

and wellbeing of women across America and throughout the world.

Ms. SNOWE. Mr. President, I rise today to submit a Senate resolution honoring an exceptional women's health advocate, Cynthia Boles Dailard, who tragically passed away on December 24, 2006.

Cynthia was an extraordinary person and a consummate professional who was passionately committed to the issues she believed in to the everlasting benefit of those who were helped by her enormous dedication. Her zest for living and the spark she carried within her inspired the same in others, especially with respect to improving the lives of America's women.

As a United States Senator from Maine, I was immensely pleased to have Cynthia work for me as a legislative aide for issues of particular importance to women. As one of only sixteen females in the Senate currently—and even fewer in the past—one of my major goals has always been ensuring that matters critical to girls and women are represented and addressed in our government. And Cynthia's family should be incredibly proud that, in that regard—and as I began my very first years in the Senate—I couldn't have asked for a better partner with the keen intelligence, vision, energy, and talent she brought to my office. I was extremely grateful to have the benefit of her service to the country and her wide-ranging expertise and acumen—and no one was more committed to the goal of advancing policy pertaining to America's women than Cynthia Dailard.

In developing groundbreaking initiatives, she not only served me well, but most critically she served the Nation well with her unflinching dedication to efforts that will reverberate for generations. As such, she was invaluable to me as she helped champion the campaign to improve the quality of life of those in my State and across the country.

But above all in her work, Cynthia was effective as an advocate because she was engaged in causes that were a true labor of love. She adhered to those beliefs that motivated her to action, and as a result she made a tremendous difference. She stood as a testament to the ideal of finding a passion and following it—to the fulfillment of oneself and the betterment of all. She also exemplified an intellectual curiosity and a steadfast devotion to learning, for their own sake as well as instruments for improving the greater community—traits that are instructive to us all.

All of us who were touched by Cynthia's life are greatly saddened—she will be forever missed but always remembered and we will hold dear in perpetuity the countless and timeless memories of her. Our thoughts and prayers are with her husband, Scott, and their daughters, Miranda and Julia.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 100. Mr. REID (for Mr. BAUCUS) proposed an amendment 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.

SA 101. Mr. MCCONNELL (for Mr. GREGG (for himself, Mr. DEMINT, Mr. MCCONNELL, Mr. LOTT, Mr. KYL, Mrs. HUTCHISON, Mr. CORNYN, Mr. ALLARD, Mr. CRAPO, Mr. BUNNING, Mr. VITTER, Mr. BROWNBACK, Mrs. DOLE, Mr. ALEXANDER, Mr. THOMAS, Mr. CRAIG, Mr. BURR, Mr. MCCAIN, Mr. SUNUNU, Mr. ENZI, Mr. MARTINEZ, Mr. CHAMBLISS, Mr. SESSIONS, Mr. COLEMAN, Mr. GRAHAM, Mr. VOINOVICH, Mr. ISAKSON, Mr. COBURN, Mr. ENSIGN, and Mr. THUNE)) proposed an amendment to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 102. 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 103. Mr. ENZI (for Ms. SNOWE (for herself, Mr. ENZI, and Ms. LANDRIEU)) proposed an amendment to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 104. Mr. WYDEN (for himself, Mr. SMITH, Mrs. FEINSTEIN, and Mrs. BOXER) 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 105. Mr. MARTINEZ 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 106. Mr. SESSIONS (for himself, Mr. KOHL, and Mrs. HUTCHISON) proposed an amendment to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 107. Mr. SESSIONS proposed an amendment to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 108. Mr. SESSIONS proposed an amendment to amendment SA 100 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 2, supra.

SA 109. Mr. REID proposed an amendment to the concurrent resolution H. Con. Res. 38, providing for a joint session of Congress to receive a message from the President.

SA 110. Mr. VITTER (for himself and 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.

## TEXT OF AMENDMENTS

SA 100. Mr. REID (for Mr. BAUCUS) proposed an amendment 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:

Strike all after the enacting clause and insert the following:

### TITLE I—FAIR MINIMUM WAGE

#### SEC. 100. SHORT TITLE.

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

#### SEC. 101. MINIMUM WAGE.

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

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

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

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

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

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

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

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

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

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

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

## TITLE II—SMALL BUSINESS TAX INCENTIVES

### SEC. 200. SHORT TITLE; AMENDMENT OF CODE.

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

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

### Subtitle A—Small Business Tax Relief Provisions

#### PART I—GENERAL PROVISIONS

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

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

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

(a) EXTENSION OF LEASEHOLD AND RESTAURANT IMPROVEMENTS.—

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

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

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

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

"(7) QUALIFIED RESTAURANT PROPERTY.—The term 'qualified restaurant property' means any section 1250 property which is a

building (or its structural components) or an improvement to such building if more than 50 percent of such building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals."

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

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

(1) 15-YEAR RECOVERY PERIOD.—Section 168(e)(3)(E) (relating to 15-year property) is amended by striking "and" at the end of clause (vii), by striking the period at the end of clause (viii) and inserting ", and", and by adding at the end the following new clause: "(ix) any qualified retail improvement property placed in service before April 1, 2008."

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

"(B) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—

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

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

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

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

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

- "(i) the enlargement of the building,
"(ii) any elevator or escalator,
"(iii) any structural component benefitting a common area, or
"(iv) the internal structural framework of the building."

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

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

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

"(E)(ix) ..... 39".

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

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

(a) CASH ACCOUNTING PERMITTED.—

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

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

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

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

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

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

(2) EXPANSION OF GROSS RECEIPTS TEST.—

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

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

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

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

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

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

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

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2007' for 'calendar year 1992' in subparagraph (B) thereof. If any amount as adjusted under this subparagraph is not a multiple of \$100,000, such amount shall be rounded to the nearest multiple of \$100,000."

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

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

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

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

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

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

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

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

(2) CONFORMING AMENDMENTS.—

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

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

(c) EFFECTIVE DATE AND SPECIAL RULES.—

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

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

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

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

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

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

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

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

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

"(5) DESIGNATED COMMUNITY RESIDENTS.—

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

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

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

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

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

"(D) a designated community resident."

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

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

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

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

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

"(i) being a member of a family receiving assistance under a food stamp program under

the Food Stamp Act of 1977 for at least a 3-month period ending during the 12-month period ending on the hiring date, or

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

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

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

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

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

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

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

**SEC. 205. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.**

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

**“SEC. 3511. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.**

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

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

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

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

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

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

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

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

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

“(d) TREATMENT OF CREDITS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**“SEC. 7705. CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS DEFINED.**

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

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

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

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

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

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

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

“(6) agrees to notify the Secretary in writing within such time as the Secretary may prescribe of any change that materially affects whether it continues to meet the requirements of this subsection.

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

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

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

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

“(2) BOND.—

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

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

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

“(ii) \$50,000.

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

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

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

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

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

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

satisfied for the period beginning on the due date for such attestation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) CONFORMING AMENDMENTS.—

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

“(h) TREATMENT OF CERTIFIED PROFESSIONAL EMPLOYER ORGANIZATIONS.—If a cer-

tified professional employer organization (as defined in section 7705), or a customer of such organization, makes a contribution to the State’s unemployment fund with respect to a work site employee, such organization shall be eligible for the credits available under this section with respect to such contribution.”

(2) Section 3303(a) is amended—

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

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

(B) in the last sentence—

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

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

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

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

(d) CLERICAL AMENDMENTS.—

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

“Sec. 3511. Certified professional employer organizations.”

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

“Sec. 7705. Certified professional employer organizations defined.”

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

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

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

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to

wages for services performed on or after January 1 of the first calendar year beginning more than 12 months after the date of the enactment of this Act.

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

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

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

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

## PART II—SUBCHAPTER S PROVISIONS

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

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

“(B) PASSIVE INVESTMENT INCOME DEFINED.—

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

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

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

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

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

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

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

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

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

**SEC. 212. TREATMENT OF BANK DIRECTOR SHARES.**

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

“(f) RESTRICTED BANK DIRECTOR STOCK.—

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

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

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

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

“(3) CROSS REFERENCE.—

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

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

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

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

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

(c) EFFECTIVE DATES.—

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

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

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

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

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

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

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

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

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

“(i) IN GENERAL.—For purposes of this title,”; and

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

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

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

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

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

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

In the case of a corporation which is—

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

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

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

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

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

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

**Subtitle B—Revenue Provisions****SEC. 221. MODIFICATION OF EFFECTIVE DATE OF LEASING PROVISIONS OF THE AMERICAN JOBS CREATION ACT OF 2004.**

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

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

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

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

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

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

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

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

“(A) IN GENERAL.—If—

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

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

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

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

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

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

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

“(iv) the transfer of any earnings and profits by reason of clause (i) shall be disregarded in determining any deemed dividend or foreign tax creditable to the domestic corporation with respect to such transfer.

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

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

**SEC. 223. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.**

(a) DISALLOWANCE OF DEDUCTION.—

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

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

(B) by striking “If” and inserting:

“(1) TREBLE DAMAGES.—If”, and

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

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

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

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

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

**“SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.**

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

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

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

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

“Sec. 91. Punitive damages compensated by insurance or otherwise.”

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

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

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

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

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

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

“(A) the taxpayer establishes—

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

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

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

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

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

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

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

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

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

(b) REPORTING OF DEDUCTIBLE AMOUNTS.—

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

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

“(a) REQUIREMENT OF REPORTING.—

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

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

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

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

“(2) SUIT OR AGREEMENT DESCRIBED.—

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

“(i) it is—

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

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

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

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

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

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

“(B) the date specified Secretary.

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

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

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

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

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

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

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

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

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

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

**“SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

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

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

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

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

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

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

“(3) EXCLUSION FOR CERTAIN GAIN.—

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

“(B) COST-OF-LIVING ADJUSTMENT.—

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

“(I) such dollar amount, multiplied by

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

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

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

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

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

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

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

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

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

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

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

“(b) ELECTION TO DEFER TAX.—

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

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

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

“(4) SECURITY.—

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

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

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

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

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

“(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a

trust with respect to which gain is required to be recognized under subsection (f)(1).

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

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

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

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

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

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

“(A) the individual—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(1) EXPATRIATE.—The term ‘expatriate’ means—

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

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

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

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

“(2) EXPATRIATION DATE.—The term ‘expatriation date’ means—

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

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

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

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

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

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

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

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

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

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

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

“(A) the individual shall not be treated as having sold such interest.

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

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

“(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

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

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a

distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(E) TAX DEDUCTED AND WITHHELD.—

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

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

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

“(II) any other beneficiary of the trust shall be entitled to recover from the dis-

tributee the amount of such tax imposed on the other beneficiary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(h) IMPOSITION OF TENTATIVE TAX.—

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

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

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

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

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

“(1) IMPOSITION OF LIEN.—

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

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

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

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

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

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

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

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

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

“(1) TREATMENT OF GIFTS AND INHERITANCES.—

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

“(B) DETERMINATION OF BASIS.—Notwithstanding sections 1015 or 1022, the basis of any property described in subparagraph (A)

in the hands of the donee or the person acquiring such property from the decedent shall be equal to the fair market value of the property at the time of the gift, bequest, devise, or inheritance.

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

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

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

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

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

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

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

“(50) TERMINATION OF UNITED STATES CITIZENSHIP.—

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

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

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

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

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

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(1) (relating to disclosure of returns and return information) for purposes other than tax administration) is amended by adding at the end the following new paragraph:

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

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

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

(e) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

“Sec. 877A. Tax responsibilities of expatriation.”.

(g) EFFECTIVE DATE.—

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

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

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

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

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

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

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

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

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

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

“(i) is attributable to compensation (or income attributable to such compensation) re-

quired to be included in gross income by reason of such failure (including by reason of this subparagraph), and

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

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

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

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

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

“(II) \$1,000,000.

“(ii) BASE PERIOD.—

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

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

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

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

(b) EFFECTIVE DATE.—

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

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

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

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

(A) to provide that a participant may, no later than December 31, 2007, cancel or modify an outstanding deferral election with regard to all or a portion of amounts deferred after December 31, 2006, to the extent necessary for the plan to meet the requirements of section 409A(a)(5) of such Code (as added by the amendments made by this section),

but only if amounts subject to the cancellation or modification are, to the extent not previously included in gross income, includible in income of the participant when no longer subject to substantial risk of forfeiture, and

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

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

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

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

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

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

(b) INCREASE IN PENALTIES.—

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

(A) by striking “\$100,000” and inserting “\$500,000”,

(B) by striking “\$500,000” and inserting “\$1,000,000”, and

(C) by striking “5 years” and inserting “10 years”.

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

(A) in the first sentence—

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

“(a) IN GENERAL.—Any person”, and  
(ii) by striking “\$25,000” and inserting “\$50,000”,

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

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

“(b) AGGRAVATED FAILURE TO FILE.—

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

“(A) ‘felony’ for ‘misdemeanor’,

“(B) ‘\$500,000 (\$1,000,000)’ for ‘\$25,000 (\$100,000)’, and

“(C) ‘10 years’ for ‘1 year’.”.

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

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

(A) by striking “\$100,000” and inserting “\$500,000”,

(B) by striking “\$500,000” and inserting “\$1,000,000”, and

(C) by striking “3 years” and inserting “5 years”.

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

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

(a) DETERMINATION OF PENALTY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) by striking “\$750” and inserting “\$1,250”, and

(2) by striking “\$15” and inserting “\$25”.

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

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

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

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

“(1) IN GENERAL.—The Secretary”, and

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

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

“(A) IN GENERAL.—In the case of a debt instrument which—

“(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

“(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed-rate debt instrument shall be applied as if the regulations require that such comparable yield be determined by reference to a noncontingent fixed-rate debt instrument which is convertible into stock.

“(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.”.

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

“For the treatment of contingent payment convertible debt, see section 1275(d)(2).”.

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

**SEC. 231. EXTENSION OF IRS USER FEES.**

Subsection (c) of section 7528 (relating to Internal Revenue Service user fees) is amended by striking “September 30, 2014” and inserting “September 30, 2016”.

**SEC. 232. MODIFICATION OF COLLECTION DUE PROCESS PROCEDURES FOR EMPLOYMENT TAX LIABILITIES.**

(a) IN GENERAL.—Section 6330(f) (relating to jeopardy and State refund collection) is amended—

(1) by striking “; or” at the end of paragraph (1) and inserting a comma,

(2) by adding “or” at the end of paragraph (2), and

(3) by inserting after paragraph (2) the following new paragraph:

“(3) The Secretary has served a levy in connection with the collection of taxes under chapter 21, 22, 23, or 24.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to levies issued on or after the date that is 120 days after the date of the enactment of this Act.

**SEC. 233. MODIFICATIONS TO WHISTLEBLOWER REFORMS.**

(a) MODIFICATION OF TAX THRESHOLD FOR AWARDS.—Subparagraph (B) of section 7623(b)(5), as added by the Tax Relief and Health Care Act of 2006, is amended by striking “\$2,000,000” and inserting “\$20,000”.

(b) WHISTLEBLOWER OFFICE.—

(1) IN GENERAL.—Section 7623 is amended by adding at the end the following new subsections:

“(c) WHISTLEBLOWER OFFICE.—

“(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the ‘Whistleblower Office’ which—

“(A) shall at all times operate at the direction of the Commissioner and coordinate and

consult with other divisions in the Internal Revenue Service as directed by the Commissioner.

“(B) shall analyze information received from any individual described in subsection (b) and either investigate the matter itself or assign it to the appropriate Internal Revenue Service office.

“(C) shall monitor any action taken with respect to such matter.

“(D) shall inform such individual that it has accepted the individual’s information for further review.

“(E) may require such individual and any legal representative of such individual to not disclose any information so provided.

“(F) in its sole discretion, may ask for additional assistance from such individual or any legal representative of such individual, and

“(G) shall determine the amount to be awarded to such individual under subsection (b).

“(2) FUNDING FOR OFFICE.—There is authorized to be appropriated \$10,000,000 for each fiscal year for the Whistleblower Office. These funds shall be used to maintain the Whistleblower Office and also to reimburse other Internal Revenue Service offices for related costs, such as costs of investigation and collection.

“(3) REQUEST FOR ASSISTANCE.—

“(A) IN GENERAL.—Any assistance requested under paragraph (1)(F) shall be under the direction and control of the Whistleblower Office or the office assigned to investigate the matter under subparagraph (A). No individual or legal representative whose assistance is so requested may by reason of such request represent himself or herself as an employee of the Federal Government.

“(B) FUNDING OF ASSISTANCE.—From the amounts available for expenditure under subsection (b), the Whistleblower Office may, with the agreement of the individual described in subsection (b), reimburse the costs incurred by any legal representative of such individual in providing assistance described in subparagraph (A).

“(d) REPORTS.—The Secretary shall each year conduct a study and report to Congress on the use of this section, including—

“(1) an analysis of the use of this section during the preceding year and the results of such use, and

“(2) any legislative or administrative recommendations regarding the provisions of this section and its application.”

(2) CONFORMING AMENDMENT.—Section 406 of division A of the Tax Relief and Health Care Act of 2006 is amended by striking subsections (b) and (c).

(3) REPORT ON IMPLEMENTATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit to Congress a report on the establishment and operation of the Whistleblower Office under section 7623(c) of the Internal Revenue Code of 1986.

(c) PUBLICITY OF AWARD APPEALS.—Paragraph (4) of section 7623(b), as added by the Tax Relief and Health Care Act of 2006, is amended to read as follows:

“(4) APPEAL OF AWARD DETERMINATION.—

“(A) IN GENERAL.—Any determination regarding an award under paragraph (1), (2), or (3) may, within 30 days of such determination, be appealed to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).

“(B) PUBLICITY OF APPEALS.—Notwithstanding sections 7458 and 7461, the Tax Court may, in order to preserve the anonymity, privacy, or confidentiality of any person under this subsection, provide by rules adopted under section 7453 that portions of filings, hearings, testimony, evidence, and reports in connection with proceedings under

this subsection may be closed to the public or to inspection by the public.”

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to information provided on or after the date of the enactment of this Act.

(2) PUBLICITY OF AWARD APPEALS.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 406 of the Tax Relief and Health Care Act of 2006.

**SEC. 234. MODIFICATIONS OF DEFINITION OF EMPLOYEES COVERED BY DENIAL OF DEDUCTION FOR EXCESSIVE EMPLOYEE REMUNERATION.**

(a) IN GENERAL.—Paragraph (3) of section 162(m) is amended to read as follows:

“(3) COVERED EMPLOYEE.—For purposes of this subsection, the term ‘covered employee’ means, with respect to any taxpayer for any taxable year, an individual who—

“(A) was the chief executive officer of the taxpayer, or an individual acting in such a capacity, at any time during the taxable year,

“(B) is 1 of the 4 highest compensated officers of the taxpayer for the taxable year (other than the individual described in subparagraph (A)), or

“(C) was a covered employee of the taxpayer (or any predecessor) for any preceding taxable year beginning after December 31, 2006.

In the case of an individual who was a covered employee for any taxable year beginning after December 31, 2006, the term ‘covered employee’ shall include a beneficiary of such employee with respect to any remuneration for services performed by such employee as a covered employee (whether or not such services are performed during the taxable year in which the remuneration is paid).”

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

**SA 101.** Mr. McCONNELL (for Mr. GREGG (for himself, Mr. DEMINT, Mr. McCONNELL, Mr. LOTT, Mr. KYL, Mrs. HUTCHISON, Mr. CORNYN, Mr. ALLARD, Mr. CRAPO, Mr. BUNNING, Mr. VITTER, Mr. BROWNBACK, Mrs. DOLE, Mr. ALEXANDER, Mr. THOMAS, Mr. CRAIG, Mr. BURR, Mr. MCCAIN, Mr. SUNUNU, Mr. ENZI, Mr. MARTINEZ, Mr. CHAMBLISS, Mr. SESSIONS, Mr. COLEMAN, Mr. GRAHAM, Mr. VOINOVICH, Mr. ISAKSON, Mr. COBURN, Mr. ENSIGN, and Mr. THUNE)) 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:

At the end, insert the following:

**TITLE —SECOND LOOK AT WASTEFUL SPENDING ACT OF 2007**

**SEC. 01. SHORT TITLE.**

This title may be cited as the “Second Look at Wasteful Spending Act of 2007”.

**SEC. 02. ENHANCED RESCISSION AUTHORITY.**

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by striking part C and inserting the following:

**“PART C—ENHANCED RESCISSION AUTHORITY**

**“SEC. 1021. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS.**

“(a) PROPOSED RESCISSIONS.—The President may send a special message, at the time

and in the manner provided in subsection (b), that proposes to rescind dollar amounts of discretionary budget authority, items of direct spending, and targeted tax benefits.

“(b) TRANSMITTAL OF SPECIAL MESSAGE.—

“(1) SPECIAL MESSAGE.—

“(A) IN GENERAL.—

“(i) FOUR MESSAGES.—The President may transmit to Congress not to exceed 4 special messages per calendar year, proposing to rescind dollar amounts of discretionary budget authority, items of direct spending, and targeted tax benefits.

“(ii) TIMING.—Special messages may be transmitted under clause (i)—

“(I) with the President’s budget submitted pursuant to section 1105 of title 31, United States Code; and

“(II) 3 other times as determined by the President.

“(iii) LIMITATIONS.—

“(I) IN GENERAL.—Special messages shall be submitted within 1 calendar year of the date of enactment of any dollar amount of discretionary budget authority, item of direct spending, or targeted tax benefit the President proposes to rescind pursuant to this Act.

“(II) RESUBMITTAL REJECTED.—If Congress rejects a bill introduced under this part, the President may not resubmit any of the dollar amounts of discretionary budget authority, items of direct spending, or targeted tax benefits in that bill under this part, or part B with respect to dollar amounts of discretionary budget authority.

“(III) RESUBMITTAL AFTER SINE DIE.—If Congress does not complete action on a bill introduced under this part because Congress adjourns sine die, the President may resubmit some or all of the dollar amounts of discretionary budget authority, items of direct spending, and targeted tax benefits in that bill in not more than 1 subsequent special message under this part, or part B with respect to dollar amounts of discretionary budget authority.

“(B) CONTENTS OF SPECIAL MESSAGE.—Each special message shall specify, with respect to the dollar amount of discretionary budget authority, item of direct spending, or targeted tax benefit proposed to be rescinded—

“(i) the dollar amount of discretionary budget authority available and proposed for rescission from accounts, departments, or establishments of the government and the dollar amount of the reduction in outlays that would result from the enactment of such rescission of discretionary budget authority for the time periods set forth in clause (ii);

“(ii) the specific items of direct spending and targeted tax benefits proposed for rescission and the dollar amounts of the reductions in budget authority and outlays or increases in receipts that would result from enactment of such rescission for the time periods set forth in clause (iii);

“(iii) the budgetary effects of proposals for rescission, estimated as of the date the President submits the special message, relative to the most recent levels calculated consistent with the methodology described in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 and included with a budget submission under section 1105(a) of title 31, United States Code, for the time periods of—

“(I) the fiscal year in which the proposal is submitted; and

“(II) each of the 10 following fiscal years beginning with the fiscal year after the fiscal year in which the proposal is submitted;

“(iv) any account, department, or establishment of the Government to which such dollar amount of discretionary budget authority or item of direct spending is available for obligation, and the specific project or governmental functions involved;

“(v) the reasons why such dollar amount of discretionary budget authority or item of direct spending or targeted tax benefit should be rescinded;

“(vi) the estimated fiscal and economic impacts of the proposed rescission;

“(vii) to the maximum extent practicable, all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority or items of direct spending or targeted tax benefits are provided; and

“(viii) a draft bill that, if enacted, would rescind the budget authority, items of direct spending and targeted tax benefits proposed to be rescinded in that special message.

“(2) ANALYSIS BY CONGRESSIONAL BUDGET OFFICE AND JOINT COMMITTEE ON TAXATION.—

“(A) IN GENERAL.—Upon the receipt of a special message under this part proposing to rescind dollar amounts of discretionary budget authority, items of direct spending, and targeted tax benefits—

“(i) the Director of the Congressional Budget Office shall prepare an estimate of the savings in budget authority or outlays resulting from such proposed rescission and shall include in its estimate, an analysis prepared by the Joint Committee on Taxation related to targeted tax benefits; and

“(ii) the Director of the Joint Committee on Taxation shall prepare an estimate and forward such estimate to the Congressional Budget Office, of the savings from repeal of targeted tax benefits.

“(B) METHODOLOGY.—The estimates required by subparagraph (A) shall be made relative to the most recent levels calculated consistent with the methodology used to calculate a baseline under section 257 of the Balanced Budget and Emergency Control Act of 1985 and included with a budget submission under section 1105(a) of title 31, United States Code, and transmitted to the chairmen of the Committees on the Budget of the House of Representatives and Senate.

“(3) ENACTMENT OF RESCISSION BILL.—

“(A) DEFICIT REDUCTION.—Amounts of budget authority or items of direct spending or targeted tax benefit that are rescinded pursuant to enactment of a bill as provided under this part shall be dedicated only to deficit reduction and shall not be used as an offset for other spending increases or revenue reductions.

“(B) ADJUSTMENT OF BUDGET TARGETS.—Not later than 5 days after the date of enactment of a rescission bill as provided under this part, the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise spending and revenue levels under section 311(a) of the Congressional Budget Act of 1974 and adjust the committee allocations under section 302(a) of the Congressional Budget Act of 1974 or any other adjustments as may be appropriate to reflect the rescission. The adjustments shall reflect the budgetary effects of such rescissions as estimated by the President pursuant to paragraph (1)(B)(iii). The appropriate committees shall report revised allocations pursuant to section 302(b) of the Congressional Budget Act of 1974. Notwithstanding any other provision of law, the revised allocations and aggregates shall be considered to have been made under a concurrent resolution on the budget agreed to under the Congressional Budget Act of 1974 and shall be enforced under the procedures of that Act.

“(C) ADJUSTMENTS TO CAPS.—After enactment of a rescission bill as provided under this part, the President shall revise applicable limits under the Second Look at Wasteful Spending Act of 2007, as appropriate.

“(C) PROCEDURES FOR EXPEDITED CONSIDERATION.—

“(1) IN GENERAL.—

“(A) INTRODUCTION.—Before the close of the second day of session of the Senate and the House of Representatives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader of each House, for himself, or minority leader of each House, for himself, or a Member of that House designated by that majority leader or minority leader shall introduce (by request) the President's draft bill to rescind the amounts of budget authority or items of direct spending or targeted tax benefits, as specified in the special message and the President's draft bill. If the bill is not introduced as provided in the preceding sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

“(B) REFERRAL AND REPORTING.—

“(i) ONE COMMITTEE.—The bill shall be referred by the presiding officer to the appropriate committee. The committee shall report the bill without any revision and with a favorable, an unfavorable, or without recommendation, not later than the fifth day of session of that House after the date of introduction of the bill in that House. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

“(ii) MULTIPLE COMMITTEES.—

“(I) REFERRALS.—If a bill contains provisions in the jurisdiction of more than 1 committee, the bill shall be jointly referred to the committees of jurisdiction and the Committee on the Budget.

“(II) VIEWS OF COMMITTEE.—Any committee, other than the Committee on the Budget, to which a bill is referred under this clause may submit a favorable, an unfavorable recommendation, without recommendation with respect to the bill to the Committee on the Budget prior to the reporting or discharge of the bill.

“(III) REPORTING.—The Committee on the Budget shall report the bill not later than the fifth day of session of that House after the date of introduction of the bill in that House, without any revision and with a favorable or unfavorable recommendation, or with no recommendation, together with the recommendations of any committee to which the bill has been referred.

“(IV) DISCHARGE.—If the Committee on the Budget fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

“(C) FINAL PASSAGE.—A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be transmitted to the Senate before the close of the next day of session of the House.

“(2) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

“(A) MOTION TO PROCEED TO CONSIDERATION.—A motion in the House of Representatives to proceed to the consideration of a bill under this subsection 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.

“(B) LIMITS ON DEBATE.—Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

“(C) APPEALS.—Appeals from decisions of the chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this part shall be decided without debate.

“(D) APPLICATION OF HOUSE RULES.—Except to the extent specifically provided in this part, consideration of a bill under this part shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any bill introduced pursuant to the provisions of this part under a suspension of the rules or under a special rule.

“(3) CONSIDERATION IN THE SENATE.—

“(A) MOTION TO PROCEED TO CONSIDERATION.—A motion to proceed to the consideration of a bill under this subsection in the Senate shall not be debatable. A motion to proceed to consideration of the bill may be made even though a previous motion to the same effect has been disagreed to. It shall not be in order to move to reconsider the vote by which the motion to proceed is agreed to or disagreed to.

“(B) LIMITS ON DEBATE.—Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith, shall not exceed a total of 10 hours, equally divided and controlled in the usual form.

“(C) DEBATABLE MOTIONS AND APPEALS.—Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour from the time allotted for debate, to be equally divided and controlled in the usual form.

“(D) MOTION TO LIMIT DEBATE.—A motion in the Senate to further limit debate on a bill under this subsection is not debatable.

“(E) MOTION TO RECOMMIT.—A motion to recommit a bill under this subsection is not in order.

“(F) CONSIDERATION OF THE HOUSE BILL.—

“(i) IN GENERAL.—If the Senate has received the House companion bill to the bill introduced in the Senate prior to the vote required under paragraph (1)(C), then the Senate shall consider, and the vote under paragraph (1)(C) shall occur on, the House companion bill.

“(ii) PROCEDURE AFTER VOTE ON SENATE BILL.—If the Senate votes, pursuant to paragraph (1)(C), on the bill introduced in the Senate, the Senate bill shall be held pending receipt of the House message on the bill. Upon receipt of the House companion bill, the House bill shall be deemed to be considered, read for the third time, and the vote on passage of the Senate bill shall be considered to be the vote on the bill received from the House.

“(4) CONFERENCE.—

“(A) PROCEEDING TO CONFERENCE.—If, after a bill is agreed to in the Senate or House of Representatives, the bill has been amended, the bill shall be deemed to be at a stage of disagreement and motions to proceed to conference are deemed to be agreed to. There shall be no motions to instruct. The Senate and the House of Representatives shall appoint conferees not later than 1 day of session after the vote of the second House under paragraph (1)(C). Debate on any debatable motion in relation to the conference report

shall be limited to 1 hour to be equally divided between and controlled by the mover and manager of a bill, or their designees.

“(B) PERIOD OF CONSIDERATION.—A conference report on a bill considered under this section shall be reported out not later than 3 days of session after the vote of the second House under paragraph (1)(C). If the 2 Houses are unable to agree in conference, the committee on conference shall report out the text of the President’s original bill.

“(C) SCOPE OF CONFERENCE.—The matter committed to conference for purposes of scope of conference shall be limited to the matter stricken from the text of the bills passed by the Senate and the House of Representatives.

“(D) PROCEDURE.—Debate on a conference report on any bill considered under this section shall be limited to 2 hours equally divided between the manager of the conference report and the minority leader, or his designee.

“(E) FINAL PASSAGE.—A vote on final passage of the conference report shall be taken in the Senate and the House of Representatives on or before the close of the 2nd day of session of that House after the date the conference report is submitted in that House. If the conference report is passed, the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, shall cause the conference report to be transmitted to the other House before the close of the next day of session of that House.

“(F) ACTION OF SECOND HOUSE.—

“(i) IN GENERAL.—If the Senate has received from the House, the conference report in relation to the special message from the President, prior to the vote required under subparagraph (E), then the Senate shall consider, and the vote under subparagraph (E) shall occur on the House conference report.

“(ii) PROCEDURE AFTER VOTE ON SENATE CONFERENCE REPORT.—If the Senate votes, pursuant to subparagraph (E), on the conference report in relation to the special message from the President, then immediately following that vote, or upon receipt of the House conference report, the House conference report shall be deemed to be considered, read the third time, and the vote on passage of the Senate conference report shall be considered to be the vote on the conference report received from the House.

“(d) AMENDMENTS AND DIVISIONS PROHIBITED.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives.

“(2) MOTION TO STRIKE.—

“(A) SENATE.—During consideration of a bill in the Senate, any Member of the Senate may move to strike any proposed rescission of a dollar amount of discretionary budget authority, an item of direct spending, or a targeted tax benefit if supported by 11 other Members.

“(B) HOUSE.—During consideration of a bill in the House of Representatives, any Member of the House of Representatives may move to strike any proposed rescission of a dollar amount of discretionary budget authority, an item of direct spending, or a targeted tax benefit if supported by 49 other Members.

“(3) NO DIVISION.—It shall not be in order to demand a division of any motions to strike in the Senate, or the division of the question in the House of Representatives (or in a Committee of the Whole).

“(4) NO SUSPENSION.—No motion to suspend the application of this subsection shall be in order in the Senate or in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the ap-

plication of this subsection by unanimous consent.

“(e) TEMPORARY PRESIDENTIAL AUTHORITY TO WITHHOLD.—

“(1) AVAILABILITY.—The President may not withhold any dollar amount of discretionary budget authority until the President transmits and Congress receives a special message pursuant to subsection (b). Upon receipt by Congress of a special message pursuant to subsection (b), the President may direct that any dollar amount of discretionary budget authority proposed to be rescinded in that special message shall be withheld from obligation for a period not to exceed 45 calendar days from the date of receipt by Congress.

“(2) EARLY AVAILABILITY.—The President may make any dollar amount of discretionary budget authority withheld from obligation pursuant to paragraph (1) available at an earlier time if the President determines that continued withholding would not further the purposes of this Act.

“(f) TEMPORARY PRESIDENTIAL AUTHORITY TO SUSPEND.—

“(1) SUSPEND.—

“(A) IN GENERAL.—The President may not suspend the execution of any item of direct spending or targeted tax benefit until the President transmits and Congress receives a special message pursuant to subsection (b). Upon receipt by Congress of a special message, the President may suspend the execution of any item of direct spending or targeted tax benefit proposed to be rescinded in that message for a period not to exceed 45 calendar days from the date of receipt by Congress.

“(B) LIMITATION ON 45-DAY PERIOD.—The 45-day period described in subparagraph (A) shall be reduced by the number of days contained in the period beginning on the effective date of the item of direct spending or targeted tax benefit; and ending on the date that is the later of—

“(i) the effective date of the item of direct spending or targeted benefit; or

“(ii) the date that Congress receives the special message.

“(C) CLARIFICATION.—Notwithstanding subparagraph (B), in the case of an item of direct spending or targeted tax benefit with an effective date within 45 days after the date of enactment, the beginning date of the period calculated under subparagraph (B) shall be the date that is 45 days after the date of enactment and the ending date shall be the date that is the later of—

“(i) the date that is 45 days after enactment; or

“(ii) the date that Congress receives the special message.

“(2) EARLY AVAILABILITY.—The President may terminate the suspension of any item of direct spending or targeted tax benefit suspended pursuant to paragraph (1) at an earlier time if the President determines that continuation of the suspension would not further the purposes of this Act.

“(g) DEFINITIONS.—In this part:

“(1) APPROPRIATION LAW.—The term ‘appropriation law’ means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations.

“(2) CALENDAR DAY.—The term ‘calendar day’ means a standard 24-hour period beginning at midnight.

“(3) DAYS OF SESSION.—The term ‘days of session’ means only those days on which both Houses of Congress are in session.

“(4) DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY.—The term ‘dollar amount of discretionary budget authority’ means the dollar amount of budget authority and obligation limitations—

“(A) specified in an appropriation law, or the dollar amount of budget authority re-

quired to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included;

“(B) represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law;

“(C) required to be allocated for a specific program, project, or activity in a law (other than an appropriation law) that mandates obligations from or within accounts, programs, projects, or activities for which budget authority or an obligation limitation is provided in an appropriation law;

“(D) represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law; or

“(E) represented by the product of the estimated procurement cost and the total quantity of items required to be provided in a law (other than an appropriation law) that mandates obligations from accounts, programs, projects, or activities for which dollar amount of discretionary budget authority or an obligation limitation is provided in an appropriation law.

“(5) RESCIND OR RESCISSION.—The term ‘rescind’ or ‘rescission’ means—

“(A) in the case of a dollar amount of discretionary budget authority, to reduce or repeal a provision of law to prevent that budget authority or obligation limitation from having legal force or effect; and

“(B) in the case of direct spending or targeted tax benefit, to repeal a provision of law in order to prevent the specific legal obligation of the United States from having legal force or effect.

“(6) DIRECT SPENDING.—The term ‘direct spending’ means budget authority provided by law (other than an appropriation law), mandatory spending provided in appropriation Acts, and entitlement authority.

“(7) ITEM OF DIRECT SPENDING.—The term ‘item of direct spending’ means any specific provision of law enacted after the effective date of the Second Look at Wasteful Spending Act of 2007 that is estimated to result in an increase in budget authority or outlays for direct spending relative to the most recent levels calculated consistent with the methodology described in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 and included with a budget submission under section 1105(a) of title 31, United States Code, and, with respect to estimates made after that budget submission that are not included with it, estimates consistent with the economic and technical assumptions underlying the most recently submitted President’s budget.

“(8) SUSPEND THE EXECUTION.—The term ‘suspend the execution’ means, with respect to an item of direct spending or a targeted tax benefit, to stop the carrying into effect of the specific provision of law that provides such benefit.

“(9) TARGETED TAX BENEFIT.—The term ‘targeted tax benefit’ means—

“(A) any revenue provision that has the practical effect of providing more favorable tax treatment to a particular taxpayer or limited group of taxpayers when compared with other similarly situated taxpayers; or

“(B) any Federal tax provision which provides one beneficiary temporary or permanent transition relief from a change to the Internal Revenue Code of 1986.”

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking “and 1017” and inserting “1017, and 1021”; and

(2) in subsection (d), by striking “section 1017” and inserting “sections 1017 and 1021”.

## (c) CLERICAL AMENDMENTS.—

(1) SHORT TITLE.—Section 1(a) of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

(A) striking “Parts A and B” before “title X” and inserting “Parts A, B, and C”; and

(B) striking the last sentence and inserting at the end the following new sentence: “Part C of title X also may be cited as the ‘Second Look at Wasteful Spending Act of 2007.’”.

(2) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by deleting the contents for part C of title X and inserting the following:

“PART C—ENHANCED RESCISSION AUTHORITY  
“Sec. 1021. Expedited consideration of certain proposed rescissions”.

(d) SEVERABILITY.—If any provision of this title or the amendments made by it is held to be unconstitutional, the remainder of this title and the amendments made by it shall not be affected by the holding.

## (e) EFFECTIVE DATE AND EXPIRATION.—

(1) EFFECTIVE DATE.—The amendments made by this title shall—

(A) take effect on the date of enactment of this title; and

(B) apply to any dollar amount of discretionary budget authority, item of direct spending, or targeted tax benefit provided in an Act enacted on or after the date of enactment of this title.

(2) EXPIRATION.—The amendments made by this title shall expire on December 31, 2010.

**SA 102.** 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; as follows:

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 66% 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.

(1) 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.

**SA 103.** Mr. ENZI (for Ms. SNOWE (for herself, Mr. ENZI, and Ms. LANDRIEU)) 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:

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.

“(C) PROCEDURES.—Procedures described under subparagraph (B)(ii)—

“(i) shall be suggestions to assist small entities; and

“(ii) shall not be additional 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 Small Business Compliance Assistance Enhancement 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 and the Committee on Small Business of the House of Representatives 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”.

**SA 104.** Mr. WYDEN (for himself, Mr. SMITH, Mrs. FEINSTEIN, AND MRS. BOXER) 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 SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT.**

(a) IN GENERAL.—The Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note; Public Law 106-393) is amended in sections 101(a), 102(b)(2), 103(b)(1), 203(a)(1), 207(a), 208, 303, and 401 by striking “2006” each place it appears and inserting “2007”.

(b) TERMINATION OF AUTHORITY.—

(1) SPECIAL PROJECTS ON FEDERAL LANDS.—Section 208 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note; Public Law 106-393) is amended in the second sentence by striking “2007” and inserting “2008”.

(2) COUNTY PROJECTS.—Section 303 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note; Public Law 106-393) is amended in the second sentence by striking “2007” and inserting “2008”.

**SA 105.** Mr. MARTINEZ 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. \_\_\_\_ HOUSE PARENT EXCEPTION.**

Section 13(b)(24) of the Fair Labor Standards Act of 1938 (29 U.S.C. 212(b)(24)) is amended—

(1) in the matter preceding subparagraph (A), by striking “and his spouse”; and

(2) in the matter following subparagraph (B)—

(A) by striking “and his spouse reside” and inserting “resides”; and

(B) by striking “receive” and inserting “receives”; and

(C) by striking “are together” and inserting “is”.

**SA 106.** Mr. SESSIONS (for himself, Mr. KOHL, and Mrs. HUTCHISON) 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:

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 critically-important Social Security program was never intended by Congress to be the sole source of retirement income.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) there is a need for simple, easily-accessible and productive savings vehicles 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;

(3) regularly contributing money to a financially-sound investment account is effective in achieving one's retirement goals; and

(4) Congress should actively develop policies to enhance personal savings for retirement.

**SA 107.** Mr. SESSIONS 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:

At the appropriate place insert the following:

**SEC. \_\_\_\_ ADDITIONAL REQUIREMENTS TO ENSURE GREATER USE OF ADVANCE PAYMENT OF EARNED INCOME CREDIT.**

Not later than January 1, 2010, the Secretary of the Treasury by regulation shall require—

(1) each employer of an employee who the employer determines receives wages in an amount which indicates that such employee would be eligible for the earned income credit under section 32 of the Internal Revenue Code of 1986 to provide such employee with a simplified application for an earned income eligibility certificate, and

(2) require each employee wishing to receive the earned income tax credit to complete and return the application to the employer within 30 days of receipt.

Such regulations shall require an employer to provide such an application within 30 days

of the hiring date of an employee and at least annually thereafter. Such regulations shall further provide that, upon receipt of a completed form, an employer shall provide for the advance payment of the earned income credit as provided under section 3507 of the Internal Revenue Code of 1986.

**SEC. \_\_\_\_ . EXTENSION OF ADVANCE PAYMENT OF EARNED INCOME CREDIT TO ALL ELIGIBLE TAXPAYERS.**

(a) IN GENERAL.—Section 3507(b) of the Internal Revenue Code of 1986 (relating to earned income eligibility certificate) is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 3507(c)(2)(B) of the Internal Revenue Code of 1986 is amended by inserting “has 1 or more qualifying children and” before “is not married.”

(2) Section 3507(c)(2)(C) of such Code is amended by striking “the employee” and inserting “an employee with 1 or more qualifying children”.

(3) Section 3507(f) of such Code is amended by striking “who have 1 or more qualifying children and”.

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

**SA 108.** Mr. SESSIONS 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:

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 costs and barriers 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.

**SA 109.** Mr. REID proposed an amendment to the concurrent resolution H. Con. Res. 38, providing for a joint session of Congress to receive a message from the President, as follows:

On page 1, line 3 strike “Wednesday” and insert Tuesday.

**SA 110.** Mr. VITTER (for himself and 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; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . SUSPENSION OF FINES FOR FIRST-TIME PAPERWORK VIOLATIONS BY SMALL BUSINESS CONCERNS.**

Section 3506 of title 44, United States Code (commonly referred to as the “Paperwork Reduction Act”), is amended by adding at the end the following:

“(j) SMALL BUSINESSES.—

“(1) SMALL BUSINESS CONCERN.—In this subsection, the term ‘small business concern’ means a business concern that meets the requirements of section 3(a) of the Small Busi-

ness Act (15 U.S.C. 632(a)) and the regulations promulgated under that section.

“(2) IN GENERAL.—In the case of a first-time violation by a small business concern of a requirement regarding the collection of information by an agency, the head of that agency shall not impose a civil fine on the small business concern unless the head of the agency determines that—

“(A) the violation has the potential to cause serious harm to the public interest;

“(B) failure to impose a civil fine would impede or interfere with the detection of criminal activity;

“(C) the violation is a violation of an internal revenue law or a law concerning the assessment or collection of any tax, debt, revenue, or receipt;

“(D) the violation was not corrected on or before the date that is 6 months after the date of receipt by the small business concern of notification of the violation in writing from the agency; or

“(E) except as provided in paragraph (3), the violation presents a danger to the public health or safety.

“(3) DANGER TO PUBLIC HEALTH OR SAFETY.—

“(A) IN GENERAL.—In any case in which the head of an agency determines under paragraph (2)(E) that a violation presents a danger to the public health or safety, the head of the agency may, notwithstanding paragraph (2)(E), determine not to impose a civil fine on the small business concern if the violation is corrected not later than 24 hours after receipt by the small business owner of notification of the violation in writing.

“(B) CONSIDERATIONS.—In determining whether to provide a small business concern with 24 hours to correct a violation under subparagraph (A), the head of an agency shall take into account all of the facts and circumstances regarding the violation, including—

“(i) the nature and seriousness of the violation, including whether the violation is technical or inadvertent or involves willful or criminal conduct;

“(ii) whether the small business concern has made a good faith effort to comply with applicable laws and to remedy the violation within the shortest practicable period of time; and

“(iii) whether the small business concern has obtained a significant economic benefit from the violation.

“(C) NOTICE TO CONGRESS.—In any case in which the head of an agency imposes a civil fine on a small business concern for a violation that presents a danger to the public health or safety and does not provide the small business concern with 24 hours to correct the violation under subparagraph (A), the head of that agency shall notify Congress regarding that determination not later than the date that is 60 days after the date that the civil fine is imposed by that agency.

“(4) LIMITED TO FIRST-TIME VIOLATIONS.—

“(A) IN GENERAL.—This subsection shall not apply to any violation by a small business concern of a requirement regarding collection of information by an agency if that small business concern previously violated any requirement regarding collection of information by that agency.

“(B) OTHER AGENCIES.—For purposes of making a determination under subparagraph (A), the head of an agency shall not take into account any violation of a requirement regarding collection of information by another agency.”

laws, interns, and detailees of the staff of the Committee on Finance be allowed on the Senate floor for duration of debate on the minimum wage bill: Mary Baker, Tom Louthan, Sarah Shepherd, David Ashner, Gretchen Hector, Molly Keenan, Sarah Butler, and Ryan Majerus.

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

Mr. GREGG. Mr. President, I ask unanimous consent that Selma Mittal be granted the privileges of the floor during consideration of H.R. 2 and votes that may occur in relationship thereto.

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

ORDER FOR PRINTING OF S. 1

Mr. REID. I ask unanimous consent that S. 1, as passed by the Senate, be printed.

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

DISCHARGE AND REFERRAL—S. 69

Mr. REID. I ask unanimous consent that S. 69 be discharged from the Committee on the Judiciary and be referred to the Committee on Commerce, Science, and Transportation.

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

JOINT SESSION OF CONGRESS TO RECEIVE A MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 38.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 38) providing for a joint session of Congress to receive a message from the President.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the amendment at the desk be considered and agreed to, the concurrent resolution, as amended, be agreed to, and 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 amendment (No. 109) was agreed to, as follows:

AMENDMENT NO. 109

On page 1, line 3 strike “Wednesday” and insert “Tuesday”.

The concurrent resolution (H. Con. Res. 38), as amended, was agreed to.

PROGRAM

Mr. REID. Mr. President, cloture has been filed today on the line-item veto offered by Senator GREGG. I filed a cloture motion on the underlying bill,

Privileges of the Floor

Mr. BAUCUS. Mr. President, I ask unanimous consent the following fel-