and Security Act of 2007'' or the ''AgJOBS Act of 2007''.

SEC. 202. DEFINITIONS.

In this title:

(1) AGRICULTURAL EMPLOYMENT.—The term ''agricultural employment'' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) BLUE CARD STATUS.—The term ''blue card status'' means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 211(a).

(3) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.

(4) EMPLOYER.—The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(5) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

(6) TEMPORARY.—A worker is employed on a ''temporary'' basis when the employment is intended not to exceed 10 months.

(7) WORK DAY.—The term ''work day'' means any day in which the individual is employed 5.75 or more hours in agricultural employment.

Subtitle A—Pilot Program for Earned Status Adjustment of Agricultural Workers

PART I—BLUE CARD STATUS

SEC. 211. REQUIREMENTS FOR BLUE CARD STATUS.

(a) REQUIREMENT TO GRANT BLUE CARD STATUS.—Notwithstanding any other provision of law, the Secretary shall, pursuant to the requirements of this section, grant blue card status to an alien who qualifies under this section if the Secretary determines that the alien—

(1) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2006;

(2) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act;

(3) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under section 215(b); and

(4) has not been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(b) AUTHORIZED TRAVEL.—An alien who is granted blue card status is authorized to travel outside the United States (including commuting to the United States from a residence in a foreign country) in the same manner as an alien lawfully admitted for permanent residence.

(c) AUTHORIZED EMPLOYMENT.—The Secretary shall provide an alien who is granted

blue card status an employment authorized endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(d) TERMINATION OF BLUE CARD STATUS.—

(1) IN GENERAL.—The Secretary may terminate blue card status granted to an alien under this section only if the Secretary determines that the alien is deportable.

(2) GROUNDS FOR TERMINATION OF BLUE CARD STATUS.—Before any alien becomes eligible for adjustment of status under section 213, the Secretary may deny adjustment to permanent resident status and provide for termination of the blue card status granted such alien under paragraph (1) if—

(A) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(B) the alien—

(i) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under section 215(b);

(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States;

(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500; or

(iv) fails to perform the agricultural employment required under section 213(a)(1)(A) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in section 213(a)(3).

(e) RECORD OF EMPLOYMENT.—

(1) IN GENERAL.—Each employer of an alien granted blue card status under this section shall annually—

(A) provide a written record of employment to the alien; and

(B) provide a copy of such record to the Secretary.

(2) SUNSET.—The obligation under paragraph (1) shall terminate on the date that is 6 years after the date of the enactment of this Act.

(f) REQUIRED FEATURES OF IDENTITY CARD.—The Secretary shall provide each alien granted blue card status, and the spouse and any child of each such alien residing in the United States, with a card that contains—

(1) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(2) biometric identifiers, including fingerprints and a digital photograph; and

(3) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(g) FINE.—An alien granted blue card status shall pay a fine of $100 to the Secretary.

(h) MAXIMUM NUMBER.—The Secretary may not issue more than 1,500,000 blue cards during the 5-year period beginning on the date of the enactment of this Act.

SEC. 212. TREATMENT OF ALIENS GRANTED BLUE CARD STATUS.

(a) IN GENERAL.—Except as otherwise provided under this section, an alien granted blue card status shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(b) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien granted blue card status shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the alien is granted an adjustment of status under section 213.

(c) TERMS OF EMPLOYMENT.—

(1) PROHIBITION.—No alien granted blue card status may be terminated from employment by any employer during the period of blue card status except for just cause.

(2) TREATMENT OF COMPLAINTS.—

(A) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition of complaints by aliens granted blue card status who allege that they have been terminated without just cause. No proceeding shall be conducted under this paragraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(B) INITIATION OF ARBITRATION.—If the Secretary finds that an alien has filed a complaint in accordance with subparagraph (A) and there is reasonable cause to believe that the alien was terminated from employment without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(C) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding under this paragraph in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including reinstatement, back pay, or front pay to the affected employee. Not later than 30 days after the date of the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(D) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated the employment of an alien who is granted blue card status without just cause, the Secretary shall credit the alien for the number of days or hours of work not performed during such period of termination for the purpose of determining if the alien meets the qualifying employment requirement of section 213(a).

(E) TREATMENT OF ATTORNEY'S FEES.—Each party to an arbitration under this paragraph shall bear the cost of their own attorney's fees for the arbitration.

(F) NONEXCLUSIVE REMEDY.—The complaint process provided for in this paragraph is in addition to any other rights an employee may have in accordance with applicable law.

(G) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to subparagraph (D).

(3) CIVIL PENALTIES.—

(A) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under section 211(e) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(B) LIMITATION.—The penalty applicable under subparagraph (A) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

SEC. 213. ADJUSTMENT TO PERMANENT RESIDENCE.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall adjust the status of an alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(1) QUALIFYING EMPLOYMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the alien has performed at least—

(i) 5 years of agricultural employment in the United States for at least 100 work days per year, during the 5-year period beginning on the date of the enactment of this Act; or

(ii) 3 years of agricultural employment in the United States for at least 150 work days per year, during the 3-year period beginning on the date of the enactment of this Act.

(B) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to meet the requirements of subparagraph (A) if the alien has performed 4 years of agricultural employment in the United States for at least 150 work days during 3 years of those 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of the enactment of this Act.

(2) PROOF.—An alien may demonstrate compliance with the requirement under paragraph (1) by submitting—

(A) the record of employment described in section 211(e); or

(B) such documentation as may be submitted under section 214(c).

(3) EXTRAORDINARY CIRCUMSTANCES.—In determining whether an alien has met the requirement of paragraph (1)(A), the Secretary may credit the alien with not more than 12 additional months to meet the requirement of that subparagraph if the alien was unable to work in agricultural employment due to—

(A) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

(B) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records; or

(C) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time.

(4) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7

years after the date of the enactment of this Act.

(5) FINE.—The alien pays a fine of $400 to the Secretary.

(b) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien granted blue card status an adjustment of status under this section and provide for termination of such blue card status if—

(1) the Secretary finds by a preponderance of the evidence that the adjustment to blue card status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(2) the alien—

(A) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under section 215(b);

(B) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(C) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(c) GROUNDS FOR REMOVAL.—Any alien granted blue card status who does not apply for adjustment of status under this section before the expiration of the application period described in subsection (a)(4) or who fails to meet the other requirements of subsection (a) by the end of the application period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(d) PAYMENT OF TAXES.—

(1) IN GENERAL.—Not later than the date on which an alien's status is adjusted under this section, the alien shall establish that the alien does not owe any applicable Federal tax liability by establishing that—

(A) no such tax liability exists;

(B) all such outstanding tax liabilities have been paid; or

(C) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(2) APPLICABLE FEDERAL TAX LIABILITY.—In paragraph (1) the term ''applicable Federal tax liability'' means liability for Federal taxes, including penalties and interest, owed for any year during the period of employment required under subsection (a)(1) for which the statutory period for assessment of any deficiency for such taxes has not expired.

(3) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all taxes required by this subsection.

(e) SPOUSES AND MINOR CHILDREN.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted any adjustment of status under subsection (a), including any individual who was a minor child on the date such alien was granted blue card status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(2) TREATMENT OF SPOUSES AND MINOR CHILDREN.—

(A) GRANTING OF STATUS AND REMOVAL.—The Secretary may grant derivative status to the alien spouse and any minor child residing in the United States of an alien granted blue card status and shall not remove such derivative spouse or child during the period that the alien granted blue card status maintains such status, except as provided in paragraph (3). A grant of derivative status to such a spouse or child under this subparagraph shall not decrease the number of aliens who may receive blue card status under subsection (h) of section 211.

(B) TRAVEL.—The derivative spouse and any minor child of an alien granted blue card status may travel outside the United States in the same manner as an alien lawfully admitted for permanent residence.

(C) EMPLOYMENT.—The derivative spouse of an alien granted blue card status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains blue card status.

(3) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.—The Secretary may deny an alien spouse or child adjustment of status under paragraph (1) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(A) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under section 215(b);

(B) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(C) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

SEC. 214. APPLICATIONS.

(a) SUBMISSION.—The Secretary shall provide that—

(1) applications for blue card status under section 211 may be submitted—

(A) to the Secretary if the applicant is represented by an attorney or a nonprofit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(B) to a qualified designated entity if the applicant consents to the forwarding of the application to the Secretary; and

(2) applications for adjustment of status under section 213 shall be filed directly with the Secretary.

(b) QUALIFIED DESIGNATED ENTITY DEFINED.—In this section, the term ''qualified designated entity'' means—

(1) a qualified farm labor organization or an association of employers designated by the Secretary; or

(2) any such other person designated by the Secretary if that Secretary determines such person is qualified and has substantial experience, demonstrated competence, and has a history of long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act (8 U.S.C. 1159, 1160, and 1255), the Act entitled ''An Act to adjust the status of Cuban refugees to that of lawful permanent residents of the United States, and for other purposes'', approved November 2, 1966 (Public Law 89–732; 8 U.S.C. 1255 note), Public Law 95–145 (8 U.S.C. 1255 note), or the Immigration Reform and Control Act of 1986 (Public Law 99–603; 100 Stat. 3359) or any amendment made by that Act.

(c) PROOF OF ELIGIBILITY.—

(1) IN GENERAL.—An alien may establish that the alien meets the requirement of section 211(a)(1) or 213(a)(1) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(2) DOCUMENTATION OF WORK HISTORY.—

(A) BURDEN OF PROOF.—An alien applying for status under section 211(a) or 213(a) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days required under section 211(a)(1) or 213(a)(1), as applicable.

(B) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under subparagraph (A) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(C) SUFFICIENT EVIDENCE.—An alien may meet the burden of proof under subparagraph (A) to establish that the alien has performed the days or hours of work required by section 211(a)(1) or 213(a)(1) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(d) APPLICATIONS SUBMITTED TO QUALIFIED DESIGNATED ENTITIES.—

(1) REQUIREMENTS.—Each qualified designated entity shall agree—

(A) to forward to the Secretary an application submitted to that entity pursuant to subsection (a)(1)(B) if the applicant has consented to such forwarding;

(B) not to forward to the Secretary any such application if the applicant has not consented to such forwarding; and

(C) to assist an alien in obtaining documentation of the alien's work history, if the alien requests such assistance.

(2) NO AUTHORITY TO MAKE DETERMINATIONS.—No qualified designated entity may make a determination required by this subtitle to be made by the Secretary.

(e) LIMITATION ON ACCESS TO INFORMATION.—Files and records collected or compiled by a qualified designated entity for the purposes of this section are confidential and the Secretary shall not have access to such a file or record relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to subsection (f).

(f) CONFIDENTIALITY OF INFORMATION.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary or any other official or employee of the Department or a bureau or agency of the Department is prohibited from—

(A) using information furnished by the applicant pursuant to an application filed under this title, the information provided by an applicant to a qualified designated entity, or any information provided by an employer or former employer for any purpose other than to make a determination on the application or for imposing the penalties described in subsection (g);

(B) making any publication in which the information furnished by any particular individual can be identified; or

(C) permitting a person other than a sworn officer or employee of the Department or a bureau or agency of the Department or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(2) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this title or any other information derived from such furnished information to—

(A) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

(B) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(3) CONSTRUCTION.—

(A) IN GENERAL.—Nothing in this subsection shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes, of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(B) CRIMINAL CONVICTIONS.—Notwithstanding any other provision of this subsection, information concerning whether the alien applying for blue card status under section 211 or an adjustment of status under section 213 has been convicted of a crime at any time may be used or released for immigration enforcement or law enforcement purposes.

(4) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this subsection shall be subject to a fine in an amount not to exceed $10,000.

(g) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(1) CRIMINAL PENALTY.—Any person who—

(A) files an application for blue card status under section 211 or an adjustment of status under section 213 and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(B) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(h) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for blue card status under section 211 or an adjustment of status under section 213.

(i) APPLICATION FEES.—

(1) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(A) shall be charged for the filing of an application for blue card status under section 211 or for an adjustment of status under section 213; and

(B) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(2) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under paragraph (1)(B) for services provided to applicants.

(3) DISPOSITION OF FEES.—

(A) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ''Agricultural Worker Immigration Status Adjustment Account''. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under paragraph (1)(A).

(B) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the ''Agricultural Worker Immigration Status Adjustment Account'' shall remain available to the Secretary until expended for processing applications for blue card status under section 211 or an adjustment of status under section 213.

SEC. 215. WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.

(a) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under section 213.

(b) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under section 211(a) or an alien's eligibility for adjustment of status under section 213(b)(2)(A) the following rules shall apply:

(1) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(2) WAIVER OF OTHER GROUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(B) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under subparagraph (A).

(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(3) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for blue card status under section 211 or an adjustment of status under section 213 by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(c) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in section 211(a)(2) and who can establish a nonfrivolous case of eligibility for blue card status (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for blue card status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for blue card status during the application period described in section 211(a)(2), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

SEC. 216. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for blue card status under section 211 or adjustment of status under section 213 except in accordance with this section.

(b) ADMINISTRATIVE REVIEW.—

(1) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(2) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(c) JUDICIAL REVIEW.—

(1) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(2) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

SEC. 217. USE OF INFORMATION.

Beginning not later than the first day of the application period described in section 211(a)(2), the Secretary, in cooperation with qualified designated entities (as that term is defined in section 214(b)), shall broadly disseminate information respecting the benefits that aliens may receive under this subtitle and the requirements that an alien is required to meet to receive such benefits.

SEC. 218. REGULATIONS, EFFECTIVE DATE, AUTHORIZATION OF APPROPRIATIONS.

(a) REGULATIONS.—The Secretary shall issue regulations to implement this subtitle not later than the first day of the seventh month that begins after the date of enactment of this Act.

(b) EFFECTIVE DATE.—This subtitle shall take effect on the date that regulations required by subsection (a) are issued, regardless of whether such regulations are issued on an interim basis or on any other basis.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to implement this subtitle, including any sums needed for costs associated with the initiation of such implementation, for fiscal years 2007 and 2008.

PART II—CORRECTION OF SOCIAL SECURITY RECORDS

SEC. 221. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) who is granted blue card status under the Agricultural Job Opportunity, Benefits, and Security Act of 2007,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to

have occurred before the date on which the alien was granted blue card status.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

Subtitle B—Reform of H–2A Worker Program

SEC. 231. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by striking section 218 and inserting the following:

''SEC. 218. H–2A EMPLOYER APPLICATIONS.

''(a) APPLICATIONS TO THE SECRETARY OF LABOR.—

''(1) IN GENERAL.—No alien may be admitted to the United States as an H–2A worker, or otherwise provided status as an H–2A worker, unless the employer has filed with the Secretary of Labor an application containing—

''(A) the assurances described in subsection (b);

''(B) a description of the nature and location of the work to be performed;

''(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

''(D) the number of job opportunities in which the employer seeks to employ the workers.

''(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

''(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

''(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

''(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

''(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

''(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

''(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

''(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer has applied for an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied for an H–2A worker under subsection (a) and to all other workers in the same occupation at the place of employment.

''(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer has applied for an H–2A worker.

''(E) REQUIREMENTS FOR PLACEMENT OF THE NONIMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

''(i) the nonimmigrant performs duties in whole or in part at 1 or more worksites owned, operated, or controlled by such other employer;

''(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

''(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

''(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(H) EMPLOYMENT OF UNITED STATES WORKERS.—

''(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H–2A nonimmigrant is, or H–2A nonimmigrants are, sought:

''(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

''(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on 'America's Job Bank' or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

''(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

''(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H–2A workers could not reasonably have been foreseen.

''(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

''(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the H–2A worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the H–2A worker who is in the job was hired has elapsed, subject to the following requirements:

''(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H–2A workers in order to force the hiring of United States workers under this clause.

''(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

''(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

''(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

''(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

''(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218A, 218B, and 218C.

''(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

''(d) WITHDRAWAL OF APPLICATIONS.—

''(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

''(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

''(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

''(e) REVIEW AND APPROVAL OF APPLICATIONS.—

''(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or worksite, a copy of each such application (and such accompanying documents as are necessary).

''(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

''(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under subsection (a). Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

''(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.''

''SEC. 218A. H–2A EMPLOYMENT REQUIREMENTS.

''(a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

''(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

''(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

''(A) IN GENERAL.—An employer applying under section 218(a) for H–2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

''(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

''(C) FAMILY HOUSING.—If it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

''(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

''(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

''(F) CHARGES FOR HOUSING.—

''(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

''(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

''(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

''(i) IN GENERAL.—If the requirement set out in clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

''(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers and H–2A workers who are seeking temporary housing while employed in agricultural work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

''(iii) AMOUNT OF ALLOWANCE.—

''(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(2) REIMBURSEMENT OF TRANSPORTATION.—

''(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

''(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to

provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

''(C) LIMITATION.—

''(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

''(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

''(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

''(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

''(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

''(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORKSITE.—The employer shall provide transportation between the worker's living quarters and the employer's worksite without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

''(3) REQUIRED WAGES.—

''(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

''(B) LIMITATION.—Effective on the date of the enactment of the Agricultural Job Opportunities, Benefits, and Security Act of 2007 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

''(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

''(i) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to this section before the first March 1 that is not less than 3 years after the date of enactment of this section, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2003, had been annually adjusted, beginning on March 1, 2006, by the lesser of—

''(I) the 12-month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not less than 4 years after the date of enactment of this section, and each March 1 thereafter, the adverse effect wage rate then in effect for each State shall be adjusted by the lesser of—

''(I) the 12-month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

''(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

''(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

''(i) the worker's total earnings for the pay period;

''(ii) the worker's hourly rate of pay, piece rate of pay, or both;

''(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the ¾ guarantee described in paragraph (4);

''(iv) the hours actually worked by the worker;

''(v) an itemization of the deductions made from the worker's wages; and

''(vi) if piece rates of pay are used, the units produced daily.

''(G) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2009, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

''(i) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

''(v) recommendations for future wage protection under this section.

''(H) COMMISSION ON WAGE STANDARDS.—

''(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H–2A program (in this subparagraph referred to as the 'Commission').

''(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

''(I) Four representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

''(II) Four representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

''(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

''(I) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

''(V) recommendations for future wage protection under this section.

''(iv) FINAL REPORT.—Not later than December 31, 2009, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

''(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

''(4) GUARANTEE OF EMPLOYMENT.—

''(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least ¾ of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

''(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

''(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the '¾ guarantee' described in subparagraph (A).

''(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee

in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

''(5) MOTOR VEHICLE SAFETY.—

''(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

''(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H–2A employer that uses or causes to be used any vehicle to transport an H–2A worker within the United States.

''(ii) DEFINED TERM.—In this paragraph, the term 'uses or causes to be used'—

''(I) applies only to transportation provided by an H–2A employer to an H–2A worker, or by a farm labor contractor to an H–2A worker at the request or direction of an H–2A employer; and

''(II) does not apply to—

''(aa) transportation provided, or transportation arrangements made, by an H–2A worker, unless the employer specifically requested or arranged such transportation; or

''(bb) car pooling arrangements made by H–2A workers themselves, using 1 of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

''(iii) CLARIFICATION.—Providing a job offer to an H–2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H–2A worker by an H–2A employer, shall not constitute an arrangement of, or participation in, such transportation.

''(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H–2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

''(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

''(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

''(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

''(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

''(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

''(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H–2A worker.

''(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

''(iii) EFFECT OF WORKERS' COMPENSATION COVERAGE.—If the employer of any H–2A worker provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

''(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

''(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

''(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

''(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer's application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

''(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218B shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

''SEC. 218B. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS.

''(a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

''(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

''(c) CRITERIA FOR ADMISSIBILITY.—

''(1) IN GENERAL.—An H–2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218A, and the alien is not ineligible under paragraph (2).

''(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

''(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

''(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H–2A status, but may not be granted that status in the United States.

''(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

''(d) PERIOD OF ADMISSION.—

''(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the worksite and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

''(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

''(B) the total period of employment, including such 14-day period, may not exceed 10 months.

''(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

''(e) ABANDONMENT OF EMPLOYMENT.—

''(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H–2A worker prematurely abandons employment.

''(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

''(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

''(f) REPLACEMENT OF ALIEN.—

''(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall

promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

''(A) who abandons or prematurely terminates employment; or

''(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

''(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

''(g) IDENTIFICATION DOCUMENT.—

''(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify the alien's identity.

''(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

''(A) The document shall be capable of reliably determining whether—

''(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

''(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

''(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

''(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

''(C) The document shall—

''(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(h) EXTENSION OF STAY OF H–2A ALIENS IN THE UNITED STATES.—

''(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H–2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

''(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

''(A) for a period of more than 10 months; or

''(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

''(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

''(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

''(B) DEFINITION.—For purposes of subparagraph (A), the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

''(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

''(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

''(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

''(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

''(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

''(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least ⅕ the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

''(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H–2A worker.

''(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—Notwithstanding any provision of the Agricultural Job Opportunities, Benefits, and Security Act of 2007, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goat herder, or dairy worker—

''(1) may be admitted for an initial period of 12 months;

''(2) subject to subsection (j)(5), may have such initial period of admission extended for a period of up to 3 years; and

''(3) shall not be subject to the requirements of subsection (h)(5) (relating to periods of absence from the United States).

''(j) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—

''(1) ELIGIBLE ALIEN.—For purposes of this subsection, the term 'eligible alien' means an alien—

''(A) having nonimmigrant status under section 101(a)(15)(H)(ii)(a) based on employment as a sheepherder, goat herder, or dairy worker;

''(B) who has maintained such nonimmigrant status in the United States for a cumulative total of 36 months (excluding any period of absence from the United States); and

''(C) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(iii).

''(2) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

''(A) the alien's employer on behalf of the eligible alien; or

''(B) the eligible alien.

''(3) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)(3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa described in paragraph (1)(C) for an eligible alien.

''(4) EFFECT OF PETITION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such a petition shall not constitute evidence of an alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(a).

''(5) EXTENSION OF STAY.—The Secretary shall extend the stay of an eligible alien having a pending or approved classification petition described in paragraph (2) in 1-year increments until a final determination is made on the alien's eligibility for adjustment of status to that of an alien lawfully admitted for permanent residence.

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

''SEC. 218C. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.

''(a) ENFORCEMENT AUTHORITY.—

''(1) INVESTIGATION OF COMPLAINTS.—

''(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

''(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (G). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

''(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D),

(2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

''(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

''(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

''(iii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 2 years.

''(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 3 years.

''(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of $90,000.

''(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218A(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218A(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

''(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218A.

''(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H–2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

''(1) The providing of housing or a housing allowance as required under section 218A(b)(1).

''(2) The reimbursement of transportation as required under section 218A(b)(2).

''(3) The payment of wages required under section 218A(b)(3) when due.

''(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218A(c), compliance with which shall be governed by the provisions of such laws.

''(5) The guarantee of employment required under section 218A(b)(4).

''(6) The motor vehicle safety requirements under section 218A(b)(5).

''(7) The prohibition of discrimination under subsection (d)(2).

''(c) PRIVATE RIGHT OF ACTION.—

''(1) MEDIATION.—Upon the filing of a complaint by an H–2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

''(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H–2A workers and agricultural employers without charge to the parties.

''(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other nonbinding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

''(C) AUTHORIZATION.—

''(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service $500,000 for each fiscal year to carry out this section.

''(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

''(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H–2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

''(3) ELECTION.—An H–2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

''(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H–2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

''(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

''(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

''(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

''(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

''(7) WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

''(A) Notwithstanding any other provision of this section, where a State's workers' compensation law is applicable and coverage is provided for an H–2A worker, the workers' compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State's workers' compensation law.

''(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

''(i) a recovery under a State workers' compensation law; or

''(ii) rights conferred under a State workers' compensation law.

''(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H–2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H–2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

''(9) PRECLUSIVE EFFECT.—Any settlement by an H–2A worker and an H–2A employer or any person reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(d) DISCRIMINATION PROHIBITED.—

''(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218A or any rule or regulation pertaining to section 218 or 218A, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218 or 218A or any rule or regulation pertaining to either of such sections.

''(2) DISCRIMINATION AGAINST H–2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H–2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

''(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H–2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

''(f) ROLE OF ASSOCIATIONS.—

''(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218A, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

''(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

''SEC. 218D. DEFINITIONS.

''For purposes of this section and section 218, 218A, 218B, and 218C:

''(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a).

''(2) BONA FIDE UNION.—The term 'bona fide union' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

''(3) DISPLACE.—The term 'displace', in the case of an application with respect to 1 or more H–2A workers by an employer, means laying off a United States worker from a job for which the H–2A worker or workers is or are sought.

''(4) ELIGIBLE.—The term 'eligible', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

''(5) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

''(6) H–2A EMPLOYER.—The term 'H–2A employer' means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

''(7) H–2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

''(8) JOB OPPORTUNITY.—The term 'job opportunity' means a job opening for temporary or seasonal full-time employment at a place in the United States to which United States workers can be referred.

''(9) LAYING OFF.—

''(A) IN GENERAL.—The term 'laying off', with respect to a worker—

''(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218A(b)(4)(D)), or temporary suspension of employment due to weather, markets, or other temporary conditions; but

''(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

''(10) REGULATORY DROUGHT.—The term 'regulatory drought' means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

''(11) SEASONAL.—Labor is performed on a 'seasonal' basis if—

''(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

''(B) from its nature, it may not be continuous or carried on throughout the year.

''(12) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(13) TEMPORARY.—A worker is employed on a 'temporary' basis where the employment is intended not to exceed 10 months.

''(14) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a national of the United States, an alien lawfully admitted for permanent residence, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).''.

(b) TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

''Sec. 218. H–2A employer applications.
''Sec. 218A. H–2A employment requirements.
''Sec. 218B. Procedure for admission and extension of stay of H–2A workers.
''Sec. 218C. Worker protections and labor standards enforcement.
''Sec. 218D. Definitions.''.

Subtitle C—Miscellaneous Provisions

SEC. 241. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens pursuant to the amendment made by section 231(a) of this Act and a collection process for such fees from employers. Such fees shall be the only fees chargeable to employers for services provided under such amendment.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer's application under section 218 of the Immigration and Nationality Act, as amended by section 231 of this Act, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ aliens pursuant to the amendment made by section 231(a) of this Act, to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the fees pursuant to the amendment made by section 231(a) of this Act shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out sections 218 and 218B of the Immigration and Nationality Act, as amended and

added, respectively, by section 231 of this Act, and the provisions of this title.

SEC. 242. REGULATIONS.

(a) REQUIREMENT FOR THE SECRETARY TO CONSULT.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture during the promulgation of all regulations to implement the duties of the Secretary under this title and the amendments made by this title.

(b) REQUIREMENT FOR THE SECRETARY OF STATE TO CONSULT.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this title and the amendments made by this title.

(c) REQUIREMENT FOR THE SECRETARY OF LABOR TO CONSULT.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this title and the amendments made by this title.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218A, 218B, 218C, and 218D of the Immigration and Nationality Act, as amended or added by section 231 of this Act, shall take effect on the effective date of section 231 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 243. REPORTS TO CONGRESS.

(a) ANNUAL REPORT.—Not later than September 30 of each year, the Secretary shall submit a report to Congress that identifies, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), and the number of workers actually admitted, disaggregated by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218B(e)(2) of such Act;

(3) the number of such aliens who departed the United States within the period specified in subsection 218B(d) of such Act;

(4) the number of aliens who applied for adjustment of status pursuant to section 211(a);

(5) the number of such aliens whose status was adjusted under section 211(a);

(6) the number of aliens who applied for permanent residence pursuant to section 213(c); and

(7) the number of such aliens who were approved for permanent residence pursuant section 213(c).

(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress a report that describes the measures being taken and the progress made in implementing this Act.

SEC. 244. EFFECTIVE DATE.

Except as otherwise provided, sections 231 and 241 shall take effect 1 year after the date of the enactment of this Act.

SA 168. Mrs. FEINSTEIN (for herself and Mr. CRAIG) submitted an amendment intended to be proposed to amendment SA 117 submitted by Mr. CHAMBLISS (for himself, Mr. BURR, and Mr. ISAKSON) and intended to be proposed to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE II—AGJOBS ACT OF 2007

SEC. 201. SHORT TITLE.

This title may be cited as the ''Agricultural Job Opportunities, Benefits, and Security Act of 2007'' or the ''AgJOBS Act of 2007''.

SEC. 202. DEFINITIONS.

In this title:

(1) AGRICULTURAL EMPLOYMENT.—The term ''agricultural employment'' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) BLUE CARD STATUS.—The term ''blue card status'' means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 211(a).

(3) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.

(4) EMPLOYER.—The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(5) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

(6) TEMPORARY.—A worker is employed on a ''temporary'' basis when the employment is intended not to exceed 10 months.

(7) WORK DAY.—The term ''work day'' means any day in which the individual is employed 5.75 or more hours in agricultural employment.

Subtitle A—Pilot Program for Earned Status Adjustment of Agricultural Workers

PART I—BLUE CARD STATUS

SEC. 211. REQUIREMENTS FOR BLUE CARD STATUS.

(a) REQUIREMENT TO GRANT BLUE CARD STATUS.—Notwithstanding any other provision of law, the Secretary shall, pursuant to the requirements of this section, grant blue card status to an alien who qualifies under this section if the Secretary determines that the alien—

(1) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2006;

(2) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act;

(3) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under section 215(b); and

(4) has not been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(b) AUTHORIZED TRAVEL.—An alien who is granted blue card status is authorized to travel outside the United States (including commuting to the United States from a residence in a foreign country) in the same manner as an alien lawfully admitted for permanent residence.

(c) AUTHORIZED EMPLOYMENT.—The Secretary shall provide an alien who is granted blue card status an employment authorized endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(d) TERMINATION OF BLUE CARD STATUS.—

(1) IN GENERAL.—The Secretary may terminate blue card status granted to an alien under this section only if the Secretary determines that the alien is deportable.

(2) GROUNDS FOR TERMINATION OF BLUE CARD STATUS.—Before any alien becomes eligible for adjustment of status under section 213, the Secretary may deny adjustment to permanent resident status and provide for termination of the blue card status granted such alien under paragraph (1) if—

(A) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(B) the alien—

(i) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under section 215(b);

(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States;

(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500; or

(iv) fails to perform the agricultural employment required under section 213(a)(1)(A) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in section 213(a)(3).

(e) RECORD OF EMPLOYMENT.—

(1) IN GENERAL.—Each employer of an alien granted blue card status under this section shall annually—

(A) provide a written record of employment to the alien; and

(B) provide a copy of such record to the Secretary.

(2) SUNSET.—The obligation under paragraph (1) shall terminate on the date that is 6 years after the date of the enactment of this Act.

(f) REQUIRED FEATURES OF IDENTITY CARD.—The Secretary shall provide each alien granted blue card status, and the spouse and any child of each such alien residing in the United States, with a card that contains—

(1) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(2) biometric identifiers, including fingerprints and a digital photograph; and

(3) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(g) FINE.—An alien granted blue card status shall pay a fine of $100 to the Secretary.

(h) MAXIMUM NUMBER.—The Secretary may not issue more than 1,500,000 blue cards during the 5-year period beginning on the date of the enactment of this Act.

SEC. 212. TREATMENT OF ALIENS GRANTED BLUE CARD STATUS.

(a) IN GENERAL.—Except as otherwise provided under this section, an alien granted blue card status shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(b) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien granted blue card status shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the alien is granted an adjustment of status under section 213.

(c) TERMS OF EMPLOYMENT.—

(1) PROHIBITION.—No alien granted blue card status may be terminated from employment by any employer during the period of blue card status except for just cause.

(2) TREATMENT OF COMPLAINTS.—

(A) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition of complaints by aliens granted blue card status who allege that they have been terminated without just cause. No proceeding shall be conducted under this paragraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(B) INITIATION OF ARBITRATION.—If the Secretary finds that an alien has filed a complaint in accordance with subparagraph (A) and there is reasonable cause to believe that the alien was terminated from employment without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(C) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding under this paragraph in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including reinstatement, back pay, or front pay to the affected employee. Not later than 30 days after the date of the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(D) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated the employment of an alien who is granted blue card status without just cause, the Secretary shall credit the alien for the number of days or hours of work not performed during such period of termination for the purpose of determining if the alien meets the qualifying employment requirement of section 213(a).

(E) TREATMENT OF ATTORNEY'S FEES.—Each party to an arbitration under this paragraph shall bear the cost of their own attorney's fees for the arbitration.

(F) NONEXCLUSIVE REMEDY.—The complaint process provided for in this paragraph is in addition to any other rights an employee may have in accordance with applicable law.

(G) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to subparagraph (D).

(3) CIVIL PENALTIES.—

(A) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under section 211(e) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(B) LIMITATION.—The penalty applicable under subparagraph (A) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

SEC. 213. ADJUSTMENT TO PERMANENT RESIDENCE.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall adjust the status of an alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(1) QUALIFYING EMPLOYMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the alien has performed at least—

(i) 5 years of agricultural employment in the United States for at least 100 work days per year, during the 5-year period beginning on the date of the enactment of this Act; or

(ii) 3 years of agricultural employment in the United States for at least 150 work days per year, during the 3-year period beginning on the date of the enactment of this Act.

(B) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to meet the requirements of subparagraph (A) if the alien has performed 4 years of agricultural employment in the United States for at least 150 work days during 3 years of those 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of the enactment of this Act.

(2) PROOF.—An alien may demonstrate compliance with the requirement under paragraph (1) by submitting—

(A) the record of employment described in section 211(e); or

(B) such documentation as may be submitted under section 214(c).

(3) EXTRAORDINARY CIRCUMSTANCES.—In determining whether an alien has met the requirement of paragraph (1)(A), the Secretary may credit the alien with not more than 12 additional months to meet the requirement of that subparagraph if the alien was unable to work in agricultural employment due to—

(A) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

(B) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records; or

(C) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time.

(4) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of the enactment of this Act.

(5) FINE.—The alien pays a fine of $400 to the Secretary.

(b) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien granted blue card status an adjustment of status under this section and provide for termination of such blue card status if—

(1) the Secretary finds by a preponderance of the evidence that the adjustment to blue card status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(2) the alien—

(A) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under section 215(b);

(B) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(C) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(c) GROUNDS FOR REMOVAL.—Any alien granted blue card status who does not apply for adjustment of status under this section before the expiration of the application period described in subsection (a)(4) or who fails to meet the other requirements of subsection (a) by the end of the application period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(d) PAYMENT OF TAXES.—

(1) IN GENERAL.—Not later than the date on which an alien's status is adjusted under this section, the alien shall establish that the alien does not owe any applicable Federal tax liability by establishing that—

(A) no such tax liability exists;

(B) all such outstanding tax liabilities have been paid; or

(C) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(2) APPLICABLE FEDERAL TAX LIABILITY.—In paragraph (1) the term ''applicable Federal tax liability'' means liability for Federal taxes, including penalties and interest, owed for any year during the period of employment required under subsection (a)(1) for which the statutory period for assessment of any deficiency for such taxes has not expired.

(3) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all taxes required by this subsection.

(e) SPOUSES AND MINOR CHILDREN.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted any adjustment of status under subsection (a), including any individual who was a minor child on the date such alien was granted blue card status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(2) TREATMENT OF SPOUSES AND MINOR CHILDREN.—

(A) GRANTING OF STATUS AND REMOVAL.—The Secretary may grant derivative status to the alien spouse and any minor child residing in the United States of an alien granted blue card status and shall not remove such derivative spouse or child during the period that the alien granted blue card status maintains such status, except as provided in paragraph (3). A grant of derivative status to such a spouse or child under this subparagraph shall not decrease the number of aliens who may receive blue card status under subsection (h) of section 211.

(B) TRAVEL.—The derivative spouse and any minor child of an alien granted blue card status may travel outside the United States

in the same manner as an alien lawfully admitted for permanent residence.

(C) EMPLOYMENT.—The derivative spouse of an alien granted blue card status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains blue card status.

(3) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.—The Secretary may deny an alien spouse or child adjustment of status under paragraph (1) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(A) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under section 215(b);

(B) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(C) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

SEC. 214. APPLICATIONS.

(a) SUBMISSION.—The Secretary shall provide that—

(1) applications for blue card status under section 211 may be submitted—

(A) to the Secretary if the applicant is represented by an attorney or a nonprofit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(B) to a qualified designated entity if the applicant consents to the forwarding of the application to the Secretary; and

(2) applications for adjustment of status under section 213 shall be filed directly with the Secretary.

(b) QUALIFIED DESIGNATED ENTITY DEFINED.—In this section, the term ''qualified designated entity'' means—

(1) a qualified farm labor organization or an association of employers designated by the Secretary; or

(2) any such other person designated by the Secretary if that Secretary determines such person is qualified and has substantial experience, demonstrated competence, and has a history of long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act (8 U.S.C. 1159, 1160, and 1255), the Act entitled ''An Act to adjust the status of Cuban refugees to that of lawful permanent residents of the United States, and for other purposes'', approved November 2, 1966 (Public Law 89–732; 8 U.S.C. 1255 note), Public Law 95–145 (8 U.S.C. 1255 note), or the Immigration Reform and Control Act of 1986 (Public Law 99–603; 100 Stat. 3359) or any amendment made by that Act.

(c) PROOF OF ELIGIBILITY.—

(1) IN GENERAL.—An alien may establish that the alien meets the requirement of section 211(a)(1) or 213(a)(1) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(2) DOCUMENTATION OF WORK HISTORY.—

(A) BURDEN OF PROOF.—An alien applying for status under section 211(a) or 213(a) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days required under section 211(a)(1) or 213(a)(1), as applicable.

(B) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under subparagraph (A) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(C) SUFFICIENT EVIDENCE.—An alien may meet the burden of proof under subparagraph (A) to establish that the alien has performed the days or hours of work required by section 211(a)(1) or 213(a)(1) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(d) APPLICATIONS SUBMITTED TO QUALIFIED DESIGNATED ENTITIES.—

(1) REQUIREMENTS.—Each qualified designated entity shall agree—

(A) to forward to the Secretary an application submitted to that entity pursuant to subsection (a)(1)(B) if the applicant has consented to such forwarding;

(B) not to forward to the Secretary any such application if the applicant has not consented to such forwarding; and

(C) to assist an alien in obtaining documentation of the alien's work history, if the alien requests such assistance.

(2) NO AUTHORITY TO MAKE DETERMINATIONS.—No qualified designated entity may make a determination required by this subtitle to be made by the Secretary.

(e) LIMITATION ON ACCESS TO INFORMATION.—Files and records collected or compiled by a qualified designated entity for the purposes of this section are confidential and the Secretary shall not have access to such a file or record relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to subsection (f).

(f) CONFIDENTIALITY OF INFORMATION.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary or any other official or employee of the Department or a bureau or agency of the Department is prohibited from—

(A) using information furnished by the applicant pursuant to an application filed under this title, the information provided by an applicant to a qualified designated entity, or any information provided by an employer or former employer for any purpose other than to make a determination on the application or for imposing the penalties described in subsection (g);

(B) making any publication in which the information furnished by any particular individual can be identified; or

(C) permitting a person other than a sworn officer or employee of the Department or a bureau or agency of the Department or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(2) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this title or any other information derived from such furnished information to—

(A) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

(B) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(3) CONSTRUCTION.—

(A) IN GENERAL.—Nothing in this subsection shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes, of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(B) CRIMINAL CONVICTIONS.—Notwithstanding any other provision of this subsection, information concerning whether the alien applying for blue card status under section 211 or an adjustment of status under section 213 has been convicted of a crime at any time may be used or released for immigration enforcement or law enforcement purposes.

(4) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this subsection shall be subject to a fine in an amount not to exceed $10,000.

(g) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(1) CRIMINAL PENALTY.—Any person who—

(A) files an application for blue card status under section 211 or an adjustment of status under section 213 and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(B) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(h) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for blue card status under section 211 or an adjustment of status under section 213.

(i) APPLICATION FEES.—

(1) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(A) shall be charged for the filing of an application for blue card status under section 211 or for an adjustment of status under section 213; and

(B) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(2) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under paragraph (1)(B) for services provided to applicants.

(3) DISPOSITION OF FEES.—

(A) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ''Agricultural Worker Immigration Status Adjustment Account''. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under paragraph (1)(A).

(B) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the ''Agricultural Worker Immigration Status Adjustment Account'' shall remain available to the Secretary until expended for processing applications for blue card status under section 211 or an adjustment of status under section 213.

SEC. 215. WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.

(a) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under section 213.

(b) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under section 211(a) or an alien's eligibility for adjustment of status under section 213(b)(2)(A) the following rules shall apply:

(1) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(2) WAIVER OF OTHER GROUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(B) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under subparagraph (A).

(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(3) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for blue card status under section 211 or an adjustment of status under section 213 by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(c) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in section 211(a)(2) and who can establish a nonfrivolous case of eligibility for blue card status (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for blue card status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for blue card status during the application period described in section 211(a)(2), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an employment authorized endorsement or other appropriate work permit for such purpose.

SEC. 216. ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for blue card status under section 211 or adjustment of status under section 213 except in accordance with this section.

(b) ADMINISTRATIVE REVIEW.—

(1) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(2) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(c) JUDICIAL REVIEW.—

(1) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(2) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

SEC. 217. USE OF INFORMATION.

Beginning not later than the first day of the application period described in section 211(a)(2), the Secretary, in cooperation with qualified designated entities (as that term is defined in section 214(b)), shall broadly disseminate information respecting the benefits that aliens may receive under this subtitle and the requirements that an alien is required to meet to receive such benefits.

SEC. 218. REGULATIONS, EFFECTIVE DATE, AUTHORIZATION OF APPROPRIATIONS.

(a) REGULATIONS.—The Secretary shall issue regulations to implement this subtitle not later than the first day of the seventh month that begins after the date of enactment of this Act.

(b) EFFECTIVE DATE.—This subtitle shall take effect on the date that regulations required by subsection (a) are issued, regardless of whether such regulations are issued on an interim basis or on any other basis.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to implement this subtitle, including any sums needed for costs associated with the initiation of such implementation, for fiscal years 2007 and 2008.

PART II—CORRECTION OF SOCIAL SECURITY RECORDS

SEC. 221. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) who is granted blue card status under the Agricultural Job Opportunity, Benefits, and Security Act of 2007,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted blue card status.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

Subtitle B—Reform of H–2A Worker Program

SEC. 231. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by striking section 218 and inserting the following:

''SEC. 218. H–2A EMPLOYER APPLICATIONS.

''(a) APPLICATIONS TO THE SECRETARY OF LABOR.—

''(1) IN GENERAL.—No alien may be admitted to the United States as an H–2A worker, or otherwise provided status as an H–2A worker, unless the employer has filed with the Secretary of Labor an application containing—

''(A) the assurances described in subsection (b);

''(B) a description of the nature and location of the work to be performed;

''(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

''(D) the number of job opportunities in which the employer seeks to employ the workers.

''(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

''(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

''(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

''(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

''(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

''(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

''(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With

respect to a job opportunity that is not covered under a collective bargaining agreement:

''(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer has applied for an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218A to all workers employed in the job opportunities for which the employer has applied for an H–2A worker under subsection (a) and to all other workers in the same occupation at the place of employment.

''(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer has applied for an H–2A worker.

''(E) REQUIREMENTS FOR PLACEMENT OF THE NONIMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

''(i) the nonimmigrant performs duties in whole or in part at 1 or more worksites owned, operated, or controlled by such other employer;

''(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

''(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

''(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(H) EMPLOYMENT OF UNITED STATES WORKERS.—

''(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H–2A nonimmigrant is, or H–2A nonimmigrants are, sought:

''(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

''(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on 'America's Job Bank' or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

''(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

''(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H–2A workers could not reasonably have been foreseen.

''(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

''(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the H–2A worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the H–2A worker who is in the job was hired has elapsed, subject to the following requirements:

''(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H–2A workers in order to force the hiring of United States workers under this clause.

''(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

''(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

''(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

''(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

''(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218A, 218B, and 218C.

''(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

''(d) WITHDRAWAL OF APPLICATIONS.—

''(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

''(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

''(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

''(e) REVIEW AND APPROVAL OF APPLICATIONS.—

''(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or worksite, a copy of each such application (and such accompanying documents as are necessary).

''(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

''(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under subsection (a). Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

''(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds

that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.''

''SEC. 218A. H–2A EMPLOYMENT REQUIREMENTS.

''(a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

''(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

''(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

''(A) IN GENERAL.—An employer applying under section 218(a) for H–2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

''(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

''(C) FAMILY HOUSING.—If it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

''(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

''(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

''(F) CHARGES FOR HOUSING.—

''(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

''(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

''(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

''(i) IN GENERAL.—If the requirement set out in clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

''(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers and H–2A workers who are seeking temporary housing while employed in agricultural work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

''(iii) AMOUNT OF ALLOWANCE.—

''(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(2) REIMBURSEMENT OF TRANSPORTATION.—

''(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

''(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

''(C) LIMITATION.—

''(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

''(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

''(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

''(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

''(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

''(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORKSITE.—The employer shall provide transportation between the worker's living quarters and the employer's worksite without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

''(3) REQUIRED WAGES.—

''(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

''(B) LIMITATION.—Effective on the date of the enactment of the Agricultural Job Opportunities, Benefits, and Security Act of 2007 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

''(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

''(i) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to this section before the first March 1 that is not less than 3 years after the date of enactment of this section, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2003, had been annually adjusted, beginning on March 1, 2006, by the lesser of—

''(I) the 12-month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not less than 4 years after the date of enactment of this section, and each March 1 thereafter, the adverse effect wage rate then in effect

for each State shall be adjusted by the lesser of—

''(I) the 12-month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

''(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

''(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

''(i) the worker's total earnings for the pay period;

''(ii) the worker's hourly rate of pay, piece rate of pay, or both;

''(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the ¾ guarantee described in paragraph (4);

''(iv) the hours actually worked by the worker;

''(v) an itemization of the deductions made from the worker's wages; and

''(vi) if piece rates of pay are used, the units produced daily.

''(G) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2009, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

''(i) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

''(v) recommendations for future wage protection under this section.

''(H) COMMISSION ON WAGE STANDARDS.—

''(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H–2A program (in this subparagraph referred to as the 'Commission').

''(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

''(I) Four representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

''(II) Four representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

''(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

''(I) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

''(V) recommendations for future wage protection under this section.

''(iv) FINAL REPORT.—Not later than December 31, 2009, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

''(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

''(4) GUARANTEE OF EMPLOYMENT.—

''(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least ¾ of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

''(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

''(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the '¾ guarantee' described in subparagraph (A).

''(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

''(5) MOTOR VEHICLE SAFETY.—

''(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

''(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H–2A employer that uses or causes to be used any vehicle to transport an H–2A worker within the United States.

''(ii) DEFINED TERM.—In this paragraph, the term 'uses or causes to be used'—

''(I) applies only to transportation provided by an H–2A employer to an H–2A worker, or by a farm labor contractor to an H–2A worker at the request or direction of an H–2A employer; and

''(II) does not apply to—

''(aa) transportation provided, or transportation arrangements made, by an H–2A worker, unless the employer specifically requested or arranged such transportation; or

''(bb) car pooling arrangements made by H–2A workers themselves, using 1 of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

''(iii) CLARIFICATION.—Providing a job offer to an H–2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H–2A worker by an H–2A employer, shall not constitute an arrangement of, or participation in, such transportation.

''(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H–2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

''(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

''(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

''(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

''(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

''(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

''(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H–2A worker.

''(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

''(iii) EFFECT OF WORKERS' COMPENSATION COVERAGE.—If the employer of any H–2A worker provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

''(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

''(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

''(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

''(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer's application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

''(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218B shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

''SEC. 218B. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS.

''(a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

''(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

''(c) CRITERIA FOR ADMISSIBILITY.—

''(1) IN GENERAL.—An H–2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218A, and the alien is not ineligible under paragraph (2).

''(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

''(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

''(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H–2A status, but may not be granted that status in the United States.

''(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

''(d) PERIOD OF ADMISSION.—

''(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the worksite and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

''(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

''(B) the total period of employment, including such 14-day period, may not exceed 10 months.

''(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

''(e) ABANDONMENT OF EMPLOYMENT.—

''(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H–2A worker prematurely abandons employment.

''(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

''(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

''(f) REPLACEMENT OF ALIEN.—

''(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

''(A) who abandons or prematurely terminates employment; or

''(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

''(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

''(g) IDENTIFICATION DOCUMENT.—

''(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify the alien's identity.

''(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

''(A) The document shall be capable of reliably determining whether—

''(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

''(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

''(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

''(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

''(C) The document shall—

''(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(h) EXTENSION OF STAY OF H–2A ALIENS IN THE UNITED STATES.—

''(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H–2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

''(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

''(A) for a period of more than 10 months; or

''(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

''(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

''(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

''(B) DEFINITION.—For purposes of subparagraph (A), the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

''(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition

with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

''(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

''(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

''(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

''(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

''(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least ⅕ the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

''(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H–2A worker.

''(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—Notwithstanding any provision of the Agricultural Job Opportunities, Benefits, and Security Act of 2007, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goat herder, or dairy worker—

''(1) may be admitted for an initial period of 12 months;

''(2) subject to subsection (j)(5), may have such initial period of admission extended for a period of up to 3 years; and

''(3) shall not be subject to the requirements of subsection (h)(5) (relating to periods of absence from the United States).

''(j) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—

''(1) ELIGIBLE ALIEN.—For purposes of this subsection, the term 'eligible alien' means an alien—

''(A) having nonimmigrant status under section 101(a)(15)(H)(ii)(a) based on employment as a sheepherder, goat herder, or dairy worker;

''(B) who has maintained such nonimmigrant status in the United States for a cumulative total of 36 months (excluding any period of absence from the United States); and

''(C) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(iii).

''(2) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

''(A) the alien's employer on behalf of the eligible alien; or

''(B) the eligible alien.

''(3) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)(3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa described in paragraph (1)(C) for an eligible alien.

''(4) EFFECT OF PETITION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such a petition shall not constitute evidence of an alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(a).

''(5) EXTENSION OF STAY.—The Secretary shall extend the stay of an eligible alien having a pending or approved classification petition described in paragraph (2) in 1-year increments until a final determination is made on the alien's eligibility for adjustment of status to that of an alien lawfully admitted for permanent residence.

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

''SEC. 218C. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.

''(a) ENFORCEMENT AUTHORITY.—

''(1) INVESTIGATION OF COMPLAINTS.—

''(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

''(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (G). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

''(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

''(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

''(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

''(iii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 2 years.

''(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 3 years.

''(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of $90,000.

''(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218A(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218A(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

''(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218A.

''(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H–2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

''(1) The providing of housing or a housing allowance as required under section 218A(b)(1).

''(2) The reimbursement of transportation as required under section 218A(b)(2).

''(3) The payment of wages required under section 218A(b)(3) when due.

''(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218A(c), compliance with which shall be governed by the provisions of such laws.

''(5) The guarantee of employment required under section 218A(b)(4).

''(6) The motor vehicle safety requirements under section 218A(b)(5).

''(7) The prohibition of discrimination under subsection (d)(2).

''(c) PRIVATE RIGHT OF ACTION.—

''(1) MEDIATION.—Upon the filing of a complaint by an H–2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

''(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H–2A workers and agricultural employers without charge to the parties.

''(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other nonbinding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

''(C) AUTHORIZATION.—

''(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service $500,000 for each fiscal year to carry out this section.

''(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

''(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H–2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

''(3) ELECTION.—An H–2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

''(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H–2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

''(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

''(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

''(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

''(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

''(7) WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

''(A) Notwithstanding any other provision of this section, where a State's workers' compensation law is applicable and coverage is provided for an H–2A worker, the workers' compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State's workers' compensation law.

''(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

''(i) a recovery under a State workers' compensation law; or

''(ii) rights conferred under a State workers' compensation law.

''(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H–2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H–2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

''(9) PRECLUSIVE EFFECT.—Any settlement by an H–2A worker and an H–2A employer or any person reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(d) DISCRIMINATION PROHIBITED.—

''(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218A or any rule or regulation pertaining to section 218 or 218A, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218 or 218A or any rule or regulation pertaining to either of such sections.

''(2) DISCRIMINATION AGAINST H–2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H–2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

''(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H–2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

''(f) ROLE OF ASSOCIATIONS.—

''(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218A, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

''(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to

know of the violation, in which case the penalty shall be invoked against the association member or members as well.

''SEC. 218D. DEFINITIONS.

''For purposes of this section and section 218, 218A, 218B, and 218C:

''(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 or the performance of agricultural labor or services described in section 101(a)(15)(H)(ii)(a).

''(2) BONA FIDE UNION.—The term 'bona fide union' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

''(3) DISPLACE.—The term 'displace', in the case of an application with respect to 1 or more H–2A workers by an employer, means laying off a United States worker from a job for which the H–2A worker or workers is or are sought.

''(4) ELIGIBLE.—The term 'eligible', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

''(5) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

''(6) H–2A EMPLOYER.—The term 'H–2A employer' means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

''(7) H–2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

''(8) JOB OPPORTUNITY.—The term 'job opportunity' means a job opening for temporary or seasonal full-time employment at a place in the United States to which United States workers can be referred.

''(9) LAYING OFF.—

''(A) IN GENERAL.—The term 'laying off', with respect to a worker—

''(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218A(b)(4)(D)), or temporary suspension of employment due to weather, markets, or other temporary conditions; but

''(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

''(10) REGULATORY DROUGHT.—The term 'regulatory drought' means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

''(11) SEASONAL.—Labor is performed on a 'seasonal' basis if—

''(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

''(B) from its nature, it may not be continuous or carried on throughout the year.

''(12) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(13) TEMPORARY.—A worker is employed on a 'temporary' basis where the employment is intended not to exceed 10 months.

''(14) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a national of the United States, an alien lawfully admitted for permanent residence, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).''.

(b) TABLE OF CONTENTS.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

''Sec. 218. H–2A employer applications.
''Sec. 218A. H–2A employment requirements.
''Sec. 218B. Procedure for admission and extension of stay of H–2A workers.
''Sec. 218C. Worker protections and labor standards enforcement.
''Sec. 218D. Definitions.''.

Subtitle C—Miscellaneous Provisions

SEC. 241. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens pursuant to the amendment made by section 231(a) of this Act and a collection process for such fees from employers. Such fees shall be the only fees chargeable to employers for services provided under such amendment.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer's application under section 218 of the Immigration and Nationality Act, as amended by section 231 of this Act, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ aliens pursuant to the amendment made by section 231(a) of this Act, to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the fees pursuant to the amendment made by section 231(a) of this Act shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out sections 218 and 218B of the Immigration and Nationality Act, as amended and added, respectively, by section 231 of this Act, and the provisions of this title.

SEC. 242. REGULATIONS.

(a) REQUIREMENT FOR THE SECRETARY TO CONSULT.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture during the promulgation of all regulations to implement the duties of the Secretary under this title and the amendments made by this title.

(b) REQUIREMENT FOR THE SECRETARY OF STATE TO CONSULT.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this title and the amendments made by this title.

(c) REQUIREMENT FOR THE SECRETARY OF LABOR TO CONSULT.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this title and the amendments made by this title.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218A, 218B, 218C, and 218D of the Immigration and Nationality Act, as amended or added by section 231 of this Act, shall take effect on the effective date of section 231 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 243. REPORTS TO CONGRESS.

(a) ANNUAL REPORT.—Not later than September 30 of each year, the Secretary shall submit a report to Congress that identifies, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), and the number of workers actually admitted, disaggregated by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218B(e)(2) of such Act;

(3) the number of such aliens who departed the United States within the period specified in subsection 218B(d) of such Act;

(4) the number of aliens who applied for adjustment of status pursuant to section 211(a);

(5) the number of such aliens whose status was adjusted under section 211(a);

(6) the number of aliens who applied for permanent residence pursuant to section 213(c); and

(7) the number of such aliens who were approved for permanent residence pursuant section 213(c).

(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress a report that describes the measures being taken and the progress made in implementing this Act.

SEC. 244. EFFECTIVE DATE.

Except as otherwise provided, sections 231 and 241 shall take effect 1 year after the date of the enactment of this Act.

SA 169. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the end, add the following new section:

SEC. 4. SHARING OF SOCIAL SECURITY DATA FOR IMMIGRATION ENFORCEMENT PURPOSES.

(a) SOCIAL SECURITY ACCOUNT NUMBERS.—Section 264(f) of the Immigration and Nationality Act (8 U.S.C. 1304(f)) is amended to read as follows:

''(f) Notwithstanding any other provision of law (including section 6103 of the Internal Revenue Code of 1986), the Secretary of Homeland Security, the Secretary of Labor, and the Attorney General are authorized to require any individual to provide his or her own social security account number for purposes of inclusion in any record of the individual maintained by either such Secretary or the Attorney General, or of inclusion in any application, document, or form provided under or required by the immigration laws.''.

(b) EXCHANGE OF INFORMATION.—Section 290(c) of the Immigration and Nationality Act (8 U.S.C. 1360(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2)(A) Notwithstanding any other provision of law (including section 6103 of the Internal Revenue Code of 1986) if earnings are reported on or after January 1, 1997, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Secretary of Homeland Security with information regarding the name, date of birth, and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings.

''(B) The information described in subparagraph (A) shall be provided in an electronic form agreed upon by the Commissioner and the Secretary.

''(3)(A) Notwithstanding any other provision of law (including section 6103 of the Internal Revenue Code of 1986), if a social security account number was used with multiple names, the Commissioner of Social Security shall provide the Secretary of Homeland Security with information regarding the name, date of birth, and address of each individual who used that social security account number, and the name and address of the person reporting the earnings for an individual who used that social security account number.

''(B) The information described in subparagraph (A) shall be provided in an electronic form agreed upon by the Commissioner and the Secretary for the sole purpose of enforcing the immigration laws.

''(C) The Secretary, in consultation with the Commissioner, may limit or modify the requirements of this paragraph, as appropriate, to identify the cases posing the highest possibility of fraudulent use of social security account numbers related to violation of the immigration laws.

''(4)(A) Notwithstanding any other provision of law (including section 6103 of the Internal Revenue Code of 1986), if more than one person reports earnings for an individual during a single tax year, the Commissioner of Social Security shall provide the Secretary of Homeland Security information regarding the name, date of birth, and address of the individual, and the name and address of the each person reporting earnings for that individual.

''(B) The information described in subparagraph (A) shall be provided in an electronic form agreed upon by the Commissioner and the Secretary for the sole purpose of enforcing the immigration laws.

''(C) The Secretary, in consultation with the Commissioner, may limit or modify the requirements of this paragraph, as appropriate, to identify the cases posing the highest possibility of fraudulent use of social security account numbers related to violation of the immigration laws.

''(5)(A) The Commissioner of Social Security shall perform, at the request to the Secretary of Homeland Security, any search or manipulation of records held by the Commissioner if the Secretary certifies that the purpose of the search or manipulation is to obtain information that is likely to assist in identifying individuals (and their employers) who are using false names or social security numbers, who are sharing a single valid name and social security number among multiple individuals, who are using the social security number of a person who is deceased, too young to work, or not authorized to work, or who are otherwise engaged in a violation of the immigration laws. The Commissioner shall provide the results of such search or manipulation to the Secretary, notwithstanding any other provision law (including section 6103 of the Internal Revenue Code of 1986).

''(B) The Secretary shall transfer to the Commissioner the funds necessary to cover the costs directly incurred by the Commissioner in carrying out each search or manipulation requested by the Secretary under subparagraph (A).''.

(c) FALSE CLAIMS OF CITIZENSHIP BY NATIONALS OF THE UNITED STATES.—Section 212(a)(6)(C)(ii)(I) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(ii)(I)) is amended by inserting ''or national'' after ''citizen''.

SA 170. Mr. GREGG (for himself, Mr. SUNUNU, and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EMPLOYEE OPTION TIME.

(a) BIWEEKLY WORK PROGRAMS.—

(1) IN GENERAL.—The Fair Labor Standards Act of 1938 is amended by inserting after section 13 (29 U.S.C. 213) the following:

''SEC. 13A. BIWEEKLY WORK PROGRAMS.

''(a) VOLUNTARY PARTICIPATION.—

''(1) OPTION OF EMPLOYEE.—Except as provided in paragraph (2), no employee may be required to participate in a program described in this section. Participation in a program described in this section may not be a condition of employment.

''(2) COLLECTIVE BARGAINING AGREEMENT.—In a case in which a valid collective bargaining agreement exists between an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law, an employee may only be required to participate in such a program in accordance with the agreement.

''(b) BIWEEKLY WORK PROGRAMS.—

''(1) IN GENERAL.—Notwithstanding section 7, an employer may establish biweekly work programs that—

''(A) allow the use of a biweekly work schedule—

''(i) that consists of a basic work requirement of not more than 80 hours, over a 2-week period; and

''(ii) in which more than 40 hours of the work requirement may occur in a week of the period, except that no more than 10 hours may be shifted between the 2 weeks involved; and

''(B) provides that an employee participating in the program is compensated for overtime hours in accordance with paragraph (4).

''(2) CONDITIONS.—An employer may carry out a biweekly work program described in paragraph (1) for employees only pursuant to the following:

''(A) AGREEMENT.—The program may be carried out only in accordance with—

''(i) applicable provisions of a collective bargaining agreement between the employer and the labor organization that has been certified or recognized as the representative of the employees under applicable law; or

''(ii) in the case of an employee who is not represented by a labor organization described in clause (i), a written agreement arrived at between the employer and employee before the performance of the work involved if the agreement was entered into knowingly and voluntarily by such employee and was not a condition of employment.

''(B) STATEMENT OF VOLUNTARY PARTICIPATION.—The program shall apply to an employee described in subparagraph (A)(ii) if such employee has affirmed, in a written statement that is made, kept, and preserved in accordance with section 11(c), that the employee has voluntarily chosen to participate in the program.

''(C) MINIMUM SERVICE.—No employee may participate, or agree to participate, in the program unless the employee has been employed for at least 12 months by the employer, and for at least 1,250 hours of service with the employer during the previous 12-month period.

''(3) COMPENSATION FOR HOURS IN SCHEDULE.—Notwithstanding section 7, in the case of an employee participating in such a biweekly work program, the employee shall be compensated for each hour in such a biweekly work schedule at a rate not less than the regular rate at which the employee is employed.

''(4) OVERTIME COMPENSATION PROVISION.—An employee participating in such a biweekly work program shall be compensated for each overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1).

''(5) DISCONTINUANCE OF PROGRAM OR WITHDRAWAL.—

''(A) DISCONTINUANCE OF PROGRAM.—An employer that has established a biweekly work program under paragraph (1) may discontinue the program for employees described in paragraph (2)(A)(ii) after providing 30 days' written notice to the employees who are subject to an agreement described in paragraph (2)(A)(ii).

''(B) WITHDRAWAL.—An employee may withdraw an agreement described in paragraph (2)(A)(ii) at the end of any 2-week period described in paragraph (1)(A)(i), by submitting a written notice of withdrawal to the employer of the employee.

''(c) PROHIBITION OF COERCION.—

''(1) IN GENERAL.—An employer shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of interfering with the rights of the employee under this section to elect or not to elect to work a biweekly work schedule.

''(2) DEFINITION.—In paragraph (1), the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

''(d) DEFINITIONS.—In this section:

''(1) BASIC WORK REQUIREMENT.—The term 'basic work requirement' means the number of hours, excluding overtime hours, that an employee is required to work or is required to account for by leave or otherwise.

''(2) COLLECTIVE BARGAINING.—The term 'collective bargaining' means the performance of the mutual obligation of the representative of an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph shall not compel either party to agree to a proposal or to make a concession.

''(3) COLLECTIVE BARGAINING AGREEMENT.—The term 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining.

''(4) EMPLOYEE.—The term 'employee' means an individual—

''(A) who is an employee (as defined in section 3);

''(B) who is not an employee of a public agency; and

''(C) to whom section 7(a) applies.

''(5) EMPLOYER.—The term 'employer' does not include a public agency.

''(6) OVERTIME HOURS.—The term 'overtime hours' when used with respect to biweekly work programs under subsection (b), means all hours worked in excess of the biweekly work schedule involved, in excess of the allotted 50 hours a week, or in excess of the allotted 80 hours in the 2-week period involved, that are requested in advance by an employer.

''(7) REGULAR RATE.—The term 'regular rate' has the meaning given the term in section 7(e).''.

(2) REMEDIES.—

(A) PROHIBITIONS.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended—

(i) by inserting ''(A)'' after ''(3)'';

(ii) by adding ''or'' after the semicolon; and

(iii) by adding at the end the following:

''(B) to violate any of the provisions of section 13A;''.

(B) REMEDIES AND SANCTIONS.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended—

(i) in subsection (c)—

(I) in the first sentence—

(aa) by inserting after ''7 of this Act'' the following: '', or of the appropriate legal or monetary equitable relief owing to any employee or employees under section 13A''; and

(bb) by striking ''wages or unpaid overtime compensation and'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and'';

(II) in the second sentence, by striking ''wages or overtime compensation and'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and''; and

(III) in the third sentence—

(aa) by inserting after ''first sentence of such subsection'' the following: '', or the second sentence of such subsection in the event of a violation of section 13A,''; and

(bb) by striking ''wages or unpaid overtime compensation under sections 6 and 7 or'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, or''; and

(ii) in subsection (e)—

(I) in the second sentence, by striking ''section 6 or 7'' and inserting ''section 6, 7, or 13A''; and

(II) in the fourth sentence, in paragraph (3), by striking ''15(a)(4) or'' and inserting ''15(a)(4), a violation of section 15(a)(3)(B), or''.

(3) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of enactment of this section, the Secretary of Labor shall revise the materials the Secretary provides, under regulations contained in section 516.4 of title 29, Code of Federal Regulations, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) to employees so that the notice reflects the amendments made to the Act by this section.

(b) CONGRESSIONAL COVERAGE.—Section 203 of the Congressional Accountability Act of 1995 (2 U.S.C. 1313) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''and section 12(c)'' and inserting ''section 12(c), and section 13A''; and

(B) by striking paragraph (3);

(2) in subsection (b)—

(A) by striking ''The remedy'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), the remedy''; and

(B) by adding at the end the following:

''(2) BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOURS PROGRAMS.—The remedy for a violation of subsection (a) relating to the requirements of section 13A of the Fair Labor Standards Act of 1938 shall be such remedy as would be appropriate if awarded under sections 16 and 17 of such Act (29 U.S.C. 216, 217) for such a violation.''; and

(3) in subsection (c), by striking paragraph (4).

(c) TERMINATION.—The authority provided by this section and the amendments made by this section terminates 5 years after the date of enactment of this section.

SA 171. Mr. GREGG (for himself, Mr. SUNUNU, and Mr. ISAKSON) submitted an amendment intended to be proposed to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EMPLOYEE OPTION TIME.

(a) BIWEEKLY WORK PROGRAMS.—

(1) IN GENERAL.—The Fair Labor Standards Act of 1938 is amended by inserting after section 13 (29 U.S.C. 213) the following:

''SEC. 13A. BIWEEKLY WORK PROGRAMS.

''(a) VOLUNTARY PARTICIPATION.—

''(1) OPTION OF EMPLOYEE.—Except as provided in paragraph (2), no employee may be required to participate in a program described in this section. Participation in a program described in this section may not be a condition of employment.

''(2) COLLECTIVE BARGAINING AGREEMENT.—In a case in which a valid collective bargaining agreement exists between an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law, an employee may only be required to participate in such a program in accordance with the agreement.

''(b) BIWEEKLY WORK PROGRAMS.—

''(1) IN GENERAL.—Notwithstanding section 7, an employer may establish biweekly work programs that—

''(A) allow the use of a biweekly work schedule—

''(i) that consists of a basic work requirement of not more than 80 hours, over a 2-week period; and

''(ii) in which more than 40 hours of the work requirement may occur in a week of the period, except that no more than 10 hours may be shifted between the 2 weeks involved; and

''(B) provides that an employee participating in the program is compensated for overtime hours in accordance with paragraph (4).

''(2) CONDITIONS.—An employer may carry out a biweekly work program described in paragraph (1) for employees only pursuant to the following:

''(A) AGREEMENT.—The program may be carried out only in accordance with—

''(i) applicable provisions of a collective bargaining agreement between the employer and the labor organization that has been certified or recognized as the representative of the employees under applicable law; or

''(ii) in the case of an employee who is not represented by a labor organization described in clause (i), a written agreement arrived at between the employer and employee before the performance of the work involved if the agreement was entered into knowingly and voluntarily by such employee and was not a condition of employment.

''(B) STATEMENT OF VOLUNTARY PARTICIPATION.—The program shall apply to an employee described in subparagraph (A)(ii) if such employee has affirmed, in a written statement that is made, kept, and preserved in accordance with section 11(c), that the employee has voluntarily chosen to participate in the program.

''(C) MINIMUM SERVICE.—No employee may participate, or agree to participate, in the program unless the employee has been employed for at least 12 months by the employer, and for at least 1,250 hours of service with the employer during the previous 12-month period.

''(3) COMPENSATION FOR HOURS IN SCHEDULE.—Notwithstanding section 7, in the case of an employee participating in such a biweekly work program, the employee shall be compensated for each hour in such a biweekly work schedule at a rate not less than the regular rate at which the employee is employed.

''(4) OVERTIME COMPENSATION PROVISION.—An employee participating in such a biweekly work program shall be compensated for each overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1).

''(5) DISCONTINUANCE OF PROGRAM OR WITHDRAWAL.—

''(A) DISCONTINUANCE OF PROGRAM.—An employer that has established a biweekly work program under paragraph (1) may discontinue the program for employees described in paragraph (2)(A)(ii) after providing 30 days' written notice to the employees who are subject to an agreement described in paragraph (2)(A)(ii).

''(B) WITHDRAWAL.—An employee may withdraw an agreement described in paragraph (2)(A)(ii) at the end of any 2-week period described in paragraph (1)(A)(i), by submitting a written notice of withdrawal to the employer of the employee.

''(c) PROHIBITION OF COERCION.—

''(1) IN GENERAL.—An employer shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of interfering with the rights of the employee under this section to elect or not to elect to work a biweekly work schedule.

''(2) DEFINITION.—In paragraph (1), the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

''(d) DEFINITIONS.—In this section:

''(1) BASIC WORK REQUIREMENT.—The term 'basic work requirement' means the number of hours, excluding overtime hours, that an

employee is required to work or is required to account for by leave or otherwise.

''(2) COLLECTIVE BARGAINING.—The term 'collective bargaining' means the performance of the mutual obligation of the representative of an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph shall not compel either party to agree to a proposal or to make a concession.

''(3) COLLECTIVE BARGAINING AGREEMENT.—The term 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining.

''(4) EMPLOYEE.—The term 'employee' means an individual—

''(A) who is an employee (as defined in section 3);

''(B) who is not an employee of a public agency; and

''(C) to whom section 7(a) applies.

''(5) EMPLOYER.—The term 'employer' does not include a public agency.

''(6) OVERTIME HOURS.—The term 'overtime hours' when used with respect to biweekly work programs under subsection (b), means all hours worked in excess of the biweekly work schedule involved, in excess of the allotted 50 hours a week, or in excess of the allotted 80 hours in the 2-week period involved, that are requested in advance by an employer.

''(7) REGULAR RATE.—The term 'regular rate' has the meaning given the term in section 7(e).''.

(2) REMEDIES.—

(A) PROHIBITIONS.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended—

(i) by inserting ''(A)'' after ''(3)'';

(ii) by adding ''or'' after the semicolon; and

(iii) by adding at the end the following:

''(B) to violate any of the provisions of section 13A;''.

(B) REMEDIES AND SANCTIONS.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended—

(i) in subsection (c)—

(I) in the first sentence—

(aa) by inserting after ''7 of this Act'' the following: '', or of the appropriate legal or monetary equitable relief owing to any employee or employees under section 13A''; and

(bb) by striking ''wages or unpaid overtime compensation and'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and'';

(II) in the second sentence, by striking ''wages or overtime compensation and'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and''; and

(III) in the third sentence—

(aa) by inserting after ''first sentence of such subsection'' the following: '', or the second sentence of such subsection in the event of a violation of section 13A,''; and

(bb) by striking ''wages or unpaid overtime compensation under sections 6 and 7 or'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, or''; and

(ii) in subsection (e)—

(I) in the second sentence, by striking ''section 6 or 7'' and inserting ''section 6, 7, or 13A''; and

(II) in the fourth sentence, in paragraph (3), by striking ''15(a)(4) or'' and inserting ''15(a)(4), a violation of section 15(a)(3)(B), or''.

(3) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of enactment of this section, the Secretary of Labor shall revise the materials the Secretary provides, under regulations contained in section 516.4 of title 29, Code of Federal Regulations, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) to employees so that the notice reflects the amendments made to the Act by this section.

(b) CONGRESSIONAL COVERAGE.—Section 203 of the Congressional Accountability Act of 1995 (2 U.S.C. 1313) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''and section 12(c)'' and inserting ''section 12(c), and section 13A''; and

(B) by striking paragraph (3);

(2) in subsection (b)—

(A) by striking ''The remedy'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), the remedy''; and

(B) by adding at the end the following:

''(2) BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOURS PROGRAMS.—The remedy for a violation of subsection (a) relating to the requirements of section 13A of the Fair Labor Standards Act of 1938 shall be such remedy as would be appropriate if awarded under sections 16 and 17 of such Act (29 U.S.C. 216, 217) for such a violation.''; and

(3) in subsection (c), by striking paragraph (4).

(c) TERMINATION.—The authority provided by this section and the amendments made by this section terminates 5 years after the date of enactment of this section.

SA 172. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. AGRICULTURAL CHEMICALS SECURITY CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45O. AGRICULTURAL CHEMICALS SECURITY CREDIT.

''(a) IN GENERAL.—For purposes of section 38, in the case of an eligible agricultural business, the agricultural chemicals security credit determined under this section for the taxable year is 30 percent of the qualified security expenditures for the taxable year.

''(b) FACILITY LIMITATION.—The amount of the credit determined under subsection (a) with respect to any facility for any taxable year shall not exceed—

''(1) $100,000, reduced by

''(2) the aggregate amount of credits determined under subsection (a) with respect to such facility for the 5 prior taxable years.

''(c) ANNUAL LIMITATION.—The amount of the credit determined under subsection (a) with respect to any taxpayer for any taxable year shall not exceed $2,000,000.

''(d) QUALIFIED CHEMICAL SECURITY EXPENDITURE.—For purposes of this section, the term 'qualified chemical security expenditure' means, with respect to any eligible agricultural business for any taxable year, any amount paid or incurred by such business during such taxable year for—

''(1) employee security training and background checks,

''(2) limitation and prevention of access to controls of specified agricultural chemicals stored at the facility,

''(3) tagging, locking tank valves, and chemical additives to prevent the theft of specified agricultural chemicals or to render such chemicals unfit for illegal use,

''(4) protection of the perimeter of specified agricultural chemicals,

''(5) installation of security lighting, cameras, recording equipment, and intrusion detection sensors,

''(6) implementation of measures to increase computer or computer network security,

''(7) conducting a security vulnerability assessment,

''(8) implementing a site security plan, and

''(9) such other measures for the protection of specified agricultural chemicals as the Secretary may identify in regulation.

Amounts described in the preceding sentence shall be taken into account only to the extent that such amounts are paid or incurred for the purpose of protecting specified agricultural chemicals.

''(e) ELIGIBLE AGRICULTURAL BUSINESS.—For purposes of this section, the term 'eligible agricultural business' means any person in the trade or business of—

''(1) selling agricultural products, including specified agricultural chemicals, at retail predominantly to farmers and ranchers, or

''(2) manufacturing, formulating, distributing, or aerially applying specified agricultural chemicals.

''(f) SPECIFIED AGRICULTURAL CHEMICAL.—For purposes of this section, the term 'specified agricultural chemical' means—

''(1) any fertilizer commonly used in agricultural operations which is listed under—

''(A) section 302(a)(2) of the Emergency Planning and Community Right-to-Know Act of 1986,

''(B) section 101 of part 172 of title 49, Code of Federal Regulations, or

''(C) part 126, 127, or 154 of title 33, Code of Federal Regulations, and

''(2) any pesticide (as defined in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act), including all active and inert ingredients thereof, which is customarily used on crops grown for food, feed, or fiber.

''(g) CONTROLLED GROUPS.—Rules similar to the rules of paragraphs (1) and (2) of section 41(f) shall apply for purposes of this section.

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

''(1) provide for the proper treatment of amounts which are paid or incurred for purpose of protecting any specified agricultural chemical and for other purposes, and

''(2) provide for the treatment of related properties as one facility for purposes of subsection (b).

''(i) TERMINATION.—This section shall not apply to any amount paid or incurred after December 31, 2010.''.

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking ''plus'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', plus'', and by adding at the end the following new paragraph:

''(32) in the case of an eligible agricultural business (as defined in section 45O(e)), the agricultural chemicals security credit determined under section 45O(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C is amended by adding at the end the following new subsection:

''(f) CREDIT FOR SECURITY OF AGRICULTURAL CHEMICALS.—No deduction shall be allowed for that portion of the expenses (otherwise allowable as a deduction) taken into account in determining the credit under section 45O for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45O(a).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45O. Agricultural chemicals security credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2006.

SA 173. Mr. KERRY submitted an amendment intended to be proposed to amendment SA 112 submitted by Mr. SUNUNU to the amendment SA 100 proposed by Mr. REID (Mr. BAUCUS) to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. SUSTAINABILITY PROGRAM.

(a) IN GENERAL.—Section 29(l) of the Small Business Act (15 U.S.C. 656(l)) is amended—

(1) in the subsection heading, by striking ''PILOT'';

(2) in paragraph (1), by striking ''4-year pilot''; and

(3) in paragraph (5), by striking ''pilot''.

(b) CONFORMING AMENDMENTS.—Section 29(k) of the Small Business Act (15 U.S.C. 656(k)) is amended—

(1) in paragraph (1), by striking ''pilot'';

(2) in paragraph (4)—

(A) in the paragraph heading, by striking ''PILOT'';

(B) in subparagraph (A), by adding at the end the following:

''(v) For fiscal years 2007 and 2008, not less than 41 percent.''; and

(C) in the heading for subparagraph (B), by striking ''PILOT''.

SA 174. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SUSTAINABILITY PROGRAM.

(a) IN GENERAL.—Section 29(l) of the Small Business Act (15 U.S.C. 656(l)) is amended—

(1) in the subsection heading, by striking ''PILOT'';

(2) in paragraph (1), by striking ''4-year pilot''; and

(3) in paragraph (5), by striking ''pilot''.

(b) CONFORMING AMENDMENTS.—Section 29(k) of the Small Business Act (15 U.S.C. 656(k)) is amended—

(1) in paragraph (1), by striking ''pilot'';

(2) in paragraph (4)—

(A) in the paragraph heading, by striking ''PILOT'';

(B) in subparagraph (A), by adding at the end the following:

''(v) For fiscal years 2007 and 2008, not less than 41 percent.''; and

(C) in the heading for subparagraph (B), by striking ''PILOT''.

SA 175. Mr. HATCH submitted an amendment intended to be proposed by him to the bill H.R. 2, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROVISIONS TO IMPROVE AND EXPAND THE AVAILABILITY OF HEALTH SAVINGS ACCOUNTS.

(a) PROVISIONS RELATING TO ELIGIBILITY TO CONTRIBUTE TO HSAS.—

(1) INDIVIDUALS ELIGIBLE FOR REIMBURSEMENT UNDER SPOUSE'S FLEXIBLE SPENDING ARRANGEMENT.—Section 223(c)(1) (defining eligible individual) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR CERTAIN FLEXIBLE SPENDING ARRANGEMENTS.—For purposes of subparagraph (A)(ii), an individual shall not be treated as covered under a health plan described in such subparagraph merely because the individual is covered under a flexible spending arrangement (within the meaning of section 106(c)(2)) which is maintained by an employer of the spouse of the individual, but only if—

''(i) the employer is not also the employer of the individual, and

''(ii) the individual certifies to the employer and to the Secretary (in such form and manner as the Secretary may prescribe) that the individual and the individual's spouse will not accept reimbursement under the arrangement for any expenses for medical care provided to the individual.''.

(2) INDIVIDUALS OVER AGE 65 AUTOMATICALLY ENROLLED IN MEDICARE PART A.—Section 223(b)(7) (relating to contribution limitation on medicare eligible individuals) is amended by adding at the end the following new sentence: ''This paragraph shall not apply to any individual during any period the individual's only entitlement to such benefits is an entitlement to hospital insurance benefits under part A of title XVIII of such Act pursuant to an automatic enrollment for such hospital insurance benefits under the regulations under section 226(a)(1) of such Act.''

(3) INDIVIDUALS ELIGIBLE FOR CERTAIN VETERANS BENEFITS.—Section 223(c)(1) (defining eligible individual), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

''(D) SPECIAL RULE FOR INDIVIDUALS ELIGIBLE FOR CERTAIN VETERANS BENEFITS.—For purposes of subparagraph (A)(ii), an individual shall not be treated as covered under a health plan described in such subparagraph merely because the individual receives periodic hospital care or medical services for a service-connected disability under any law administered by the Secretary of Veterans Affairs but only if the individual is not eligible to receive such care or services for any condition other than a service-connected disability.''.

(b) FAMILY PLAN MAY HAVE INDIVIDUAL ANNUAL DEDUCTIBLE LIMIT.—Section 223(c)(2) (defining high deductible health plan) is amended by adding at the end the following new subparagraph:

''(E) SPECIAL RULE FOR FAMILY COVERAGE.—A health plan providing family coverage shall not fail to meet the requirements of subparagraph (A)(i)(II) merely because the plan elects to provide both—

''(i) an aggregate annual deductible limit for all individuals covered by the plan which is not less than the amount in effect under subparagraph (A)(i)(II), and

''(ii) an annual deductible limit for each individual covered by the plan which is not less than the amount in effect under subparagraph (A)(i)(I).''.

(c) DEFINITION OF QUALIFIED MEDICAL EXPENSES.—

(1) PREMIUMS FOR LOW PREMIUM HEALTH PLANS TREATED AS QUALIFIED MEDICAL EXPENSES.—Subparagraph (C) of section 223(d)(2) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) a high deductible health plan, but only if the expenses are for coverage for a month with respect to which the account beneficiary is an eligible individual by reason of the coverage under the plan.''.

(2) SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT.—Paragraph (2) of section 223(d) is amended by adding at the end the following new subparagraph:

''(D) CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT TREATED AS QUALIFIED.—An expense shall not fail to be treated as a qualified medical expense solely because such expense was incurred before the establishment of the health savings account if such expense was incurred—

''(i) during either—

''(I) the taxable year in which the health savings account was established, or

''(II) the preceding taxable year in the case of a health savings account established after the taxable year in which such expense was incurred but before the time prescribed by law for filing the return for such taxable year (not including extensions thereof), and

''(ii) for medical care of an individual during a period that such individual was an eligible individual.

For purposes of clause (ii), an individual shall be treated as an eligible individual for any portion of a month the individual is described in subsection (c)(1), determined without regard to whether the individual is covered under a high deductible health plan on the 1st day of such month.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, February 13, 2007, at 10:00 a.m. in room SD–106 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony on the Stern Review of the Economics of Climate Change, examining the economic impacts of climate change and stabilizing greenhouse gases in the atmosphere.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Jonathan Black at (202) 224–6722 or Amanda Kelly at (202) 224–5836.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, January 30, 2007, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony on transportation sector fuel efficiency, including challenges to and incentives for increased oil savings through technological innovation including plug-in hybrids.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Michael Carr at (202) 224–8164 or Rachael Pasternack at (202) 224–0883.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, January 23, 2007, at 9:30 a.m., in open session to consider the nomination of LTG David H. Petraeus, USA, to be General and Commander, Multi-National Forces-Iraq.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, January 23, 2007 at 9:15 a.m. to hold a hearing on Iraq.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, January 23, 2007 at 2:30 p.m. to hold a hearing on Iraq.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, January 23, 2007, to hold an oversight hearing on DOD/VA Collaboration and Cooperation to Meet the Needs of Returning Service members. The hearing will take place in room 418 of the Russell Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on January 23, 2007 at 2:30 p.m. to hold a hearing.

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

LEGISLATIVE TRANSPARENCY AND ACCOUNTABILITY ACT OF 2007

On Thursday, January 18, 2007, the Senate passed S. 1, as amended, as follows:

S. 1

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—LEGISLATIVE TRANSPARENCY AND ACCOUNTABILITY ACT OF 2007

SEC. 101. SHORT TITLE.

This title may be cited as the ''Legislative Transparency and Accountability Act of 2007''.

SEC. 102. OUT OF SCOPE MATTERS IN CONFERENCE REPORTS.

(a) IN GENERAL.—A point of order may be made by any Senator against any item contained in a conference report that includes or consists of any matter not committed to the conferees by either House.

(1) For the purpose of this section ''matter not committed to the conferees by either House'' shall include any item which consists of a specific provision containing a specific level of funding for any specific account, specific program, specific project, or specific activity, when no such specific funding was provided for such specific account, specific program, specific project, or specific activity in the measure originally committed to the conferees by either House.

(2) For the purpose of Rule XXVIII of the Standing Rules of the Senate ''matter not committed'' shall include any item which consists of a specific provision containing a specific level of funding for any specific account, specific program, specific project, or specific activity, when no such specific funding was provided for such specific account, specific program, specific project, or specific activity in the measure originally committed to the conferees by either House.

The point of order may be made and disposed of separately for each item in violation of this section.

(b) DISPOSITION.—If the point of order raised against an item in a conference report under subsection (a) is sustained, then—

(1) the matter in such conference report shall be stricken;

(2) when all other points of order under this section have been disposed of—

(A) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report that has not been stricken (any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the conference report shall be made);

(B) the question shall be debatable; and

(C) no further amendment shall be in order.

(c) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SEC. 103. CONGRESSIONAL EARMARK REFORM.

The Standing Rules of the Senate are amended by adding at the end the following:

RULE XLIV

EARMARKS

''1. It shall not be in order to consider—

''(a) a bill or joint resolution reported by a committee unless the report includes a list, which shall be made available on the Internet in a searchable format to the general public for at least 48 hours before consideration of the bill or joint resolution, of congressional earmarks, limited tax benefits, and limited tariff benefits in the bill or in the report (and the name of any Member who submitted a request to the committee for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits;

''(b) a bill or joint resolution not reported by a committee unless the chairman of each committee of jurisdiction has caused a list, which shall be made available on the Internet in a searchable format to the general public for at least 48 hours before consideration of the bill or joint resolution, of congressional earmarks, limited tax benefits, and limited tariff benefits in the bill (and the name of any Member who submitted a request to the committee for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits to be printed in the Congressional Record prior to its consideration; or

''(c) a conference report to accompany a bill or joint resolution unless the joint explanatory statement prepared by the managers on the part of the House and the managers on the part of the Senate includes a list, which shall be made available on the Internet in a searchable format to the general public for at least 48 hours before consideration of the conference report, of congressional earmarks, limited tax benefits, and limited tariff benefits in the conference report or joint statement (and the name of any Member, Delegate, Resident Commissioner, or Senator who submitted a request to the House or Senate committees of jurisdiction for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits.

''2. For the purpose of this rule—

''(a) the term 'congressional earmark' means a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;

''(b) the term 'limited tax benefit' means—

''(1) any revenue provision that—

''(A) provides a Federal tax deduction, credit, exclusion, or preference to a particular beneficiary or limited group of beneficiaries under the Internal Revenue Code of 1986; and

''(B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; or

''(2) any Federal tax provision which provides one beneficiary temporary or permanent transition relief from a change to the Internal Revenue Code of 1986; and

''(c) the term 'limited tariff benefit' means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.

''3. A Member may not condition the inclusion of language to provide funding for a congressional earmark, a limited tax benefit, or a limited tariff benefit in any bill or joint resolution (or an accompanying report) or in any conference report on a bill or joint resolution (including an accompanying joint explanatory statement of managers) on any vote cast by another Member, Delegate, or Resident Commissioner.

''4. (a) A Member who requests a congressional earmark, a limited tax benefit, or a limited tariff benefit in any bill or joint resolution (or an accompanying report) or in any conference report on a bill or joint resolution (or an accompanying joint statement of managers) shall provide a written statement to the chairman and ranking member of the committee of jurisdiction, including—

''(1) the name of the Member;

''(2) in the case of a congressional earmark, the name and address of the intended recipient or, if there is no specifically intended recipient, the intended location of the activity;

''(3) in the case of a limited tax or tariff benefit, identification of the individual or entities reasonably anticipated to benefit, to the extent known to the Member;

''(4) the purpose of such congressional earmark or limited tax or tariff benefit; and

''(5) a certification that the Member or spouse has no financial interest in such congressional earmark or limited tax or tariff benefit.

''(b) Each committee shall maintain the written statements transmitted under subparagraph (a). The written statements transmitted under subparagraph (a) for any congressional earmarks, limited tax benefits, or limited tariff benefits included in any measure reported by the committee or conference report filed by the chairman of the committee or any subcommittee thereof shall be published in a searchable format on the committee's or subcommittee's website not later than 48 hours after receipt on such information.

''5. It shall not be in order to consider any bill, resolution, or conference report that contains an earmark included in any classified portion of a report accompanying the measure unless the bill, resolution, or conference report includes to the greatest extent practicable, consistent with the need to protect national security (including intelligence sources and methods), in unclassified language, a general program description, funding level, and the name of the sponsor of that earmark.''.

SEC. 104. AVAILABILITY OF CONFERENCE REPORTS ON THE INTERNET.

(a) IN GENERAL.—

(1) AMENDMENT.—Rule XXVIII of all the Standing Rules of the Senate is amended by adding at the end the following:

''7. (a) It shall not be in order to consider a conference report unless such report is available to all Members and made available to the general public by means of the Internet for at least 48 hours before its consideration.

''(b) This paragraph may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

''8. It shall not be in order to consider a conference report unless the text of such report has not been changed after the Senate signatures sheets have been signed by a majority of the Senate conferees.''.

(2) EFFECTIVE DATE.—This subsection shall take effect 60 days after the date of enactment of this title.

(b) IMPLEMENTATION.—Not later than 60 days after the date of enactment of this title, the Secretary of the Senate, in consultation with the Clerk of the House of Representatives, the Government Printing Office, and the Committee on Rules and Administration, shall develop a website capable of complying with the requirements of paragraph 7 of rule XXVIII of the Standing Rules of the Senate, as added by subsection (a).

SEC. 105. SENSE OF THE SENATE ON CONFERENCE COMMITTEE PROTOCOLS.

It is the sense of the Senate that—

(1) conference committees should hold regular, formal meetings of all conferees that are open to the public;

(2) all conferees should be given adequate notice of the time and place of all such meetings; and

(3) all conferees should be afforded an opportunity to participate in full and complete

debates of the matters that such conference committees may recommend to their respective Houses.

SEC. 106. ELIMINATION OF FLOOR PRIVILEGES FOR FORMER MEMBERS, SENATE OFFICERS, AND SPEAKERS OF THE HOUSE WHO ARE LOBBYISTS OR SEEK FINANCIAL GAIN.

Rule XXIII of the Standing Rules of the Senate is amended by—

(1) inserting ''1.'' before ''Other'';

(2) inserting after ''Ex-Senators and Senators-elect'' the following: '', except as provided in paragraph 2'';

(3) inserting after ''Ex-Secretaries and ex-Sergeants at Arms of the Senate'' the following: '', except as provided in paragraph 2'';

(4) inserting after ''Ex-Speakers of the House of Representatives'' the following: '', except as provided in paragraph 2''; and

(5) adding at the end the following:

''2. (a) The floor privilege provided in paragraph 1 shall not apply, when the Senate is in session, to an individual covered by this paragraph who is—

''(1) a registered lobbyist or agent of a foreign principal; or

''(2) is in the employ of or represents any party or organization for the purpose of influencing, directly or indirectly, the passage, defeat, or amendment of any legislative proposal.

''(b) The Committee on Rules and Administration may promulgate regulations to allow individuals covered by this paragraph floor privileges for ceremonial functions and events designated by the Majority Leader and the Minority Leader.

''3. A former Member of the Senate may not exercise privileges to use Senate or House gym or exercise facilities or member-only parking spaces if such Member is—

''(1) a registered lobbyist or agent of a foreign principal; or

''(2) in the employ of or represents any party or organization for the purpose of influencing, directly or indirectly, the passage, defeat, or amendment of any legislative proposal.''.

SEC. 107. PROPER VALUATION OF TICKETS TO ENTERTAINMENT AND SPORTING EVENTS.

Paragraph 1(c)(1) of rule XXXV of the Standing Rules of the Senate is amended by adding at the end the following: ''The market value of a ticket to an entertainment or sporting event shall be the face value of the ticket or, in the case of a ticket without a face value, the value of the most similar ticket sold by the issuer to the public. A determination of similarity shall consider all features of the ticket, including access to parking, availability of food and refreshments, and access to venue areas not open to the public. A ticket with no face value and for which no similar ticket is sold by the issuer to the public, shall be valued at the cost of a ticket with the highest face value for the event.''.

SEC. 108. BAN ON GIFTS FROM LOBBYISTS AND ENTITIES THAT HIRE LOBBYISTS.

Paragraph 1(a)(2) of rule XXXV of the Standing Rules of the Senate is amended by—

(1) inserting ''(A)'' after ''(2)''; and

(2) adding at the end the following:

''(B) A Member, officer, or employee may not knowingly accept a gift from a registered lobbyist, an agent of a foreign principal, or a private entity that retains or employs a registered lobbyist or an agent of a foreign principal, except as provided in subparagraph (c).''.

SEC. 108A. NATIONAL PARTY CONVENTIONS.

Paragraph (1)(d) of rule XXXV of the Standing Rules of the Senate is amended by adding at the end the following:

''5. A Member may not participate in an event honoring that Member at a national party convention if such event is paid for by any person or entity required to register pursuant to section 4(a) of the Lobbying Disclosure Act of 1995, or any individual or entity identified as a lobbyist or a client in any current registration or report filed under such Act.''.

SEC. 109. RESTRICTIONS ON LOBBYIST PARTICIPATION IN TRAVEL AND DISCLOSURE.

(a) PROHIBITION.—Paragraph 2 of rule XXXV is amended—

(1) in subparagraph (a)(1), by—

(A) adding after ''foreign principal'' the following: ''or a private entity that retains or employs 1 or more registered lobbyists or agents of a foreign principal'';

(B) striking the dash and inserting ''complies with the requirements of this paragraph.''; and

(C) striking clauses (A) and (B);

(2) by redesignating subparagraph (a)(2) as subparagraph (a)(3) and adding after subparagraph (a)(1) the following:

''(2) Notwithstanding clause (1), a reimbursement (including payment in kind) to a Member, officer, or employee of the Senate from an individual other than a registered lobbyist or agent of a foreign principal that is a private entity that retains or employs one or more registered lobbyists or agents of a foreign principal for necessary transportation, lodging, and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the Member, officer, or employee shall be deemed to be a reimbursement to the Senate under clause (1) if it is, under regulations prescribed by the Select Committee on Ethics to implement this clause, provided only for attendance at or participation for 1-day at an event (exclusive of travel time and an overnight stay) described in clause (1) or sponsored by a 501(c)(3) organization that has been pre-approved by the Select Committee on Ethics. When deciding whether to pre-approve a 501(c)(3) organization, the Select Committee on Ethics shall consider the stated mission of the organization, the organization's prior history of sponsoring congressional trips, other educational activities performed by the organization besides sponsoring congressional trips, whether any trips previously sponsored by the organization led to an investigation by the Select Committee on Ethics and any other factor deemed relevant by the Select Committee on Ethics. Regulations to implement this clause, and the committee on a case-by-case basis, may permit a 2-night stay when determined by the committee to be practically required to participate in the event.'';

(3) in subparagraph (a)(3), as redesignated, by striking ''clause (1)'' and inserting ''clauses (1) and (2)'';

(4) in subparagraph (b), by inserting before ''Each'' the following: ''Before an employee may accept reimbursement pursuant to subparagraph (a), the employee shall receive advance authorization from the Member or officer under whose direct supervision the employee works to accept reimbursement.'';

(5) in subparagraph (c)—

(A) by inserting before ''Each'' the following: ''Each Member, officer, or employee that receives reimbursement under this paragraph shall disclose the expenses reimbursed or to be reimbursed and authorization (for an employee) to the Secretary of the Senate not later than 30 days after the travel is completed.'';

(B) by striking ''subparagraph (a)(1)'' and inserting ''this subparagraph'';

(C) in clause (5), by striking ''and'' after the semicolon;

(D) by redesignating clause (6) as clause (7); and

(E) by inserting after clause (5) the following:

''(6) a description of meetings and events attended; and'';

(6) by redesignating subparagraphs (d) and (e) as subparagraphs (f) and (g), respectively;

(7) by adding after subparagraph (c) the following:

''(d) A Member, officer, or employee of the Senate may not accept a reimbursement (including payment in kind) for transportation, lodging, or related expenses under subparagraph (a) for a trip that was planned, organized, or arranged by or at the request of a registered lobbyist or agent of a foreign principal, or on which a lobbyist accompanies the Member, officer, or employee on any segment of the trip. The Select Committee on Ethics shall issue regulations identifying de minimis activities by lobbyists or foreign agents that would not violate this subparagraph.

''(e) A Member, officer, or employee shall, before accepting travel otherwise permissible under this paragraph from any person—

''(1) provide to the Select Committee on Ethics a written certification from such person that—

''(A) the trip will not be financed in any part by a registered lobbyist or agent of a foreign principal;

''(B) the source either—

''(i) does not retain or employ registered lobbyists or agents of a foreign principal and is not itself a registered lobbyist or agent of a foreign principal; or

''(ii) certifies that the trip meets the requirements specified in rules prescribed by the Select Committee on Ethics to implement subparagraph (a)(2);

''(C) the source will not accept from any source funds earmarked directly or indirectly for the purpose of financing the specific trip; and

''(D) the trip will not in any part be planned, organized, requested, or arranged by a registered lobbyist or agent of a foreign principal and that the traveler will not be accompanied on any segment of the trip by a registered lobbyist or agent of a foreign principal, except as permitted by regulations issued under subparagraph (d), and specifically details the extent of any involvement of a registered lobbyist or agent of a foreign principal; and

''(2) after the Select Committee on Ethics has promulgated regulations mandated in subparagraph (h), obtain the prior approval of the committee for such reimbursement.'';

(8) by striking subparagraph (g), as redesignated, and inserting the following:

''(g) The Secretary of the Senate shall make all advance authorizations, certifications, and disclosures filed pursuant to this paragraph available for public inspection as soon as possible after they are received.''; and

(9) by adding at the end the following:

''(h)(1) Not later than 45 days after the date of adoption of this subparagraph and at annual intervals thereafter, the Select Committee on Ethics shall develop and revise, as necessary—

''(A) guidelines on judging the reasonableness of an expense or expenditure for purposes of this clause, including the factors that tend to establish—

''(i) a connection between a trip and official duties;

''(ii) the reasonableness of an amount spent by a sponsor;

''(iii) a relationship between an event and an officially connected purpose; and

''(iv) a direct and immediate relationship between a source of funding and an event; and

''(B) regulations describing the information it will require individuals subject to this clause to submit to the committee in order to obtain the prior approval of the committee for any travel covered by this clause, including any required certifications.

''(2) In developing and revising guidelines under clause (1)(A), the committee shall take into account the maximum per diem rates for official Government travel published annually by the General Services Administration, the Department of State, and the Department of Defense.

''(3) For purposes of this subparagraph, travel on an aircraft operated or paid for by a carrier not licenced by the Federal Aviation Administration to operate for compensation shall not be considered a reasonable expense.

''(i) A Member, officer, or employee who travels on an aircraft operated or paid for by a carrier not licenced by the Federal Aviation Administration shall file a report with the Secretary of the Senate not later than 60 days after the date on which such flight is taken. The report shall include—

''(1) the date of such flight;

''(2) the destination of such flight;

''(3) the owner or lessee of the aircraft;

''(4) the purpose of such travel;

''(5) the persons on such flight (except for any person flying the aircraft); and

''(6) the charter rate paid for such flight.''.

(b) REIMBURSEMENT FOR NONCOMMERCIAL AIR TRAVEL.—

(1) CHARTER RATES.—Paragraph 1(c)(1) of rule XXXV of the Standing Rules of the Senate is amended by adding at the end the following: ''Fair market value for a flight on an aircraft operated or paid for by a carrier not licensed by the Federal Aviation Administration to operate for compensation or hire, excluding an aircraft owned or leased by a governmental entity or by a Member of Congress or a Member's spouse (including an aircraft owned by an entity that is not a public corporation in which the Member or Member's spouse has an ownership interest, provided that the Member does not use the aircraft anymore than the Member's or spouse's proportionate share of ownership allows), shall be the pro rata share of the fair market value of the normal and usual charter fare or rental charge for a comparable plane of comparable size (as determined by dividing such cost by the number of members, officers, or employees of the Congress on the flight).''.

(2) UNOFFICIAL OFFICE ACCOUNTS.—Paragraph 1 of rule XXXVIII of the Standing Rules of the Senate is amended by adding at the end the following:

''(c) For purposes of reimbursement under this rule, fair market value of a flight on an aircraft operated or paid for by a carrier not licensed by the Federal Aviation Administration to operate for compensation or hire, shall be the pro rata share of the fair market value of the normal and usual charter fare or rental charge for a comparable plane of comparable size (as determined by dividing such cost by the number of members, officers, or employees of the Congress on the flight).''.

(3) CANDIDATES.—Subparagraph (B) of section 301(8) of the Federal Election Campaign Act of 1971 (42 U.S.C. 431(8)(B)) is amended by—

(A) in clause (xiii), striking ''and'' at the end;

(B) in clause (xiv), striking the period and inserting ''; and''; and

(C) by adding at the end the following :

''(xv) any travel expense for a flight on an aircraft that is operated or paid for by a carrier not licensed by the Federal Aviation Administration to operate for compensation or hire, but only if the candidate, the candidate's authorized committee, or other political committee pays—

''(I) to the owner, lessee, or other person who provides the airplane the pro rata share of the fair market value of such flight (as determined by dividing the fair market value of the normal and usual charter fare or rental charge for a comparable plane of appropriate size by the number of candidates on the flight) by not later than 7 days after the date on which the flight is taken; and

''(II) files a report with the Secretary of the Senate not later than 60 days after the date on which such flight is taken, such report shall include—

''(aa) the date of such flight;

''(bb) the destination of such flight;

''(cc) the owner or lessee of the aircraft;

''(dd) the purpose of such travel;

''(ee) the persons on such flight (except for any person flying the aircraft); and

''(ff) the charter rate paid for such flight.''.

(4) RULES COMMITTEE REVIEW OF TRAVEL ALLOWANCES.—Not later than 90 days after the enactment of this Act, the Senate Committee on Appropriations, Subcommittee on the Legislative Branch, in consultation with the Committee on Rules and Administration of the Senate, shall consider and propose, as necessary in the discretion of the subcommittee, any adjustment to the Senator's Official Personnel and Office Expense Account needed in light of the revised standards for reimbursement for private air travel required by this subsection, and any modifications of Federal statutes or appropriations measures needed to accomplish such adjustments.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 60 days after the date of enactment of this Act.

SEC. 110. RESTRICTIONS ON FORMER OFFICERS, EMPLOYEES, AND ELECTED OFFICIALS OF THE EXECUTIVE AND LEGISLATIVE BRANCH.

(a) IN GENERAL.—Section 207(j)(1) of title 18, United States Code, is amended, by—

(1) striking ''The restrictions'' and inserting the following:

''(A) IN GENERAL.—The restrictions''; and

(2) adding at the end the following:

''(B) INDIAN TRIBES.—The restrictions contained in this section shall not apply to acts done pursuant to section 104 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450i).''.

(b) CONFORMING AMENDMENT.—Section 104(j) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450i(j)) is amended by striking ''and former officers and employees of the United States employed by Indian tribes may act as agents or attorneys for or'' and inserting ''or former officers and employees of the United States who are carrying out official duties as employees or as elected or appointed officials of an Indian tribe may communicate with and''.

SEC. 111. POST EMPLOYMENT RESTRICTIONS.

(a) IN GENERAL.—Paragraph 9 of rule XXXVII of the Standing Rules of the Senate is amended by—

(1) designating the first sentence as subparagraph (a);

(2) designating the second sentence as subparagraph (b); and

(3) adding at the end the following:

''(c) If an employee on the staff of a Member or on the staff of a committee whose rate of pay is equal to or greater than 75 percent of the rate of pay of a Member and employed at such rate for more than 60 days in a calendar year, upon leaving that position, becomes a registered lobbyist under the Lobbying Disclosure Act of 1995, or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, such employee may not lobby any Member, officer, or employee of the Senate for a period of 1 year after leaving that position.''.

(b) EFFECTIVE DATE.—This section shall take effect 60 days after the date of enactment of this title.

SEC. 112. DISCLOSURE BY MEMBERS OF CONGRESS AND STAFF OF EMPLOYMENT NEGOTIATIONS.

Rule XXXVII of the Standing Rules of the Senate is amended by adding at the end the following:

''14. (a) A Member shall not directly negotiate or have any arrangement concerning prospective private employment until after his or her successor has been elected, unless such Member files a statement with the Secretary of the Senate, for public disclosure, regarding such negotiations or arrangements within 3 business days after the commencement of such negotiation or arrangement, including the name of the private entity or entities involved in such negotiations or arrangements, the date such negotiations or arrangements commenced, and must be signed by the Member.

''(b) A Member shall not directly negotiate or have any arrangement concerning prospective employment until after his or her successor has been elected for a job involving lobbying activities as defined by the Lobbying Disclosure Act of 1995.

''(c)(1) An employee of the Senate earning in excess of 75 percent of the salary paid to a Senator shall notify the Committee on Ethics that he or she is negotiating or has any arrangement concerning prospective private employment.

''(2) The disclosure and notification under this subparagraph shall be made within 3 business days after the commencement of such negotiation or arrangement.

''(3) An employee to whom this subparagraph applies shall recuse himself or herself from any matter in which there is a conflict of interest or an appearance of a conflict for that employee under this rule and notify the Select Committee on Ethics of such recusal.''.

SEC. 113. PROHIBIT OFFICIAL CONTACT WITH SPOUSE OR IMMEDIATE FAMILY MEMBER OF MEMBER WHO IS A REGISTERED LOBBYIST.

Rule XXXVII of the Standing Rules of the Senate is amended by—

(1) redesignating paragraphs 10 through 12 as paragraphs 11 through 13, respectively; and

(2) inserting after paragraph 9, the following:

''10. (a) If a Member's spouse or immediate family member is a registered lobbyist under the Lobbying Disclosure Act of 1995, or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, the Member shall prohibit all staff employed by that Member (including staff in personal, committee, and leadership offices) from having any official contact with the Member's spouse or immediate family member.

''(b) Members and employees on the staff of a Member (including staff in personal, committee, and leadership offices) shall be prohibited from having any official contact with any spouse of a Member who is a registered lobbyist under the Lobbying Disclosure Act of 1995, or is employed or retained by such a registered lobbyist.

''(c) The prohibition in subparagraph (a) shall not apply to the spouse of a Member who was serving as a registered lobbyist at least 1 year prior to the election of that Member to office or at least 1 year prior to their marriage to that Member.

''(d) In this paragraph, the term 'immediate family member' means the son, daughter, stepson, stepdaughter, son-in-law, daughter-in-law, mother, father, stepmother, stepfather, mother-in-law, father-in-law, brother, sister, stepbrother, or stepsister of the Member.''.

SEC. 114. INFLUENCING HIRING DECISIONS.

Rule XLIII of the Standing Rules of the Senate is amended by adding at the end the following:

''6. No Member shall, with the intent to influence on the basis of partisan political affiliation an employment decision or employment practice of any private entity—

''(1) take or withhold, or offer or threaten to take or withhold, an official act; or

''(2) influence, or offer or threaten to influence the official act of another.''.

SEC. 115. SENSE OF THE SENATE THAT ANY APPLICABLE RESTRICTIONS ON CONGRESSIONAL BRANCH EMPLOYEES SHOULD APPLY TO THE EXECUTIVE AND JUDICIAL BRANCHES.

It is the sense of the Senate that any applicable restrictions on Congressional branch employees in this title should apply to the Executive and Judicial branches.

SEC. 116. AMOUNTS OF COLA ADJUSTMENTS NOT PAID TO CERTAIN MEMBERS OF CONGRESS.

(a) IN GENERAL.—Any adjustment under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to the cost-of-living adjustments for Members of Congress) shall not be paid to any Member of Congress who voted for any amendment (or against the tabling of any amendment) that provided that such adjustment would not be made.

(b) DEPOSIT IN TREASURY.—Any amount not paid to a Member of Congress under subsection (a) shall be transmitted to the Treasury for deposit in the appropriations account under the subheading ''**MEDICAL SERVICES**'' under the heading ''**VETERANS HEALTH ADMINISTRATION**.''

(c) ADMINISTRATION.—The salary of any Member of Congress to whom subsection (a) applies shall be deemed to be the salary in effect after the application of that subsection, except that for purposes of determining any benefit (including any retirement or insurance benefit), the salary of that Member of Congress shall be deemed to be the salary that Member of Congress would have received, but for that subsection.

(d) EFFECTIVE DATE.—This section shall take effect on the first day of the first applicable pay period beginning on or after February 1, 2008.

SEC. 117. REQUIREMENT OF NOTICE OF INTENT TO PROCEED.

(a) IN GENERAL.—The majority and minority leaders of the Senate or their designees shall recognize a notice of intent of a Senator who is a member of their caucus to object to proceeding to a measure or matter only if the Senator—

(1) submits the notice of intent in writing to the appropriate leader or their designee; and

(2) within 3 session days after the submission under paragraph (1), submits for inclusion in the Congressional Record and in the applicable calendar section described in subsection (b) the following notice:

''I, Senator ____, intend to object to proceeding to ____, dated ____.''.

(b) CALENDAR.—The Secretary of the Senate shall establish, for both the Senate Calendar of Business and the Senate Executive Calendar, a separate section entitled ''Notices of Intent to Object to Proceeding''. Each section shall include the name of each Senator filing a notice under subsection (a)(2), the measure or matter covered by the calendar that the Senator objects to, and the date the objection was filed.

(c) REMOVAL.—A Senator may have an item with respect to the Senator removed from a calendar to which it was added under subsection (b) by submitting for inclusion in the Congressional Record the following notice:

''I, Senator ____, do not object to proceeding to ____, dated ____.''.

SEC. 118. CBO SCORING REQUIREMENT.

(a) IN GENERAL.—It shall not be in order in the Senate to consider a report of a committee of conference unless an official written cost estimate or table by the Congressional Budget Office is available at the time of consideration.

(b) SUPERMAJORITY REQUIREMENT.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SEC. 119. EFFECTIVE DATE.

Except as otherwise provided in this title, this title shall take effect on the date of enactment of this title.

TITLE II—LOBBYING TRANSPARENCY AND ACCOUNTABILITY ACT OF 2007

SEC. 201. SHORT TITLE.

This title may be cited as the ''Legislative Transparency and Accountability Act of 2007''.

Subtitle A—Enhancing Lobbying Disclosure

SEC. 211. QUARTERLY FILING OF LOBBYING DISCLOSURE REPORTS.

(a) QUARTERLY FILING REQUIRED.—Section 5 of the Lobbying Disclosure Act of 1995 (in this title referred to as the ''Act'') (2 U.S.C. 1604) is amended—

(1) in subsection (a)—

(A) in the subsection heading, by striking ''Semiannual'' and inserting ''Quarterly''; and

(B) by striking the first sentence and inserting the following: ''Not later than 20 days after the end of the quarterly period beginning on the 1st day of January, April, July, and October of each year, or on the first business day after the 20th day if that day is not a business day, in which a registrant is registered with the Secretary of the Senate and the Clerk of the House of Representatives, a registrant shall file a report or reports, as applicable, on its lobbying activities during such quarterly period.''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''semiannual report'' and inserting ''quarterly report'';

(B) in paragraph (2), by striking ''semiannual filing period'' and inserting ''quarterly period'';

(C) in paragraph (3), by striking ''semiannual period'' and inserting ''quarterly period''; and

(D) in paragraph (4), by striking ''semiannual filing period'' and inserting ''quarterly period''.

(b) CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 3(10) of the Act (2 U.S.C. 1602) is amended by striking ''six month period'' and inserting ''three-month period''.

(2) REGISTRATION.—Section 4 of the Act (2 U.S.C. 1603) is amended—

(A) in subsection (a)(3)(A), by striking ''semiannual period'' and inserting ''quarterly period''; and

(B) in subsection (b)(3)(A), by striking ''semiannual period'' and inserting ''quarterly period''.

(3) ENFORCEMENT.—Section 6(a)(6) of the Act (2 U.S.C. 1605(6)) is amended by striking ''semiannual period'' and inserting ''quarterly period''.

(4) ESTIMATES.—Section 15 of the Act (2 U.S.C. 1610) is amended—

(A) in subsection (a)(1), by striking ''semiannual period'' and inserting ''quarterly period''; and

(B) in subsection (b)(1), by striking ''semiannual period'' and inserting ''quarterly period''.

(5) DOLLAR AMOUNTS.—

(A) REGISTRATION.—Section 4 of the Act (2 U.S.C. 1603) is amended—

(i) in subsection (a)(3)(A)(i), by striking ''$5,000'' and inserting ''$2,500'';

(ii) in subsection (a)(3)(A)(ii), by striking ''$20,000'' and inserting ''$10,000'';

(iii) in subsection (b)(3)(A), by striking ''$10,000'' and inserting ''$5,000''; and

(iv) in subsection (b)(4), by striking ''$10,000'' and inserting ''$5,000''.

(B) REPORTS.—Section 5 of the Act (2 U.S.C. 1604) is amended—

(i) in subsection (c)(1), by striking ''$10,000'' and ''$20,000'' and inserting ''$5,000'' and ''$10,000'', respectively; and

(ii) in subsection (c)(2), by striking ''$10,000'' both places such term appears and inserting ''$5,000''.

SEC. 212. QUARTERLY REPORTS ON OTHER CONTRIBUTIONS.

Section 5 of the Act (2 U.S.C. 1604) is amended by adding at the end the following:

''(d) QUARTERLY REPORTS ON OTHER CONTRIBUTIONS.—

''(1) IN GENERAL.—Not later than 45 days after the end of the quarterly period beginning on the 20th day of January, April, July, and October of each year, or on the first business day after the 20th if that day is not a business day, each registrant under paragraphs (1) or (2) of section 4(a), and each employee who is listed as a lobbyist on a current registration or report filed under this Act, shall file a report with the Secretary of the Senate and the Clerk of the House of Representatives containing—

''(A) the name of the registrant or lobbyist;

''(B) the employer of the lobbyist or the names of all political committees established or administered by the registrant;

''(C) the name of each Federal candidate or officeholder, leadership PAC, or political party committee, to whom aggregate contributions equal to or exceeding $200 were made by the lobbyist, the registrant, or a political committee established or administered by the registrant within the calendar year, and the date and amount of each contribution made within the quarter;

''(D) the name of each Federal candidate or officeholder, leadership PAC, or political party committee for whom a fundraising event was hosted, co-hosted, or sponsored by the lobbyist, the registrant, or a political committee established or administered by the registrant within the quarter, and the date, location, and total amount (or good faith estimate thereof) raised at such event;

''(E) the name of each Federal candidate or officeholder, leadership PAC, or political party committee for whom aggregate contributions equal to or exceeding $200 were collected or arranged within the calendar year, and to the extent known the aggregate amount of such contributions (or a good faith estimate thereof) within the quarter for each recipient;

''(F) the name of each covered legislative branch official or covered executive branch official for whom the lobbyist, the registrant, or a political committee established or administered by the registrant provided, or directed or caused to be provided, any payment or reimbursements for travel and related expenses in connection with the duties of such covered official, including for each such official—

''(i) an itemization of the payments or reimbursements provided to finance the travel and related expenses, and to whom the payments or reimbursements were made with the express or implied understanding or

agreement that such funds will be used for travel and related expenses;

''(ii) the purpose and final itinerary of the trip, including a description of all meetings, tours, events, and outings attended;

''(iii) whether the registrant or lobbyist traveled on any such travel;

''(iv) the identity of the listed sponsor or sponsors of such travel; and

''(v) the identity of any person or entity, other than the listed sponsor or sponsors of the travel, who directly or indirectly provided for payment of travel and related expenses at the request or suggestion of the lobbyist, the registrant, or a political committee established or administered by the registrant;

''(G) the date, recipient, and amount of funds contributed, disbursed, or arranged (or a good faith estimate thereof) by the lobbyist, the registrant, or a political committee established or administered by the registrant—

''(i) to pay the cost of an event to honor or recognize a covered legislative branch official or covered executive branch official;

''(ii) to, or on behalf of, an entity that is named for a covered legislative branch official, or to a person or entity in recognition of such official;

''(iii) to an entity established, financed, maintained, or controlled by a covered legislative branch official or covered executive branch official, or an entity designated by such official; or

''(iv) to pay the costs of a meeting, retreat, conference, or other similar event held by, or for the benefit of, 1 or more covered legislative branch officials or covered executive branch officials;

''(H) the date, recipient, and amount of any gift (that under the standing rules of the House of Representatives or Senate counts towards the $100 cumulative annual limit described in such rules) valued in excess of $20 given by the lobbyist, the registrant, or a political committee established or administered by the registrant to a covered legislative branch official or covered executive branch official; and

''(I) the name of each Presidential library foundation and Presidential inaugural committee, to whom contributions equal to or exceeding $200 were made by the lobbyist, the registrant, or a political committee established or administered by the registrant within the calendar year, and the date and amount of each such contribution within the quarter.

''(2) RULES OF CONSTRUCTION.—

''(A) IN GENERAL.—For purposes of this subsection, contributions, donations, or other funds—

''(i) are 'collected' by a lobbyist where funds donated by a person other than the lobbyist are received by the lobbyist for, or forwarded by the lobbyist to, a Federal candidate or other recipient; and

''(ii) are 'arranged' by a lobbyist—

''(I) where there is a formal or informal agreement, understanding, or arrangement between the lobbyist and a Federal candidate or other recipient that such contributions, donations, or other funds will be or have been credited or attributed by the Federal candidate or other recipient in records, designations, or formal or informal recognitions as having been raised, solicited, or directed by the lobbyist; or

''(II) where the lobbyist has actual knowledge that the Federal candidate or other recipient is aware that the contributions, donations, or other funds were solicited, arranged, or directed by the lobbyist.

''(B) CLARIFICATIONS.—For the purposes of this paragraph—

''(i) the term 'lobbyist' shall include a lobbyist, registrant, or political committee established or administered by the registrant; and

''(ii) the term 'Federal candidate or other recipient' shall include a Federal candidate, Federal officeholder, leadership PAC, or political party committee.

''(3) DEFINITIONS.—In this subsection, the following definitions shall apply:

''(A) GIFT.—The term 'gift'—

''(i) means a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value; and

''(ii) includes, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred—

''(I) gifts of services;

''(II) training;

''(III) transportation; and

''(IV) lodging and meals.

''(B) LEADERSHIP PAC.—The term 'leadership PAC' means with respect to an individual holding Federal office, an unauthorized political committee which is associated with an individual holding Federal office, except that such term shall not apply in the case of a political committee of a political party.''.

SEC. 213. ADDITIONAL DISCLOSURE.

Section 5(b) of the Act (2 U.S.C. 1604(b)) is amended—

(1) in paragraph (3), by striking ''and'' after the semicolon;

(2) in paragraph (4), by striking the period and inserting a semicolon; and

(3) by adding at the end of the following:

''(5) for each client, immediately after listing the client, an identification of whether the client is a public entity, including a State or local government or a department, agency, special purpose district, or other instrumentality controlled by a State or local government, or a private entity.''.

SEC. 214. PUBLIC DATABASE OF LOBBYING DISCLOSURE INFORMATION.

(a) DATABASE REQUIRED.—Section 6 of the Act (2 U.S.C. 1605) is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(9) maintain, and make available to the public over the Internet, without a fee or other access charge, in a searchable, sortable, and downloadable manner, an electronic database that—

''(A) includes the information contained in registrations and reports filed under this Act;

''(B) directly links the information it contains to the information disclosed in reports filed with the Federal Election Commission under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434); and

''(C) is searchable and sortable, at a minimum, by each of the categories of information described in section 4(b) or 5(b).''.

(b) AVAILABILITY OF REPORTS.—Section 6(a)(4) of the Act is amended by inserting before the semicolon the following: ''and, in the case of a report filed in electronic form under section 5(e), shall make such report available for public inspection over the Internet not more than 48 hours after the report is filed''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out paragraph (9) of section 6(a) of the Act, as added by subsection (a).

SEC. 215. DISCLOSURE BY REGISTERED LOBBYISTS OF ALL PAST EXECUTIVE AND CONGRESSIONAL EMPLOYMENT.

Section 4(b)(6) of the Act (2 U.S.C. 1603) is amended by striking ''or a covered legislative branch official'' and all that follows through ''as a lobbyist on behalf of the client,'' and inserting ''or a covered legislative branch official,''.

SEC. 216. INCREASED PENALTY FOR FAILURE TO COMPLY WITH LOBBYING DISCLOSURE REQUIREMENTS.

Section 7 of the Act (2 U.S.C. 1606) is amended by striking ''$50,000'' and inserting ''$200,000''.

SEC. 217. DISCLOSURE OF LOBBYING ACTIVITIES BY CERTAIN COALITIONS AND ASSOCIATIONS.

(a) IN GENERAL.—Section 4(b)(3)(B) of the Act (2 U.S.C. 1603(b)(3)(B)) is amended to read as follows:

''(B) participates in a substantial way in the planning, supervision, or control of such lobbying activities;''.

(b) NO DONOR OR MEMBERSHIP LIST DISCLOSURE.—Section 4(b) of the Act (2 U.S.C. 1603(b)) is amended by adding at the end the following:

''No disclosure is required under paragraph (3)(B) if it is publicly available knowledge that the organization that would be identified is affiliated with the client or has been publicly disclosed to have provided funding to the client, unless the organization in whole or in major part plans, supervises, or controls such lobbying activities. Nothing in paragraph (3)(B) shall be construed to require the disclosure of any information about individuals who are members of, or donors to, an entity treated as a client by this Act or an organization identified under that paragraph.''.

SEC. 218. DISCLOSURE OF ENFORCEMENT FOR NONCOMPLIANCE.

Section 6 of the Act (2 U.S.C. 1605) is amended—

(1) by inserting ''(a)'' before ''The Secretary of the Senate'';

(2) in paragraph (8), by striking ''and'' at the end;

(3) in paragraph (9), by striking the period and inserting ''; and'';

(4) after paragraph (9), by inserting the following:

''(10) make publicly available the aggregate number of lobbyists and lobbying firms, separately accounted, referred to the United States Attorney for the District of Columbia for noncompliance as required by paragraph (8) on a semi annual basis''; and

(5) by inserting at the end the following:

''(b) ENFORCEMENT REPORT.—The United States Attorney for the District of Columbia shall report to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate and the Committee on Government Reform and the Committee on the Judiciary of the House of Representatives on a semi annual basis the aggregate number of enforcement actions taken by the Attorney's office under this Act and the amount of fines, if any, by case, except that such report shall not include the names of individuals or personally identifiable information.''.

SEC. 219. ELECTRONIC FILING OF LOBBYING DISCLOSURE REPORTS.

Section 5 of the Act (2 U.S.C. 1604) is amended by adding at the end the following:

''(e) ELECTRONIC FILING REQUIRED.—A report required to be filed under this section shall be filed in electronic form, in addition to any other form. The Secretary of the Senate and the Clerk of the House of Representatives shall use the same electronic software for receipt and recording of filings under this Act.''.

SEC. 220. ELECTRONIC FILING AND PUBLIC DATABASE FOR LOBBYISTS FOR FOREIGN GOVERNMENTS.

(a) ELECTRONIC FILING.—Section 2 of the Foreign Agents Registration Act (22 U.S.C. 612) is amended by adding at the end the following new subsection:

''(g) ELECTRONIC FILING OF REGISTRATION STATEMENTS AND UPDATES.—A registration statement or update required to be filed under this section shall be filed in electronic form, in addition to any other form that may be required by the Attorney General.''.

(b) PUBLIC DATABASE.—Section 6 of the Foreign Agents Registration Act (22 U.S.C. 616) is amended by adding at the end the following new subsection:

''(d) PUBLIC DATABASE OF REGISTRATION STATEMENTS AND UPDATES.—

''(1) IN GENERAL.—The Attorney General shall maintain, and make available to the public over the Internet, without a fee or other access charge, in a searchable, sortable, and downloadable manner, an electronic database that—

''(A) includes the information contained in registration statements and updates filed under this Act;

''(B) directly links the information it contains to the information disclosed in reports filed with the Federal Election Commission under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434); and

''(C) is searchable and sortable, at a minimum, by each of the categories of information described in section 2(a).

''(2) ACCOUNTABILITY.—Each registration statement and update filed in electronic form pursuant to section 2(g) shall be made available for public inspection over the Internet not more than 48 hours after the registration statement or update is filed.''.

SEC. 221. ADDITIONAL LOBBYING DISCLOSURE REQUIREMENTS.

Section 5(b) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604(b)) is amended by adding at the end the following:

''(8) a certification that the lobbying firm, or registrant, and each employee listed as a lobbyist under section 4(b)(6) or 5(b)(2)(C) for that lobbying firm or registrant, has not provided, requested, or directed a gift, including travel, to a Member or employee of Congress in violation rule XXXV of the Standing Rules of the Senate or rule XXV of the Rules of the House of Representatives.''.

SEC. 222. INCREASED CRIMINAL PENALTIES FOR FAILURE TO COMPLY WITH LOBBYING DISCLOSURE REQUIREMENTS.

Section 7 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1606) is amended—

(1) by inserting ''(a) CIVIL PENALTY.—'' before ''Whoever''; and

(2) by adding at the end the following:

''(b) CRIMINAL PENALTY.—Whoever knowingly, willfully, and corruptly fails to comply with any provision of this section shall be imprisoned for not more than 10 years, or fined under title 18, United States Code, or both.''.

SEC. 223. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect January 1, 2008.

Subtitle B—Oversight of Ethics and Lobbying

SEC. 231. COMPTROLLER GENERAL AUDIT AND ANNUAL REPORT.

(a) AUDIT REQUIRED.—The Comptroller General shall audit on an annual basis lobbying registration and reports filed under the Lobbying Disclosure Act of 1995 to determine the extent of compliance or noncompliance with the requirements of that Act by lobbyists and their clients.

(b) ANNUAL REPORTS.—Not later than April 1 of each year, the Comptroller General shall submit to Congress a report on the review required by subsection (a). The report shall include the Comptroller General's assessment of the matters required to be emphasized by that subsection and any recommendations of the Comptroller General to—

(1) improve the compliance by lobbyists with the requirements of that Act; and

(2) provide the Secretary of the Senate and the Clerk of the House of Representatives with the resources and authorities needed for effective administration of that Act.

SEC. 232. MANDATORY SENATE ETHICS TRAINING FOR MEMBERS AND STAFF.

(a) TRAINING PROGRAM.—The Select Committee on Ethics shall conduct ongoing ethics training and awareness programs for Members of the Senate and Senate staff.

(b) REQUIREMENTS.—The ethics training program conducted by the Select Committee on Ethics shall be completed by—

(1) new Senators or staff not later than 60 days after commencing service or employment; and

(2) Senators and Senate staff serving or employed on the date of enactment of this Act not later than 120 days after the date of enactment of this Act.

SEC. 233. SENSE OF THE SENATE REGARDING SELF-REGULATION WITHIN THE LOBBYING COMMUNITY.

It is the sense of the Senate that the lobbying community should develop proposals for multiple self-regulatory organizations which could provide—

(1) for the creation of standards for the organizations appropriate to the type of lobbying and individuals to be served;

(2) training for the lobbying community on law, ethics, reporting requirements, and disclosure requirements;

(3) for the development of educational materials for the public on how to responsibly hire a lobbyist or lobby firm;

(4) standards regarding reasonable fees to clients;

(5) for the creation of a third-party certification program that includes ethics training; and

(6) for disclosure of requirements to clients regarding fee schedules and conflict of interest rules.

SEC. 234. ANNUAL ETHICS COMMITTEES REPORTS.

The Committee on Standards of Official Conduct of the House of Representatives and the Select Committee on Ethics of the Senate shall each issue an annual report due no later than January 31, describing the following:

(1) The number of alleged violations of Senate or House rules including the number received from third parties, from Members or staff within each House, or inquires raised by a Member or staff of the respective House or Senate committee.

(2) A list of the number of alleged violations that were dismissed—

(A) for lack of subject matter jurisdiction; or

(B) because they failed to provide sufficient facts as to any material violation of the House or Senate rules beyond mere allegation or assertion.

(3) The number of complaints in which the committee staff conducted a preliminary inquiry.

(4) The number of complaints that staff presented to the committee with recommendations that the complaint be dismissed.

(5) The number of complaints that the staff presented to the committee with recommendation that the investigation proceed.

(6) The number of ongoing inquiries.

(7) The number of complaints that the committee dismissed for lack of substantial merit.

(8) The number of private letters of admonition or public letters of admonition issued.

(9) The number of matters resulting in a disciplinary sanction.

Subtitle C—Slowing the Revolving Door

SEC. 241. AMENDMENTS TO RESTRICTIONS ON FORMER OFFICERS, EMPLOYEES, AND ELECTED OFFICIALS OF THE EXECUTIVE AND LEGISLATIVE BRANCHES.

(a) VERY SENIOR EXECUTIVE PERSONNEL.—The matter after subparagraph (C) in section 207(d)(1) of title 18, United States Code, is amended by striking ''within 1 year'' and inserting ''within 2 years''.

(b) RESTRICTIONS ON LOBBYING BY MEMBERS OF CONGRESS AND EMPLOYEES OF CONGRESS.—Subsection (e) of section 207 of title 18, United States Code, is amended—

(1) in paragraph (1)(A), by striking ''within 1 year'' and inserting ''within 2 years'';

(2) by striking paragraphs (2) through (5) and inserting the following:

''(2) CONGRESSIONAL STAFF.—

''(A) PROHIBITION.—Any person who is an employee of a House of Congress and who, within 1 year after that person leaves office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

''(B) CONTACT PERSONS COVERED.—Persons referred to in subparagraph (A) with respect to appearances or communications are any Member, officer, or employee of the House of Congress in which the person subject to subparagraph (A) was employed. This subparagraph shall not apply to contacts with staff of the Secretary of the Senate or the Clerk of the House of Representatives regarding compliance with lobbying disclosure requirements under the Lobbying Disclosure Act of 1995.

''(3) MEMBERS OF CONGRESS AND ELECTED OFFICERS.—Any person who is a Member of Congress or an elected officer of either House of Congress and who, within 2 years after that person leaves office, knowingly engages in lobbying activities on behalf of any other person (except the United States) in connection with any matter on which such former Member of Congress or elected officer seeks action by a Member, officer, or employee of either House of Congress shall be punished as provided in section 216 of this title.''.

(3) in paragraph (6)—

(A) by striking ''paragraphs (2), (3), and (4)'' and inserting ''paragraph (2)'';

(B) by striking ''(A)'';

(C) by striking subparagraph (B); and

(D) by redesignating the paragraph as paragraph (4); and

(4) by redesignating paragraph (7) as paragraph (5).

(c) DEFINITION OF LOBBYING ACTIVITY.—Section 207(i) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking ''and'' after the semicolon;

(2) in paragraph (3), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(4) the term 'lobbying activities' has the same meaning given such term in section 3(7) of the Lobbying Disclosure Act (2 U.S.C. 1602(7)).''.

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

Subtitle D—Ban on Provision of Gifts or Travel by Lobbyists in Violation of the Rules of Congress

SEC. 251. PROHIBITION ON PROVISION OF GIFTS OR TRAVEL BY REGISTERED LOBBYISTS TO MEMBERS OF CONGRESS AND TO CONGRESSIONAL EMPLOYEES.

The Lobbying Disclosure Act of 1995 is amended by adding at the end the following:

"SEC. 25. PROHIBITION ON PROVISION OF GIFTS OR TRAVEL BY REGISTERED LOBBYISTS TO MEMBERS OF CONGRESS AND TO CONGRESSIONAL EMPLOYEES.

''(a) PROHIBITION.—Persons described in subsection (b) may not make a gift or provide travel to a Member, Delegate, Resident Commissioner, officer, or employee of Congress, if the person has knowledge that the gift or travel may not be accepted under the rules of the House of Representatives or the Senate.

''(b) PERSONS SUBJECT TO PROHIBITION.—The persons subject to the prohibition in subsection (a) are any lobbyist that registers under section 4(a)(1), any organization that employs 1 or more lobbyists and registers under section 4(a)(2), and any employee listed as a lobbyist by a registrant under section 4(b)(6).

''(c) PENALTY.—Any person who violates this section shall be subject to the penalties provided in section 7.''.

Subtitle E—Commission to Strengthen Confidence in Congress Act of 2007

SEC. 261. SHORT TITLE.

This subtitle may be cited as the ''Commission to Strengthen Confidence in Congress Act of 2007''.

SEC. 262. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch a commission to be known as the ''Commission to Strengthen Confidence in Congress'' (in this subtitle referred to as the ''Commission'').

SEC. 263. PURPOSES.

The purposes of the Commission are to—

(1) evaluate and report the effectiveness of current congressional ethics requirements, if penalties are enforced and sufficient, and make recommendations for new penalties;

(2) weigh the need for improved ethical conduct with the need for lawmakers to have access to expertise on public policy issues;

(3) determine whether the current system for enforcing ethics rules and standards of conduct is sufficiently effective and transparent;

(4) determine whether the statutory framework governing lobbying disclosure should be expanded to include additional means of attempting to influence Members of Congress, senior staff, and high-ranking executive branch officials;

(5) analyze and evaluate the changes made by this Act to determine whether additional changes need to be made to uphold and enforce standards of ethical conduct and disclosure requirements; and

(6) investigate and report to Congress on its findings, conclusions, and recommendations for reform.

SEC. 264. COMPOSITION OF COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) the chair and vice chair shall be selected by agreement of the majority leader and minority leader of the House of Representatives and the majority leader and minority leader of the Senate;

(2) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party, 1 of which is a former member of the Senate;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party, 1 of which is a former member of the Senate;

(4) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party, 1 of which is a former member of the House of Representatives; and

(5) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party, 1 of which is a former member of the House of Representatives.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Five members of the Commission shall be Democrats and 5 Republicans.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in professions such as governmental service, government consulting, government contracting, the law, higher education, historian, business, public relations, and fundraising.

(4) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed on a date 3 months after the date of enactment of this Act.

(5) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(c) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 265. FUNCTIONS OF COMMISSION.

The functions of the Commission are to submit to Congress a report required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules and regulations—

(1) related to section 263; or

(2) related to any other areas the commission unanimously votes to be relevant to its mandate to recommend reforms to strengthen ethical safeguards in Congress.

SEC. 266. POWERS OF COMMISSION.

(a) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths.

(b) OBTAINING INFORMATION.—Upon request of the Commission, the head of any agency or instrumentality of the Federal Government shall furnish information deemed necessary by the panel to enable it to carry out its duties.

(c) LIMIT ON COMMISSION AUTHORITY.—The Commission shall not conduct any law enforcement investigation, function as a court of law, or otherwise usurp the duties and responsibilities of the ethics committee of the House of Representatives or the Senate.

SEC. 267. ADMINISTRATION.

(a) COMPENSATION.—Except as provided in subsection (b), members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(b) TRAVEL EXPENSES AND PER DIEM.—Each member of the Commission shall receive travel expenses and per diem in lieu of subsistence in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) STAFF AND SUPPORT SERVICES.—

(1) STAFF DIRECTOR.—

(A) APPOINTMENT.—The Chair (or Co-Chairs) in accordance with the rules agreed upon by the Commission shall appoint a staff director for the Commission.

(B) COMPENSATION.—The staff director shall be paid at a rate not to exceed the rate established for level V of the Executive Schedule under section 5315 of title 5, United States Code.

(2) STAFF.—The Chair (or Co-Chairs) in accordance with the rules agreed upon by the Commission shall appoint such additional personnel as the Commission determines to be necessary.

(3) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff director and other members of the staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the staff director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(d) PHYSICAL FACILITIES.—The Architect of the Capitol, in consultation with the appropriate entities in the legislative branch, shall locate and provide suitable office space for the operation of the Commission on a nonreimbursable basis. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for the proper functioning of the Commission.

(e) ADMINISTRATIVE SUPPORT SERVICES AND OTHER ASSISTANCE.—

(1) IN GENERAL.—Upon the request of the Commission, the Architect of the Capitol and the Administrator of General Services shall provide to the Commission on a nonreimbursable basis such administrative support services as the Commission may request.

(2) ADDITIONAL SUPPORT.—In addition to the assistance set forth in paragraph (1), departments and agencies of the United States may provide the Commission such services, funds, facilities, staff, and other support services as the Commission may deem advisable and as may be authorized by law.

(f) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(g) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

SEC. 268. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this title without the appropriate security clearances.

SEC. 269. COMMISSION REPORTS; TERMINATION.

(a) ANNUAL REPORTS.—The Commission shall submit—

(1) an initial report to Congress not later than July 1, 2007; and

(2) annual reports to Congress after the report required by paragraph (1);

containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) REPORT REGARDING POLITICAL CONTRIBUTIONS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Commission shall submit a report to Congress detailing the number, type, and quantity of contributions made to Members of the Senate or the House of Representatives during the 30-month period beginning on the date that is 24 months before the date of enactment of the Acts identified in paragraph (2) by the corresponding organizations identified in paragraph (2).

(2) ORGANIZATIONS AND ACTS.—The report submitted under paragraph (1) shall detail the number, type, and quantity of contributions made to Members of the Senate or the House of Representatives as follows:

(A) For the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2066), any contribution made during the time period described in paragraph (1) by or on behalf of a political action committee associated or affiliated with—

(i) a pharmaceutical company; or

(ii) a trade association for pharmaceutical companies.

(B) For the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Public Law 109–8; 119 Stat. 23), any contribution made during the time period described in paragraph (1) by or on behalf of a political action committee associated or affiliated with—

(i) a bank or financial services company;

(ii) a company in the credit card industry; or

(iii) a trade association for any such companies.

(C) For the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 594), any contribution made during the time period described in paragraph (1) by or on behalf of a political action committee associated or affiliated with—

(i) a company in the oil, natural gas, nuclear, or coal industry; or

(ii) a trade association for any such companies.

(D) For the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Public Law 109–53; 119 Stat. 462), any contribution made during the time period described in paragraph (1) by or on behalf of a political action committee associated or affiliated with—

(i) the United States Chamber of Commerce, the National Association of Manufacturers, the Business Roundtable, the National Federation of Independent Business, the Emergency Committee for American Trade, or any member company of such entities; or

(ii) any other free trade organization funded primarily by corporate entities.

(3) AGGREGATE REPORTING.—The report submitted under paragraph (1)—

(A) shall not list the particular Member of the Senate or House of Representative that received a contribution; and

(B) shall report the aggregate amount of contributions given by each entity identified in paragraph (2) to—

(i) Members of the Senate during the time period described in paragraph (1) for the corresponding Act identified in paragraph (2); and

(ii) Members of the House of Representatives during the time period described in paragraph (1) for the corresponding Act identified in paragraph (2).

(4) DEFINITIONS.—In this subsection—

(A) the terms ''authorized committee'', ''candidate'', ''contribution'', ''political committee'', and ''political party'' have the meanings given such terms in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431); and

(B) the term ''political action committee'' means any political committee that is not—

(i) a political committee of a political party; or

(ii) an authorized committee of a candidate.

(c) ADMINISTRATIVE ACTIVITIES.—During the 60-day period beginning on the date of submission of each annual report and the final report under this section, the Commission shall—

(1) be available to provide testimony to committees of Congress concerning such reports; and

(2) take action to appropriately disseminate such reports.

(d) TERMINATION OF COMMISSION.—

(1) FINAL REPORT.—Five years after the date of enactment of this Act, the Commission shall submit to Congress a final report containing information described in subsection (a).

(2) TERMINATION.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under paragraph (1), and the Commission may use such 60-day period for the purpose of concluding its activities.

SEC. 270. FUNDING.

There are authorized such sums as necessary to carry out this title.

TITLE III—CONGRESSIONAL PENSION ACCOUNTABILITY

SEC. 301. SHORT TITLE.

This title may be cited as the ''Congressional Pension Accountability Act''.

SEC. 302. DENIAL OF RETIREMENT BENEFITS.

(a) IN GENERAL.—Section 8312(a) of title 5, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ''; or'', and by inserting after paragraph (2) the following:

''(3) was convicted of an offense described in subsection (d), to the extent provided by that subsection.''; and

(2) by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ''; and'', and by inserting after subparagraph (B) the following:

''(C) with respect to the offenses described in subsection (d), to the period after the date of conviction.''.

(b) OFFENSES DESCRIBED.—Section 8312 of such title 5 is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following:

''(d) The offenses to which subsection (a)(3) applies are the following:

''(1) An offense within the purview of—

''(A) section 201 of title 18 (bribery of public officials and witnesses); or

''(B) section 371 of title 18 (conspiracy to commit offense or to defraud United States), to the extent of any conspiracy to commit an act which constitutes an offense within the purview of such section 201.

''(2) Perjury committed under the statutes of the United States or the District of Columbia in falsely denying the commission of any act which constitutes an offense within the purview of a statute named by paragraph (1), but only in the case of the statute named by subparagraph (B) of paragraph (1).

''(3) Subornation of perjury committed in connection with the false denial or false testimony of another individual as specified by paragraph (2).

An offense shall not be considered to be an offense described in this subsection except if or to the extent that it is committed by a Member of Congress (as defined by section 2106, including a Delegate to Congress).''.

(c) ABSENCE FROM UNITED STATES TO AVOID PROSECUTION.—Section 8313(a)(1) of such title 5 is amended by striking ''or'' at the end of subparagraph (A), by striking ''and'' at the end of subparagraph (B) and inserting ''or'', and by adding at the end the following:

''(C) for an offense described under subsection (d) of section 8312; and''.

(d) NONACCRUAL OF INTEREST ON REFUNDS.—Section 8316(b) of such title 5 is amended by striking ''or'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ''; or'', and by adding at the end the following:

''(3) if the individual was convicted of an offense described in section 8312(d), for the period after the conviction.''.

SEC. 303. CONSTITUTIONAL AUTHORITY.

The Constitutional authority for this title is the power of Congress to make all laws which shall be necessary and proper as enumerated in Article I, Section 8 of the United States Constitution, and the power to ascertain compensation for Congressional service under Article I, Section 6 of the United States Constitution.

SEC. 304. EFFECTIVE DATE.

This title, including the amendments made by this title, shall take effect on January 1, 2009 and shall apply with respect to convictions for offenses committed on or after the date of enactment of this Act.

TITLE IV—GENERAL PROVISIONS

SEC. 401. KNOWING AND WILLFUL FALSIFICATION OR FAILURE TO REPORT.

Section 104(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) in paragraph (1), as so designated, by striking ''$10,000'' and inserting ''$50,000''; and

(3) by adding at the end the following:

''(2)(A) It shall be unlawful for any person to knowingly and willfully falsify, or to knowingly and willingly fails to file or report, any information that such person is required to report under section 102.

''(B) Any person who violates subparagraph (A) shall be fined under title 18, United States Code, imprisoned for not more than 1 year, or both.''.

SEC. 402. PUBLIC AVAILABILITY OF SENATE COMMITTEE AND SUBCOMMITTEE MEETINGS.

(a) IN GENERAL.—Paragraph 5(e) of rule XXVI of the Standing Rules of the Senate is amended by—

(1) by inserting after ''(e)'' the following: ''(1)''; and

(2) by adding at the end the following:

''(2) Except with respect to meetings closed in accordance with this rule, each committee and subcommittee shall make publicly available through the Internet a video recording, audio recording, or transcript of any meeting not later than 14 business days after the meeting occurs.''.

(b) EFFECTIVE DATE.—This section shall take effect October 1, 2007.

SEC. 403. FREE ATTENDANCE AT A BONA FIDE CONSTITUENT EVENT.

(a) IN GENERAL.—Paragraph 1(c) of rule XXXV of the Senate Rules is amended by adding at the end the following:

''(24) Subject to the restrictions in subparagraph (a)(2), free attendance at a bona fide constituent event permitted pursuant to subparagraph (h).''.

(b) IN GENERAL.—Paragraph 1 of rule XXXV of the Senate Rules is amended by adding at the end the following:

''(h)(1) A Member, officer, or employee may accept an offer of free attendance in the

Member's home State at a convention, conference, symposium, forum, panel discussion, dinner event, site visit, viewing, reception, or similar event, provided by a sponsor of the event, if—

''(A) the cost of meals provided the Member, officer or employee does not exceed $50;

''(B)(i) the event is sponsored by bona fide constituents of, or a group that consists primarily of bona fide constituents of, the Member (or the Member by whom the officer or employee is employed); and

''(ii) the event will be attended primarily by a group of at least 5 bona fide constituents of the Member (or the Member by whom the officer or employee is employed) provided that an individual registered to lobby under the Federal Lobbying Disclosure Act shall not attend the event; and

''(C)(i) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the Member's, officer's, or employee's official position; or

''(ii) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

''(2) A Member, officer, or employee who attends an event described in clause (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate.

''(3) For purposes of this paragraph, the term 'free attendance' has the same meaning as in subparagraph (d).

SEC. 404. PROHIBITION ON FINANCIAL GAIN FROM EARMARKS BY MEMBERS, IMMEDIATE FAMILY OF MEMBERS, STAFF OF MEMBERS, OR IMMEDIATE FAMILY OF STAFF OF MEMBERS.

Rule XXXVII of the Standing Rules of the Senate is amended by adding at the end the following:

''15. (a) No Member shall use his official position to introduce, request, or otherwise aid the progress or passage of a congressional earmark that will financially benefit or otherwise further the pecuniary interest of such Member, the spouse of such Member, the immediate family member of such Member, any employee on the staff of such Member, the spouse of an employee on the staff of such Member, or immediate family member of an employee on the staff of such Member.

''(b) For purposes of this paragraph—

''(1) the term 'immediate family member' means the son, daughter, stepson, stepdaughter, son-in-law, daughter-in-law, mother, father, stepmother, stepfather, mother-in-law, father-in-law, brother, sister, stepbrother, or stepsister of a Member or any employee on the staff (including staff in personal, committee and leadership offices) of a Member; and

''(2) the term 'congressional earmark' means—

''(A) a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;

''(B) any revenue-losing provision that—

''(i) provides a Federal tax deduction, credit, exclusion, or preference to 10 or fewer beneficiaries under the Internal Revenue Code of 1986; and

''(ii) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision;

''(C) any Federal tax provision which provides one beneficiary temporary or permanent transition relief from a change to the Internal Revenue Code of 1986; and

''(D) any provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.''.

SEC. 405. AMENDMENTS AND MOTIONS TO RECOMMIT.

Paragraph 1 of Rule XV of the Standing Rules of the Senate is amended to read as follows:

''1. (a) An amendment and any instruction accompanying a motion to recommit shall be reduced to writing and read and identical copies shall be provided by the Senator offering the amendment or instruction to the desks of the Majority Leader and the Minority Leader before being debated.

''(b) A motion shall be reduced to writing, if desired by the Presiding Officer or by any Senator, and shall be read before being debated.''.

SEC. 406. CONGRESSIONAL TRAVEL PUBLIC WEBSITE.

(a) IN GENERAL.—Not later than January 1, 2008, the Secretary of the Senate and the Clerk of the House of Representatives shall each establish a publicly available website without fee or without access charge, that contains information on all officially related congressional travel that is subject to disclosure under the gift rules of the Senate and the House of Representatives, respectively, that includes—

(1) a search engine;

(2) uniform categorization by Member, dates of travel, and any other common categories associated with congressional travel; and

(3) all forms filed in the Senate and the House of Representatives relating to officially-related travel referred to in paragraph (2), including the ''Disclosure of Member or Officer's Reimbursed Travel Expenses'' form in the Senate.

(b) EXTENSION AUTHORITY.—If the Secretary of the Senate or the Clerk of the House of Representatives is unable to meet the deadline established under subsection (a), the Committee on Rules and Administration of the Senate or the Committee on Rules of the House of Representatives may grant an extension of such date for the Secretary of the Senate or the Clerk of the House of Representatives, respectively.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

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

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

PROVIDING FOR A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 41, just received from the House and at the desk.

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

The clerk will report.

The legislative clerk read as follows:

A House concurrent resolution (H. Con. Res. 41) providing for a conditional adjournment of the House of Representatives.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, without any intervening action or debate.

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

The concurrent resolution (H. Con. Res. 41) was agreed to.

HOUSE PAGE BOARD REVISION ACT OF 2007

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of H.R. 475, received from the House and at the desk.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 475) to revise the composition of the House of Representatives Page Board to equalize the number of members representing the majority and minority parties and to include a member representing the parents of pages and a member representing former pages, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD as if read, with no intervening action.

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

The bill (H.R. 475) was ordered to a third reading, was read the third time, and passed.

ORDER FOR RECESS AND ORDERS FOR WEDNESDAY, JANUARY 24, 2007

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate now stand in recess until 8:30 p.m. this evening and that at 8:40 p.m., Members then proceed as a body to the House of Representatives for the State of the Union Address; that upon the conclusion of the address, the Senate then stand adjourned until 9:30 a.m., Wednesday, January 24; that on Wednesday, following the prayer and pledge, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business until 10:30 a.m., with the time equally divided and controlled between the majority and Republican leaders or their

designees, with Senators permitted to speak therein for up to 10 minutes each; that the majority control the first half and the Republicans the second portion; that at 10:30 a.m., there be an hour for debate prior to the cloture vote on the Gregg amendment, with the time equally divided and controlled between the majority and Republican leaders or their designees; that at 11:30 a.m., the Senate proceed to vote on the motion to invoke cloture on the Gregg amendment; and that Members have until 10:30 a.m. to file second-degree amendments.

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

PROGRAM

Mr. DURBIN. Mr. President, tomorrow morning, we will have a period for the transaction of morning business and then an hour for debate prior to the cloture vote. The cloture vote on the Gregg amendment will occur at 11:30 a.m. Also, Members will have until 10:30 a.m. to file second-degree amendments.

RECESS

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 5:29 p.m., recessed until 8:30 p.m. and reassembled when called to order by the Presiding Officer (Mr. BROWN).

JOINT SESSION OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 110–____)

The PRESIDING OFFICER. The Senate will proceed to the Hall of the House of Representatives to hear the address by the President of the United States.

Thereupon, the Senate, preceded by the Deputy Sergeant at Arms, Drew Willison, the Secretary of the Senate, Nancy Erickson, and the Vice President of the United States, RICHARD B. CHENEY, proceeded to the Hall of the House of Representatives to hear the address by the President of the United States, George W. Bush.

(The address delivered by the President of the United States to the joint session of the two Houses of Congress is printed in the proceedings of the House of Representatives in today's RECORD.)

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

At the conclusion of the joint session of the two Houses and in accordance with the order previously entered, at 10:09 p.m., the Senate adjourned until Wednesday, January 24, 2007, at 9:30 a.m.