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September 23, 2010

The Honorable Max Baucus
Chairman
US Senate Finance Committee
SD-219
Washington, DC 20510

The Honorable Sander Levin
Chairman
US House Ways and Means Committee
1102 Longworth HOB
Washington, DC 20515

Dear Chairman Baucus and Chairman Levin:

We believe that now is the time for Congress to address the pervasive and fraudulent practice of misclassifying workers as independent contractors, which can be done through passage of the Fair Playing Field Act of 2010, introduced by Representative Jim McDermott (D-WA) and Senator John Kerry (D-MA).

State and national studies have estimated that between 10 – 30% of all employers misclassify their workers as independent contractors with devastating effects on workers, law-abiding businesses, and state and federal revenues, including the following:

- (1) Misclassified workers lose important workplace protections including minimum wage and overtime, access to unemployment insurance and workers' compensation, employer contributions to Social Security and Medicare, and coverage by civil rights and health and safety laws.
- (2) Responsible employers who obey the law and pay their taxes can be underbid by competitors who misclassify their employees and thus artificially lower their payroll costs by as much as 30%.
- (3) The federal Treasury loses approximately \$2.7 billion a year in unpaid taxes due to misclassification. State general funds and unemployment insurance trust funds also lose millions of dollars each year in unpaid taxes and unemployment insurance contributions.

States have taken important steps in recent years to address the misclassification problem. They have passed legislation, formed interagency task forces, begun sharing data and information to focus and improve enforcement efforts, and initiated litigation and even criminal prosecutions. However, for the states' efforts to be truly effective, the federal government, including the IRS, must also be engaged in meaningful enforcement of worker classification laws. The current federal law severely limits the IRS' regulatory and enforcement role in this arena.

The Fair Playing Field Act of 2010 takes important steps to give the IRS the tools it needs to crack down on misclassification and close unnecessary "safe harbor" tax loopholes while still recognizing that there are properly classified independent contractors. We urge you to support this legislation and do all you can to ensure its timely passage and enactment.

Sincerely,



Governor Martin O'Malley
Maryland



Governor Ted Strickland
Ohio



Governor Bill Ritter Jr.
Colorado



Governor Jack Markell
Delaware



Governor Pat Quinn
Illinois



Governor Chester J. Culver
Iowa



Governor Mark Parkinson
Kansas



Governor John Baldacci
Maine



Governor Deval Patrick
Massachusetts



Governor Jennifer M. Granholm
Michigan



Governor Bill Richardson
New Mexico



Governor David A. Paterson
New York



Governor Theodore R. Kulongoski
Oregon



Governor Edward G. Rendell
Pennsylvania



Governor Jim Doyle
Wisconsin

cc: The Honorable John Kerry
The Honorable Jim McDermott