

**AMENDMENT IN NATURE OF A SUBSTITUTE TO**  
**H.R. 2888**  
**OFFERED BY MR. FAWELL**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Sales Incentive Com-  
3 pensionation Act”.

**4 SEC. 2. EXEMPTION.**

5       Section 13(a) of the Fair Labor Standards Act of  
6 1938 (29 U.S.C. 213(a)) is amended by striking the pe-  
7 riod at the end of paragraph (17) and inserting a semi-  
8 colon and by adding at the end the following:

9               “(18) any employee employed in a sales position  
10       if—

11                       “(A) the employee’s position requires spe-  
12                       cialized or technical knowledge related to prod-  
13                       ucts or services being sold;

14                       “(B) the employee’s position—

15                               “(i) consists of making sales predomi-  
16                               nantly to persons or entities to whom the

1 employee's position has made previous  
2 sales; or

3 "(ii) does not involve initiating sales  
4 contacts;

5 "(C) the employee receives—

6 "(i) base compensation, determined  
7 without regard to the number of hours  
8 worked by the employee, of not less than  
9 an amount equal to one and one-half times  
10 the minimum wage in effect under section  
11 6(a)(1) multiplied by 2,080; and

12 "(ii) in addition to the employee's  
13 base compensation, compensation based  
14 upon each sale attributable to the em-  
15 ployee;

16 "(D) the employee's aggregate compensa-  
17 tion based upon sales attributable to the em-  
18 ployee is not less than 40 percent of one and  
19 one-half times the minimum wage multiplied by  
20 2,080;

21 "(E) the employee receives a rate of com-  
22 pensation based upon each sale attributable to  
23 the employee which is beyond sales required to  
24 reach the compensation required by subpara-  
25 graph (D) which rate is not less than the rate

1           on which the compensation required by sub-  
2           paragraph (D) is determined; and

3           “(F) the rate of annual compensation or  
4           base compensation for any employee who did  
5           not work for an employer for an entire calendar  
6           year is prorated to reflect annual compensation  
7           which would have been earned if the employee  
8           had been compensated at the same rate for the  
9           entire calendar year.”.